

Anti-Money Laundering, Counter-Terrorist Financing and Counter-Proliferation Financing (AML / CTF / CPF)

AML Policies and Procedures Template

Revised: June 2023

In accordance with paragraph 21 and 35 of the Practice Direction P (PDP), law firms should develop and implement policies and procedures of internal controls appropriate to the nature and scope of their business for identifying and reporting transactions or suspicious activities relating to Money Laundering (ML), Terrorist Financing (TF) and Proliferation Financing (PF).

The AML policies and procedures are a combination of measures used by the firm to stop the reintroduction of the proceeds of crime, financing of terrorism or proliferation of weapons of mass destruction related activities. The implementation of such rules is mandatory and overseen by the Law Society of Hong Kong. Therefore, this template was designed to serve as a practical example of key procedures and controls that should be documented by the firms to assist with the prevention of ML/TF/PF risks and with meeting regulatory obligations.

Legal practitioners are not required to use this template or to adopt its format. Instead, AML/CTF/CPF policies and procedures should be tailored to a firm's individual risks and practices. The type of controls and procedures that your firm implements will depend on the nature of your business. There is no 'one-size-fits-all' document, as each member firm is different in terms of size, practice areas, type of clients and countries that clients are from or do business in. However, this document highlights some of the key AML/CTF/CPF requirements¹, with supporting guidance on the level of information that should be included.

Simply stating AML rules and regulations without tailoring their application to the services provided, type of clients, transactions, delivery channels and procedures that you follow, will not allow you to identify and reduce the actual ML/TF/PF risks that your practice is exposed to. This may potentially lead to non-compliance and a failure to identify and report suspicious activity.

The Law Society of Hong Kong organises regular Risk Management Education (RME) programmes dedicated to the AML / CTF risks and controls. The AML / CTF RME programme provides a detailed explanation with market practice examples of the AML / CTF

¹ Please refer to the PDP and the Guideline on Anti-Money Laundering and Counter-Financing of Terrorism Ordinance (Cap. 615) (AMLO) for details of the AML/CTF/CPF requirements.

requirements which could further assist legal practitioners with formulating AML policies and procedures.

What should the AML policies and procedures document?

1. Policy statement and purpose of this Policy
2. Name of the Money Laundering Reporting Officer (MLRO) / Person within the firm responsible for overseeing AML/CTF/CPF requirements and reporting ML/TF/PF suspicions
3. Legal services in scope of ML/TF regulations
4. Client Due Diligence procedures
5. On-going monitoring procedures
6. Procedures for cash acceptance and dealing with third-party payments
7. Identification and reporting of suspicious or unusual transactions
8. Record-keeping
9. Staff Training

[Name of the Law Firm]

[Title of the document]

[Date]

1. Policy statement and purpose of this Policy

In this section you should state the reasons why the policy is necessary and your firm's commitment to combating financial crime.

You can provide a high-level explanation of your governance arrangements and controls to prevent or deter ML/TF and PF (if applicable). This may include stating that the firm:

- conducts a firm-wide risk assessment
- provides regular staff training
- maintains established policies for identification and verification of clients
- reports suspicious activities in accordance with applicable law
- understands and verifies, where appropriate, the legitimacy of each transaction that it is asked to carry out
- does not accept payments from clients without providing legal services
- does not accept cash from its clients or maintain limits for accepting cash from its clients

A brief description of AML/CTF/CPF regulatory requirements applicable to your firm, including Sanctions regime(s) that the firm is subject to (where, depending on the operations

of the firm, wider Sanctions requirements may apply due to extraterritorial application). In the case of larger firms, the Sanctions policy is usually maintained as a separate document. Smaller firms may want to include the client screening procedures in one document.

2. Name of the Money Laundering Reporting Officer (MLRO)

Include details of the nominated Compliance Officer / MLRO / partner or other member of the legal practice responsible for receiving disclosures from staff on suspected money laundering and determining whether they warrant submission of a Suspicious Transaction Report (STR) to the Joint Financial Intelligence Unit.

