

ANNEX I: PROPOSED KEY AMENDMENTS TO MAS NOTICE TCA-N03

1 NEW REQUIREMENTS

1.1 Assessing Risks and Applying a Risk-Based Approach – Paragraphs 4.1 to 4.3

1.1.1 MAS adopts a risk-based approach (RBA) in its supervision of financial institutions. The use of an RBA in the implementation of AML/CFT controls allows for resources to be effectively allocated according to the level of risk. In this regard, MAS and other Singapore authorities undertook a money laundering and terrorism financing (ML/TF) risk assessment exercise at the national level which culminated with the publication on 10 January 2014 of the Singapore National Money Laundering and Terrorist Financing Risk Assessment Report 2013 ([NRA](#)¹). The key purpose of publishing the NRA was to help private sector stakeholders, including financial institutions, better understand the ML/TF risks in their sector, as well as those that they deal with.

1.1.2 MAS Notice TCA-N03 will include new obligations on trust companies to identify and assess the overall ML/TF risks they face as an institution, and to take commensurate steps to mitigate these risks effectively. Trust companies should take into account the results of Singapore's NRA when making this assessment, and ensure that the resources and mitigating measures in place are commensurate with the ML/TF risks identified. Such risk assessments should be updated and reviewed on a regular basis.

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http://www.mas.gov.sg/~media/resource/news_room/press_releases/2014/Singapore%20NRA%20Report.pdf

2 CLARIFICATION OF EXISTING EXPECTATIONS

2.1 New Products, Practices and Technologies– Paragraphs 5.1 to 5.3

MAS Notice TCA-N03 will be revised to clarify risk assessment and mitigation requirements in relation to new products, practices and technologies.

2.2 Reasonable Grounds for Suspicion – Paragraphs 6.2, 6.30 and 6.31

2.2.1 MAS had previously explained in its response to the feedback in its March 2013 Consultation Paper to Designate Tax Crimes as Money Laundering Predicate Offences in Singapore, its supervisory expectations with respect to deterring illicit monies arising from tax evasion which is now part of the predicate offences pursuant to [Singapore's AML regime](#)².

2.2.2 MAS Notice TCA-N03 will be amended to clarify the following existing expectations:

- a. Prospective trust relevant parties. Trust companies should not establish business contact if there are reasonable grounds to suspect that the assets or funds of the said trust relevant party are proceeds of a serious offence.
- b. Existing trust relevant parties. Where there are reasonable grounds to suspect that an existing trust relevant party is connected with ML/TF activities, specific steps need to be taken by the trust company, including consideration whether to continue business contact with the trust relevant party. Should the trust company decide to continue business contact with the trust relevant party, the trust company should also take mitigating measures which are commensurate with its risk assessment.

2.3 Identification and Verification of Identity of Effective Controllers - Paragraphs 6.19 to 6.20

2.3.1 The revised MAS Notice TCA-N03 will provide further elaboration of the cascading measures trust companies need to undertake when identifying and verifying the identity of effective controllers of settlors or trustees that are legal persons and legal arrangements.

² <http://statutes.agc.gov.sg/aol/search/display/view.w3p?page=0;query=Compld%3Ae656bc3e-f045-429e-8eda-b16a8c26a419;rec=0;resUrl=http%3A%2F%2Fstatutes.agc.gov.sg%2Faol%2Fbrowse%2FtitleResults.w3p%3Bletter%3DC%3Btype%3DactsAll#legis>

2.3.2 For legal persons –

- a. Trust companies are to take reasonable measures to identify the natural persons who ultimately own the settlor or trustee.
- b. Where there is doubt as to whether the natural persons who ultimately own the settlor or trustee are the effective controllers or where no natural persons ultimately own the settlor or trustee, trust companies are to identify the natural persons who ultimately control the settlor or trustee.
- c. If no natural person has been identified after steps (a) and (b), trust companies will need to identify the natural persons having executive authority in the settlor or trustee, or in equivalent or similar positions.

2.3.3 When dealing with legal arrangements, trust companies will need to identify the trustee(s), settlor, protector (where applicable), beneficiaries, and any natural person exercising ultimate ownership or control over the trust, as well as take reasonable measures to verify their identities.

2.4 Screening of Trust Relevant Parties - Paragraphs 6.39 to 6.41

2.4.1 MAS Notice TCA-N03 will be revised to clarify existing expectations for trust companies to conduct screening of trust relevant parties and related parties. The scope of screening will include the trust relevant party, natural persons appointed to act on behalf of the trust relevant party, connected parties of the trust relevant party, and effective controllers of the settlor and trustee.

2.4.2 A screening process is fundamental to managing ML/TF risks. Trust companies are expected to have adequate systems, procedures and processes to perform effective screening to identify any parties who are sanctioned or suspected to be involved in ML/TF activities. The screening process could also enable the trust company to identify higher risk trust relevant parties. Trust companies need to perform screening on all their new and existing trust relevant parties, as well as their effective controllers and any connected parties, at the point of on-boarding and on an ongoing basis. Screening should be performed based on relevant ML/TF information sources, including information and lists provided by MAS and other relevant authorities in Singapore.

2.5 Politically Exposed Persons (“PEP”) – Paragraphs 8.1 to 8.4

In light of new developments in international standards and best practices with respect to PEPs, MAS Notice TCA-N03 will further clarify requirements with respect to PEPs,

their family members and close associates. This will introduce the option of adopting an RBA for certain categories of PEPs.

2.6 Other High Risk Categories - Paragraphs 8.5 to 8.7

The amended MAS Notice TCA-N03 will set out requirements to take into account countries and jurisdictions identified by the FATF as higher risk. Trust companies are also required to have processes in place to ensure compliance with regulations (e.g. MAS Regulations on Iran and the Democratic People's Republic of Korea) and directions issued by MAS under section 27A of the MAS Act (Cap. 186). Such processes would include enhanced CDD measures where relevant.

2.7 Performance of CDD Measures by Third Parties - Paragraphs 9.1 to 9.5

MAS Notice TCA-N03 will now specify requirements for trust companies in respect of their reliance on third parties, including their own branches and subsidiaries, to perform CDD.

2.8 Record-Keeping - Paragraphs 10.1 to 10.4

MAS Notice TCA-N03 will now clarify requirements in relation to record-keeping of CDD information and records relating to a transaction.

2.9 Sharing of AML/CFT Information within Financial Group - Paragraphs 13.3 to 13.9

2.9.1 A key element of an effective AML/CFT programme is the management of ML/TF risks on a group-wide basis. This is in line with MAS' existing approach and international best practice to better manage ML/TF risks across the financial group.

2.9.2 MAS Notice TCA-N03 will be amended to clarify existing expectations on trust companies incorporated in Singapore to develop and implement group policies and procedures for their branches and subsidiaries within the financial group to share information required for the purposes of CDD, and for ML/TF risk management.

3 DRAFT MAS NOTICE TCA-N03

MAS Notice TCA-N03

[] 2014

NOTICE TO TRUST COMPANIES
MONETARY AUTHORITY OF SINGAPORE ACT, CAP. 186

PREVENTION OF MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM – TRUST COMPANIES

1 INTRODUCTION

- 1.1 This Notice is issued pursuant to section 27B of the Monetary Authority of Singapore Act (Cap.186) and applies to all trust companies licensed under section 5 of the Trust Companies Act (Cap. 336) and also to all private trust companies exempted from licensing under section 15 of that Act (hereinafter “trust companies”).
- 1.2 This Notice shall take immediate effect. MAS Notice TCA-N03 dated 2 July 2007 is cancelled with effect from [].

2 DEFINITIONS

- 2.1 For the purposes of this Notice —

“AML/CFT” means anti-money laundering and countering the financing of terrorism;

“Authority” means the Monetary Authority of Singapore;

“business contact”, in relation to a trust company and a trust relevant party, means any contact (including the undertaking of any transaction) between the trust company and the trust relevant party in the course of the provision of trust business services by the trust company;

“CDD measures” or “customer due diligence measures” means the measures required by paragraph 6;

“connected party” —

- (a) in relation to a legal person (other than a partnership), means any director or

any natural person having executive authority in the legal person;

- (b) in relation to a legal person that is a partnership, means any partner or manager; and
- (c) in relation to a legal arrangement, means any natural person having executive authority in the legal arrangement, where applicable;

“Core Principles” refers to the Core Principles for Effective Banking Supervision issued by the Basel Committee on Banking Supervision, the Objectives and Principles for Securities Regulation issued by the International Organization of Securities Commissions, and the Insurance Core Principles issued by the International Association of Insurance Supervisors;

“effective controller”, in relation to a settlor or a trustee, means the natural person who ultimately owns or controls the settlor or trustee, or the natural person on whose behalf business contact is established or maintained, and includes any person who exercises ultimate effective control over a legal person or legal arrangement;

“FATF” means the Financial Action Task Force;

“financial group”, means a group that consists of a legal person or legal arrangement exercising control and coordinating functions over the rest of the group for the application of group supervision under the Core Principles, and its branches and subsidiaries that are subject to AML/CFT policies and procedures at the group level;

“government entity” means a government of a country or jurisdiction, a ministry within such a government, or an agency specially established by such a government through written law;

“legal person” means an entity other than a natural person that can establish a permanent relationship as a trust relevant party or otherwise own property;

“legal arrangement” means a trust or other similar arrangement;

“partnership” means a partnership, a limited partnership within the meaning of the Limited Partnerships Act (Cap. 163B) or a limited liability partnership within the meaning of the Limited Liability Partnerships Act (Cap. 163A);

“personal data” has the same meaning as defined in section 2(1) of the Personal Data Protection Act 2012 (Act 26 of 2012);

“reasonable measures” means appropriate measures which are commensurate with the money laundering or terrorism financing risks;

“STR” means suspicious transaction report;

“STRO” means the Suspicious Transactions Reporting Office, Commercial Affairs Department of the Singapore Police Force;

“trust business” has the same meaning as defined in section 2 of the Trust Companies Act (Cap.336);

“trust companies” means trust companies licensed under section 5 of the Trust Companies Act (Cap. 336) and private trust companies exempted from licensing under section 15 of that Act (Cap. 336); and

“trust relevant party”, in relation to a trust, means any of the following —

- (i) the settlor of the trust;
- (ii) the trustee;
- (iii) the beneficiaries; or
- (iv) any person who has any power over the disposition of any property that is subject to the trust.

- 2.2 The expressions used in this Notice shall, except where defined in this Notice or where the context otherwise requires, have the same meanings as in the Trust Companies Act (Cap. 336).

3 UNDERLYING PRINCIPLES

- 3.1 This Notice is based on the following principles, which shall serve as a guide for all trust companies in the conduct of their operations and business activities:

- (a) A trust company shall exercise due diligence when dealing with trust relevant parties, persons appointed to act on the trust relevant party’s behalf and effective controllers.
- (b) A trust company shall conduct its business in conformity with high ethical standards, and guard against establishing or maintaining any business contact, that is or may be connected with or may facilitate money laundering or terrorism financing.
- (c) A trust company shall to the fullest extent possible, assist and cooperate with the relevant law enforcement authorities in Singapore to prevent money laundering and terrorism financing.

4 ASSESSING RISKS AND APPLYING A RISK-BASED APPROACH

Risk Assessment

- 4.1 A trust company shall take appropriate steps to identify, assess and understand, its money laundering and terrorism financing risks in relation to —
- (a) its trust relevant parties;
 - (b) the countries or jurisdictions its trust relevant parties are from or in;
 - (c) the countries or jurisdictions the trust company has operations in; and
 - (d) the products, services, transactions and delivery channels of the trust company.
- 4.2 The appropriate steps referred to in paragraph 4.1 shall include —
- (a) documenting the trust company's risk assessments;
 - (b) considering all the relevant risk factors before determining the level of overall risk and the appropriate type and extent of mitigation to be applied;
 - (c) keeping the risk assessments up to date; and
 - (d) having appropriate mechanisms to provide its risk assessment information to the Authority.

