

FAQ of Money Laundering Control Act and Related Regulations

FSC/2017.6.5

Q1: What is money laundering? According to Money Laundering Control Act, why financial institutions are required to undertake customer due diligence (CDD) measures?

A1: Money laundering is the process of making illegally-gained proceeds appear legal without raising the suspicion of law enforcement agencies by cash deposit, remittance, or purchasing properties. Financial institutions are easy to be abused by criminals to launder money due to the convenience services they provided; therefore, financial institutions are required by international standards to undertake customer due diligence (CDD) measures, including understanding customer's identity, background, the purpose of transactions, and the sources of wealth, etc., in order to make sure money laundering activities can be discovered promptly, and to prevent crime and protect citizens and societies safety.

Q2: According to article 7 of "Money Laundering Control Act", financial institutions shall undertake customer due diligence (CDD) measures, what's the process?

A2:

(1) Verifying following matters and asking the customer to provide related documents:

- a. Identifying the customer and verifying that customer's identity.
- b. Verifying that any person purporting to act on behalf of the customer is so authorized, identifying and verifying the identity of that person.
- c. Identifying the identity of the beneficial owner of a customer and taking reasonable measures to verify the identity of the beneficial owner.
- d. Understanding and, in view of the situation, obtaining relevant information on the purpose and intended nature of the business relationship.

(2) In addition to the process mentioned above, in order to understand the

customer's background and the nature of transactions, financial institutions may take reasonable measures, in view of the situation, to understand the sources of wealth and the source of funds of the customer.

Q3: Is there a need to undertake the CDD measures mentioned in Q2 for every transaction that a person approaches a financial institution to make?

A3:

(1) According to international standards, financial institutions are only required to undertake CDD measures in certain situations (refer to (2)); therefore, they don't ask customers to provide identity verification documents for every transaction.

(2) A financial institution shall undertake CDD measures that Q2 mentioned when:

a. Establishing business relations with customers (e.g. open an account).

b. Carrying out occasional transactions with respect to (the definition of occasional transactions refers to Q4):

(a) Cash transaction for an amount more than NT\$500,000.

(b) Cross-border remittance for an amount more than NT\$30,000 (including the foreign currency equivalent thereof).

(c) There is a suspicion of money laundering or terrorist financing; or

(d) The financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.

Q4: Continuing from Q3, what's the meaning of "occasional transactions"?

A4: It refers to the situation where a person conducts transactions at a bank that the person has no existing business relationship with. Therefore, if a person approaches a financial institution to make cash deposits, withdrawals or remittances into an account opened with the bank, the payment would not be considered occasional transaction.

Q5: If a cash transaction (cash remittance, money exchange, payment, or other contingent transaction) is arranged by an individual on behalf of his/her family or a company for; a) an amount more than NT\$500,000 (including the equivalent value in foreign currency), b) multiple related cash transactions for an amount more than NT\$500,000 (including the equivalent value in foreign currency), or c) a cross-border remittance for an amount more than NT\$30,000 (including the equivalent value in foreign currency), all with a bank where there is no established business relationship, what documents must be presented?

A5:

- (1) Personal account: An identification document or passport for the principal and the agent, and supporting documents for the agency.
- (2) Non-personal account: Related corporate or group registration certificate or establishment certificate and documents (e.g. establishment or alteration registration form for the company); Articles of Association; business address; shareholder/investor list; identity information for the substantial beneficiary (whether a natural person, shareholder/investor. Or other controller with more than 25% of the corporate shares or capital); identification documents of the agent; and supporting documents for the agency.
- (3) Supporting documents for the agency refers to power of attorney and proxy issued by the agent or the principal.

Q6: Continuing from Q5, if a cash transaction (cash remittance, money exchange, payment, or other contingent transaction) is arranged by an individual on behalf of his/her family or a company for: a) an amount more than NT\$500,000 (including the equivalent value in foreign currency), b) multiple related cash transactions for an amount more than NT\$500,000 (including the equivalent value in foreign currency), both with a bank where there is an established business relationship, what documents must be presented?

A6: An identification document for the agent, and supporting documents for the agency. Foreign exchange transactions are subject to the relevant provisions of the central bank.

Q7: According to the “Regulations Governing Anti-Money Laundering of Financial Institutions”, under what circumstances will financial institutions refuse to establish a business relationship or transaction with the customer?

A7:

- (1) The customer is suspected of opening an anonymous account or using a fake name, a nominee, a shell company or legal persons/organization to open an account.
- (2) The customer refuses to provide the required documents for identifying and verifying its identity.
- (3) Where any person acts on behalf of a customer to open an account, it is difficult to check and verify the fact of authorization and identity-related information.
- (4) The customer uses forged or altered identification documents, or only provides photocopies of the identification documents; the preceding provision does not apply to businesses where a photocopy or image file of the identification document supplemented with other control measures are acceptable under other laws or regulations;
- (5) Documents provided by the customer are suspicious or unclear, the customer refuses to provide other supporting documents or documents provided by the customer cannot be verified.
- (6) The customer procrastinates in providing identification documents in an unusual manner.
- (7) Other unusual circumstances exist in the process of establishing business relationship or conducting transaction and the customer fails to provide reasonable explanations.
- (8) The customer is an individual, a legal person or an organization sanctioned under the Terrorism Financing Prevention Act, or a terrorist or terrorist

group identified or investigated by a foreign government or an international organization.

- (9) Other matters that are processed in accordance with the bank account-opening agreement or the relevant law and regulations.

Q8: Who is the “beneficial owner” of a legal person or group?

A8: The so-called “beneficial owner” of a legal person or group refers to “the natural person who has the ownership or ultimate control” of the legal person or group. Financial institutions shall follow the process below to confirm the beneficial owner of the client:

- (1) A natural person who directly or indirectly holds more than 25% of the corporate shares or capital of legal person or group.
- (2) If a natural person with control is not identified according to Clause (1), it is necessary to identify a natural person with control who has controlled the client via other methods.
- (3) If a natural person with control is not identified according to Clause (1) or (2), a financial institution shall identify the identities of a natural person who holds the position of senior managing official (e.g. directors, general managers, or those with similar duties).