

No. S 000 -

MONEYLENDERS ACT
(CHAPTER 188)
MONEYLENDERS
(PREVENTION OF MONEY LAUNDERING
AND FINANCING OF TERRORISM) RULES 2007

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In exercise of the powers conferred by section 37 of the Moneylenders Act, the Minister for Law hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Moneylenders (Prevention of Money Laundering and Financing of Terrorism) Rules 2007 and shall come into operation on 12th of November 2007.

Definitions

2.—(1) In these Rules, unless the context otherwise requires —

“agent”, in relation to a borrower, means the individual acting on behalf of or for the benefit of the borrower;

“beneficial owner”, in relation to a borrower, means —

(a) an individual who ultimately owns all of the assets or undertakings of the borrower (being a body corporate or unincorporate);

(b) an individual who exercises effective control over the borrower; and

(c) a person on whose behalf a relevant loan is obtained by the borrower;

“borrower” means the person to whom a moneylender grants or intends to grant a relevant loan;

“customer due diligence measures” or “CDD measures” means the process of identifying, and obtaining the information necessary to identify, the borrower, the agent of the borrower and the beneficial owner of the borrower;

“FATF” means the intergovernmental body known as the Financial Action Task Force created in 1989;

“foreign government entity” means the government of a country or territory outside Singapore, a ministry or department within such a government, or an agency established by written law in such a country or territory;

“immediate family member”, in relation to a politically-exposed person, means a spouse or child, an adopted child, or a step-child, sibling or parent, of the politically-exposed person;

“Monetary Authority of Singapore” means the Monetary Authority of Singapore established under section 3 of the Monetary Authority of Singapore Act (Cap. 186);

“moneylender” means a moneylender who holds a valid licence or who has been granted an exemption under section 36(1) of the Act;

“officer” has the same meaning as in section 35B(5) of the Act;

“politically-exposed person” means —

(a) an individual who is or has been entrusted with any prominent public function in a country or territory outside Singapore;

(b) an immediate family member of such a person; or

(c) an individual who is a close associate of such a person;

“prominent public function” includes the role held by a head of state, head of government, government minister, senior civil servant, senior judicial or military official, senior executive of a state-owned corporation or senior political party official;

“relevant foreign regulatory authority”, in relation to a moneylender, means an authority of a country or territory outside Singapore exercising any function in respect of the moneylender that corresponds to a regulatory function of the Registrar under the Act;

“relevant law enforcement authority” means the Singapore Police Force, the Central Narcotics Bureau or the Corrupt Practices Investigation Bureau;

“relevant loan” means a loan of an aggregate value exceeding \$3,000 or its equivalent value expressed in any other currency;

“Singapore government entity” means a ministry or department of the Government, an organ of State or a statutory board.

(2) For the purposes of paragraph (c) of the definition of “politically-exposed person” in paragraph (1), a person, *A*, is a close associate of a politically-exposed person, *B*, if —

- (a) *A* is a partner of *B*;
- (b) *A* is an employee or employer of *B*;
- (c) *A* is an officer of any corporation of which *B* is an officer;
- (d) *A* is an employee of an individual of whom *B* is an employee;
- (e) *A* is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*;
- (f) *B* is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A*;
- (g) *A* is a person with whom *B* has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together to apply for or obtain a loan from a moneylender.

(3) In these Rules, unless the context otherwise requires, a reference to a financial institution supervised by the Monetary Authority of Singapore shall not include a person who is exempted from being licensed, approved, registered or otherwise regulated by the Monetary Authority of Singapore under any written law.

Application of Rules

3. These Rules shall apply to every moneylender who grants secured or unsecured loans to the general public.

General principles

4.—(1) A moneylender shall exercise due diligence in accordance with these Rules when dealing with any borrower, or any agent or beneficial owner of a borrower.

(2) A moneylender shall conduct his business in such a manner as to guard against the grant of any loan that is, may be connected with or facilitates money laundering or the financing of terrorism.

(3) A moneylender shall assist and cooperate with the relevant law enforcement authorities in detecting and preventing money laundering and the financing of terrorism.