Risk Mitigation

- 4.3 A trust company shall —
- (a) have policies, controls and procedures, which are approved by senior management, to enable it to manage and mitigate effectively the risks that have been identified by the trust company or notified to it by the Authority or other relevant authorities in Singapore;
 - (b) monitor the implementation of those policies, controls and procedures and enhance them if necessary;
 - (c) take enhanced measures where higher risks are identified, to manage and mitigate those higher risks; and
 - (d) ensure that measures or enhanced measures taken to manage and mitigate the identified risks address the risk assessment and guidance from the Authority or relevant authorities in Singapore.

5 NEW PRODUCTS, PRACTICES AND TECHNOLOGIES

- 5.1 A trust company shall identify and assess the money laundering and terrorism financing risks that may arise in relation to —
- (a) the development of new products and new business practices, including new delivery mechanisms; and
 - (b) the use of new or developing technologies for both new and pre-existing products.
- 5.2 A trust company shall undertake the risk assessments, prior to the launch or use, to the extent permitted by this Notice, of such products, practices and technologies, and shall take appropriate measures to manage and mitigate the risks.
- 5.3 A trust company shall, in complying with the requirements of paragraphs 5.1 and 5.2, pay special attention to any —
- (a) new products and business practices, including new delivery mechanisms; and
 - (b) new or developing technologies,
- that favour anonymity.

6 CUSTOMER DUE DILIGENCE (“CDD”)

Anonymous Dealings or Fictitious Names

- 6.1 No trust company shall establish or maintain business contact with any trust relevant party on an anonymous basis or where the trust relevant party uses a fictitious name.

Where There Are Reasonable Grounds for Suspicion on Prospective Trust Relevant Parties

- 6.2 Where the trust company has reasonable grounds to suspect that the assets or funds of a prospective trust relevant party, with whom the trust company intends to establish business contact, are proceeds of a serious offence as defined in the Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A), or are property related to the facilitation or carrying out of any terrorism financing offence as defined in the Terrorism (Suppression of Financing) Act (Cap. 325), the trust company shall —
- (a) not establish business contact with the prospective trust relevant party; and

- (b) file an STR¹, and extend a copy to the Authority for information.

When CDD Measures are to be Performed

- 6.3 A trust company shall perform CDD measures in accordance with this Notice when —
- (a) the trust company establishes business contact with any trust relevant party;
 - (b) there is a suspicion of money laundering or terrorism financing, notwithstanding that the trust company would otherwise not be required by this Notice to perform CDD measures; or
 - (c) the trust company has doubts about the veracity or adequacy of any information previously obtained.

CDD Measures

(I) Identification of Trust Relevant Parties

- 6.4 A trust company shall identify each trust relevant party with whom the trust company establishes business contact as follows:
- (a) in respect of the settlor and trustee of the trust, before the trust is constituted;
 - (b) in respect of each beneficiary of the trust, as soon as reasonably practicable after the beneficiary becomes identifiable, and in any case before making a distribution to that beneficiary; and
 - (c) in respect of any other trust relevant party, as soon as reasonably practicable after the trust company establishes business contact with that trust relevant party.
- 6.5 For the purpose of paragraph 6.4, a trust company shall obtain and record information of the trust relevant party, including but not limited to the following —
- (a) full name, including any aliases;
 - (b) unique identification number (such as an identity card number, birth certificate number or passport number, or where the trust relevant party is not a natural person, the incorporation number or business registration number);

¹ Please note in particular section 48 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act on tipping-off.

- (c) existing residential address, registered or business address (as may be appropriate, and if different, principal place of business) and contact telephone number(s);
 - (d) date of birth, incorporation or registration (as may be appropriate); and
 - (e) nationality or place of incorporation or registration (as may be appropriate).
- 6.6 Where the trust relevant party is a legal person or legal arrangement, the trust company shall, apart from identifying the trust relevant party, also identify the legal form, constitution and powers of the legal person or legal arrangement.
- 6.7 Where the trust relevant party is a legal person (other than a partnership), the trust company shall, apart from identifying the trust relevant party, also identify the directors and any other natural persons having executive authority in the legal person.
- 6.8 Where the trust relevant party is a partnership, the trust company shall, apart from identifying the trust relevant party, also identify the partners and managers².
- 6.9 Where the trust relevant party is a legal arrangement, the trust company shall, apart from identifying the trust relevant party, also identify the natural persons having executive authority in that legal arrangement.
- (II) Verification of Identity of Trust Relevant Parties
- 6.10 A trust company shall verify the identity of each trust relevant party with whom the trust company comes into business contact as follows —
- (i) in respect of the settlor and trustee of the trust, before the trust is constituted;
 - (ii) in respect of each beneficiary of the trust, as soon as reasonably practicable after the beneficiary becomes identifiable, and in any case before making a distribution to that beneficiary; and
 - (iii) in respect of any other trust relevant party, as soon as reasonably practicable after the trust company first comes into business contact with that trust relevant party.
- 6.11 A trust company shall verify the identity of the trust relevant party, and where the trust relevant party is a legal person or legal arrangement, verify the legal form, proof of existence, constitution and powers of the legal person or legal arrangement, using reliable, independent source documents, data or information.

² In the case of limited liability partnerships and limited partnerships.

6.12 A trust company shall retain copies of all reference source documents, data or information used to verify the identity of the trust relevant party.

(III) Identification and Verification of Identity of Natural Persons Appointed to Act on the Trust Relevant Party's Behalf

6.13 Where the trust relevant party appoints one or more natural persons to act on his behalf in establishing business contacts with the trust company or the trust relevant party is not a natural person, a trust company shall —

- (a) identify the natural persons that act or are appointed to act on behalf of the trust relevant party;
- (b) verify the identity of these persons using reliable, independent source documents, data or information; and
- (c) retain copies of all reference source documents, data or information used to verify the identity of these persons.

6.14 A trust company shall verify the due authority of such persons to act on behalf of the trust relevant party by obtaining, at least the following —

- (a) the appropriate documentary evidence authorising the appointment of such persons by the trust relevant party to act on its behalf; and
- (b) the specimen signatures of the persons appointed.

6.15 Where the trust relevant party is a Singapore Government entity, the trust company shall only be required to obtain such information as may be required to confirm that the trust relevant party is a Singapore Government entity as asserted.

(IV) Identification and Verification of Identity of Effective Controllers

6.16 Subject to paragraph 6.21, a trust company shall inquire if there exists any effective controller in relation to a settlor or a trustee.

6.17 Where there is one or more effective controller in relation to a settlor or a trustee, the trust company shall identify the effective controllers and take reasonable measures to verify the identities of the effective controllers, using the relevant information or data obtained from reliable, independent sources.

6.18 Where the settlor or trustee is not a natural person, the trust company shall understand the nature of the settlor's or trustee's business and its ownership and control structure.

6.19 For settlors or trustees that are legal persons, the trust company shall identify the effective controllers by —

- (a) identifying the natural persons (whether acting alone or together) who ultimately own the settlor or trustee;
- (b) to the extent that there is doubt under (a) as to whether the natural persons who ultimately own the settlor or trustee are the effective controllers or where no natural persons ultimately own the settlor or trustee, identifying the natural persons (if any) who ultimately control the settlor or trustee or have ultimate effective control of the settlor or trustee; and
- (c) where no natural persons are identified under (a) or (b) above, identifying the natural persons having executive authority in the settlor or trustee, or in equivalent or similar positions.

6.20 For settlors or trustees that are legal arrangements, the trust company shall identify the effective controllers by —

- (a) for trusts, identifying the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any natural person exercising ultimate ownership, ultimate control or ultimate effective control over the trust (including through a chain of control/ownership); and
- (b) for other types of legal arrangements, identifying persons in equivalent or similar positions, as those described under paragraph (a).

6.21 A trust company shall not be required to inquire if there exists any effective controller in relation to a settlor or trustee that is —

- (a) a Singapore Government entity;
- (b) a foreign government entity;
- (c) an entity listed on the Singapore Exchange;
- (d) an entity listed on a stock exchange outside of Singapore that is subject to —
 - (i) regulatory disclosure requirements; and
 - (ii) requirements relating to adequate transparency in respect of its effective controllers (imposed through stock exchange rules, law or other enforceable means);
- (e) a financial institution set out in Appendix 1;

- (f) a financial institution incorporated or established outside Singapore that is subject to and supervised for compliance with AML/CFT requirements consistent with standards set by the FATF; or
- (g) an investment vehicle where the managers are financial institutions —
 - (i) set out in Appendix 1; or
 - (ii) incorporated or established outside Singapore but are subject to and supervised for compliance with AML/CFT requirements consistent with standards set by the FATF,

unless the trust company has doubts about the veracity of the CDD information, or suspects that the trust relevant party or business contacts with the trust relevant party may be connected with money laundering or terrorism financing activities.

6.22 For the purposes of paragraphs 6.21(f) and 6.21(g)(ii), a trust company shall document the basis for its determination that the requirements in those paragraphs have been duly met.

(V) Information on the Purpose and Intended Nature of Business Contacts

6.23 A trust company shall understand and obtain from the trust relevant party, when processing the application to establish business contacts, information as to the purpose and intended nature of business contacts.

(VI) Ongoing Monitoring

6.24 A trust company shall monitor on an ongoing basis, its business contacts with trust relevant parties.

6.25 A trust company shall, within the scope of establishing or maintaining business contact with a trust relevant party, scrutinise transactions undertaken to ensure that the transactions are consistent with the trust company's knowledge of the trust relevant party, its business and risk profile and where appropriate, the source of funds.

6.26 A trust company shall pay special attention to all complex or unusually large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose.

6.27 For the purposes of ongoing monitoring, a trust company shall put in place adequate systems and processes, commensurate with the size and complexity of the trust company, to —

- (a) monitor its business contact with trust relevant parties; and

- (b) detect and report suspicious, complex or unusually large transactions, or unusual patterns of transactions.
- 6.28 A trust company shall, to the extent possible, inquire into the background and purpose of the transactions in paragraph 6.26 and document its findings with a view to making this information available to the relevant authorities should the need arise.
- 6.29 A trust company shall periodically review the adequacy of existing CDD information obtained in respect of trust relevant parties, natural persons appointed to act on behalf of the trust relevant parties, connected parties of the trust relevant parties, effective controllers of the settlor and effective controllers of the trustee and ensure that the documents, data or information are relevant and kept up to date, particularly for higher risk categories of trust relevant parties.
- 6.30 Where there are reasonable grounds for suspicion that existing business contact with a trust relevant party is connected with money laundering or terrorism financing, and where the trust company considers it appropriate to continue business contact with the trust relevant party —
 - (a) the trust company shall substantiate the reasons for continuing business contact with the trust relevant party and shall document them; and
 - (b) the trust relevant party's business contact with the trust company shall be subjected to commensurate risk mitigation measures, including enhanced ongoing monitoring.
- 6.31 Where the trust company assesses the trust relevant party or the business contact with the trust relevant party referred to in paragraph 6.30 to be of high risk, the trust company shall conduct enhanced CDD, which shall include obtaining the approval of the trust company's senior management to continue business contact with the trust relevant party.

