

New AML Guidelines for Singapore Fund Managers

May 2015

Introduction

To keep Singapore in line with international best practices and the latest recommendations of FATF, MAS has issued revised notices to financial institutions (including banks, capital markets intermediaries and trust companies).

This alert focuses on some of the key changes to SFA04-N02, which is addressed to fund managers and other capital markets intermediaries.

The changes take effect from 24 May 2015, though some transitional provisions apply until 24 July 2015

Risk-based Approach

The key change in this notice is to require entities to take a risk-based approach to its AML/CFT activities.

This requires an entity to:

- Perform and document a risk assessment of its customers, the jurisdictions in which it operates and its products, services and delivery channels
- Develop and implement policies and controls to effectively mitigate such risks

This risk-based approach should be periodically assessed depending on changes to the environment and the entity's business. It must also take into account new products and technological developments.

Information Required & Screening

MAS has included more specific requirements with regards to information that the entity must retain in respect of Natural persons acting on behalf of a customer and Beneficial Owners.

- It clarifies that entities are only required to perform KYC in respect of beneficial owners owning at least 25% of the customer.

The revised notice also states that an entity must also screen its customers, natural persons acting on behalf of a customer, connected parties of the customer and beneficial owners of the customer against relevant databases and information provided by MAS to determine if there are money laundering risks from the customer.

Reliance on Third Parties

Previously, entities were permitted to rely on intermediaries provided entities were satisfied that such intermediaries were subject to and supervised for compliance with AML/CFT requirements consistent with FATF standards.

Now, entities may only rely on financial institutions regulated in Singapore or regulated by foreign authorities in accordance with FATF standards. The entity must also take its own steps to assess and understand the money laundering risks in the countries and jurisdictions that the 3rd party operates in.

The requirements that the entity may not rely on the 3rd party for ongoing monitoring has not changed.

MAS has clarified that, where the entity has outsourced KYC (e.g. to a fund administrator) this shall not be subject to the above rules, and instead shall be covered under the outsourcing guidelines (which make the entity responsible for the policies & procedures carried out by the other entity).

Definition of Customers

MAS has clarified who fund managers should treat as their customers.

- In the case of a single fund manager and a fund, the customers of the fund manager are the underlying investors in the investment vehicle.
- In the case of a sub-manager (or advisor) to another fund manager, where the sub-manager does not have a contractual relationship with the fund, it may treat the fund manager as the customer. If the fund manager is regulated under FATF guidelines, only limited due diligence may be applicable.
- If the sub-manager also has a contractual relationship with the fund, then the underlying investors shall be its customers. However, if the fund manager is regulated under FATF guidelines, then there are exemptions available to the sub-manager.

Links to Regulations

SFA04-N02

http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Securities-Futures-and-Funds-Management/Notices/2015/Notice-to-CMSLs-on-AML_CFT_April-2015.aspx

Guidelines

http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Securities-Futures-and-Funds-Management/Guidelines/2015/Guidelines-to-SFA04_N02_April-2015.aspx

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