Internal policies, procedures and controls

5.—(1) A moneylender shall develop and implement internal policies, procedures and controls to detect and prevent money laundering and the financing of terrorism, and communicate these to his employees and officers.

(2) The internal policies, procedures and controls referred to in paragraph (1) shall include those relating to —

- (a) CDD measures;
- (b) record keeping;
- (c) detection of unusual or suspicious applications or transactions, and the making of disclosures under section 39(1) of the Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A) or Part III of the Terrorism (Suppression of Financing) Act (Cap. 325);
- (d) audit of the internal policies, procedures and controls;
- (e) compliance management arrangements; and
- (f) the hiring and training of employees.

(3) In formulating the internal policies, procedures and controls referred to in paragraph (1), a moneylender shall take into consideration the money laundering and terrorism financing threats that may arise from the use of new or developing technologies, especially those that favour anonymity.

(4) A moneylender that is a company incorporated in Singapore and that has a branch or subsidiary, whether in Singapore or elsewhere shall —

- (a) develop a group policy on anti-money laundering and countering the financing of terrorism; and
- (b) extend the group policy to all of its branches and subsidiaries, whether in Singapore or elsewhere.

(5) Where the moneylender referred to in paragraph (4) has a branch or subsidiary in a country or territory outside Singapore known to have inadequate measures for the prevention of money laundering or the financing of terrorism (as determined by the

moneylender or as notified to moneylenders generally by the Registrar or a relevant foreign regulatory authority), the moneylender shall ensure that its group policy on anti-money laundering and countering the financing of terrorism is strictly observed by that branch or subsidiary.

(6) Where the moneylender referred to in paragraph (4) has a branch or subsidiary in a country or territory outside Singapore that has laws for the prevention of money laundering or the financing of terrorism that differ from those in Singapore —

- (a) the moneylender shall require the management of that branch or subsidiary to apply the more stringent set of laws, to the extent that the law of the host country or territory permits; and
- (b) where that branch or subsidiary is unable to fully apply the more stringent set of laws, the moneylender shall report this to the Registrar and shall, in lieu of sub-paragraph (a), comply with such directions as may be given by the Registrar.

(7) Any moneylender who contravenes paragraph (4), (5) or (6) shall be guilty of an offence.

Customer due diligence measures

6.—(1) For the purposes of rule 5(2)(a), a moneylender shall perform CDD measures in respect of a borrower when the moneylender —

- (a) intends to grant, or is considering the grant of, a relevant loan to the borrower;
- (b) suspects that the borrower is engaged in money laundering or the financing of terrorism; or
- (c) has doubts about the veracity or adequacy of any information previously obtained from the borrower.

(2) For the avoidance of doubt, where a moneylender (referred to in this rule as the acquiring moneylender) acquires, either in whole or in part, the business of another moneylender (whether in Singapore or elsewhere), the acquiring moneylender shall perform CDD measures on the customers who become the borrowers of the acquiring moneylender as a result of the acquisition, except where the acquiring moneylender —

- (a) has acquired at the same time all corresponding customer records (including customer identification information) and has no doubt or concern about the veracity or adequacy of the information so acquired; and

(b) has conducted due diligence enquiries that have not raised any doubt on the part of the acquiring moneylender as to the adequacy of measures for the prevention of money laundering and the financing of terrorism previously adopted in relation to the business or part thereof acquired by the acquiring moneylender.

(3) A moneylender shall perform the CDD measures referred to in paragraphs (1) and (2) by complying with the requirements specified in the Schedule.

(4) For the purposes of paragraph (1)(a), where a moneylender suspects that 2 or more loans are or may be related, linked or the result of a deliberate restructuring of an otherwise single relevant loan into smaller transactions in order to evade the thresholds provided for in these Rules, the moneylender shall aggregate them and treat them as a single relevant loan.

(5) Any moneylender who contravenes paragraph (3) or (4) shall be guilty of an offence.