Non-Face-to-Face Verification

- 6.32 A trust company shall put in place policies and procedures to address any specific risks associated with non-face-to-face business contacts with a trust relevant party.
- 6.33 A trust company shall implement the policies and procedures referred to in paragraph 6.32 when establishing business contacts with a trust relevant party and when conducting ongoing due diligence.
- 6.34 Where there is no face-to-face contact, the trust company shall carry out CDD measures that are as stringent as those that would be required to be performed if there were face-to-face contact.

Reliance by Acquiring Trust Company on Identification and Verification Already Performed

- 6.35 When a trust company (“acquiring trust company”) acquires, either in whole or in part, the business of another trust company or financial institution (whether in Singapore or elsewhere), the acquiring trust company shall perform CDD measures on the trust relevant parties acquired with the business at the time of acquisition except where the acquiring trust company has —
- (a) acquired at the same time all corresponding records of the trust relevant party (including CDD information) and has no doubt or concerns about the veracity or adequacy of the information so acquired; and
 - (b) conducted due diligence enquiries that have not raised any doubt on the part of the acquiring trust company as to the adequacy of AML/CFT measures previously adopted in relation to the business or part thereof now acquired by the acquiring trust company.

Where CDD Measures are Not Completed

- 6.36 For the purposes of paragraph 6.37, a reference to the completion of CDD measures is a reference to the situation when the trust company has obtained, screened and verified all necessary CDD information under paragraphs 6, 7 and 8 of this Notice, and where the trust company has received satisfactory responses to all inquiries in relation to such necessary CDD information.
- 6.37 Where the trust company is unable to complete CDD measures, it shall not commence or continue business contact with any trust relevant party. The trust company shall consider if the circumstances are suspicious so as to warrant the filing of an STR.

Existing Trust Relevant Parties

- 6.38 A trust company shall apply CDD measures to its existing trust relevant parties based on its own assessment of materiality and risk, taking into account any CDD measures previously applied to such existing trust relevant parties, when such CDD measures were last applied, and the adequacy of data or information obtained.

Screening of Trust Relevant Parties

- 6.39 A trust company shall screen a trust relevant party, natural persons appointed to act on behalf of a trust relevant party, connected parties of a trust relevant party, effective controllers of a settlor and effective controllers of a trustee against relevant money laundering and terrorism financing information sources, as well as lists and information provided by the Authority and any relevant authorities in Singapore for the purposes of determining if there are any money laundering or terrorism financing risks in relation to the trust relevant party.

6.40 A trust company shall screen the persons referred to in paragraph 6.39 —

- (a) in respect of the settlor and trustee of the trust, before the trust is constituted;
- (b) in respect of each beneficiary of the trust, as soon as reasonably practicable after the beneficiary becomes identifiable, and in any case before making a distribution to that beneficiary;
- (c) in respect of any other trust relevant party, as soon as reasonably practicable after the trust company first comes into business contact with that trust relevant party;
- (d) on a periodic basis after the trust company establishes business contact with the trust relevant party; and
- (e) when there are any changes or updates to —
 - (i) the lists and information provided by the Authority and any relevant authorities in Singapore to the trust company; or
 - (ii) natural persons appointed to act on behalf of a trust relevant party, connected parties of a trust relevant party except beneficiaries, or effective controllers of a settlor or trustee.

6.41 The results of screening and assessment by the trust company shall be documented.

7 SIMPLIFIED CUSTOMER DUE DILIGENCE

- 7.1 Subject to paragraph 7.4, a trust company may perform such simplified CDD measures as it considers adequate to effectively identify and verify the identity of a trust relevant party, any natural person appointed to act on behalf of a trust relevant party, any connected party of a trust relevant party, any effective controller of a settlor and any effective controller of a trustee, if it is satisfied that the risks of money laundering and terrorism financing are low.
- 7.2 The assessment of low risks shall be supported by an adequate analysis of risks by the trust company, taking into account any information that may be provided by the Authority, and other relevant authorities in Singapore.
- 7.3 The simplified CDD measures shall be commensurate with the level of risk, based on the risk factors identified by the trust company.
- 7.4 No trust company shall perform simplified CDD measures in the following circumstances:

- (a) where the trust relevant parties are from or in countries and jurisdictions identified by the FATF as higher risk countries or jurisdictions;
 - (b) where the trust relevant parties are from or in countries and jurisdictions known to have inadequate AML/CFT measures, as determined by the trust company for itself or notified to trust companies generally by the Authority or by other foreign regulatory authorities; or
 - (c) where the trust company suspects that money laundering or terrorism financing is involved.
- 7.5 Subject to paragraphs 7.2 and 7.3, a trust company may perform simplified CDD measures in relation to a trust relevant party that is a financial institution set out in Appendix 2.
- 7.6 Where the trust company performs simplified CDD measures in relation to a trust relevant party, any natural person appointed to act on behalf of a trust relevant party, any connected party of a trust relevant party, any effective controller of a settlor and any effective controller of a trustee, it shall document —
- (a) the details of its risk assessment; and
 - (b) the nature of the simplified CDD measures.

8 ENHANCED CUSTOMER DUE DILIGENCE

Politically Exposed Persons

- 8.1 For the purposes of paragraph 8 —

“close associate” means a natural person who is closely connected to a politically exposed person, either socially or professionally;

“domestic politically exposed person” means a natural person who is or has been entrusted domestically with prominent public functions;

“family member” means a natural person who is related to a politically exposed person directly or is married to the politically exposed person;

“foreign politically exposed person” means a natural person who is or has been entrusted with prominent public functions by a foreign country;

“international organisation” means an entity established by formal political agreements between member countries that have the status of international treaties, whose

existence is recognised by law in member countries and who is not treated as a resident institutional unit of the country in which it is located;

“international organisation politically exposed person” means a natural person who is or has been entrusted with prominent public function by an international organisation;

“politically exposed person” means a domestic politically exposed person, foreign politically exposed person or international organisation politically exposed person; and

“prominent public functions” includes the roles held by a head of state, a head of government, government ministers, senior civil or public servants, senior judicial or military officials, senior executives of state owned corporations, senior political party officials, members of the legislature and senior management of international organisations.

- 8.2 A trust company shall, in addition to performing the CDD measures specified in paragraph 6, perform enhanced CDD measures in relation to politically exposed persons, legal persons or legal arrangements owned or controlled by politically exposed persons, including but not limited to the following:
- (a) implement appropriate internal risk management systems, policies, procedures and controls to determine if a trust relevant party, any natural person appointed to act on behalf of a trust relevant party, any connected party of a trust relevant party, any effective controller of a settlor or any effective controller of a trustee is a politically exposed person;
 - (b) obtain approval from the trust company’s senior management to establish or continue business contacts with a trust relevant party where the trust relevant party, any natural person appointed to act on behalf of a trust relevant party, any connected party of a trust relevant party, any effective controller of a settlor or any effective controller of a trustee is a politically exposed person or subsequently becomes a politically exposed person;
 - (c) establish, by appropriate and reasonable means, the source of wealth and source of funds of the trust relevant party, any effective controller of a settlor or any effective controller of a trustee; and
 - (d) conduct, during the course of business contacts with a trust relevant party, enhanced monitoring of the business contacts with the trust relevant party.
- 8.3 The trust company shall ensure that the enhanced CDD requirements for a politically exposed person in paragraph 8.2 shall also apply to family members and close associates of such a politically exposed person.

8.4 A trust company may adopt a risk-based approach in determining whether to perform enhanced CDD or the extent of enhanced CDD to be performed for —

- (a) domestic politically exposed persons, their family members and close associates;
- (b) international organisation politically exposed persons, their family members and close associates; or
- (c) politically exposed persons who have stepped down from their prominent public functions, taking into consideration the level of influence such persons may continue to exercise after stepping down from their prominent public functions, their family members and close associates,

except in cases where their business contacts with the trust company present a higher risk for money laundering or terrorism financing.

Other High Risk Categories

8.5 A trust company shall perform the appropriate enhanced CDD measures in paragraph 8.2 for such other categories of trust relevant parties or transactions as the trust company may assess or is notified by the Authority or other relevant authorities in Singapore, to present a higher risk for money laundering and terrorism financing. In particular, the trust company shall increase the degree and nature of monitoring of the business contacts with the trust relevant party, in order to determine whether they appear unusual or suspicious.

8.6 A trust company shall give particular attention to business contacts with any trust relevant party, any effective controller of a settlor and any effective controller of a trustee from or in countries and jurisdictions —

- (a) identified by the FATF as higher risk countries or jurisdictions; or
- (b) known to have inadequate AML/CFT measures, as determined by the trust company for itself or notified to trust companies generally by the Authority or other foreign regulatory authorities,

and shall perform enhanced CDD measures that are commensurate to the risks identified for the business contacts.

8.7 A trust company shall, in taking enhanced CDD measures to manage and mitigate any higher risks that have been identified by the trust company or notified to it by the Authority or other relevant authorities in Singapore, ensure that the enhanced CDD measures take into account the requirements of any laws, regulations or directions administered by the Authority, including but not limited to the regulations or directions issued by the Authority under section 27A of the Monetary Authority of Singapore Act

(Cap. 186).

9 PERFORMANCE OF CDD MEASURES BY THIRD PARTIES

9.1 For the purposes of paragraph 9, “third party” means —

- (a) a financial institution set out in Appendix 2;
- (b) a financial institution which is subject to and supervised by a foreign authority for compliance with AML/CFT requirements consistent with standards set by the FATF (other than a holder of a money-changer’s licence or a holder of a remittance licence, or equivalent licences);
- (c) in relation to a trust company incorporated in Singapore, its branches, subsidiaries, parent trust company and other related corporations; or
- (d) in relation to a trust company incorporated outside Singapore, its parent trust company, the branches and subsidiaries of the parent trust company, and other related corporations.

9.2 Subject to paragraph 9.3, a trust company may rely on a third party to perform the CDD measures in paragraph 6 of this Notice if the following requirements are met:

- (a) the trust company is satisfied that the third party it intends to rely upon is subject to and supervised for compliance with AML/CFT requirements consistent with standards set by the FATF, and has adequate measures in place to comply with those requirements;
- (b) the trust company takes appropriate steps to identify, assess and understand the money laundering and terrorism financing risks particular to the countries or jurisdictions that the third party operates in;
- (c) the third party is not one which trust companies have been specifically precluded by the Authority from relying upon; and
- (d) the third party is able and willing to provide, without delay, upon the trust company’s request, any document obtained by the third party with respect to the CDD measures applied on the trust relevant party, which the trust company would be required or would want to obtain.

9.3 No trust company shall rely on a third party to conduct ongoing monitoring of business contacts with trust relevant parties.

9.4 Where a trust company relies on a third party to perform the CDD measures, it shall —

- (a) document the basis for its satisfaction that the requirements in paragraph 9.2(a) and (b) have been met, except where the third party is a financial institution set out in Appendix 2; and
- (b) immediately obtain from the third party the CDD information which the third party had obtained.

9.5 For the avoidance of doubt, notwithstanding the reliance upon a third party, the trust company shall remain responsible for its AML/CFT obligations in this Notice.

10 RECORD KEEPING

10.1 A trust company shall prepare, maintain and retain documentation on all its business contacts with its trust relevant parties such that —

- (a) all requirements imposed by law (including this Notice) are met;
- (b) any individual transaction undertaken by the trust company in the course of business contacts can be reconstructed (including the amounts and types of currency involved) so as to provide, if necessary, evidence for prosecution of criminal activity;
- (c) the Authority or other relevant authorities in Singapore, and the internal and external auditors of the trust company are able to review the trust company's business contacts, records and CDD information and assess the level of compliance with this Notice; and
- (d) the trust company can satisfy, within a reasonable time or any more specific time period imposed by law or by the requesting authority, any enquiry or order from the relevant authorities in Singapore for information.

