

The Hong Kong Association of Banks
Frequently Asked Questions in relation to
Anti-Money Laundering and Counter-Financing of Terrorism

These Frequently Asked Questions (**FAQs**) in relation to Anti-Money Laundering and Counter-Financing of Terrorism (**AML/CFT**) have been developed by the Hong Kong Association of Banks (**HKAB**) with input from the Hong Kong Monetary Authority (**HKMA**). This document does not form part of the Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (For Authorized Institutions) (**AML/CFT Guideline**) and it is designed to be read in conjunction with the AML/CFT Guideline. Terms and acronyms used in this document have the same meanings as in the glossary to the AML/CFT Guideline.

These FAQs aim to assist Authorized Institutions (**AIs**) regulated by the HKMA in understanding relevant AML/CFT requirements. AIs are expected to be fully conversant with these FAQs, and to have regard to them in meeting their AML/CFT legal and regulatory obligations. These FAQs are, however, by their nature framed as general statements and do not take into account the particular circumstances of an AI. AIs should therefore consider the money laundering and terrorist financing risks to which they are exposed and their own circumstances (among others) before taking action on matters to which these FAQs may be relevant. These FAQs should not be regarded as a substitute for obtaining legal or other professional advice on AML/CFT requirements.

This document will be kept under review and updated from time to time as necessary.

Note: This new set of FAQs will supersede the version issued on 24 May 2021.

	Relevant provisions	Question	Answer
AML/CFT Systems			
1.	Paragraph 2.9 of the AML/CFT Guideline	<p>Trigger events for an updated IRA</p> <p>What is regarded as a “trigger event” for the purpose of determining when an AI should undertake a review of its institutional ML/TF risk assessment?</p>	<p>An AI should conduct its institutional ML/TF risk assessment every two years and when material trigger events occur. Non-exhaustive examples of such trigger events may include when:</p> <p>(a) there is a significant breach of the AI’s AML/CFT Systems detected; or</p> <p>(b) one of the following has occurred and the AI has assessed that it will materially impact upon its assessment of the institutional ML/TF risks to which it is exposed:</p> <ol style="list-style-type: none"> 1. the AI acquires a new customer segment or delivery channel; 2. the AI launches new products or services; or 3. there is a significant change of operational processes (eg use of new technology).
2.	Paragraph 3.2 and 3.3 the AML/CFT Guideline	<p>Simplified and enhanced AML/CFT Systems</p> <p>Paragraphs 3.2 and 3.3 of the AML/CFT Guideline state that AML/CFT Systems can be simplified or enhanced, what does this mean?</p>	<p>These two paragraphs refer to enhancing or simplifying the AML/CFT policies, procedures and controls (ie AML/CFT Systems), as distinct from EDD or SDD measures articulated in Chapter 4. They set out the basis for an AI to adopt a risk-based approach in its overall AML/CFT Systems across the institution. The application of these two paragraphs should be based on the AI’s institutional ML/TF risk assessment. Depending on how the AI assesses its ML/TF risks, a risk-based approach can be applied on a specific customer segment, a specific line of business, or a specific product or service offered.</p> <p>For example, subject to other criteria set out in paragraphs 3.2 and 3.3, a line of business assessed to have lower ML/TF risks may be subject to less frequent internal audit reviews, less frequent/onerous reporting requirements to senior management, or have simpler AML/CFT procedures etc.</p>
3.	Paragraph 5.8 of the AML/CFT Guideline	<p>Independent validation</p> <p>Who can independently validate an AI’s transaction monitoring systems and processes?</p>	<p>Such validation can be performed by an external party or the internal audit function of the AI (see paragraph 3.11 of the AML/CFT Guideline).</p>

	Relevant provisions	Question	Answer
Identification and verification of identity – natural persons			
4.	Paragraph 4.3.3 of the AML/CFT Guideline	<p>Hong Kong residents</p> <p>What documents would be regarded as “<i>reliable and independent</i>” for verifying the identity information of a natural person customer who is a Hong Kong resident?</p>	<p>The following are examples of documents that would be considered to be reliable and independent for Hong Kong residents (both permanent and non-permanent residents).</p> <p>Hong Kong residents aged 12 or above: Hong Kong identity card</p> <p>Children under 12 born in Hong Kong: the child’s Hong Kong identity card, birth certificate or valid travel document. In such circumstance an AI should generally regard the minor’s parent or guardian as a person acting on behalf of the child and conduct the relevant CDD measures.</p>
5.	Paragraph 4.3.3 of the AML/CFT Guideline	<p>Non-Hong Kong residents</p> <p>What documents would be regarded as “<i>reliable and independent</i>” for verifying the identity information of a natural person customer who is not a Hong Kong resident?</p>	<p>The following are examples of documents that would be considered to be reliable and independent for non-Hong Kong residents:</p> <ul style="list-style-type: none"> (a) a valid travel document; (b) a national (ie Government or State-issued) identity card bearing the photograph of the natural person; or (c) a valid national (ie Government or State-issued) driving licence incorporating photographic evidence of the identity of the natural person.
6.	Paragraph 4.3.3 of the AML/CFT Guideline	<p>Travel documents</p> <p>What are acceptable “<i>travel documents</i>” for the purpose of paragraph 4.3.3?</p>	<p>The following documents are examples of travel documents for the purpose of identity verification:</p> <ul style="list-style-type: none"> (a) Passport (b) Mainland Travel Permit for Taiwan Residents (c) Seaman’s Identity Document (issued under and in accordance with the International Labour Organisation Convention/Seafarers Identity Document Convention 1958) (d) Taiwan Travel Permit for Mainland Residents (e) Permit for residents of Macau issued by Director of Immigration (f) Exit-entry Permit for Travelling to and from Hong Kong and Macau for Official Purposes (g) Exit-entry Permit for Travelling to and from Hong Kong and Macau

	Relevant provisions	Question	Answer
7.	Paragraph 4.3.3 of the AML/CFT Guideline	<p>Travel documents</p> <p>What part of the “<i>travel documents</i>” should be kept on file?</p>	An AI should retain a copy of the “biodata” page of the travel documents, containing the bearer’s photograph and biographical details, for the purpose of the record-keeping requirements in the AMLO and the AML/CFT Guideline.
8.	Paragraph 4.3.3 and 4.5.3 of the AML/CFT Guideline	<p>British National (Overseas) passport (BN(O))</p> <p>Can an AI use (BN(O)) passport for identity verification?</p>	Reference should be made to the announcement made by the HKSAR Government dated 29 January 2021 (https://www.info.gov.hk/gia/general/202101/29/P2021012900763.htm) that BN(O) passport would not be recognised as a valid travel document and any form of proof of identity in Hong Kong with effect from 31 January 2021.
9.	Paragraph 4.3.4 of the AML/CFT Guideline	<p>Documents that do not have photographs</p> <p>Can an AI verify the identity of a natural person customer on the basis of a document that does not contain a photograph?</p>	<p>This is acceptable only in exceptional circumstances where the customer’s associated ML/TF risk has been addressed and mitigated. Exceptional circumstances include where the customer is an asylum seeker who does not have proper identification documents with photographs but has a recognizance form issued by the Hong Kong Immigration Department.</p> <p>If exceptional circumstances apply, an AI may validate a customer’s identity with reference to a government-issued document (without a photograph). In such circumstances, additional measures (eg setting appropriate limits to the account; limiting the product and services provided; or conducting enhanced monitoring etc) should be taken to mitigate increased risk.</p>

	Relevant provisions	Question	Answer
10.	Paragraph 4.3.2 of the AML/CFT Guideline	<p>Change of name of a natural person customer</p> <p>If a natural person customer's name has changed, what measures should be taken by an AI?</p>	<p>If a natural person customer changes their name, an AI should verify the new name by reference to documents, data or information provided by a reliable and independent source following paragraph 4.3.3 of the AML/CFT Guideline. To mitigate the risk of impersonation, the AI should corroborate other identification information (eg date of birth, Hong Kong Identity Card number) on the new identification documents against its existing records. In case of doubt, the AI may request a copy of applicable documentation regarding the name change (eg marriage certificate or deed poll).</p> <p>For the avoidance of doubt, if a customer's name has changed before the establishment of a business relationship, only the current name is required to be identified and verified.</p>
Identification and verification of identity – natural persons (using iAM Smart)¹			
11.	Paragraph 4.3.1 and 4.3.3 of the AML/CFT Guideline	<p>iAM Smart for identity verification</p> <p>Can an AI verify the identity of a natural person using iAM Smart (previously known as "eID")?</p>	<p>Yes, iAM Smart can satisfy customer identification and verification requirements under the AMLO.</p> <p>The AMLO permits the use of "documents" as well as "data or information" provided by a reliable and independent source, including, where applicable, electronic identification means. There are no restrictions on the form (documentary / physical or digital) that identity evidence – "documents, information or data" – can take.</p> <p>iAM Smart is the digital identity developed by the Hong Kong Government. Hong Kong residents can register for iAM Smart using the iAM Smart mobile application. The registration process is in line with the two identity verification principles: identity authentication and identity matching.</p>

¹ The FAQs under this section are to assist AIs in understanding how iAM Smart can be used in complying with the relevant AML/CFT requirements. AIs should have regard to the latest features and key components of iAM Smart, which can change over time, as well as their own AML/CFT policies and procedures, before using iAM Smart.