Suspicious transaction reporting

7.—(1) Where, in any particular case —

- (a) a moneylender is unable to complete performing the CDD measures for any reason;
- (b) a borrower is unable or unwilling to provide any information requested by the moneylender, or decides to withdraw the application for the relevant loan when requested to provide information;
- (c) the relevant loan is granted, to be granted or would have been granted to a politically-exposed person or to a person from or in a country or territory outside Singapore known to have inadequate measures for the prevention of money laundering or the financing of terrorism (as determined by the moneylender or as notified to moneylenders generally by the Registrar or a relevant foreign regulatory authority);
- (d) the relevant loan is part of an unusual pattern of loans with no apparent economic or lawful purpose; or
- (e) any other circumstance exists for the making of a disclosure under section 39(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A) or Part III of the Terrorism (Suppression of Financing) Act (Cap. 325),

the moneylender concerned shall —

- (i) document the basis for his determination as to whether a disclosure under section 39(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act or Part III of the Terrorism (Suppression of Financing) Act should be made; and
- (ii) where he has made such a disclosure, submit a copy of the report on the suspicious transaction or attempted transaction to the Registrar.

(2) Any moneylender who contravenes paragraph (1) shall be guilty of an offence.

Audit and compliance

8.—(1) For the purposes of rule 5(2)(d), a moneylender shall implement and maintain an audit function that is —

- (a) adequately resourced and independent; and
- (b) able to regularly assess the effectiveness of the internal policies, procedures and controls of the moneylender, and his compliance with these Rules.

(2) For the purposes of rule 5(2)(e), a moneylender shall —

- (a) develop compliance management arrangements to continually review and update internal policies, procedures and controls for the prevention of money laundering and the financing of terrorism; and
- (b) appoint an employee or officer in a management position as the compliance officer in relation to anti-money laundering and countering the financing of terrorism.

(3) The moneylender shall grant his compliance officer, as well as any other persons appointed to assist him, timely access to all borrower records and other relevant information which they may require to discharge their functions for the purposes of these Rules.

(4) Any moneylender who contravenes paragraph (1), (2) or (3) shall be guilty of an offence.

Employees

9.—(1) For the purposes of rule 5(2)(f), a moneylender shall —

- (a) implement screening procedures for the hiring of fit and proper persons as employees; and
- (b) ensure that his employees, whether in Singapore or elsewhere, are trained on —
 - (i) the laws for the prevention of money laundering and the financing of terrorism, including these Rules, the

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A), the Terrorism (Suppression of Financing) Act (Cap. 325) and the United Nations Act (Cap. 339);

- (ii) prevailing methods for, and trends in, money laundering and terrorism financing; and
- (iii) the moneylender's internal policies, procedures and controls for the prevention of money laundering and the financing of terrorism, including the roles and responsibilities of employees and officers of the moneylender in relation thereto.

(2) Any moneylender who contravenes paragraph (1) shall be guilty of an offence.

Power to issue guidelines and directions

10.—(1) The Registrar may, from time to time, issue such guidelines as he considers appropriate to provide guidance on the measures for the prevention of money laundering and the financing of terrorism to be implemented by moneylenders or generally under these Rules.

(2) The Registrar may, from time to time, issue written directions to any moneylender to comply with such requirements as the Registrar may specify in the written directions for the prevention of money laundering or the financing of terrorism.

(3) Without prejudice to the generality of paragraph (2), written directions may be issued —

- (a) with respect to the standards to be maintained by a moneylender in the conduct of his business to give effect to the provisions of these Rules;
- (b) where any moneylender is contravening, is likely to contravene or has contravened any provision of these Rules, to require the moneylender —
 - (i) to comply with that provision or to cease contravention of that provision;
 - (ii) to take such action necessary to enable him to conduct his business in accordance with sound principles for the prevention of money laundering and the financing of terrorism; or
 - (iii) to make good any default committed by him; or
- (c) for any other purpose specified in these Rules.

(4) Every moneylender who has been issued any written direction under paragraph (2) shall comply with the written direction.

(5) The Registrar may, at any time, vary or revoke any guideline or written direction issued under this rule.

Offences

11. Any person who is guilty of an offence under these Rules for which no penalty is expressly provided shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$12,500 or to imprisonment for a term not exceeding 12 months or to both; or
- (b) in any other case, to a fine not exceeding \$12,500.

THE SCHEDULE

Rule 6(3)

Identification and verification of identity of borrowers

1.—(1) A moneylender shall establish the identity of each borrower to whom the moneylender undertakes to grant a relevant loan.