10.2 Subject to paragraph 10.4 and any other requirements imposed by law, a trust company shall, when setting its record retention policies, comply with the following document retention periods —

- (a) for CDD information (including the results of screening and the trust company's assessment of the results), and other documents relating to the business contacts, as well as account files, business correspondence and results of any analysis undertaken, a period of at least 5 years following the termination of such business contacts; and
- (b) for records relating to a transaction undertaken in the course of business contacts, including any information needed to explain and reconstruct the transaction, a period of at least 5 years following the completion of the transaction.

- 10.3 A trust company may retain documents, data and information as originals or copies, in paper or electronic form or on microfilm, provided that they are admissible as evidence in a Singapore court of law.
- 10.4 A trust company shall retain records of documentation, data and information on all its business contacts with a trust relevant party pertaining to a matter which is under investigation or which has been the subject of an STR in accordance with any request or order from STRO or from other relevant authorities in Singapore.

11 PERSONAL DATA

- 11.1 For the purposes of paragraph 11, “individual” means a natural person, whether living or deceased.
- 11.2 Subject to paragraph 11.3 and for the purposes of complying with this Notice, a trust company shall not be required to provide an individual trust relevant party, an individual appointed to act on behalf of a trust relevant party, an individual connected party of a trust relevant party, an individual effective controller of a settlor or an individual effective controller of a trustee, with —
- (a) any access to personal data about the individual that is in the possession or under the control of the trust company;
 - (b) any information about the ways in which the personal data of the individual under subparagraph (a) has been or may have been used or disclosed by the trust company; and
 - (c) any right to correct an error or omission of the personal data about the individual that is in the possession of or under the control of the trust company.
- 11.3 A trust company shall, as soon as reasonably practicable, upon the request of an individual trust relevant party, an individual appointed to act on behalf of a trust relevant party, an individual connected party of a trust relevant party, an individual effective controller of a settlor or an individual effective controller of a trustee, provide the requesting individual with the right to —
- (a) access the following types of personal data of that individual, that is in the possession or under the control of the trust company:
 - (i) his full name, including any alias;
 - (ii) his unique identification number (such as an identity card number, birth certificate number or passport number);

- (iii) his existing residential address and contact telephone number(s);
 - (iv) his date of birth;
 - (v) his nationality;
 - (vi) subject to section 21(2) and (3) read with the Fifth Schedule to the Personal Data Protection Act 2012 (Act 26 of 2012), any other personal data of the respective individual provided by that individual to the trust company; and
- (b) subject to section 22(7) and the Sixth Schedule to the Personal Data Protection Act, correct an error or omission in relation to the types of personal data set out in paragraphs (a)(i) to (vi), provided the trust company is satisfied that there are reasonable grounds for such request.
- 11.4 For the purposes of complying with this Notice, a trust company may, whether directly or through a third party, collect, use and disclose personal data of an individual trust relevant party, an individual appointed to act on behalf of a trust relevant party, an individual connected party of a trust relevant party, an individual effective controller of a settlor or an individual effective controller of a trustee, without the respective individual's consent.

12 SUSPICIOUS TRANSACTIONS REPORTING

- 12.1 A trust company shall keep in mind the provisions in the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A)³ and in the Terrorism (Suppression of Financing) Act (Cap. 325) that provide for the reporting to the authorities of transactions suspected of being connected with money laundering or terrorism financing and implement appropriate internal policies, procedures and controls for meeting its obligations under the law, including the following —
- (a) establish a single reference point within the organisation to whom all employees are instructed to promptly refer all transactions suspected of being connected with money laundering or terrorism financing, for possible referral to STRO via STRs; and
 - (b) keep records of all transactions referred to STRO, together with all internal findings and analysis done in relation to them.
- 12.2 A trust company shall promptly submit reports on suspicious transactions (including attempted transactions) undertaken in the course of business contacts, regardless of

³ Please note in particular section 48 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act on tipping-off.

the amount of the transaction, to STRO, and extend a copy to the Authority for information.

- 12.3 A trust company shall consider if the circumstances are suspicious so as to warrant the filing of an STR and document the basis for its determination where —
- (a) the trust company is for any reason unable to complete CDD measures; or
 - (b) the trust relevant party is reluctant, unable or unwilling to provide any information requested by the trust company, decides to withdraw a pending application to establish business contacts or to terminate existing business contacts.

13 INTERNAL POLICIES, COMPLIANCE, AUDIT AND TRAINING

- 13.1 A trust company shall develop and implement adequate internal policies, procedures and controls taking into consideration its money laundering and terrorism financing risks and the size of its business, to help prevent money laundering and terrorism financing and communicate these to its employees.
- 13.2 The policies, procedures and controls shall include, amongst other things, CDD measures, record retention, the detection of unusual and/or suspicious transactions and the obligation to make STRs.

Group Policy

- 13.3 For the purposes of paragraph 13.4 to 13.9, a reference to a trust company shall mean a trust company incorporated in Singapore.
- 13.4 A trust company shall develop a group policy on AML/CFT to meet all requirements of this Notice and extend this to all of its branches and subsidiaries in its financial group, including those outside Singapore.
- 13.5 Where a trust company has a branch or subsidiary in a host country or jurisdiction —
- (a) identified by the FATF as a higher risk country or jurisdiction; or
 - (b) known to have inadequate AML/CFT measures, as determined by the trust company for itself or notified to trust companies generally by the Authority or by any other foreign regulatory authority,

the trust company shall ensure that its group policy on AML/CFT is strictly observed by the management of that branch or subsidiary.

- 13.6 Subject to the trust company putting in place adequate safeguards to protect the confidentiality and use of any information that is shared, as may be required by the law of the country or jurisdiction, the trust company shall develop and implement group policies and procedures for its branches and subsidiaries within the financial group, to share information required for the purposes of CDD, and for money laundering and terrorism financing risk management.
- 13.7 Such policies and procedures shall include the provision, at the trust company's group-level compliance, audit and AML/CFT functions, of trust relevant party, account and business contact information from its branches and subsidiaries within the financial group, when necessary for money laundering and terrorism financing risk management purposes.
- 13.8 Where the AML/CFT requirements in the host country or jurisdiction differ from those in Singapore, the trust company shall require that the overseas branch or subsidiary apply the higher of the two standards, to the extent that the law of the host country or jurisdiction so permits.
- 13.9 Where the law of the host country or jurisdiction conflicts with Singapore law such that the overseas branch or subsidiary is unable to fully observe the higher standard, the trust company's head office shall apply additional appropriate measures to manage the money laundering and terrorism financing risks, report this to the Authority and comply with such further directions as may be given by the Authority.

Compliance

- 13.10 A trust company shall develop appropriate compliance management arrangements, including at least, the appointment of a management level officer as the AML/CFT compliance officer.
- 13.11 A trust company shall ensure that the AML/CFT compliance officer, as well as any other persons appointed to assist him, has adequate resources and timely access to all records and other relevant information which they require to discharge their functions.

Audit

- 13.12 A trust company shall maintain an audit function that is adequately resourced and independent, and which will be able to regularly assess the effectiveness of the trust company's internal policies, procedures and controls, and its compliance with regulatory requirements.

Employee Hiring

13.13 A trust company shall have in place screening procedures to ensure high standards when hiring employees and appointing officers⁴.

Training

13.14 A trust company shall take all appropriate steps to ensure that its employees and officers (whether in Singapore or elsewhere) are suitably qualified, and regularly and appropriately trained on —

- (a) AML/CFT laws and regulations, and in particular, CDD measures, detecting and reporting of suspicious transactions;
- (b) prevailing techniques, methods and trends in money laundering and terrorism financing; and
- (c) the trust company's internal policies, procedures and controls on AML/CFT and the roles and responsibilities of employees and officers in combating money laundering and terrorism financing.

* Endnotes on History of Amendments

1. MAS Notice TCA N03 dated 2 July 2007 with effect from 2 July 2007.
 - (a) MAS Notice TCA N03 (Amendment) 2009 with effect from 3 July 2009.
 - (b) MAS Notice TCA N03 (Amendment) 2013 with effect from 23 January 2013.
 - (c) MAS Notice TCA N03 (Amendment) 2014 with effect from 1 July 2014.
2. MAS Notice TCA N03 dated 2 July 2007 cancelled with effect from (xxxx).
3. MAS Notice TCA N03 dated (xxxx) with effect from (xxxx).

⁴ "Officer" –

- (a) in relation to a trust company that is a legal person (other than a partnership), means any director or any member of the committee of management of the legal person;
- (b) in relation to a trust company that is a partnership, means any partner or manager; and
- (c) in relation to a trust company that is a legal arrangement, means any member of the committee of management of the legal arrangement, where applicable.

Appendix 1 —

1. Financial institutions that are licensed, approved, registered (including a fund management company registered under paragraph 5(1)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg. 10)) or regulated by the Authority but do not include
 - (a) holders of stored value facilities, as defined in section 2(1) of the Payment Systems (Oversight) Act (Cap. 222A); and
 - (b) a person (other than a person referred to in paragraphs 2 and 3) who is exempted from licensing, approval or regulation by the Authority under any Act administered by the Authority, including a private trust company exempted from licensing under section 15 of the Trust Companies Act (Cap. 336) read with regulation 4 of the Trust Companies (Exemption) Regulations (Rg. 1);
2. Persons exempted under section 23(1)(f) of the Financial Advisers Act (Cap. 110) read with regulation 27(1)(d) of the Financial Advisers Regulations (Rg. 2); and
3. Persons exempted under section 99(1)(h) of the Securities and Futures Act (Cap. 289) read with paragraph 7(1)(b) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations.

Appendix 2 —

1. Banks in Singapore licensed under section 7 of the Banking Act (Cap.19);
2. Merchant banks approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186);
3. Finance companies licensed under section 6 of the Finance Companies Act (Cap. 108);
4. Financial advisers licensed under section 6 of the Financial Advisers Act (Cap. 110) except those which only provide advice by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any investment product;
5. Holders of a capital markets services licence under section 82 of the Securities and Futures Act (Cap. 289);
6. Fund management companies registered under paragraph 5(1)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg. 10);
7. Persons exempted under section 23(1)(f) of the Financial Advisers Act read with regulation 27(1)(d) of the Financial Advisers Regulations (Rg. 2) except those which only provide advice by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any investment product;
8. Persons exempted under section 99(1)(h) of the Securities and Futures Act read with paragraph 7(1)(b) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations;
9. Approved trustees approved under section 289 of the Securities and Futures Act;
10. Trust companies licensed under section 5 of the Trust Companies Act (Cap. 336);
11. Direct life insurers licensed under section 8 of the Insurance Act (Cap. 142); and
12. Insurance brokers registered under the Insurance Act which, by virtue of such registration, are exempted under section 23(1)(c) of the Financial Advisers Act except those which only provide advice by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any investment product.

4 DRAFT MAS NOTICE TCA-N03 (TRACKED CHANGES)

~~2 July 2007~~
~~Last revised on 1 July~~
~~MAS Notice TCA-N03~~

~~[] 2014~~
~~(Refer to endnotes for history of amendments)~~

NOTICE TO TRUST COMPANIES
MONETARY AUTHORITY OF SINGAPORE ACT, CAP. 186

PREVENTION OF MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM – TRUST COMPANIES

1 INTRODUCTION

~~1.1~~ This Notice is issued pursuant to section 27B of the Monetary Authority of Singapore Act (Cap.186) and applies to all trust companies licensed under section 5 of the Trust Companies Act (Cap. 336) and also to all private trust companies exempted from licensing under ~~the Trust Companies~~section 15 of that Act (hereinafter “trust companies”).