	Relevant provisions	Question	Answer
12.	Paragraph 4.1.3 and 4.3.1 of the AML/CFT Guideline	<p>iAM Smart for remote on-boarding</p> <p>How can iAM Smart facilitate the remote on-boarding of individual customers?</p>	<p>As stated in the preceding FAQ, iAM Smart can be used as an alternative to the physical identification document used for the purpose of meeting the customer identification and verification requirements in the context of remote on-boarding. However, iAM Smart by itself cannot generally help AIs in meeting the broader CDD requirements that go beyond customer identification and verification.</p> <p>When designing their remote on-boarding model, AIs should have regard to the latest features of iAM Smart to determine how their own CDD or customer on-boarding policies and procedures can be met. This may necessitate the collection of additional documents or other information where it is considered necessary for the purpose of CDD, ongoing monitoring or other compliance and risk management.</p>
13.	Paragraph 4.3.4 of the AML/CFT Guideline	<p>Additional identity document that contains a photograph</p> <p>When iAM Smart is used for identity verification, do AIs need to obtain additional identification documents that contain a photograph to verify the identity of a natural person?</p>	<p>To satisfy customer identification and verification requirements under the AMLO, where iAM Smart is used, there is no additional requirement to obtain other identification documents or separately obtain a photograph of the natural person customer.</p> <p>For the avoidance of doubt, paragraph 4.3.4 requires the identity document obtained by an AI to contain a photograph of the customer to mitigate impersonation risks. In the context of iAM Smart, impersonation risks are mitigated by the access controls of the iAM Smart mobile application (e.g. biometric authentication to log in iAM Smart).</p>
14.	Paragraph 8.3 of the AML/CFT Guideline	<p>Retention of records</p> <p>When iAM Smart is used for identity verification, what kind of records relating to CDD should AIs retain?</p>	<p>Paragraph 8.3 requires AIs to keep the original or a copy of the documents, and a record of the data and information, obtained in the course of identifying and verifying the identity of the customer. When iAM Smart is used for identifying and verifying the identity of the customer, relevant data and information should be kept. This may include all the specific data or information obtained from iAM Smart through API, showing the customer's iAM Smart authentication result and verified Hong Kong Identity Card data. The objective is to permit reconstruction of the customer's identity. For the avoidance of doubt, AIs do not need to obtain additional identification documents solely for record keeping purposes.</p>

	Relevant provisions	Question	Answer
Identification and verification of identity – legal persons			
15.	Paragraph 4.3.6 of the AML/CFT Guideline	<p>Non-Hong Kong company registered in Hong Kong</p> <p>What minimum identification information should be obtained for a non-Hong Kong company registered in Hong Kong under the Companies Ordinance?</p>	<p>For a non-Hong Kong company registered in Hong Kong under section 776 of the Companies Ordinance², taking into account the registration made in Hong Kong, an AI should obtain at least the following identification information for the purpose of fulfilling paragraph 4.3.6 of the AML/CFT Guideline:</p> <ul style="list-style-type: none"> (a) Full name (b) Date of incorporation, establishment or registration (c) Place of incorporation, establishment or registration (d) Address of the registered office (or its equivalent) in the place of incorporation (e) Unique identification number and document type in the place of incorporation or company registration (f) Address of principal place of business in Hong Kong
16.	Paragraph 4.3.6 of the AML/CFT Guideline	<p>Principal place of business</p> <p>What is the “<i>principal place of business</i>” of a legal person?</p>	<p>The “principal place of business” means the location where a legal person primarily operates or the place of its main activities. It can be the same as, or differ from, the address of registered office.</p> <p>Legal persons, depending on their business nature, may operate in various locations of different natures. If the address of the principal place of business of a legal person is not in line with the AI’s understanding of the legal person’s business nature or customer profile, an AI should seek to understand the rationale for why that address is provided to the AI.</p>
17.	Paragraph 4.3.6 of the AML/CFT Guideline	<p>Address of registered office</p> <p>Are AIs required to ask the customer to provide “<i>address of registered office</i>” information?</p>	<p>Paragraph 4.3.6 requires AIs to obtain the address of registered office of a legal person. As this address is usually included in the document provided by a reliable and independent source (eg certificate of incumbency) being obtained for verification of the legal person’s identity, an AI may, instead of asking the customer to provide the information on address of registered office, just copy the address from the document obtained.</p>

² Under section 776 of the Companies Ordinance, a non-Hong Kong company is required to register as a registered non-Hong Kong company within one month after the establishment of the place of business in Hong Kong

	Relevant provisions	Question	Answer
18.	Paragraph 4.3.7 of the AML/CFT Guideline	<p>Business registration</p> <p>When should a record of business registration be obtained for the purpose of verifying the identity of a legal person?</p>	<p>A record of business registration, which is a type of “record of registration” as stated in paragraph 4.3.7 of the AML/CFT Guideline, is usually regarded as the primary document to verify the identity of a legal person customer that is not required to register with the Hong Kong Companies Registry or similar authority, such as a sole proprietorship, partnership or a unincorporated body etc.</p> <p>It is worth noting that AIs are not required to obtain a record of business registration for every customer that is a legal person. For instance, for a Hong Kong incorporated company, an AI can generally rely on the company record filed at the Hong Kong Companies Registry to verify the identity of the customer without the need to obtain its record of business registration.</p>
19.	Paragraph 4.3.7 and 4.3.8 of the AML/CFT Guideline	<p>Partnership details</p> <p>What documents need to be obtained to verify the identity of a partnership?</p>	<p>The identity of a partnership can be verified by a record of registration or a partnership agreement or deed (which may be an extract or redacted version for customers / circumstances that are not deemed to present a high ML/TF risk). However, if a record of registration is obtained, an additional document may be required to understand the powers that regulate and bind the partnership, which may not be covered by that record itself.</p> <p>If the customer (ie the partnership) is a well-known, reputable organisation with a long history in its industry and there is substantial public information about the customer, its partners and controllers, then confirmation of the customer’s membership of a professional or trade industry is likely to be sufficient to verify the identity of the customer.</p>
20.	Paragraph 4.3.6 to 4.3.9 of the AML/CFT Guideline	<p>Start-ups and SMEs</p> <p>Are there any specific CDD requirements for start-ups and small and medium-sized enterprises?</p>	<p>Similar to AML/CFT requirements in other jurisdictions, the requirements in the AML/CFT Guideline are principle-based in order to provide flexibility to AIs to apply them to different types of customer.</p> <p>There are no specific requirements for, or mention of, start-ups or small and medium-sized enterprises. However, AIs should not adopt a one-size-fit-all approach in the application of CDD requirements. AIs should ensure that the design and implementation of their CDD requirements reflect both the operation and profile of these legal persons, the risk level as assessed by the AI concerned and any other relevant considerations.</p>

	Relevant provisions	Question	Answer
21.	Paragraph 4.6.1 of the AML/CFT Guideline	<p>Overseas customers</p> <p>Are there additional CDD requirements (eg understanding the rationale to establish a business relationship in Hong Kong) for a company which is incorporated overseas or has foreign directors/beneficial owners?</p>	<p>Obtaining information to understand the purpose and intended nature of the business relationship being established, including the reason for establishing the relationship, is a standard CDD measure applicable to all types of customers and cascades from international standards with which Hong Kong is required to apply. In some cases the purpose and intended nature will be obvious or self-evident and therefore may not need to be provided by the customer, having regard to the types of accounts to be established or services/products to be used.</p> <p>Applications for account opening should not be rejected merely because the customer is incorporated or established offshore, or because the beneficial owners or directors of a corporate customer are non-residents. AIs' on-boarding procedures should recognise that offshore establishment and non-resident directors, etc are common profiles for many corporates seeking banking services in an international financial centre, like Hong Kong. Similarly, in addition to collecting the information, AIs should view residence of beneficial owners or directors as only one part of the CDD and risk profiling exercise, and understand the rationale why a particular type of business relationship is sought, taking into account the customer's business model or mode of operation.</p>
Beneficial owners			
22.	Paragraphs 4.4.3 of the AML/CFT Guideline	<p>Identification information</p> <p>As far as possible, AIs should endeavour to obtain the name, date of birth, nationality and unique identification number (and document type) of a beneficial owner.</p> <p>What is meant by "as far as possible"?</p>	<p>AIs should generally obtain the name, date of birth, nationality and unique identification number (and document type) of a beneficial owner.</p> <p>However, there may be situations where not all the identification information of a beneficial owner can be obtained by the AI (eg only year of birth, not the date of birth, can be obtained).</p> <p>Given the legal and regulatory requirement is for the AI to be satisfied that it knows who the beneficial owner is, if the AI cannot obtain all the identification information of a beneficial owner, it should assess whether the information obtained is sufficient to identify the beneficial owner, and where necessary, consider whether additional steps are required to ensure it is satisfied that it knows who the beneficial owner is.</p>