(2) For the purposes of sub-paragraph (1), the moneylender shall obtain and record at least the following information of the borrower and his agent (if any):

- (a) full name, including any alias;
- (b) the identity card number, birth certificate number or passport number (in the case of an individual), or the incorporation number or business registration number (in the case of a borrower that is a body corporate or unincorporated);
- (c) existing residential, registered or business address (as the case may be) and contact telephone number;
- (d) the date of birth, incorporation or registration (as the case may be); and
- (e) the nationality or place of incorporation or registration (as the case may be).

(3) Where the borrower is a company, the moneylender shall also establish the identity of all the directors of the company as if such directors were themselves borrowers.

(4) Where the borrower is a partnership or limited liability partnership, the holder shall also establish the identity of all the partners of the partnership or limited liability partnership as if such partners were themselves borrowers.

(5) Where the borrower is a body corporate or unincorporated other than a company, partnership or limited liability partnership, the moneylender shall also establish the identity of all the persons having executive authority in that body as if such persons were themselves borrowers.

(6) The moneylender shall —

- (a) verify the identity of the borrower and his agent (if any) using reliable and independent sources;
- (b) verify the authority of an agent to act on behalf of the borrower (if applicable); and
- (c) retain a copy of all documents used in establishing and verifying the identity of the borrower, and the identity and authority of his agent (if any) to act on his behalf.

Identification and verification of identity of beneficial owners

2.—(1) Subject to sub-paragraph (4), a moneylender shall inquire if there exists any beneficial owner in relation to a borrower.

(2) Where the moneylender becomes aware pursuant to the inquiry or otherwise that there is one or more beneficial owners in relation to the borrower, the moneylender shall take reasonable measures to obtain information sufficient to identify and verify the identity of every beneficial owner.

(3) Where the borrower is a body corporate or unincorporate, the moneylender shall take reasonable measures to understand the ownership and control structure of the borrower.

(4) A moneylender need not inquire if there exists any beneficial owner in relation to a borrower where the borrower 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 Singapore that is subject to regulatory disclosure requirements;
- (e) a financial institution supervised by the Monetary Authority of Singapore;
- (f) a financial institution incorporated or established outside Singapore that is subject to and supervised for compliance with requirements for the prevention of money laundering and the financing of terrorism consistent with standards set by the FATF; or
- (g) an investment vehicle, the managers of which are financial institutions —
 - (i) supervised by the Monetary Authority of Singapore; or
 - (ii) incorporated or established outside Singapore, and subject to and supervised for compliance with requirements for the prevention of money laundering and the financing of terrorism consistent with standards set by the FATF, unless the moneylender suspects that the relevant loan required by such investment vehicle is connected with money laundering or the financing of terrorism.

(5) For the purposes of sub-paragraph (4), a moneylender shall keep a record in writing of the basis for his determination that a borrower is of a type specified in that sub-paragraph.

Review of profile of existing borrowers who take further loans

3.—(1) Where a moneylender undertakes to grant a relevant loan to a borrower, the moneylender shall review the previous loans (if any) granted to that borrower to ensure that the loan is consistent with the moneylender's knowledge of the borrower.

(2) A moneylender shall perform such CDD measures as may be appropriate to his existing borrowers having regard to his own assessment of materiality and risk.

Non-face-to-face verification

4.—(1) A moneylender shall not undertake any relevant loan without having a face-to-face contact with the borrower or the agent of the borrower.

(2) Sub-paragraph (1) shall not apply if, and only if —

- (a) the moneylender has obtained the prior written approval of the Registrar not to have such face-to-face contact with the borrower or the agent of the borrower; and
- (b) the moneylender complies with all conditions and restrictions imposed by the Registrar in giving such written approval.

(3) The Registrar may, where he considers it necessary or expedient, grant his written approval under sub-paragraph (2) in respect of a class or description of borrowers.

Performance of CDD measures by intermediaries

5.—(1) A moneylender shall not rely on an intermediary to perform the CDD measures by complying with the requirements specified in paragraphs 1 to 4 unless —

- (a) the moneylender has obtained the prior written approval of the Registrar to rely on the intermediary; and
- (b) the moneylender complies with all conditions and restrictions imposed by the Registrar in giving such written approval.