Depending on the size of the firm, senior management / senior partners should be responsible for compliance with the AML/CTF/CPF requirements, although day to day compliance can be delegated to other staff or MLRO.

The firm's senior management / partners (larger firms) should approve the AML Policy and such approval should be documented.

3. Legal services in scope of ML/TF regulations

You should provide a brief description of your practice areas and services that are in the scope of AML/CTF and CPF (if applicable) regulations. You should explain whether client verification procedures apply to all clients or are only required when a firm actually acts for a client (new or existing) or when giving instructions on behalf of a client in any of the 'Applicable Circumstances' as defined in paragraph 25 of the PDP.

The practice areas where strict client verification and due diligence requirements must be applied include those practice areas where an instruction is given to act in any of the following activities:

- (a) financial transactions such as the buying and selling of real estate, business, company, securities and other assets and property;
- (b) managing client money, securities or other assets;
- (c) managing of bank, saving or securities accounts;
- (d) the formation, structure, re-organisation, operation or management of companies and other entities and legal arrangements;
- (e) insolvency cases and tax advice;
- (f) other transactions involving custody of funds by law firms as stakeholder or as escrow agent or transfers of funds through the firm's bank account;
- (g) acting as, or arranging for another person to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
- (h) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
- (i) acting as, or arranging for another person to act as, a trustee of an express trust or similar legal arrangement; or

- (j) acting, or arranging for another person to act, as a nominee shareholder for a person other than a corporation whose securities are listed on a recognised stock market.

4. Client Due Diligence procedure

In this section you should document the following procedures:

1. The timeframe for the identification and verification (ID&V) of a client and the circumstances in which delayed verification of a client's identity is allowed. You may wish to set a timeframe within which the ID&V must be completed after accepting instructions from the client, for example:

"Verification of the client's identity of new clients must be completed prior to establishing a business relationship with a new client. An exception to this rule may be applied where the risk associated with money laundering or terrorist financing is low and the delay in itself does not give rise to suspicion. In such circumstances, a [X] day timeframe for collection and verification of client information is allowed. Any delays beyond the [X] day period will be escalated to [*identify senior manager*] for approval [or the firm will cease to act for the client]. In all cases, acceptance of payment from the client before completion of the verification of client's identity is not allowed".

2. ID&V procedures relating to natural and non-natural persons. This includes ID&V procedures in relation to the ultimate beneficial owners, the controlling structure of non-natural clients and those purporting to act on behalf of a client).

You may refer to the *Client Due Diligence Forms*² (extracts below), listing documents required for ID&V.

Type of Client	Type of Document	Who is subject to ID&V?
Natural Person	Documents obtained to verify client's: name, date of birth, address, unique identification number (passport/ID card): <ul style="list-style-type: none"> <input type="checkbox"/> Hong Kong Permanent ID card; <input type="checkbox"/> National ID card issued by a sovereign authority showing Nationality; <input type="checkbox"/> Passport issued by a sovereign authority; or <input type="checkbox"/> Non-Permanent Hong Kong ID card and Passport issued by a sovereign authority; and <input type="checkbox"/> To verify client's address for example, a utility bill or bank statements which are not older than 3 months. 	Natural person
Corporations	Documents obtained to verify: Trading Name, Corporate Registration Number, Place of Incorporation and Business Address: <ul style="list-style-type: none"> <input type="checkbox"/> Certificate of Incorporation and certificate on change of name (if applicable) <input type="checkbox"/> Memorandum & Articles of Association (or equivalent) <input type="checkbox"/> Business Registration Certificate <input type="checkbox"/> Proof of Company's current registered office address; <input type="checkbox"/> Register/List of directors <input type="checkbox"/> Group ownership / structure chart including a share register (or equivalent official documents to identify the shareholding structure and ultimate beneficial owner(s) of the Company) <input type="checkbox"/> Corporate organisational chart 	<ul style="list-style-type: none"> <input type="checkbox"/> Directors of the Company <input type="checkbox"/> Beneficial Owner(s) <input type="checkbox"/> Key Controller(s) - Individual who: <ul style="list-style-type: none"> a) has the right to exercise, or actually exercises, significant influence or control over the company or b) has substantial influence over the day-to-day management of the business.