	Relevant provisions	Question	Answer
23.	Paragraph 4.4.1, 4.4.2 and 4.4.9 of the AML/CFT Guideline	<p>Reasonable measures</p> <p>An AI should take reasonable measures to verify the identity of all beneficial owners.</p> <p>What is meant by “reasonable measures”?</p>	<p>The term “reasonable measures” means appropriate measures which are commensurate with the ML/TF risks. AIs should adopt a risk-based approach in relation to verifying the identity of beneficial owners. How far an AI should go and what will be considered reasonable will depend on the assessed risks associated with the business relationship, customer and/or transaction. This could include corroborating information from publically available sources such as through search engines or within commercial databases.</p>
24.	Paragraph 4.4.5 of the AML/CFT Guideline	<p>Definition of beneficial owner</p> <p>Who should be considered as an individual who “exercises ultimate control over the management of the corporation”?</p>	<p>The following are some examples of natural persons who could be considered as beneficial owners on the basis that they exercise ultimate control³ over the management of the corporation:</p> <ul style="list-style-type: none"> (a) A natural person who exerts control of a legal person through means such as personal connections to persons who would be beneficial owners due to owning more than 25% of the shares or voting rights. (b) A natural person who exerts control without ownership by participating in the financing of the enterprise, or because of close and intimate family relationships, historical or contractual associations, or if a company defaults on certain payments. Furthermore, control may be presumed even if control is never actually exercised, such as using, enjoying or benefiting from the assets owned by the legal person. <p>There is no requirement to actively identify a person exercising ultimate control over a customer where nothing obtained during the CDD process suggests that such a person exists.</p>
25.	Paragraph 4.4.8 of the AML/CFT Guideline	<p>Senior managing official</p> <p>Who is to be regarded as having a “position of senior managing official” for the purpose of paragraph 4.4.8?</p>	<p>Examples of positions of senior managing official include chief executive officer, chief financial officer, managing or executive director, president, or natural person(s) who has significant authority over a legal person’s financial relationships, the ability to establish material business relationships (including with FIs that hold accounts on behalf of a legal person) and the ongoing financial affairs of the legal person.</p> <p>When there is no natural person who is a “beneficial owner” as defined in the AMLO, AIs should identify the relevant natural persons who hold the position of senior managing official, and take reasonable measures to verify their identities. AIs can rely on the information provided by the customer to identify who holds these positions.</p>

³ As described in the third limb of the definition of an individual who is defined as a beneficial owner in relation to a corporation in paragraph 4.4.5(a) of the AML/CFT Guideline.

	Relevant provisions	Question	Answer
26.	Paragraph 4.4.9 and footnote 25 of the AML/CFT Guideline	<p>Register of beneficial owners</p> <p>Can an AI rely on a register of beneficial owners for identification purposes?</p>	<p>This will depend on the jurisdiction involved, the AI's assessment of ML/TF risk related to the jurisdiction (including with reference to FATF evaluations) and the definition of beneficial owner under the laws of the jurisdiction. Note that if the definition of beneficial owners in that jurisdiction differs from the AMLO and the AML/CFT Guideline (eg different threshold is adopted), the Hong Kong standard applies in relation to all business relationships established or maintained by the AI concerned.</p>
27.	Paragraph 4.5 and 4.10.4 of the AML/CFT Guideline	<p>Presence of directors or beneficial owners at account opening</p> <p>Is there a requirement that directors and beneficial owners of a legal person be present at account opening?</p>	<p>The presence of two or more, or all, directors or beneficial owners at the time of account opening is not required by the HKMA.</p> <p>Generally, a corporate account is opened in the name of a legal person by a natural person who is authorised to act on behalf of that legal person to establish business relationship with an AI. The basic requirement is for an AI to identify and verify the identity of that natural person as well as obtaining the written authority to verify that the natural person has the authorisation of the legal person to establish a business relationship with the AI concerned.</p> <p>For the avoidance of doubt, if such natural person is not physically present for identification purposes, the AI should mitigate any increased risk in accordance with paragraph 4.10.4 of the AML/CFT Guideline.</p>
28.	Footnote 41 of the AML/CFT Guideline	<p>New legal entity customer where the beneficial owner is already known</p> <p>Where a new-to bank-legal person customer is to be onboarded, and the beneficial owner is already known to the bank (and has been subject to identification and verification processes previously) does the beneficial owner have to provide updated ID for the purposes of on-boarding the new legal person customer?</p>	<p>If the identity of a beneficial owner of a new-to-bank legal person customer has previously been verified by an AI (eg the beneficial owner is the AI's existing customer; or the beneficial owner is a beneficial owner of the AI's existing customer), AIs do not generally need to re-verify their identities unless doubts arise as to the veracity or adequacy of the information previously obtained - for example, if it is no longer current.</p>

	Relevant provisions	Question	Answer
Ownership and control structure			
29.	Paragraph 4.4.14 of the AML/CFT Guideline	<p>Ownership charts</p> <p>Is it mandatory to obtain and verify an ownership chart for a legal entity customer?</p>	<p>An AI is obliged to understand the ownership and control structure of its customers. Although obtaining an ownership chart from the customer is the most convenient way of doing this, there is no strict requirement to do so.</p> <p>In deciding whether an ownership chart should be obtained, an AI should take into account the risk profile of the customer and the complexity of the ownership or control structure.</p> <p>Although an AI needs to identify any intermediate layers, it needs not, as a matter of routine, verify the details of the intermediate companies in the ownership structure. Whether this is necessary will depend upon the AI's overall understanding of the structure, the customer's risk profile and whether the information available is adequate in the circumstances for the AI to consider if it has taken adequate measures to identify the beneficial owners.</p>
30.	Paragraph 4.4.14 of the AML/CFT Guideline	<p>Ownership charts</p> <p>Is it a requirement to obtain a director's declaration on the ownership chart obtained?</p>	<p>No, it is not a requirement. Since an ownership chart is a document prepared by the customer, a declaration by the customer's director may not make the chart more reliable. However, as a director declaration evidences that a person with authority over the customer and who should have a close knowledge of its structure has signed it off, it may be considered to mitigate the risk of inaccurate or out-of-date information being presented.</p> <p>If an AI has doubt about the integrity of an ownership chart provided by the customer, it should take other steps to understand the ownership and control structure (eg obtain additional information or verify the details of the intermediate companies in the ownership structure).</p>
31.	Paragraph 4.4.14 of the AML/CFT Guideline	<p>Intermediate layers</p> <p>Do AIs need to obtain all identification information listed in paragraphs 4.3.6 and/or 4.3.11 of the AML/CFT Guideline in relation to each legal person or legal arrangement in the intermediate layer of a customer's ownership and control structure?</p>	<p>An AI should determine on a risk-sensitive basis the amount of information to be collected to identify each legal person or legal arrangement in the intermediate layer of a customer's ownership and control structure, which at a minimum should include their names. Further information, such as the place of incorporation and/or rationale behind the particular structure adopted, may be required on a risk-based approach.</p>

