

## **SFC Circular - Anti-Money Laundering / Counter-Financing of Terrorism Amendments to Anti-Money Laundering and Counter-Financing of Terrorism Guidelines**

**Circular to Licensed Corporations and Associated Entities**

**Anti-Money Laundering / Counter-Financing of Terrorism**

**Amendments to Anti-Money Laundering and Counter-Financing of Terrorism Guidelines**

The Securities and Futures Commission (SFC) has revised its anti-money laundering and counter-financing of terrorism (AML/CFT) guidelines for licensed corporations and associated entities, to incorporate provisions and guidance related to the Anti-Money Laundering and Counter-Terrorist Financing (Amendment) Ordinance 2022 (the Amendment Ordinance) which was enacted on 16 December 2022 and will take effect on 1 June 2023.

Corresponding amendments have been made to the AML/CFT Guideline in the following areas:

- (a) to reflect the revised statutory definition of “politically exposed person” (PEP) (ie, from one in a place outside the People’s Republic of China to one in a place outside Hong Kong), and rename “foreign PEP” as “non-Hong Kong PEP” and “domestic PEP” as “Hong Kong PEP”;
- (b) to incorporate the definition of “former non-Hong Kong PEP” and permit the disapplication of the special requirements and additional measures for non-Hong Kong PEPs if, following an appropriate risk assessment, a former non-Hong Kong PEP no longer presents a high risk of money laundering and terrorist financing (ML/TF);
- (c) to reflect the revised statutory definition of beneficial owner of a customer that is a trust (ie, removing the 25% threshold and adding the trustee, a beneficiary and a class of beneficiaries), and provide facilitative risk-based guidance on determining the

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extent of reasonable measures for verifying the identities of beneficiaries and classes of beneficiaries of a customer that is a trust; and

(d) to incorporate guidance to reflect that data or information provided by a recognised digital identification system is a reliable and independent source for identifying and verifying a customer's identity; and permit the disapplication of additional measures to a customer (or a natural person acting on behalf of a customer) who is not physically present for identification purposes if that person's identity has been verified by using a recognised digital identification system.

The SFC has also made other non-substantive amendments to enhance clarity and provided additional facilitative or elaborative guidance without altering the substance of the requirements. Other textual amendments have been made to better align with the language in the existing statutory provisions. For details, please refer to a summary of key amendments set out in [Appendix](#).

In addition to the above amendments, a new stand-alone Chapter 12 of the AML/CFT Guideline provides guidance on the ML/TF risks in relation to virtual assets and the AML/CFT regulatory requirements and standards for addressing such risks. It also explains how some existing requirements apply to virtual asset transactions and activities, and sets out non-exhaustive illustrative risk indicators for assessing ML/TF risks and indicators of suspicious transactions and activities related to virtual assets. The guidance in Chapter 12 is applicable to licensed corporations when they carry out businesses associated with virtual assets or businesses which give rise to ML/TF risks in relation to virtual assets.

The revised guidelines will be published in the Gazette on 25 May 2023 and take effect on 1 June 2023. Licensed corporations and associated entities should review their existing policies and procedures in view of the revised guidelines and take any necessary steps to ensure their continued compliance with all applicable requirements.

Should you have any queries regarding the contents of this circular, please contact Ms

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Kiki Wong at 2231 1569 who will assist in referring your queries to the relevant officer.

中文版本

## 打擊洗錢 / 恐怖分子資金籌集修訂有關打擊洗錢及恐怖分子資金籌集的指引

致持牌法團及有聯繫實體的通函

打擊洗錢 / 恐怖分子資金籌集

修訂有關打擊洗錢及恐怖分子資金籌集的指引

證券及期貨事務監察委員會（證監會）修訂了其適用於持牌法團及有聯繫實體的打擊洗錢及恐怖分子資金籌集指引，旨在納入已於2022年12月16日頒布並將於2023年6月1日生效的《2022年打擊洗錢及恐怖分子資金籌集（修訂）條例》（《修訂條例》）的相關條文和導引。

《打擊洗錢指引》的相應修訂主要關涉以下範疇：

- (a) 反映“政治人物”一詞的經修訂法定釋義（即由中華人民共和國以外地方的政治人物，改為香港以外地方的政治人物），並將“外地政治人物”及“本地政治人物”兩詞分別改為“非香港政治人物”及“香港政治人物”；

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(b) 納入“前非香港政治人物”一詞的釋義，以及准許在進行適當的風險評估後，無須對不再造成洗錢及恐怖分子資金籌集方面的高度風險的前非香港政治人物，施行適用於非香港政治人物的特別規定及額外措施；

(c) 反映有關信託客戶的實益擁有人的經修訂法定釋義（即移除25%門檻，並加入受託人和受益人（包括某類別受益人）），以及就決定為核實信託客戶的受益人及某類別受益人的身分而採取的合理措施的程度，提供輔助性質的風險為本導引；及

(d) 納入導引以反映認可數碼識別系統所提供的數據或資料屬可靠及獨立來源，可作識別及核實客戶身分之用；以及就沒有為身分識別的目的而現身但已透過認可數碼識別系統核實身分的客戶（或代表客戶行事的自然人）而言，准許無須對該人施加額外措施。

證監會亦就指引作出其他非實質性的修訂，以提高條文的清晰度，同時在沒有更改有關規定的實質內容下，提供輔助或說明性質的額外導引。本會另有對指引作出其他文本上的修訂，使之與現行法定條文的措辭更趨一致。詳情請參閱附錄所載的主要修訂摘要。

除上述修訂外，《打擊洗錢指引》中新的獨立章節（第12章）就與虛擬資產有關的洗錢及恐怖分子資金籌集風險，以及為應對該等風險而設的打擊洗錢及恐怖分子資金籌集的監管規定和標準提供導引。該章節亦說明某些現行規定如何適用於虛擬資產交易和活動，同時並載列與虛擬資產有關的評估洗錢及恐怖分子資金籌集風險的風險指標和可疑交易及活動指標示例（並非詳盡無遺）。第12章所載列的導引適用於經營與虛擬

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資產有關的業務或會引致與虛擬資產有關的洗錢及恐怖分子資金籌集風險的業務的持牌法團。

經修訂的指引將於2023年5月25日刊憲，並於2023年6月1日生效。持牌法團及有聯繫實體應按照經修訂的指引，檢視其現有政策及程序，並採取任何必要措施以確保其繼續符合所有適用的規定。

如對本通函內容有任何疑問，請致電2231 1569聯絡王凱琪女士，以便為你將有關疑問轉介至相關負責人員。

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