² The Client Due Diligence Forms are available on the Law Society website



	<ul style="list-style-type: none"><input type="checkbox"/> Certificate of Good Standing<input type="checkbox"/> Certificate of Incumbency<input type="checkbox"/> Latest audited financial statements (or, for newly incorporated companies, an opening balance sheet signed by the Directors)<input type="checkbox"/> Evidence of listed or regulated status (e.g. extract from Bloomberg / Reuters / stock exchange / regulator website)<input type="checkbox"/> Others:	
Trusts	<p>Documents obtained to verify:</p> <p>(a) Name of the trust (or legal arrangement);</p> <p>(b) Date of establishment or settlement;</p> <p>(c) The jurisdiction whose laws regulate and bind the trust or legal arrangement;</p> <p>(d) Unique identification number (if any) granted by any applicable official bodies and document type (e.g. tax identification number or registered charity or non-profit organisation number); and</p> <p>(e) Registered address of the Trust (if not applicable, the registered address of the Trustee(s)).</p> <ul style="list-style-type: none"><input type="checkbox"/> Trust deed<input type="checkbox"/> Certificate of incorporation or equivalent of the trustee (and certificate on change of name if applicable)<input type="checkbox"/> List of directors of the trustee<input type="checkbox"/> List of beneficiaries or classes of beneficiaries<input type="checkbox"/> Letter of wishes (if applicable)<input type="checkbox"/> Resolution of the partners / directors authorising the establishment of the trust<input type="checkbox"/> Others:	<ul style="list-style-type: none"><input type="checkbox"/> Trustee<input type="checkbox"/> Settlor<input type="checkbox"/> Protector / Enforcer (if applicable)<input type="checkbox"/> Beneficiary(ies)<input type="checkbox"/> Beneficial Owner(s) / Key Controller(s) (if applicable)
Partnerships	<p>Documents obtained to verify Trading Name and Business address:</p> <ul style="list-style-type: none"><input type="checkbox"/> Partnership Agreement<input type="checkbox"/> Business Registration Certificate<input type="checkbox"/> Register of partners and their respective holdings in the Partnership (or the GP in the context of a limited partnership)<input type="checkbox"/> Others:	<ul style="list-style-type: none"><input type="checkbox"/> Partner(s)<input type="checkbox"/> Beneficial Owner(s) / Key Controller(s) (if applicable)

3. Procedures explaining when a client's source of funds (SoF) and source of wealth (SoW) in relation to a transaction is required to be checked, and the level of evidence required, in line with the risk profile of the client/matter.

You may refer to the *Client Due Diligence Forms*³ detailing type of evidentiary documents that could assist in verification of the SoF and SoW, including some of the high-risk scenarios prompting SoW checks.

4. Procedures for reporting of discrepancies between information provided by the client and the results of your verification and due diligence checks.
5. The purpose and intended nature of the engagement/transaction - this must be documented and, where appropriate, verified by documentation.
6. Client screening procedures – you should document the following:
 - regulatory requirements relating to Sanctions and Politicly Exposed Person (PEP) checks
 - timing of the screening (at the beginning of the relationship, on-going screening)
 - specify the parties subject to client screening requirements (eg. client, beneficial owner, directors, key controllers) and, if you don't always apply screening

³ The Client Due Diligence Forms are available on the Law Society website

procedures to all clients or connected parties, explain your risk-based approach to client screening

- explain how name screening is performed (manually or via an automated screening solution). In the case of manual screening, you should describe how this process is performed, which lists are used to perform the checks and how they are being obtained, and how search results are being recorded in the client's file
- name-match discounting procedure – how the firm determines that a client name matches against a list of sanctioned individuals or terrorist and terrorist associates is false or positive, and what are the steps taken by the firm in case of a true match against Sanctions lists

7. Procedures for identification of PEPs, their relatives or close associates and the control of any associated risks. You should document the following:

- definition of PEP and your approach to risk rating such clients
- if your firm does not utilise an automated screening for PEP identification, how this check is being performed
- treatment of client who is no longer entrusted with a prominent public function

8. Enhanced Due Diligence (EDD) procedures – explain in what circumstances EDD is applied and what additional checks are performed.