	Relevant provisions	Question	Answer
Identification and verification of identity – trust or other legal arrangements			
32.	Paragraph 4.3.10 and 4.4.12 of the AML/CFT Guideline	<p>Identifying and verifying the identity of a trustee of a customer that involves a trust</p> <p>Where the customer involves a trust or other similar arrangement, how should an AI identify, and verify the identity of, a trustee?</p>	<p>Where the customer involves a trust or other similar arrangement, AIs should:</p> <ul style="list-style-type: none"> (a) take the CDD measures in respect of the trust as required by the AMLO and AML/CFT Guideline; and (b) where the trustee is: <ul style="list-style-type: none"> (i) regarded as the AI's customer (which would normally be the case), identify and verify the identity of the trustee having regard to the usual standards for customers that are individuals or legal persons, as applicable; or (ii) not regarded as the AI's customer (eg where the trust has its own legal personality; or where the trust appears as part of an intermediate layer), identify and take reasonable measures to verify the identity of the trustee. Reasonable measures may include corroborating the undertaking or declaration obtained with publicly available information.
33.	Paragraph 4.4.12 of the AML/CFT Guideline	<p>A trust appears as part of an intermediate layer</p> <p>How should an AI identify and verify a trustee if the trust appears as part of an intermediate layer?</p>	<p>If a trust or other similar legal arrangement appears as part of an intermediate layer, the AI should identify and take reasonable measures to verify the identity of the trustee. For example, where a trustee is acting in its professional capacity (ie acting as a trustee in the course of profession or business) (eg a TCSP licensee) it may be appropriate to verify the identity of the trustee by checking the relevant regulatory register (eg the Register of TCSP Licensees made available by the Companies Registry).</p>
34.	Paragraphs 4.4.1, 4.4.11 and 4.4.12 of the AML/CFT Guideline	<p>Beneficial owners of a trust customer</p> <p>Where a settlor, protector or enforcer of a trust customer is a legal person, who should an AI identify and take reasonable measures to verify the identity of, as a beneficial owner?</p>	<p>A beneficial owner is normally a natural person who ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted. Where a settlor, protector or enforcer of a trust customer is a legal person, the objective remains to follow the chain of ownership or control to the beneficial owner (ie a natural person) in accordance with paragraph 4.4.14 of the AML/CFT Guideline, and to identify and take reasonable measures to verify the identity of such natural person.</p>

	Relevant provisions	Question	Answer
35.	Paragraph 4.4.13 and footnote 26 of the AML/CFT Guideline	<p>Trust beneficiary</p> <p>For a beneficiary of a trust designated by characteristics or by class, what other examples of information concerning the beneficiary can be obtained by the AI in addition to the one provided in footnote 26 of the AML/CFT Guideline?</p>	<p>Examples of information concerning the beneficiary designated by characteristics or class may include:</p> <ul style="list-style-type: none"> (a) the nieces, nephews, cousins or grandchildren of certain persons as at the time of their death; (b) certain award recipients approved by a prescribed charity as at a certain date; (c) one or more charities relating to a particular cause that are selected by a prescribed person. <p>The aim is to satisfy the AI that it will be able to establish the identity of that beneficiary at the time of payout or when the beneficiary intends to exercise vested rights.</p>
Person purporting to act on behalf of the customer (PPTA)			
36.	Paragraph 4.5.1 of the AML/CFT Guideline	<p>Identifying the PPTA</p> <p>Who should be treated as a PPTA?</p>	<p>A person may utilise a business relationship established between an AI and another person (natural or legal person) or legal arrangement to conduct ML/TF activities. FATF Recommendation 10 requires financial institutions to identify and verify the identity of any person purporting to act on behalf of the customer (PPTA), and the AMLO adopts the same requirement.</p> <p>Neither the FATF Recommendations nor the AMLO define the scope of PPTA. The AML/CFT Guideline explains that <i>whether the person is considered to be a PPTA should be determined based on the nature of that person's roles and the activities which the person is authorised to conduct, as well as the ML/TF risks associated with these roles and activities.</i></p> <p>At a minimum, a person who is authorised to act on behalf of a customer to establish a business relationship with an AI should always be treated as a PPTA.</p> <p>Als should adopt a framework of procedures for assisting their employees in assessing who would ordinarily be considered a PPTA for each customer segment. The approach and rationale should be consistent across departments and customer segments, to the extent possible.</p> <p>As a general proposition, each legal person customer should have at least one PPTA (ie the person acting on behalf of a customer to establish the business relationship with the AI as mentioned above) but there may be multiple PPTAs. PPTAs may also act alone or jointly. However, it is recognised that there may be some scenarios where no PPTA will be identified where this is unavoidable by virtue of the nature of the arrangements. Examples may include: correspondent banking relationships where account opening/payment instructions are provided via authenticated payment platform like SWIFT; or where the customer is onboarded solely due to the involvement of local staff, but no account is opened and no contract is signed with an AI in</p>

	Relevant provisions	Question	Answer
			Hong Kong, and relevant instructions come from another branch in the AI's group.
37.	Paragraph 4.5.1 of the AML/CFT Guideline	<p>Account signatory</p> <p>Should all account signatories of a customer be considered as PPTAs?</p>	<p>Account signatory refers to an individual authorised by a customer to transact on behalf of the customer or operate the customer's account / business relationship. While AIs have to guard against unauthorised transactions, this risk mainly relates to fraud and is different from ML/TF risk. AIs normally obtain names, specimen signatures and written authorisation of all account signatories to guard against this risk.</p> <p>Therefore, not every account signatory is required to be identified and verified for AML/CFT purposes (ie not every account signatory should be considered as a PPTA). The AML/CFT Guideline explains that <i>whether the person is considered to be a PPTA should be determined based on the nature of that person's roles and the activities which the person is authorised to conduct, as well as the ML/TF risks associated with these roles and activities</i>. For example:</p> <ul style="list-style-type: none"> • Example 1: Person A appoints Person B as the account signatory of their bank account and provides Person B with unlimited authority to direct how funds move in and out of the account. Person B is a PPTA. • Example 2: Company Y appoints a number of staff as the account signatories (including Person E). Person E is not authorised to move funds in Company Y's account but is authorised to issue a cheque up to a reasonable amount if it is co-signed by another staff member. In this case, Person E is unlikely to be a PPTA given the ML/TF risk associated with Person E's role is limited.

	Relevant provisions	Question	Answer				
38.	Paragraph 4.5 and 4.8 of the AML/CFT Guideline	<p>Lists of signatories</p> <p>Is an AI required to identify and verify the identity of all account signatories?</p>	<p>Account signatories are only required to be identified and verified if they are a PPTA. Instead of verifying the PPTAs' identities by reference to the identification document, data or information for each PPTA, AIs may take other reasonable measures (ie appropriate measures which are commensurate with the ML/TF risks). For example, where a business relationship is assessed to present a low ML/TF risk, an AI could verify the PPTAs' identities by reference to a list of PPTAs, whose identities and authority to act have been confirmed by a department or person within that customer which is independent to the persons whose identities are being verified (for example, compliance, audit or human resources).</p> <p>For the avoidance of doubt, as indicated in paragraph 4.5.3 of the AML/CFT Guideline, the AI is required to identify the PPTA by obtaining at least the following identification information:</p> <table border="1"> <thead> <tr> <th>Natural person PPTA</th> <th>Legal person PPTA</th> </tr> </thead> <tbody> <tr> <td> <ul style="list-style-type: none"> (a) full name; (b) date of birth; (c) nationality; and (d) unique identification number and document type. </td> <td> <ul style="list-style-type: none"> (a) full name; (b) date of incorporation, establishment or registration; (c) place of incorporation, establishment or registration (including address of registered office); (d) unique identification number and document type; and (e) principal place of business (if different from the address of registered office). </td> </tr> </tbody> </table>	Natural person PPTA	Legal person PPTA	<ul style="list-style-type: none"> (a) full name; (b) date of birth; (c) nationality; and (d) unique identification number and document type. 	<ul style="list-style-type: none"> (a) full name; (b) date of incorporation, establishment or registration; (c) place of incorporation, establishment or registration (including address of registered office); (d) unique identification number and document type; and (e) principal place of business (if different from the address of registered office).
Natural person PPTA	Legal person PPTA						
<ul style="list-style-type: none"> (a) full name; (b) date of birth; (c) nationality; and (d) unique identification number and document type. 	<ul style="list-style-type: none"> (a) full name; (b) date of incorporation, establishment or registration; (c) place of incorporation, establishment or registration (including address of registered office); (d) unique identification number and document type; and (e) principal place of business (if different from the address of registered office). 						
39.	Paragraph 4.5.1 of the AML/CFT Guideline	<p>Persons purporting to act on behalf of the customer</p> <p>Should dealers and traders in an investment bank or asset manager be considered as PPTAs?</p>	<p>Dealers and traders in an investment bank or asset manager who are authorised to act on behalf of the investment bank or asset manager would <i>not ordinarily</i> be considered as PPTAs. However, there is no "one size fits all" approach given the differences in roles and ML/TF risks involved. An AI should have a documented policy that applies a reasonable approach, having regard to the ordinary meaning and other FAQs relating to PPTAs.</p>				