~~1.2~~ This Notice shall take immediate effect. MAS Notice TCA-N03 dated 2 July 2007 is cancelled with effect from [].

~~1.4~~

2 DEFINITIONS

2.1 For the purposes of this Notice —

“AML/CFT” means anti-money laundering and countering the financing of terrorism;

“Authority” means the Monetary Authority of Singapore;

“business contact”, in relation to a trust company and a trust relevant party, means any contact (including the undertaking of any transaction) between the trust company and the trust relevant party in the course of the provision of trust business services by the trust company;

~~“company” includes a body corporate formed or established outside Singapore under the law of the country or jurisdiction;~~

“CDD measures” or “customer due diligence measures” means the ~~process of identifying the trust relevant parties and obtaining information~~ measures required by paragraph 46;

“connected party” —

(a) in relation to a legal person (other than a partnership), means any director or any natural person having executive authority in the legal person;

(b) in relation to a legal person that is a partnership, means any partner or manager; and

(c) in relation to a legal arrangement, means any natural person having executive authority in the legal arrangement, where applicable;

“Core Principles” refers to the Core Principles for Effective Banking Supervision issued by the Basel Committee on Banking Supervision, the Objectives and Principles for Securities Regulation issued by the International Organization of Securities Commissions, and the Insurance Core Principles issued by the International Association of Insurance Supervisors;

“effective controller”, in relation to a settlor or a trustee, means the natural person who ultimately owns or controls the settlor or trustee, or the natural person on whose behalf ~~a transaction~~ business contact is ~~being conducted~~ established or maintained, and includes ~~the~~ any person who exercises ultimate effective control over a ~~body corporate~~ legal person or ~~unincorporate~~ legal arrangement;

“FATF” means the Financial Action Task Force;

“financial group”, means a group that consists of a legal person or legal arrangement exercising control and coordinating functions over the rest of the group for the application of group supervision under the Core Principles, and its branches and subsidiaries that are subject to AML/CFT policies and procedures at the group level;

“government entity” means a government of a country or jurisdiction, a ministry within such a government, or an agency specially established by such a government through written law;

“legal person” means an entity other than a natural person that can establish a permanent relationship as a trust relevant party or otherwise own property;

“legal arrangement” means a trust or other similar arrangement;

“partnership” means a partnership, a limited partnership within the meaning of the Limited Partnerships Act (Cap. 163B) or a limited liability partnership within the meaning

of the Limited Liability Partnerships Act (Cap. 163A).

“personal data” has the same meaning as defined in section 2(1) of the Personal Data Protection Act 2012 (Act 26 of 2012);

“reasonable measures” means appropriate measures which are commensurate with the money laundering or terrorism financing risks;

“STR” means suspicious transaction report;

“STRO” means the Suspicious Transactions Reporting Office, Commercial Affairs Department of the Singapore Police Force; ~~and~~

“trust business” has the same meaning as defined in section 2 of the Trust Companies Act (Cap.336).

“trust companies” means trust companies licensed under section 5 of the Trust Companies Act (Cap. 336) and private trust companies exempted from licensing under ~~the Trust Companies~~section 15 of that Act (Cap. 336); ~~and~~

“trust relevant party”, in relation to a trust, means any of the following —

- (i) the settlor of the trust;
- (ii) the trustee;
- (iii) the beneficiaries; or
- (iv) any person who has any power over the disposition of any property that is subject to the trust.

~~2.2 A reference to the completion of CDD measures is a reference to the situation when the trust company has received satisfactory responses to all inquiries.~~

~~2.2 Unless~~The expressions used in this Notice shall, except where defined in this Notice or where the context otherwise requires, a reference to a financial institution supervised by the Authority does not include a person who is exempted from licensing, approval or regulation by the Authority have the same meanings as in the Trust Companies Act (Cap. 336).

~~2.3~~

3 UNDERLYING PRINCIPLES

3.1 This Notice is based on the following principles, which shall serve as a guide for all trust companies in the conduct of their operations and business activities:

- (a) A trust company ~~must~~shall exercise due diligence when dealing with trust relevant parties, persons appointed to act on the trust relevant party's behalf and effective controllers.
- (b) A trust company ~~must~~shall conduct its business in conformity with high ethical standards, and guard against ~~undertaking~~establishing or maintaining any ~~transaction~~business contact, that is or may be connected with or may facilitate money laundering or ~~terrorist~~terrorism financing.
- (c) A trust company ~~should, whenever possible and~~shall to the fullest extent possible, assist and cooperate with the relevant law enforcement authorities in Singapore ~~in preventing to prevent money laundering and ~~terrorist~~terrorism financing.~~

4 ASSESSING RISKS AND APPLYING A RISK-BASED APPROACH

Risk Assessment

4.1 A trust company shall take appropriate steps to identify, assess and understand, its money laundering and terrorism financing risks in relation to —

- (a) its trust relevant parties;
- (b) the countries or jurisdictions its trust relevant parties are from or in;
- (c) the countries or jurisdictions the trust company has operations in; and
- (d) the products, services, transactions and delivery channels of the trust company.

4.2 The appropriate steps referred to in paragraph 4.1 shall include —

- (a) documenting the trust company's risk assessments;
- (b) considering all the relevant risk factors before determining the level of overall risk and the appropriate type and extent of mitigation to be applied;
- (c) keeping the risk assessments up to date; and
- (d) having appropriate mechanisms to provide its risk assessment information to the Authority.

Risk Mitigation

4.3 A trust company shall —

- (a) have policies, controls and procedures, which are approved by senior

management, to enable it to manage and mitigate effectively the risks that have been identified by the trust company or notified to it by the Authority or other relevant authorities in Singapore;

- (b) monitor the implementation of those policies, controls and procedures and enhance them if necessary;
- (c) take enhanced measures where higher risks are identified, to manage and mitigate those higher risks; and
- (d) ensure that measures or enhanced measures taken to manage and mitigate the identified risks address the risk assessment and guidance from the Authority or relevant authorities in Singapore.

5 NEW PRODUCTS, PRACTICES AND TECHNOLOGIES

5.1 A trust company shall identify and assess the money laundering and terrorism financing risks that may arise in relation to —

- (a) the development of new products and new business practices, including new delivery mechanisms; and
- (b) the use of new or developing technologies for both new and pre-existing products.

5.2 A trust company shall undertake the risk assessments, prior to the launch or use, to the extent permitted by this Notice, of such products, practices and technologies, and shall take appropriate measures to manage and mitigate the risks.

5.3 A trust company shall, in complying with the requirements of paragraphs 5.1 and 5.2, pay special attention to any —

- (a) new products and business practices, including new delivery mechanisms; and
 - (b) new or developing technologies,
- that favour anonymity.

46 CUSTOMER DUE DILIGENCE (“CDD”)

-Anonymous Dealings or Fictitious Names

4.16.1 No trust company shall ~~de~~establish or maintain business contact with any ~~person~~trust relevant party on an anonymous basis or ~~any person using~~where the trust relevant party ~~uses~~ a fictitious name.

Where There Are Reasonable Grounds for Suspicion on Prospective Trust Relevant Parties

6.2 Where the trust company has reasonable grounds to suspect that the assets or funds of a prospective trust relevant party, with whom the trust company intends to establish business contact, are proceeds of a serious offence as defined in the Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A), or are property related to the facilitation or carrying out of any terrorism financing offence as defined in the Terrorism (Suppression of Financing) Act (Cap. 325), the trust company shall —

- (a) not establish business contact with the prospective trust relevant party; and
- (b) file an STR¹, and extend a copy to the Authority for information.

When CDD Measures are to be Performed

4.26.3 A trust company shall perform CDD measures in accordance with this Notice when —

- (a) the trust company ~~comes into~~establishes business contact with ~~a~~any trust relevant party;
- (b) there is a suspicion of money laundering or ~~terrorist~~terrorism financing, notwithstanding that the trust company would otherwise not be required by this Notice to perform CDD measures; or
- (c) the trust company has doubts about the veracity or adequacy of any information previously obtained.

CDD Measures ~~where Business Contacts are Established~~

(I) Identification of Trust Relevant Parties

4.36.4 A trust company shall identify each trust relevant party with whom the trust company ~~comes into~~establishes business contact as follows—:

- ~~(i)~~(a) in respect of the settlor and trustee of the trust, before the trust is constituted;
- ~~(ii)~~(b) in respect of each beneficiary of the trust, as soon as reasonably practicable after the beneficiary becomes identifiable, and in any case before making a distribution to that beneficiary; and

¹ Please note in particular section 48 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act on tipping-off.

~~(iii)(c)~~ in respect of any other trust relevant party, as soon as reasonably practicable after the trust company ~~first comes into~~establishes business contact with that trust relevant party.

4.46.5 For the purpose of paragraph ~~6.4.3~~, a trust company shall obtain and record information of the trust relevant party, including but not limited to the following —

- (a) ~~Full~~full name, including any aliases;
- (b) ~~Unique~~unique identification number (such as an identity card number, birth certificate number or passport number, or where the trust relevant party is not a natural person, the incorporation number or business registration number);
- (c) ~~Existing~~existing residential address, registered or business address (as may be appropriate, and if different, principal place of business) and contact telephone number(s);
- (d) ~~Date~~date of birth, incorporation or registration (as may be appropriate); and
- (e) ~~Nationality~~nationality or place of incorporation or registration (as may be appropriate).

6.6 Where the trust relevant party is a ~~company, legal person or legal arrangement~~, the trust company shall, apart from identifying the trust relevant party, also identify the legal form, constitution and powers of the legal person or legal arrangement.

4.56.7 Where the trust relevant party is a ~~legal person (other than a partnership)~~, the trust company shall, apart from identifying the trust relevant party, also identify the directors of the company and any other natural persons having executive authority in the legal person.

4.66.8 Where the trust relevant party is a ~~partnership or a limited liability~~ partnership, the trust company shall, apart from identifying the trust relevant party, also identify the partners and managers².

4.76.9 Where the trust relevant party is ~~any other body corporate or unincorporate~~ legal arrangement, the trust company shall, apart from identifying the trust relevant party, also identify the natural persons having executive authority in that ~~body corporate or unincorporate~~ legal arrangement.

(II) Verification of Identity of Trust Relevant Parties

6.10 A trust company shall verify the identity of ~~the~~each trust relevant party with whom the trust company comes into business contact as follows —

² In the case of limited liability partnerships and limited partnerships.

- (i) in respect of the settlor and trustee of the trust, before the trust is constituted;
- (ii) in respect of each beneficiary of the trust, as soon as reasonably practicable after the beneficiary becomes identifiable, and in any case before making a distribution to that beneficiary; and
- (iii) in respect of any other trust relevant party, as soon as reasonably practicable after the trust company first comes into business contact with that trust relevant party.

4.86.11A trust company shall verify the identity of the trust relevant party, and where the trust relevant party is a legal person or legal arrangement, verify the legal form, proof of existence, constitution and powers of the legal person or legal arrangement, using reliable, independent sources, source documents, data or information.

4.96.12A trust company shall retain copies of all reference source documents, data or information used to verify the identity of the trust relevant party.

(III) Identification and Verification of Identity of Natural Persons Appointed to Act on the Trust Relevant Party's Behalf

4.106.13 Where the trust relevant party appoints one or more natural persons to act on his behalf in establishing business contacts with the trust company or ~~at~~the trust relevant party is not a natural person, a trust company shall —

- (a) identify the natural persons that act or are appointed to act on behalf of the trust relevant party;
- (b) verify the identity of these persons using reliable, independent ~~sources~~source documents, data or information; and
- (c) retain copies of all reference source documents, data or information used to verify the identity of these persons.