EDD must be applied to manage and mitigate ML / TF and PF (if applicable) risks in the following circumstances:

- there is a higher risk of ML / TF / PF
- the business relationship / transaction is with a client in or from a high-risk jurisdiction
- the client / potential client is a PEP or a family member / known close associate of a PEP
- the client provided false or even stolen identification documents
- the transaction is complex or unusually large, there is an unusual pattern of transactions, or the transaction(s) seems to have no apparent economic or legal purpose
- the SoF / SoW is unknown or questionable

Enhanced due diligence measures may include:

- examining the background and purpose of the transaction, as far as reasonably possible
- increasing the degree and nature of client relationship monitoring in order to better detect any suspicious activity
- controls to manage higher risk clients/transactions and measures to establish SoF / SoW where appropriate (and if you do not verify SoF / SoW every time EDD is required, then explain what additional information will you be checking instead as part of the EDD). See examples below.

This may entail:

- seeking additional independent, reliable sources to verify information provided or made available (it can include publicly available information)
 - taking additional measures to understand better the background, ownership and financial situation of the customer, and other parties to the transaction
 - taking further steps to be satisfied that the transaction is consistent with the purpose and intended nature of the business relationship
 - increasing the monitoring of the business relationship, including greater scrutiny of transactions
9. Simplified due diligence procedures – explain situations where customer due diligence may be simplified in accordance with the permissible circumstances set out in Section 4, Schedule 2, Part 1 to the AMLO.

5. On-going monitoring procedures

This section should describe continuous monitoring and screening of clients applied by the firm to identify unusual or suspicious activities and to keep clients' risk assessment up-to-date.

You should describe how the on-going monitoring is being performed subject to a risk-based approach. How often client files / transactions are being reviewed in case of a period review and a trigger event.

6. Procedures for cash acceptance and dealing with third-party payments

You should clearly describe your firm's policy for accepting cash from clients. Generally, accepting cash from clients should be discouraged. If your firm accepts cash payments, you should consider setting appropriate limits and document the circumstances in which such payments could be made.

You should also document procedures for dealing with transfers from or to third-party account, eg. what checks on the third-party are being performed, how the firm deals with payments from high-risk jurisdictions and returning funds to an unidentified client or third party.

7. Identification and reporting of suspicious or unusual transactions

If, in the course of your work, you learn or suspect that any person has been or is engaging in criminal activity, you **MUST** make an internal report to the MLRO / Compliance Officer or a Partner of your office.

In this section you should list examples of red flag indicators or unusual activities and a procedure for reporting suspicious activity / transaction within the firm and consequences of failing to report. This should include:

- name of person with the firm to whom the report or escalation should be made
- how and when a suspicious transaction should be made
- how to manage client when investigating the suspicion internally and when the STR report has been filed
- clearly define what constitutes a tipping-off offence
- how the suspicion is documented and recorded
- how the record of suspicion / reporting to JFIU should be maintained internally for record keeping purposes

8. Record-keeping

You should document what type of documents and records must be maintained and the manner or form in which such documents will be maintained eg. by way of original documents or electronic form.

You should also state the period during which these documents will be kept by the firm and their location (if physical copies are kept in a storage place outside the office).

9. Staff Training

The AML / CTF and CPF (if applicable) training must be tailored to the firm's areas of practice and risks associated with the services provided, type of clients and the type of transactions. The AML / CTF and CPF training should include up-to-date trends and ML / TF and PF (if applicable) techniques, procedure for reporting STRs, legal and regulatory provisions on the prevention of ML / TF and PF, the firm's internal policies procedures and controls.

You should indicate which staff require training, how often the training should take place, the format of the training and maintain attendance records. Please note that the AML / CTF / CPF training can take many forms and it is not restricted to the training delivered in-house. This can include attendance of conferences, seminars, courses organised by the Law Society or third-party training providers, online courses, review of AML / CTF and CPF publications and participation in group discussions related to AML / CTF and CPF topics.