	Relevant provisions	Question	Answer
Connected parties			
40.	Paragraph 4.3.18 and 4.3.19 of the AML/CFT Guideline	<p>Connected parties</p> <p>Why does an AI need to obtain the names of all the connected parties of the customers that are legal persons or legal arrangements?</p>	The purpose of obtaining the names of all the connected parties of a customer is to facilitate the sanction screening requirements set out in paragraph 6.17 of the AML/CFT Guideline.
41.	Paragraph 4.3.19 of the AML/CFT Guideline	<p>Connected parties</p> <p>Who is to be regarded as “<i>holding a senior management position or having executive authority in a customer</i>” for the purpose of paragraph 4.3.19(d)?</p>	<p>Paragraph 4.3.19(d) only applies to customers that are not corporations, partnerships, or trust or other similar arrangements, so these customers may include, for example associations, clubs, societies, charities etc. Whether a natural person is regarded as holding a senior management position or having executive authority of these customers depends significantly on the management structure of the customers concerned. It is generally for the AI to determine based on its understanding of the customer’s management structure obtained through the CDD process.</p> <p>Examples of person holding a senior management position or having executive authority may include the president, vice-president, secretary or treasurer of the customer.</p>
Reliability of documents data or information			
42.	Paragraph 4.3.14 of the AML/CFT Guideline	<p>“Current” data etc</p> <p>An AI should ensure that documents, data or information obtained is current at the time they are provided to the AI. What is meant by the term “<i>current</i>”?</p>	<p>Whether a document provided by a customer should be regarded as “current” depends on the nature of the document. The following examples may give AIs some guidance:</p> <ul style="list-style-type: none"> (a) for a document with an expiry date (eg passport), it cannot be expired at the time of verification; (b) for a document that will be updated on a frequent and specified basis (eg an annual return), the AI may generally accept the latest version of the document; (c) for a document that does not have an expiry date and is not required to be regularly updated (eg certificate of incumbency or certificate of good standing issued by the registered agent of an overseas-incorporated company), unless there is an independent and reliable public source of information to verify its reliability, the AI should only accept the document if it was issued within a reasonable timeframe (ie a reasonable timeframe from the date it is received or obtained by the AI. 6 months is generally regarded

	Relevant provisions	Question	Answer				
			<p>as reasonable but this can be adjusted taking an RBA).</p> <p>Als may also obtain a written assurance that the document obtained is current from the customer, its PPTA or a reliable third party. Als should also be aware of any inconsistencies between the document obtained and those that have been determined by the AI to be current.</p> <p>The above guidance equally applies if data or information (eg digital identity recognised by government) is used for identity verification.</p>				
43.	Footnote 41 of the AML/CFT Guideline	<p>Expired documents</p> <p>If a previously obtained identity document such as passport of a customer is expired, does the AI need to re-verify any aspect of customer identification by obtaining a current identity document?</p>	<p>Als do not need to re-verify any aspect of customer identification just because of the expiry of a previously obtained identity document. According to footnote 41 of the AML/CFT Guideline, once the identity of a customer has been satisfactorily verified, there is no obligation to re-verify identity unless in specified circumstances; however, Als should take steps from time to time (ie during a periodic or trigger event CDD review) to ensure that the customer information that has been obtained is up-to-date and relevant.</p>				
44.	Paragraph 4.3.16 of the AML/CFT Guideline	<p>Electronic documents</p> <p>What measures are Als expected to take to ensure the reliability of identification documents which are in electronic form?</p>	<p>The AML/CFT Guideline recognises that some commonly used original identification documents can be in electronic form. The AI should take appropriate measures to ensure the reliability of the electronic documents. The appropriateness of the measures to be taken will depend on the type of identification document in question. The following examples may apply:</p> <table border="1"> <thead> <tr> <th>Electronic document</th> <th>Appropriate measure to ensure reliability</th> </tr> </thead> <tbody> <tr> <td>Original certificate of incorporation issued by the Hong Kong Companies Registry in electronic form</td> <td>When accepting a print copy of an electronic Certificate of Incorporation, an AI can corroborate with other identification document or information (eg record of company registries) to ensure the reliability of the print copy.</td> </tr> </tbody> </table> <p>Note: For the avoidance of doubt, corroboration would not be required for instances where the AI itself has downloaded a particular document (as opposed to having received a print copy of it) from a reliable source (eg Hong Kong Companies Registry's website).</p>	Electronic document	Appropriate measure to ensure reliability	Original certificate of incorporation issued by the Hong Kong Companies Registry in electronic form	When accepting a print copy of an electronic Certificate of Incorporation, an AI can corroborate with other identification document or information (eg record of company registries) to ensure the reliability of the print copy.
Electronic document	Appropriate measure to ensure reliability						
Original certificate of incorporation issued by the Hong Kong Companies Registry in electronic form	When accepting a print copy of an electronic Certificate of Incorporation, an AI can corroborate with other identification document or information (eg record of company registries) to ensure the reliability of the print copy.						

	Relevant provisions	Question	Answer
45.	Paragraph 4.3.17 of the AML/CFT Guideline	<p>Document in foreign language</p> <p>Does the translation need to be performed by a professional third party (eg solicitor)?</p>	<p>There is no requirement that the translation has to be performed by a professional third party (eg solicitor) or someone who is qualified; AIs may obtain a translation from a reliable source, which may include technology solutions and commonly used translation tools.</p>
46.	Paragraph 4.10.3 of the AML/CFT Guideline	<p>Certification</p> <p>Who would be regarded as an appropriate certifier for the purpose of paragraph 4.10.3 of the AML/CFT Guideline?</p>	<p>The following is a list of non-exhaustive examples of appropriate persons to certify verification of identification documents:</p> <ul style="list-style-type: none"> (a) an intermediary specified in section 18(3) of Schedule 2; (b) a member of the judiciary in an equivalent jurisdiction; (c) an officer of an embassy, consulate or high commission of the country of issue of documentary verification of identity; (d) a Justice of the Peace; and (e) other professional person such as certified public accountant, lawyer, notary public or chartered secretary ^{Note}. <p>Note: a chartered secretary refers to a person who is a current full member of the Chartered Governance Institute or its designated divisions.</p>
47.	Paragraph 4.10.3 of the AML/CFT Guideline	<p>Certification</p> <p>If an AI decides to use certification as a supplementary measure to fulfil the requirement of section 9 of Schedule 2, what types of documents should be certified?</p>	<p>In general, only the identification document used for the purpose of identity verification (eg official document such as an identity card, passport, certificate of incorporation, or certificate of incumbency issued by registered agent etc) should be subject to certification.</p> <p>Certification can be time consuming and costly, so there is no need or expectation to require certification for all other CDD information or documents provided by the customer; or to require certification if an AI is able to check the documents against public sources.</p> <p>As a general principle, customers should always be provided with the opportunity, if they wish to do so, to present their original documents to the staff of the AI.</p>

	Relevant provisions	Question	Answer
Simplified due diligence			
48.	Paragraph 4.8 of the AML/CFT Guideline	<p>Specific customers in non-equivalent jurisdiction</p> <p>SDD in relation to beneficial owners is permitted in relation to public bodies, AIs and investment vehicles in Hong Kong or “equivalent” jurisdictions. Is an AI entitled to conduct SDD on such entities in non-equivalent jurisdictions?</p>	<p>If the customer is in a non-equivalent jurisdiction this should be taken into account in determining the risk level of the customer, and the extent of customer due diligence measures to be applied should be commensurate with the assessed level of risk. If the level of ML/TF risk is assessed as low, SDD under paragraphs 4.8.1 to 4.8.8 (except paragraph 4.8.8(b)) can be applied (ie <i>reducing the extent</i> of CDD measures taken). However, appropriate identification and verification measures in relation to the beneficial owners must still be undertaken, as this scenario does not involve a customer of the type specified in section 4 of Schedule 2 to the AMLO. It is simply that the <i>extent</i> of measures undertaken might be less, on an RBA.</p>
49.	Paragraph 4.8.12 of the AML/CFT Guideline	<p>Listed company beneficial owner transparency</p> <p>How does an AI establish if a listed company is subject to disclosure requirements that ensure adequate transparency of beneficial ownership?</p>	<p>In determining whether a listed company is subject to disclosure requirements that ensure adequate transparency of the company’s beneficial ownership, an AI could take into account the following factors, for example:</p> <ul style="list-style-type: none"> (a) whether there is a statutory regime that requires the disclosure of interests in listed companies above a certain threshold, either by the shareholder concerned or by the listed company in question; (b) the existence of penalties for non-compliance (pecuniary or otherwise) with the disclosure requirements; (c) a clear minimum shareholding threshold that triggers disclosure – in general, it should be at least the beneficial ownership threshold under the AMLO (more than 25%), or lower if needed to reflect the AI’s internal standards; (d) a specified timeframe for disclosure – in general, it would normally be expected that disclosures should be made within a limited number of days of the relevant triggering event; and (e) public access to the shareholder information.