4.116.14 A trust company shall verify the due authority of such persons to act on behalf of the trust relevant party: by obtaining, at least the following —

~~4.12 A trust company shall verify the due authority of such persons to act by obtaining, including but not limited to the following —~~

- (a) the appropriate documentary evidence ~~that authorising the appointment of such persons by~~ the trust relevant party has appointed the persons to act on its behalf; and
- (b) the specimen signatures of the persons appointed.

4.136.15 Where the trust relevant party is a Singapore ~~government~~Government entity, the trust company shall only be required to obtain such information as may be required to confirm that the trust relevant party is a Singapore ~~government~~Government entity as asserted.

(IV) Identification and Verification of Identity of Effective Controllers

4.146.16 Subject to paragraph 4.176.21, a trust company shall inquire if there exists any effective controller in relation to a settlor or a trustee.

4.156.17 Where there is one or more effective ~~controllers~~controller in relation to a settlor or a trustee, the trust company shall identify the effective controllers and take reasonable measures to ~~obtain information sufficient to identify and~~ verify the ~~identity~~identities of the effective controllers, using the relevant information or data obtained from reliable, independent sources.

6.18 Where the settlor or trustee is not a natural person, the trust company shall ~~take reasonable measures to~~ understand the nature of the settlor's or trustee's business and its ownership and control structure ~~of the~~.

6.19 For settlors or trustees that are legal persons, the trust company shall identify the effective controllers by —

4.16(a) identifying the natural persons (whether acting alone or together) who ultimately own the settlor or trustee;

(b) to the extent that there is doubt under (a) as to whether the natural persons who ultimately own the settlor or trustee are the effective controllers or where no natural persons ultimately own the settlor or trustee, identifying the natural persons (if any) who ultimately control the settlor or trustee or have ultimate effective control of the settlor or trustee; and

(c) where no natural persons are identified under (a) or (b) above, identifying the natural persons having executive authority in the settlor or trustee, or in equivalent or similar positions.

6.20 For settlors or trustees that are legal arrangements, the trust company shall identify the effective controllers by —

(a) for trusts, identifying the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any natural person exercising ultimate ownership, ultimate control or ultimate effective control over the trust (including through a chain of control/ownership); and

(b) for other types of legal arrangements, identifying persons in equivalent or similar positions, as those described under paragraph (a).

4.176.21 A trust company shall not be required to inquire if there exists any effective controller in relation to a settlor or trustee that is —

- (a) a Singapore ~~government~~Government entity;
- (b) a foreign government entity;
- (c) an entity listed on the Singapore Exchange;
- (d) an entity listed on a stock exchange outside of Singapore that is subject to ~~regulatory disclosure requirements;—~~

~~(i) a financial institution supervised by the Authority (other than a holder of a money changer's licence or a holder of a remittance licence; unless specifically notified by the Authority);~~regulatory disclosure requirements; and

~~(ii) requirements relating to adequate transparency in respect of its effective controllers (imposed through stock exchange rules, law or other enforceable means);~~

- (e) a financial institution set out in Appendix 1;
- (f) a financial institution incorporated or established outside Singapore that is subject to and supervised for compliance with AML/CFT requirements consistent with standards set by the FATF; or
- (g) an investment vehicle where the managers are financial institutions —

(i) ~~supervised by the Authority~~set out in Appendix 1; or

(ii) incorporated or established outside Singapore but are subject to and supervised for compliance with AML/CFT requirements consistent with standards set by the FATF,

unless the trust company has doubts about the veracity of the CDD information, or suspects that the ~~transaction is~~ trust relevant party or business contacts with the trust relevant party may be connected with money laundering or ~~terrorist~~terrorism financing activities.

4.186.22 For the purposes of paragraphs 4.176.21(f) and 4.176.21(g)(ii), a trust company shall document the basis for its determination that the requirements in those paragraphs have been duly met.

(V) Information on the Purpose and Intended Nature of Business Contacts

4.196.23 A trust company shall understand and obtain from the trust relevant party, when processing the application to establish business contacts, information as to the purpose and intended nature of business contacts.

(VI) Ongoing Monitoring

4.206.24 A trust company shall monitor on an ongoing basis, its business contacts with trust relevant parties.

4.216.25 A trust company shall, ~~to the fullest extent practicable and~~ within the scope of ~~the trust establishing or maintaining~~ business ~~services being provided to the contact with~~ a trust relevant party ~~and the obligations being assumed by the trust company,~~ scrutinise transactions undertaken to ensure that the transactions are consistent with the trust company's knowledge of the trust relevant party, its business and risk profile and where appropriate, the source of funds.

4.226.26 A trust company shall pay special attention to all complex or unusually large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose.

6.27 For the purposes of ongoing monitoring, a trust company shall put in place adequate systems and processes, commensurate with the size and complexity of the trust company, to —

(a) monitor its business contact with trust relevant parties; and

(b) detect and report suspicious, complex or unusually large transactions, or unusual patterns of transactions.

4.236.28 A trust company shall, to the extent possible, inquire into the background and purpose of the transactions in paragraph 4.226.26 and document its findings with a view to making this information available to the relevant ~~competent~~ authorities should the need arise.

4.246.29 A trust company shall periodically review the adequacy of ~~identification existing~~ CDD information obtained in respect of trust relevant parties ~~, natural persons appointed to act on behalf of the trust relevant parties, connected parties of the trust relevant parties, effective controllers of the settlor~~ and effective controllers of the ~~settlor or~~ trustee and ensure that the documents, data or information ~~is~~ are relevant and kept up to date, particularly for higher risk categories of trust relevant parties.

6.30 Where there are reasonable grounds for suspicion that existing business contact with a trust relevant party is connected with money laundering or terrorism financing, and

where the trust company considers it appropriate to continue business contact with the trust relevant party —

(a) the trust company shall substantiate the reasons for continuing business contact with the trust relevant party and shall document them; and

(b) the trust relevant party's business contact with the trust company shall be subjected to commensurate risk mitigation measures, including enhanced ongoing monitoring.

6.31 Where the trust company assesses the trust relevant party or the business contact with the trust relevant party referred to in paragraph 6.30 to be of high risk, the trust company shall conduct enhanced CDD, which shall include obtaining the approval of the trust company's senior management to continue business contact with the trust relevant party.

Non-Face-to-Face Verification

4.256.32 A trust company shall put in place policies and procedures to address any specific risks associated with non-face-to-face business contacts ~~or transactions~~with a trust relevant party.

4.266.33 A trust company shall implement the policies and procedures referred to in paragraph 4.256.32 when establishing business contacts with a trust relevant party and when conducting ongoing due diligence.

4.276.34 Where there is no face-to-face contact, the trust company shall carry out CDD measures that are as stringent as those that would be required to be performed if there were face-to-face contact.

Reliance by Acquiring Trust Company on Identification and Verification Already Performed

4.286.35 When a trust company ("acquiring trust company") acquires, either in whole or in part, the business of another trust company or financial institution (whether in Singapore or elsewhere), the acquiring trust company shall perform CDD measures on the trust relevant parties acquired with the business at the time of acquisition except where the acquiring trust company has —

(a) acquired at the same time all corresponding records of the trust relevant party (including ~~identification~~CDD information) and has no doubt or concerns about the veracity or adequacy of the information so acquired; and

(b) conducted due diligence enquiries that have not raised any doubt on the part of the acquiring trust company as to the adequacy of AML/CFT measures

previously adopted in relation to the business or part thereof now acquired by the acquiring trust company.

Where CDD Measures are Not Completed

6.36 For the purposes of paragraph 6.37, a reference to the completion of CDD measures is a reference to the situation when the trust company has obtained, screened and verified all necessary CDD information under paragraphs 6, 7 and 8 of this Notice, and where the trust company has received satisfactory responses to all inquiries in relation to such necessary CDD information.

6.37 Where the trust company is unable to complete CDD measures, it shall not commence or continue business contact with any trust relevant party. The trust company shall consider if the circumstances are suspicious so as to warrant the filing of an STR.

Existing Trust Relevant Parties

6.38 A trust company shall ~~perform such~~apply CDD measures ~~as may be appropriate~~ to its existing trust relevant parties ~~having regard to~~based on its own assessment of materiality and risk, ~~taking into account any CDD measures previously applied to such existing trust relevant parties, when such CDD measures were last applied, and the adequacy of data or information obtained.~~

Screening of Trust Relevant Parties

6.39 A trust company shall screen a trust relevant party, natural persons appointed to act on behalf of a trust relevant party, connected parties of a trust relevant party, effective controllers of a settlor and effective controllers of a trustee against relevant money laundering and terrorism financing information sources, as well as lists and information provided by the Authority and any relevant authorities in Singapore for the purposes of determining if there are any money laundering or terrorism financing risks in relation to the trust relevant party.

6.40 A trust company shall screen the persons referred to in paragraph 6.39 —

- (a) in respect of the settlor and trustee of the trust, before the trust is constituted;
- (b) in respect of each beneficiary of the trust, as soon as reasonably practicable after the beneficiary becomes identifiable, and in any case before making a distribution to that beneficiary;
- (c) in respect of any other trust relevant party, as soon as reasonably practicable after the trust company first comes into business contact with that trust relevant party;
- (d) on a periodic basis after the trust company establishes business contact with the

trust relevant party; and

(e) when there are any changes or updates to —

(i) the lists and information provided by the Authority and any relevant authorities in Singapore to the trust company; or

(ii) natural persons appointed to act on behalf of a trust relevant party, connected parties of a trust relevant party except beneficiaries, or effective controllers of a settlor or trustee.

4.296.41 The results of screening and assessment by the trust company shall be documented.

57 SIMPLIFIED CUSTOMER DUE DILIGENCE

5.47.1 Subject to paragraph 5.27.4, a trust company may perform such simplified CDD measures as it considers adequate to effectively identify and verify the identity of a trust relevant party, any natural person appointed to act on ~~the behalf of a~~ trust relevant ~~party's behalf party, any connected party of a trust relevant party, any effective controller of a settlor~~ and any effective controller of ~~the settlor or a~~ trustee, if it is satisfied that the risks of money laundering ~~or terrorist~~ and terrorism financing are low.

7.2 The assessment of low risks shall be supported by an adequate analysis of risks by the trust company, taking into account any information that may be provided by the Authority, and other relevant authorities in Singapore.

7.3 The simplified CDD measures shall be commensurate with the level of risk, based on the risk factors identified by the trust company.

5.27.4 No trust company shall perform simplified CDD measures in the following circumstances:

(a) where the trust relevant parties are from or in countries and jurisdictions identified by the FATF as higher risk countries or jurisdictions;

(a)(b) where the trust relevant parties are from or in countries and jurisdictions known to have inadequate AML/CFT measures, as determined by the trust company for itself or notified to trust companies generally by the Authority or by other foreign regulatory authorities; or

[TCA-N03 (Amendment) 2009]

(b)(c) where the trust company suspects that money laundering or ~~terrorist~~ terrorism financing is involved.