(2) The Registrar may refuse to grant his written approval under sub-paragraph (1) unless the moneylender can satisfy the Registrar that —

- (a) the intermediary is subject to and supervised for compliance with anti-money laundering and counter terrorism financing requirements consistent with standards set by the FATF, and has adequate measures in place to comply with those requirements;
- (b) the intermediary is not one which moneylenders have been precluded by the Registrar from relying on;
- (c) the information to be obtained by the intermediary can be relayed to the moneylender by the intermediary without delay; and
- (d) the intermediary is able and willing to provide, without delay upon the request of the moneylender, any document obtained by the intermediary which the moneylender would be required or would want to obtain under these Regulations.

(3) The Registrar may, where he considers it necessary or expedient, grant his written approval under sub-paragraph (1) in respect of a class or description of borrowers or intermediaries.

(4) For the avoidance of doubt, the moneylender remains responsible for compliance with his obligations to perform CDD measures notwithstanding his use of an intermediary under this paragraph.

Simplified CDD measures

6.—(1) A moneylender may perform simplified CDD measures in lieu of the requirements specified in paragraphs 1 to 4 if, and only if —

- (a) the moneylender is of the view that the risks of money laundering and terrorism financing are low;
- (b) the moneylender has obtained the prior written approval of the Registrar to perform such simplified CDD measures; and
- (c) the moneylender complies with all conditions and restrictions imposed by the Registrar in giving such written approval.

(2) The Registrar shall not grant his written approval under sub-paragraph (1) if the borrower, agent of the borrower or beneficial owner of the borrower is from or in a country or territory outside Singapore known to have inadequate measures for the prevention of money laundering or the financing of terrorism (as determined by the moneylender or as notified to moneylenders generally by the Registrar or a relevant foreign regulatory authority).

(3) Subject to sub-paragraph (2), the Registrar may refuse to grant his written approval under sub-paragraph (1) if he is satisfied that —

- (a) the risks of money laundering or terrorism financing are high; and
- (b) the simplified CDD measures proposed by the moneylender will not effectively identify and verify the identity of the borrower, the agent of the borrower or the beneficial owner of the borrower.

(4) The Registrar may, where he considers it necessary or expedient, grant his written approval under sub-paragraph (1) in respect of a class or description of borrowers.

Enhanced CDD measures for politically-exposed persons

7.—(1) A moneylender shall perform enhanced CDD measures in relation to politically-exposed persons, including at least the following:

- (a) implement such internal policies, procedures and controls which would enable the moneylender to determine if a borrower or a beneficial owner of the borrower is a politically-exposed person; and
- (b) establish by appropriate and reasonable means the source of wealth and source of funds of any such borrower or beneficial owner.

(2) A moneylender who —

- (a) identifies any borrower or beneficial owner as a politically-exposed person; or
- (b) subsequently comes to know that any borrower or beneficial owner is or was a politically-exposed person,

shall obtain a decision from his senior management on whether to establish or maintain the business relationship.

(3) The moneylender shall keep a record in writing of his findings and the basis of the decision made in sub-paragraph (2), which shall be produced to any relevant law enforcement authority on demand.

Enhanced CDD measures in other cases

8.—(1) A moneylender shall perform enhanced CDD measures in respect of —

- (a) all complex or unusually large relevant loans or unusual patterns of relevant loans that have no apparent or visible economic or lawful purpose;
- (b) relevant loans granted to any person from or in countries and territories outside Singapore known to have inadequate measures for the prevention of money laundering or the financing of terrorism (as determined by the moneylender or as notified to moneylenders generally by the Registrar or a relevant foreign regulatory authority); and
- (c) such other categories of borrowers or such other relevant loans which the moneylender considers may present a high risk for money laundering or the financing of terrorism.

(2) A moneylender shall inquire into the background and purpose of the relevant loans referred to in sub-paragraph (1) and keep a record in writing of his findings, which shall be produced to any relevant law enforcement authority on demand.

Made this 1st day of November 2007.

CHAN LAI FUNG
Permanent Secretary,
Ministry of Law,
Singapore.

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