	Relevant provisions	Question	Answer
Enhanced due diligence			
50.	Paragraph 4.9.5 of the AML/CFT Guideline	<p>Customer risk factor</p> <p>Where a customer, or in the case of a legal person customer, its connected parties, PPTAs or beneficial owners, are located overseas, must the customer be considered high risk?</p>	<p>No, this should be determined on a case-by-case basis.</p> <p>Where a customer's main business and areas of focus are in another jurisdiction, if the AI is satisfied with the reason for opening / maintaining an account in Hong Kong, the difference in location does not necessarily have to be considered a high ML/TF risk indicator.</p>
51.	Paragraph 4.6.1, 4.9.6, 4.9.10 and 12.3 of the AML/CFT Guideline	<p>Source of wealth</p> <p>Do AIs need to establish source of wealth for every customer?</p>	<p>No. The requirement to collect source of wealth information ordinarily applies to higher risk situations and therefore AIs are not expected to establish source of wealth for each and every customer.</p> <p>For most customers that are non-high risk customers, certain information obtained by an AI to understand the purpose and intended nature of the business relationship (eg occupation of individual customers, or business nature of corporate customers) should be sufficient for the AI to have a basic understanding of the customer's profile and accordingly be able to monitor that the account balance, and value and volume of transactions, is in line with their expected wealth and customer's profile.</p> <p>Even when establishment of source of wealth is required, there is no expectation to apply the same source of wealth procedures to all relevant customers in the same manner, or collect evidence dating back decades when the risk does not justify doing so, as it is often impractical.</p>
52.	Paragraph 4.9.2, 4.9.6, 4.9.10, 4.9.15 and 4.9.22, of the AML/CFT Guideline	<p>Source of wealth</p> <p>How do AIs adopt a risk-based approach in relation to establishing the source of wealth of an individual?</p>	<p>When an AI is required to establish the source of wealth of an individual, it should adopt an RBA to determine the extent of measures (ie the extent of measures should be commensurate with the level of ML/TF risk of the customer concerned). It is not necessary for the AI to obtain evidence to corroborate the information provided to the AI or to verify the individual's net worth in all cases. Where appropriate, the AI may seek evidence from a reliable, independent source that can corroborate the gist of the source of wealth information (eg publicly available property registers, land registers, asset disclosure registers or company registers).</p> <p>Further guidance in relation to understanding the source of wealth of a customer that presents a higher risk of ML/TF is set out at Appendix 1 to these FAQs.</p>

	Relevant provisions	Question	Answer
53.	Paragraph 4.15 of the AML/CFT Guideline	<p>Jurisdictions subject to a call by the FATF</p> <p>Which jurisdictions are subject to a call by the FATF?</p>	<p>Only jurisdictions listed in the FATF statement: “<i>High-Risk Jurisdictions subject to a Call for Action</i>” should be regarded as “jurisdictions for which this is called for by the FATF” under paragraph 4.15.1 of the AML/CFT Guideline. EDD measures that are proportionate to the risks should be conducted on business relationships and transactions with customers from these jurisdictions.</p> <p>For the avoidance of doubt, conducting EDD measure is not mandatory for customers connected to jurisdictions listed in the FATF statement: “<i>Jurisdictions under Increased Monitoring</i>”. However, the fact that a customer is connected to such a jurisdiction should be taken into account in determining the overall risk profile of the customer.</p>
Politically Exposed Persons (PEPs)			
54.	Paragraph 4.9.12 of the AML/CFT Guideline	<p>International organisation PEPs</p> <p>Are agencies of the UN considered to be “international organisations” for the purposes of establishing PEP status?</p>	<p>Yes, agencies of the UN are international organisations and such agencies are listed on the UN website currently available at the following website: https://www.un.org/en/sections/about-un/funds-programmes-specialized-agencies-and-others/index.html</p>
55.	Paragraph 4.9.13 of the AML/CFT Guideline	<p>International organisations PEPs</p> <p>Should individuals with a prominent function at all kinds of international organisations be regarded as a PEP?”</p>	<p>“<i>International organisations</i>” are defined in the AML/CFT Guideline as entities established by formal political agreements between their member States that have the status of international treaties; their existence is recognised by law in their member countries; and they are not treated as resident institutional units of the countries in which they are located. As such, individuals at organisations that do not meet these criteria are not international organisation PEPs.</p> <p>However, if an individual holds a prominent function at an organisation that may have certain similarities to, but which nevertheless does not meet the prescribed definition of, an “international organisation” (eg an international sport association), the AI should consider whether this impacts the risk profile of the customer.</p>

	Relevant provisions	Question	Answer
56.	Paragraph 4.9.7 and 4.9.21 of the AML/CFT Guideline	<p>Former foreign PEPs</p> <p>Should an AI apply EDD measures on foreign PEPs that are no longer entrusted with a prominent public function?</p>	<p>An AI should apply all the EDD measures set out in paragraph 4.9.10 of the AML/CFT Guideline even when a foreign PEP is no longer entrusted with a prominent public function. The AI should nevertheless adopt an RBA in determining the extent of EDD measures taking into account factors like the level of influence that a foreign PEP may continue to exercise after stepping down from the prominent public function.</p>
57.	Paragraph 4.9.16 and 4.9.21 of the AML/CFT Guideline	<p>Former domestic or international organisation PEPs</p> <p>Should an AI apply EDD measures on domestic or international organisation PEPs that are no longer entrusted with a prominent public function?</p>	<p>If a domestic PEP or an international organisation PEP is no longer entrusted with a prominent (public) function, an AI may adopt an RBA to determine whether to apply or continue to apply the EDD measures set out in paragraph 4.9.10 in a high risk business relationship with a customer who, or whose beneficial owner is, that domestic PEP or international organisation PEP, taking into account various risk factors.</p> <p>For the avoidance of doubt, the extent of any EDD measures applied should also be determined on an RBA according to paragraph 4.9.21 of the AML/CFT Guideline.</p>
58.	Paragraph 4.9.10 and 4.9.21 of the AML/CFT Guideline	<p>Senior management approval</p> <p>Who qualifies as “senior management” for the purposes of being able to approve establishing / continuing a business relationship with a PEP?</p>	<p>It is for individual AIs to determine this question, as organisational structures vary from AI to AI. AIs should maintain clear and documented policies setting out the persons within the institution who are able to approve PEP customer onboarding and a continued business relationship. In any event, it should only include those with sufficient seniority. The number and title of such persons will vary according to the size, type and institutional risk assessment of the AI. Senior management may include personnel in another jurisdiction if this reflects the AI’s organisational structure and risk management practices.</p>

	Relevant provisions	Question	Answer
Intermediaries			
59.	Footnote 35 of the AML/CFT Guideline	<p>Using intermediaries for ongoing monitoring</p> <p>Can an intermediary be relied upon to conduct ongoing monitoring as per section 5 of Schedule 2 to the AMLO?</p>	<p>No. Section 18 of Schedule 2 only allows an AI to carry out any CDD measures set out in section 2 of Schedule 2 by means of an intermediary but does not allow an AI to rely on an intermediary to continuously monitor relevant business relationships as required by section 5 of Schedule 2. Therefore, an AI cannot rely on an intermediary to continuously monitor its business relationships with a customer (ie ongoing CDD and transaction monitoring).</p> <p>However, the AI may use an intermediary to collect further documents, data and information, and provide or coordinate relevant updates, to assist the AI in ensuring that the CDD records maintained by the AI remain up-to-date and relevant.</p>
Correspondent banking			
60.	Paragraph 11.1 of the AML/CFT Guideline	<p>“Another institution”</p> <p>In the definition of correspondent banking, what is meant by the term “<i>another institution</i>”?</p>	<p>While the AMLO does not define what “<i>another institution</i>” means in the definition of correspondent banking, section 7 and section 14 of Schedule 2 only apply to correspondent banking relationship with an institution located in a place outside of Hong Kong that carries on a business similar to that carried on by an AI.</p>