~~5.37.5 Subject to paragraphs 7.2 and 7.3, a trust company may perform simplified CDD measures in relation to a trust relevant party that is a financial institution supervised by the Authority (other than a holder of a money changer's licence or a holder of a remittance licence, unless specifically notified by the Authority), set out in Appendix 2.~~

~~5.47.6 Where the trust company performs simplified CDD measures in relation to a trust relevant party, any natural person appointed to act on behalf of a trust relevant party, any connected party of a trust relevant party, any effective controller of a settlor and any effective controller of a trustee, it shall document —~~

- ~~(a) the details of its risk assessment; and~~
- ~~(b) the nature of the simplified CDD measures.~~

~~68~~ ENHANCED CUSTOMER DUE DILIGENCE

Politically Exposed Persons

~~6.18.1~~ For the purposes of paragraph ~~68~~ —

~~““close associate” means a natural person who is closely connected to a politically exposed person” means —, either socially or professionally;~~

~~“domestic politically exposed person” means a natural person who is or has been entrusted domestically with prominent public functions whether in Singapore or;~~

~~“family member” means a natural person who is related to a politically exposed person directly or is married to the politically exposed person;~~

~~(a) “foreign politically exposed person” means a natural person who is or has been entrusted with prominent public functions by a foreign country;~~

~~(b) — immediate family members of such a person; or~~

~~(c) — close associates of such a person.~~

~~“international organisation” means an entity established by formal political agreements between member countries that have the status of international treaties, whose existence is recognised by law in member countries and who is not treated as a resident institutional unit of the country in which it is located;~~

“international organisation politically exposed person” means a natural person who is or has been entrusted with prominent public function by an international organisation;

“politically exposed person” means a domestic politically exposed person, foreign politically exposed person or international organisation politically exposed person; and

“prominent public functions” includes the roles held by a head of state, a head of government, government ministers, senior civil ~~or public~~ servants, senior judicial or military officials, senior executives of state owned corporations, ~~and~~ senior political party officials, ~~members of the legislature and senior management of international organisations.~~

6.28.2 A trust company shall, in addition to performing the CDD measures specified in paragraph ~~46~~, perform enhanced CDD measures in relation to politically exposed persons, legal persons or legal arrangements owned or controlled by politically exposed persons, including but not limited to the following:

- (a) implement appropriate internal risk management systems, policies, procedures and controls to determine if a trust relevant party ~~or an, any natural person appointed to act on behalf of a trust relevant party, any connected party of a trust relevant party, any~~ effective controller of a settlor or any effective controller of a trustee is a politically exposed person;
- (b) obtain approval from the trust company’s senior management to establish or continue business contacts wherewith a trust relevant party ~~or where the trust relevant party, any natural person appointed to act on behalf of a trust relevant party, any connected party of a trust relevant party, any~~ effective controller of a settlor or any effective controller of a trustee is a politically exposed person or subsequently becomes a politically exposed person;
- (c) establish, by appropriate and reasonable means, the source of wealth and source of funds of the trust relevant party ~~or, any~~ effective controller of ~~thea~~ settlor or any effective controller of a trustee; and
- (d) conduct, during the course of business contacts with a trust relevant party, enhanced monitoring of the business contacts with the trust relevant party.

8.3 The trust company shall ensure that the enhanced CDD requirements for a politically exposed person in paragraph 8.2 shall also apply to family members and close associates of such a politically exposed person.

8.4 A trust company may adopt a risk-based approach in determining whether to perform enhanced CDD or the extent of enhanced CDD to be performed for —

(a) domestic politically exposed persons, their family members and close

associates;

(b) international organisation politically exposed persons, their family members and close associates; or

(c) politically exposed persons who have stepped down from their prominent public functions, taking into consideration the level of influence such persons may continue to exercise after stepping down from their prominent public functions, their family members and close associates,

except in cases where their business contacts with the trust company present a higher risk for money laundering or terrorism financing.

Other High Risk Categories

6.38.5 A trust company shall perform the appropriate enhanced CDD measures ~~specified in the preceding paragraphs~~paragraph 8.2 for such other categories of trust relevant parties or transactions as the trust company may assess or is notified by the Authority or other relevant authorities in Singapore, to present a higher risk for money laundering and ~~terrorist~~terrorism financing. In particular, the trust company shall increase the degree and nature of monitoring of the business contacts with the trust relevant party, in order to determine whether they appear unusual or suspicious.

8.6 A trust company shall give particular attention to business contacts ~~and transactions~~ with any ~~person~~trust relevant party, any effective controller of a settlor and any effective controller of a trustee from or in countries and jurisdictions —

(a) identified by the FATF as higher risk countries or jurisdictions; or

6.4(b) known to have inadequate AML/CFT measures, as determined by the trust company for itself or notified to trust companies generally by the Authority or other foreign regulatory authorities¹.

and shall perform enhanced CDD measures that are commensurate to the risks identified for the business contacts.

8.7 A trust company shall, in taking enhanced CDD measures to manage and mitigate any higher risks that have been identified by the trust company or notified to it by the Authority or other relevant authorities in Singapore, ensure that the enhanced CDD measures take into account the requirements of any laws, regulations or directions administered by the Authority, including but not limited to the regulations or directions issued by the Authority under section 27A of the Monetary Authority of Singapore Act (Cap. 186).

79 PERFORMANCE OF CDD MEASURES BY INTERMEDIARY THIRD PARTIES

9.1 For the purposes of paragraph 9, “third party” means —

- (a)** a financial institution set out in Appendix 2;
- (b)** a financial institution which is subject to and supervised by a foreign authority for compliance with AML/CFT requirements consistent with standards set by the FATF (other than a holder of a money-changer’s licence or a holder of a remittance licence, or equivalent licences);
- (c)** in relation to a trust company incorporated in Singapore, its branches, subsidiaries, parent trust company and other related corporations; or
- (d)** in relation to a trust company incorporated outside Singapore, its parent trust company, the branches and subsidiaries of the parent trust company, and other related corporations.

7.19.2 Subject to paragraph ~~7.29.3~~, a trust company may rely on ~~an intermediary~~ a third party to perform ~~elements of the CDD process set out~~ measures in paragraph 46 of this Notice if the following requirements are met—:

- (a)** the trust company is satisfied that ~~each intermediary~~ the third party it intends to rely upon is subject to and supervised for compliance with AML/CFT requirements consistent with standards set by the FATF, and has adequate measures in place to comply with those requirements;
- (b)** ~~the intermediary~~ trust company takes appropriate steps to identify, assess and understand the money laundering and terrorism financing risks particular to the countries or jurisdictions that the third party operates in;
- (b)(c)** ~~the third party~~ is not one ~~on~~ which trust companies have been specifically precluded by the Authority from relying upon; and
- (c)(d)** ~~the intermediary~~ third party is able and willing to provide, without delay, upon the trust company’s request, any document obtained by the ~~intermediary~~ third party with respect to the CDD measures applied on the trust relevant party, which the trust company would be required or would want to obtain.

[TCA-N03 (Amendment) 2009]

7.29.3 No trust company shall rely on ~~an intermediary~~ a third party to conduct ongoing monitoring of business contacts with trust relevant parties.

7.39.4 Where a trust company relies on ~~an intermediary~~ a third party to perform the CDD measures, it shall:—

- (a) document the basis for its satisfaction that the requirements in paragraph ~~7.49.2(a) and (b)~~ have been met, except where the ~~intermediary~~third party is a financial institution ~~supervised by the Authority (other than a holder of a money changer's licence or a holder of a remittance licence); set out in Appendix 2;~~ and

[TCA-N03 (Amendment) 2009]

- (b) immediately obtain from the ~~intermediary~~third party the CDD information which the ~~intermediary~~third party had obtained.

[TCA-N03 (Amendment) 2009]

~~7.49.5~~ For the avoidance of doubt, notwithstanding the reliance upon ~~an intermediary~~a third party, the trust company shall remain responsible ~~and accountable to the Authority~~ for its AML/CFT obligations in this Notice.

810 RECORD KEEPING

~~8.110.1~~A trust company shall prepare, maintain and retain documentation on all ~~their~~its business contacts with its trust relevant parties such that —

- (a) all requirements imposed by law (including this Notice) are met;
- (b) any individual transaction undertaken by the trust company in the course of business contacts can be reconstructed (including the amounts and types of currency involved) so as to provide, if necessary, evidence for prosecution of criminal activity;
- (c) the Authority or other relevant ~~competent~~ authorities in Singapore, and the internal and external auditors of the trust company are able to assess~~review~~ the trust company's transactions and business contacts, records and CDD information and assess the level of compliance with this Notice; and
- (d) the trust company can satisfy, within a reasonable time or any more specific time period imposed by law or by the requesting authority, any enquiry or order from the relevant ~~competent~~ authorities in Singapore for information.

~~8.210.2~~ Subject to paragraph ~~810.4~~ and any other requirements imposed by law, a trust company shall, when setting its record retention policies, comply with the following document retention periods —

- (a) ~~a period of at least 5 years following the completion or termination of the entire trust business service for which the trust company was engaged, in relation to identification~~CDD information; (including the results of screening and the trust

company's assessment of the results), and other documents relating to the provision of trust business services; contacts, as well as account files and business correspondence; and results of any analysis undertaken, a period of at least 5 years following the termination of such business contacts ; and

- (b) a period of at least 5 years following the completion of the transaction for records relating to a transaction undertaken in the course of business contacts, including any information needed to explain and reconstruct the transaction, a period of at least 5 years following the completion of the transaction.

8.310.3 A trust company may retain documents, data and information as originals or copies, in paper or electronic form or on microfilm, provided that they are admissible as evidence in a Singapore court of law.

10.4 A trust company shall retain records of documentation, data and information on all its business contacts with a trust relevant party pertaining to a matter which is under investigation or which has been the subject of an STR for such longer period as may be necessary in accordance with any request or order from STRO or from other relevant competent authorities in Singapore.

911 PERSONAL DATA

11.1 For the purposes of paragraph 11, "individual" means a natural person, whether living or deceased.

11.2 Subject to paragraph 11.3 and for the purposes of complying with this Notice, a trust company shall not be required to provide an individual trust relevant party, an individual appointed to act on behalf of a trust relevant party, an individual connected party of a trust relevant party, an individual effective controller of a settlor or an individual effective controller of a trustee, with —

- (a) any access to personal data about the individual that is in the possession or under the control of the trust company;
- (b) any information about the ways in which the personal data of the individual under subparagraph (a) has been or may have been used or disclosed by the trust company; and
- (c) any right to correct an error or omission of the personal data about the individual that is in the possession of or under the control of the trust company.

11.3 A trust company shall, as soon as reasonably practicable, upon the request of an individual trust relevant party, an individual appointed to act on behalf of a trust relevant party, an individual connected party of a trust relevant party, an individual effective controller of a settlor or an individual effective controller of a trustee, provide the

requesting individual with the right to —

(a) access the following types of personal data of that individual, that is in the possession or under the control of the trust company:

(i) his full name, including any alias;

(ii) his unique identification number (such as an identity card number, birth certificate number or passport number);

(iii) his existing residential address and contact telephone number(s);

(iv) his date of birth;

(v) his nationality;

(vi) subject to section 21(2) and (3) read with the Fifth Schedule to the Personal Data Protection Act 2012 (Act 26 of 2012), any other personal data of the respective individual provided by that individual to the trust company; and

(b) subject to section 22(7) and the Sixth Schedule to the Personal Data Protection Act, correct an error or omission in relation to the types of personal data set out in paragraphs (a)(i) to (vi), provided the trust company is satisfied that there are reasonable grounds for such request.

11.4 For the purposes of complying with this Notice, a trust company may, whether directly or through a third party, collect, use and disclose personal data of an individual trust relevant party, an individual appointed to act on behalf of a trust relevant party, an individual connected party of a trust relevant party, an individual effective controller of a settlor or an individual effective controller of a trustee, without the respective individual's consent.-

9.1

4012 SUSPICIOUS TRANSACTIONS REPORTING

40.112.1 A trust company shall keep in mind the provisions in the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A)³ and in the Terrorism (Suppression of Financing) Act (Cap. 325) that provide for the reporting to the ~~competent~~ authorities of transactions suspected of being connected with money laundering or ~~terrorist~~terrorism financing, and implement appropriate internal policies, procedures and controls for meeting its obligations under the law, including the following

³ Please note in particular section 48 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act on tipping-off.