	Relevant provisions	Question	Answer
61.	Paragraph 11.2 of the AML/CFT Guideline	<p>Non-customer relationships</p> <p>A correspondent banking relationship does not include occasional transactions or the mere exchange of SWIFT RMA keys in the context of “<i>non-customer relationships</i>”. What is considered a non-customer relationship for the purposes of this requirement?</p>	<p>“Non-customer relationship” refers to a relationship that does not fall under the definition of business relationship in the AMLO and the counterparty is not regarded as a “customer” of the AI (also see paragraph 4.1.5 of the AML/CFT Guideline).</p> <p>A non-customer RMA relationship is generally created when there is a request that the bank sends or receives SWIFT messages to/from a third party (ie the non-customer) in support of a customer’s business and where the bank has no other relationship with that third party. This can include both transactional and non-transactional messages. Such arrangements are sometimes referred to as “network banks,” which facilitate the continuing ability to meet customer global trading expectations and requirements.</p> <p>Network banks are non-customer banks and have no accounts, facilities or dedicated relationship manager. They are sponsored by a global line of business and interactions are limited to document exchanges and restricted SWIFT RMA message interactions. The settlement of any transaction is decoupled from the document exchange and always made via a customer bank.</p> <p>Some examples of where non-customer RMAs may be established to facilitate activities for existing customers include, but are not be limited to, the following:</p> <ul style="list-style-type: none"> (a) Cash management: receipt of balance and transaction information on a corporate customer’s account at another bank, so that the corporate customer can view activity through its bank’s reporting tool (b) Cash management: relaying payment instructions from a corporate customer to their third party bank (c) Custody: provision of information from a sub custodian bank to the global custodian at the request of the client (d) Trade Finance (eg letters of credit): exchange of messages with banks that do not otherwise have direct payment relationships (e) Exchange of messages with payments and securities markets infrastructure entities, eg exchanges and depositories (f) Message relaying intermediary bank: serving as an intermediary bank only to relay transactional or non-transactional measures without any accounts opened (g) Principal to principal and treasury transactions: the relationship facilitates principal to principal transactions or treasury deals only, such as foreign exchange trading or bond trading

	Relevant provisions	Question	Answer
62.	Paragraph 11.6 of the AML/CFT Guideline	<p>Responsibilities of each party</p> <p>Als are required to understand and document clearly the agreed lines of responsibility for AML/CFT in a correspondent banking relationship. Must this be in written form?</p>	It is not mandatory for the two Als to reduce their respective responsibilities to a written contract provided there is a clear understanding as to which institution will perform the required measures in relation to AML/CFT and this is documented (eg through an exchange of correspondence or where responsibilities are bound by SWIFT terms and conditions).
63.	Paragraph 11.8 of the AML/CFT Guideline	<p>Additional measures</p> <p>Is an AI required to obtain and record all the jurisdictions in which a respondent bank has its subsidiaries and branches?</p>	No. The information that has been taken into account in determining the extent of additional measures to be applied should be recorded. Factors that increase risk and mitigating factors should all be recorded if they have informed the decision-making process regarding the additional steps to be taken, this will not always involve recording all jurisdictions in which the respondent bank is present.
Private banking			
64.	Paragraph 12.6 of the AML/CFT Guideline	<p>Adverse news screening</p> <p>In addition to the private banking customer, on whom should an AI perform adverse news screening?</p>	An AI should conduct adverse news screening on a private banking customer, and any other persons known by the AI to be associated with that customer as far as practicable, before establishing the private banking relationship. For the purposes of this requirement, “ <i>any other persons known by the AI to be associated with the customer</i> ” may include known living family members and known living business associates who are known to have contributed to the source of wealth of the customer.
65.	Paragraph 12.10 of the AML/CFT Guideline	<p>Meetings</p> <p>How often is an AI required to meet their private banking customers?</p>	An AI is required to meet their private banking customers on a regular basis as far as possible. The frequency of meetings should be commensurate with the customer’s assessed ML/TF risk profile.

	Relevant provisions	Question	Answer
66.	Paragraph 12.8 of the AML/CFT Guideline	<p>Using technology to facilitate meetings</p> <p>What technology can an AI use in order to conduct a meeting with a customer?</p>	An AI can use technology to facilitate a meeting with a private banking customer, eg real-time video conferencing call, provided that the audio-visual quality enables effective communication.
Customer due diligence reviews			
67.	Paragraph 5.2 of the AML/CFT Guideline	<p>Trigger events</p> <p>What could constitute a “<i>trigger event</i>” for the purposes of requiring a CDD review?</p>	<p>Trigger events include:</p> <ul style="list-style-type: none"> (a) when a significant⁴ transaction is to take place; (b) when a material change occurs in the way the customer’s account is operated; (c) when the AI’s customer documentation standards change substantially; or (d) when the AI is aware that it lacks sufficient information about the customer concerned.
68.	Paragraphs 4.12.2, 5.2 and footnote 42 of the AML/CFT Guideline	<p>Re-activation of a dormant account</p> <p>When a dormant customer is re-activated, is the AI required to complete a trigger event CDD review before re-activating the relationship?</p>	<p>Als should adopt appropriate risk management policies and procedures to manage the risks associated with the reactivation of dormant relationships. These policies and procedures should include, for example, establishing a reasonable timeframe for the completion of CDD review on an RBA, and if account use is permitted before completion imposing risk mitigating controls such as restricting account functions, imposing transaction limits or implementing enhanced transaction monitoring measures before completing the CDD review.</p>

⁴ The word “significant” is not necessarily linked to monetary value. It may include transactions that are unusual or not in line with the AI’s knowledge of the customer.

	Relevant provisions	Question	Answer
Suspicious transaction report (STR)			
69.	Chapter 7 of the AML/CFT Guideline	<p>Reporting requirement under National Security Law (NSL)</p> <p>Who should NSL-related STRs be filed to?</p>	<p>All STRs should continue to be filed to the Joint Financial Intelligence Unit (JFIU) following existing reporting mechanism, i.e. STREAMS, and the “consent / no consent” systems will remain. AIs can click the box “National Security Law” under the “Reason for Disclosure” column in the STR Proforma, where appropriate.</p> <p>Note: While it is recognised that AIs may not be able to have full knowledge of the exact nature of the underlying crime, it is expected that these categories are selected on a best effort basis.</p>
70.	Chapter 7 of the AML/CFT Guideline	<p>Reporting requirement under NSL</p> <p>What are AIs’ reporting requirements under the NSL? Is the reporting threshold the same as OSCO?</p>	<p>The obligation for reporting under the NSL will be triggered when an AI “knows” or “suspects” that any property is offence related property. The threshold for reporting is the same as under existing arrangements under the Organized and Serious Crimes Ordinance (OSCO), the Drug Trafficking (Recovery of Proceeds) Ordinance (DTRPO) and the United Nations (Anti-Terrorism Measures) Ordinance (UNATMO). The time frame for reporting is also the same, ie AIs should file an STR to the JFIU as soon as reasonably practicable.</p>
71.	Chapter 7 of the AML/CFT Guideline	<p>Offence related property</p> <p>What is the definition of “offence related property” in NSL and under what circumstances should an AI disclose this property to the JFIU?</p>	<p>“Offence related property” as defined under section 1 of Schedule 3 to the Implementation Rules of the NSL refers to the property of a person who commits or attempts to commit, or participates in or facilitates the commission of, an offence endangering national security; or property used / intended to be used for financing or assisting the commission of an offence endangering national security. “Offence endangering national security” refers to offence of that nature under the NSL and the laws of the HKSAR safeguarding national security.</p> <p>Pursuant to section 5 of Schedule 3 to the Implementation Rules of the NSL, the following non-exhaustive scenarios can be regarded as circumstances that trigger a disclosure obligation:</p> <ol style="list-style-type: none"> a) When it comes to AIs’ attention that a person is arrested / charged for an offence endangering national security; and / or b) When AIs have knowledge or suspicion that a property is “offence related property” after receiving information from law enforcement agencies. <p>The AIs MUST make a disclosure of the property held by the persons specified in (a) or the circumstance in</p>