- (a) establish a single reference point within the organisation to whom all employees are instructed to promptly refer all transactions suspected of being connected with money laundering or ~~terrorist~~terrorism financing, for possible referral to STRO via STRs; and
- (b) keep records of all transactions referred to STRO, together with all internal findings and analysis done in relation to them.

[TCA-N03 (Amendment) 2013]

~~40.2~~12.2 A trust company shall promptly submit reports on suspicious transactions (including attempted transactions) undertaken in the course of business contacts, regardless of the amount of the transaction, to STRO, and extend a copy to the Authority for information.

~~40.3~~12.3 A trust company shall consider if the circumstances are suspicious so as to warrant the filing of an STR and document the basis for its determination where —

- (a) the trust company is for any reason unable to complete CDD measures; or
- (b) the trust relevant party is reluctant, unable or unwilling to provide any information requested by the trust company ~~or,~~ decides to withdraw a pending application to establish business contacts or to terminate ~~with no apparent good reason~~existing business ~~contact with the trust company~~contacts.

1413 INTERNAL POLICIES, COMPLIANCE, AUDIT AND TRAINING

~~11.1~~13.1 A trust company shall develop and implement adequate internal policies, procedures and controls taking into consideration its money laundering and terrorism financing risks and the size of its business, to help prevent money laundering and ~~terrorist~~terrorism financing and communicate these to its employees.

~~11.2~~13.2 ~~These~~The policies, procedures, ~~policies~~ and controls shall include, amongst other things, CDD measures, record retention, the detection of unusual and/or suspicious transactions and the obligation to make ~~suspicious transaction reports~~STRs.

~~11.3~~ ~~A trust company shall take into consideration money laundering and terrorist financing threats that may arise from the use of new or developing technologies, especially those that favour anonymity, in formulating its policies, procedures and controls.~~

Group Policy

13.3 ~~A~~For the purposes of paragraph 13.4 to 13.9, a reference to a trust company ~~that is~~shall mean a trust company incorporated in Singapore.

~~11.4~~13.4 A trust company shall develop a group policy on AML/CFT to meet all requirements of this Notice and extend this to all of its branches and subsidiaries in its financial group, including those outside Singapore.

13.5 Where a trust company has a branch or subsidiary in a host country or jurisdiction —

(a) identified by the FATF as a higher risk country or jurisdiction; or

(b) known to have inadequate AML/CFT measures—(, as determined by the trust company for itself or notified to trust companies generally by the Authority or by any other foreign regulatory authorities), authority.

~~11.5~~ the trust company shall ensure that its group policy on AML/CFT is strictly observed by the management of that branch or subsidiary.

~~13.6~~ Subject to the trust company putting in place adequate safeguards to protect the confidentiality and use of any information that is shared, as may be required by the law of the country or jurisdiction, the trust company shall develop and implement group policies and procedures for its branches and subsidiaries within the financial group, to share information required for the purposes of CDD, and for money laundering and terrorism financing risk management.

~~13.7~~ Such policies and procedures shall include the provision, at the trust company's group-level compliance, audit and AML/CFT functions, of trust relevant party, account and business contact information from its branches and subsidiaries within the financial group, when necessary for money laundering and terrorism financing risk management purposes.

~~11.6~~13.8 Where the AML/CFT requirements in the host country or jurisdiction differ from ~~that those~~ in Singapore, the trust company shall require that the overseas branch or subsidiary apply the higher of the two standards, to the extent that the law of the host country or jurisdiction so permits.

~~11.7~~13.9 Where the law of the host country or jurisdiction conflicts with Singapore law such that the overseas branch or subsidiary is unable to fully observe the higher standard, the trust company's head office shall apply additional appropriate measures to manage the money laundering and terrorism financing risks, report this to the Authority and comply with such further directions as may be given by the Authority.

Compliance

~~11.8~~13.10 A trust company shall develop appropriate compliance management arrangements, including at least, the appointment of a management level officer as the AML/CFT compliance officer.

~~41.9~~13.11 A trust company shall ensure that the AML/CFT compliance officer, as well as any other persons appointed to assist him, has adequate resources and timely access to all records and other relevant information which they require to discharge their functions.

Audit

~~41.40~~13.12 A trust company shall maintain an audit function that is adequately resourced and independent, and which will be able to regularly assess the effectiveness of the trust company's internal policies, procedures and controls, and its compliance with regulatory requirements.

Employee Hiring

~~41.44~~13.13 A trust company shall have in place screening procedures to ensure high standards when hiring employees and appointing officers⁴.

Training

~~41.12~~13.14 A trust company shall take all appropriate steps to ensure that its employees and officers (whether in Singapore or ~~overseas~~elsewhere) are suitably qualified, and regularly and appropriately trained on —

- (a) AML/CFT laws and regulations, and in particular, CDD measures, detecting and reporting of suspicious transactions;
- (b) prevailing techniques, methods and trends in money laundering and ~~terrorist~~terrorism financing; and
- (c) the trust company's internal policies, procedures and controls on AML/CFT and the roles and responsibilities of employees and officers in combating money laundering and ~~terrorist~~terrorism financing.

[TCA-N03 (Amendment)-2013]

[MAS Notice TCA-N03 (Amendment)-2014]

~~11~~ **PERSONAL DATA**

⁴ "Officer" –

- (a) in relation to a trust company that is a legal person (other than a partnership), means any director or any member of the committee of management of the legal person;
- (b) in relation to a trust company that is a partnership, means any partner or manager; and
- (c) in relation to a trust company that is a legal arrangement, means any member of the committee of management of the legal arrangement, where applicable.

~~11.1 For the purposes of paragraph 11—~~

- ~~(a) “personal data” has the same meaning as defined in section 2(1) of the Personal Data Protection Act (Cap. 26);~~
- ~~(b) “individual” means a natural person, whether living or deceased; and~~
- ~~(c) “connected party”—~~
 - ~~(i) in relation to a company, means any director or any natural person having executive authority in the company;~~
 - ~~(ii) in relation to a partnership, a limited partnership within the meaning of the Limited Partnerships Act (Cap. 163B) or a limited liability partnership within the meaning of the Limited Liability Partnerships Act (Cap. 163A), means any partner or manager; and~~
 - ~~(iii) in relation to any other body corporate or unincorporate, means any natural person having executive authority in such body corporate or unincorporate, where applicable.~~

~~11.2 Subject to paragraph 11.3 and for the purposes of complying with this Notice, a trust company shall not be required to provide an individual trust relevant party, an individual appointed to act on behalf of a trust relevant party, an individual connected party of a trust relevant party, an individual effective controller of a settlor or an individual effective controller of a trustee, with:~~

- ~~(a) any access to personal data about the individual that is in the possession or under the control of the trust company;~~
- ~~(b) any information about the ways in which the personal data of the individual under subparagraph (a) has been or may have been used or disclosed by the trust company; and~~
- ~~(c) any right to correct an error or omission of the personal data about the individual that is in the possession of or under the control of the trust company.~~

~~11.3 A trust company shall, as soon as reasonably practicable, upon the request of an individual trust relevant party, an individual appointed to act on behalf of a trust relevant party, an individual connected party of a trust relevant party, an individual effective controller of a settlor or an individual effective controller of a trustee, provide the requesting individual with the right to:~~

- ~~(a) access the following types of personal data of that individual, that is in the possession or under the control of the trust company:~~

- ~~i. his full name, including any alias;~~
 - ~~ii. his unique identification number (such as an identity card number, birth certificate number or passport number);~~
 - ~~iii. his existing residential address and contact telephone number(s);~~
 - ~~iv. his date of birth;~~
 - ~~v. his nationality;~~
 - ~~vi. subject to section 21(2) and (3) read with the Fifth Schedule to the Personal Data Protection Act, any other personal data of the respective individual provided by that individual to the trust company; and~~
- ~~(b) subject to section 22(7) and the Sixth Schedule to the Personal Data Protection Act, correct an error or omission in relation to the types of personal data set out in paragraphs (a)(i) to (vi), provided the trust company is satisfied that there are reasonable grounds for such request.~~

~~11.4 For the purposes of complying with this Notice, a trust company may, whether directly or through a third party, collect, use and disclose personal data of an individual trust relevant party, an individual appointed to act on behalf of a trust relevant party, an individual connected party of a trust relevant party, an individual effective controller of a settlor or an individual effective controller of a trustee, without the respective individual's consent.~~

~~[MAS Notice TCA-N03 (Amendment) 2014]~~

Endnotes on History of Amendments

- ~~1. TCA-MAS Notice TCA N03 dated 2 July 2007 with effect from 2 July 2007.~~
 - ~~4. (a) MAS Notice TCA N03 (Amendment) 2009 dated with effect from 3 July 2009.~~
 - ~~2. (b) MAS Notice TCA-N03 (Amendment) 2013 dated with effect from 23 January 2013.~~
 - ~~(c) MAS Notice TCA-N03 (Amendment) 2014 with effect from 1 July 2014.~~
- ~~2. MAS Notice TCA N03 dated 2 July 2007 cancelled with effect from (xxxx).~~
- ~~3. MAS Notice TCA N03 dated 1 July 2014~~
- ~~3. (xxxx) with effect from (xxxx).~~

Appendix 1 —

1. Financial institutions that are licensed, approved, registered (including a fund management company registered under paragraph 5(1)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg. 10)) or regulated by the Authority but do not include —
 - (a) holders of stored value facilities, as defined in section 2(1) of the Payment Systems (Oversight) Act (Cap. 222A); and
 - (b) a person (other than a person referred to in paragraphs 2 and 3) who is exempted from licensing, approval or regulation by the Authority under any Act administrated by the Authority, including a private trust company exempted from licensing under section 15 of the Trust Companies Act (Cap. 336) read with regulation 4 of the Trust Companies (Exemption) Regulations (Rg. 1);
2. Persons exempted under section 23(1)(f) of the Financial Advisers Act (Cap. 110) read with regulation 27(1)(d) of the Financial Advisers Regulations (Rg. 2); and
3. Persons exempted under section 99(1)(h) of the Securities and Futures Act (Cap. 289) read with paragraph 7(1)(b) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations.

Appendix 2 —

1. Banks in Singapore licensed under section 7 of the Banking Act (Cap.19);
2. Merchant banks approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186);
3. Finance companies licensed under section 6 of the Finance Companies Act (Cap. 108);
4. Financial advisers licensed under section 6 of the Financial Advisers Act (Cap. 110) except those which only provide advice by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any investment product;
5. Holders of a capital markets services licence under section 82 of the Securities and Futures Act (Cap. 289);
6. Fund management companies registered under paragraph 5(1)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg. 10);
7. Persons exempted under section 23(1)(f) of the Financial Advisers Act read with regulation 27(1)(d) of the Financial Advisers Regulations (Rg. 2) except those which only provide advice by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any investment product ;
8. Persons exempted under section 99(1)(h) of the Securities and Futures Act read with paragraph 7(1)(b) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations;
9. Approved trustees approved under section 289 of the Securities and Futures Act;
10. Trust companies licensed under section 5 of the Trust Companies Act (Cap. 336);
11. Direct life insurers licensed under section 8 of the Insurance Act (Cap. 142); and
12. Insurance brokers registered under the Insurance Act which, by virtue of such registration, are exempted under section 23(1)(c) of the Financial Advisers Act except those which only provide advice by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any investment product.