	Relevant provisions	Question	Answer
			<p>relation to (b) to JFIU. For the avoidance of doubt, such property includes all kind of property regardless of the portion of shareholdings by the persons specified in (a).</p> <p>If you wish to contact the National Security Department of the Hong Kong Police Force (NSD) for advice, you can do so by the following means:</p> <p>NSD Hotline for Financial Institutions: 2896 3270</p> <p>Email: enquiry3@police.gov.hk</p>
Law enforcement requests			
72.	Paragraph 7.31 the AML/CFT Guideline	<p>Law enforcement requests</p> <p>Would AIs be requested under search warrants related to NSL to submit information of customer's accounts in their branches or subsidiaries in other jurisdictions?</p>	<p>No. As with the existing practice under OSCO, DTROP and UNATMO, requests by the law enforcement agencies for information of an account managed in other jurisdictions will be made through Mutual Legal Assistance (involving the Department of Justice). Such requests will not be made through the AIs.</p>
73.	Paragraph 7.31 the AML/CFT Guideline	<p>Law enforcement requests</p> <p>It is noted that, under exceptional circumstances, a warrant is not required for the search of places for evidence under NSL. How are AIs able to ascertain if authority has been conferred for such actions?</p>	<p>A search warrant will ordinarily be obtained by law enforcement agencies when searching an AI's records. Under exceptional circumstances where it would not be reasonably practicable to obtain such a search warrant, a police officer at or above the rank of Assistant Commissioner of Police may authorise the search. In such cases a formal written document will be produced to the AI on spot, with the name and contact details of the authorized officer clearly stated. Similar arrangements also exist under various other existing ordinances, such as the Gambling Ordinance.</p>

	Relevant provisions	Question	Answer
Wire transfers			
74.	Paragraph 6.16(c) of the AML/CFT Guideline	<p>“Relevant party”</p> <p>In a cross-border wire transfer, who must be screened as a “<i>relevant party</i>”?</p>	<p>An AI should, at a minimum, screen the following relevant parties in a cross-border wire transfer:</p> <ul style="list-style-type: none"> (a) originator; (b) recipient; (c) ordering institution; (d) intermediary institution; (e) beneficiary institution; and (f) named parties (eg individuals, companies, banks etc) in the payment message.
75.	Paragraph 10.8 of the AML/CFT Guideline	<p>Accuracy of originator information</p> <p>How should an ordering institution ensure that the required originator information is accurate?</p>	<p>The required originator information is deemed to be accurate if the identity of the originator has been verified in compliance with the AMLO and the AML/CFT Guideline. No further verification of the originator information is normally required, although ordering institutions may exercise their discretion to do so in individual cases.</p>
76.	Paragraph 10.8 of the AML/CFT Guideline	<p>Originator’s address</p> <p>For wire transfers over \$8,000, can the originator’s address accompanying the wire transfer be a PO box address?</p>	<p>The address information accompanying the wire transfer should be sufficient to identify clearly the location of party / parties for sanctions screening and AML/CFT monitoring purposes. Therefore, having a Post Office (PO) Box as an address should be avoided except where no alternative exists.</p>

	Relevant provisions	Question	Answer
Record-keeping			
77.	Chapter 8 of the AML/CFT Guideline	<p>Record-keeping of unsuccessful applicants</p> <p>For cases of unsuccessful application for business, is an AI required to retain the identification records and documents in relation to the unsuccessful applicants?</p>	<p>Under the AMLO, there is no requirement for an AI to maintain records and documents involving unsuccessful applicants. This, however, does not preclude the AI from retaining the relevant records and documents in order to meet its other statutory obligations.</p>
Issues relating to financial group			
78.	Paragraph 4.1.6 of the AML/CFT Guideline	<p>Managed in substance</p> <p>What is meant by the term “managed in substance” within the meaning of paragraph?</p>	<p>The term “managed in substance” refers to the substantive aspects of the business relationship, rather than the performance of mere administrative or back-office functions. Such a determination has to take into account the particular circumstances of an AI.</p> <p>In general, if an AI carries out relationship management for a customer whose account is booked outside Hong Kong, the AI will have a business relationship with the customer (see definition of business relationship in Part 1 of Schedule 2 to the AMLO).</p> <p>For the avoidance of doubt, relationship management may take place from more than one location.</p>

	Relevant provisions	Question	Answer
79.	Paragraph 3.15 of the AML/CFT Guideline	<p>Overseas subsidiaries</p> <p>With reference to section 22(1)(b) of Schedule 2, where a bank incorporated in Hong Kong has a subsidiary that carries on a securities or insurance business outside Hong Kong, will section 22 apply to such a subsidiary ie is the subsidiary regarded as “carrying on the same business as a financial institution in a place outside Hong Kong”?</p>	<p>It should be noted that section 22(1)(b) of Schedule 2 states “the same business as an FI” but not “the same business as the FI”. The term “FI” refers to an FI as defined in the AMLO, including authorized institution, licensed corporation, authorized insurer, etc. Therefore, so long as the overseas subsidiary carries out the business as any type of FI (not necessarily as the same type of the business of the parent company), then this provision will apply.</p>
80.	Paragraph 3.17 the AML/CFT Guideline	<p>Group-wide information sharing</p> <p>Article 63 of the NSL stipulates that the relevant institutions, organisations and individuals who assist with the handling of a case shall keep confidential any information pertaining to the case. Would the sharing of information with overseas head offices/branches /subsidiaries for risk management purposes breach this requirement?</p>	<p>As with existing obligations under the OSCO, DTROP and UNATMO, AIs should also observe information confidentiality requirements under the NSL and must not disclose to another person any information or other matter which is likely to prejudice any investigation which might be conducted. The sharing of information with overseas head offices/branches/subsidiaries for risk management purposes, as global financial institution lawfully do now, will not be affected.</p>

Appendix 1 – Establishing source of wealth⁵

Good practice

The below sets out a sample of good practices to be taken in relation to establishing the source of wealth of an individual.

Good practices	Details
Obtaining information	<ul style="list-style-type: none"> • (When the type or level of business activity diverges from the customer’s source of wealth) Promptly conducting further assessments on the customer’s source of wealth and reconsidering how to manage the business relationship with the customer (for example, establishing, maintaining or terminating business relationship) • (Where there is an absence of information to ascertain the source of wealth) Considering information on publicly disclosed assets – for example, asset disclosure systems which allow public access to information in the disclosure made by certain PEPs⁶ • (When obtaining information from a self-declaration) Verifying the accuracy of the customer’s declaration about the source of wealth through reliable sources such as: <ul style="list-style-type: none"> ○ publicly available property registers; ○ land registers, asset disclosure registers, company registers; ○ past transactions with AIs (for existing customers); and ○ other sources of information about legal and beneficial ownership.
New customer approval	<ul style="list-style-type: none"> • Challenging the source of wealth information (where appropriate) during the customer due diligence process • Conducting validation and corroboration (where appropriate)
Establishing policies and procedures	<ul style="list-style-type: none"> • Establishing effective escalation and advisory procedures to ensure that high risk customers, including PEPs, are appropriately identified and handled, and that staff responsibilities are clear • Establishing other clear risk-based policies and procedures, such as setting out the EDD measures required for higher-risk and PEP customers and on source of wealth
Reviews	<ul style="list-style-type: none"> • Proactively following up gaps in, and updating, source of wealth information for higher-risk relationships during the course of the relationship • Reviewing relationships periodically to ensure due diligence information remains current, and the risk assessment and associated controls remain appropriate

⁵ Attention is also drawn to the “Wolfsberg Source of Wealth and Source of Funds (Private Banking/Wealth Management) FAQs” published on 7 August 2020, available here: <https://wolfsberg-principles.com/articles/publication-source-wealth-and-source-funds-private-bankingwealth-management-faqs>

⁶ Note that not all jurisdictions have such an asset disclosure system. It is often the case that there is only summary of information filed by these PEPs is made publicly available.

Poor practices

The below are examples of measures that would *not* generally be acceptable:

- (a) **failing to properly apply risk-based approach** - source of wealth requirements (particularly when conducting verification) are not sufficiently risk-based, such as applying the same measures to customers of varying risks or collecting too little or too much information;
- (b) **taking information provided by clients at face value** - always accepting a customer's explanation and material provided for source of wealth at face value, without probing further even where red flags are raised or raising insufficient challenge to source of wealth information;
- (c) **over-reliance** - on undocumented information, particularly, relying on a self-declaration by the customer as to its source of wealth without verifying the information in the customer declaration through reliable external or internal sources;
- (d) **relying on intra-group introductions** - where overseas standards are not equivalent to Hong Kong or where due diligence data is inaccessible because of legal constraints;
- (e) **granting waivers** from establishing source of wealth where it is mandatory; and
- (f) **failing to distinguish** - between a customer's source of wealth and source of funds.

Source of wealth examples

Source of wealth information should give an indication as to the size of wealth the customer would be expected to have, and a picture of how the individual acquired the wealth. It may be possible to gather this information from:

- (a) official documents issued by a government or public body;
- (b) public information and open sources, such as reputable sources on the Internet;
- (c) confirmation from a professional service provider with knowledge of the customer (such as an accountant, lawyer, professional trustee or company services provider); or
- (d) copies of primary sources, for example:



