

REGISTRY OF MONEYLENDERS

5 NOVEMBER 2007

GUIDELINES TO THE MONEYLENDERS (PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM) RULES 2007

Introduction

1. These Guidelines apply to licensed and exempt moneylenders who grant secured or unsecured loans to the general public (collectively referred to as “moneylenders”). These Guidelines serve to provide guidance to moneylenders on some of the requirements in the Moneylenders (Prevention of Money Laundering and Financing of Terrorism) Rules 2007 (“PMFT Rules”).
2. The PMFT Rules are the latest in a series of legislation in Singapore to combat money laundering and terrorism financing as follows:
 - (a) the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A);
 - (b) the Terrorism (Suppression of Financing Act (Cap. 325);
 - (c) the United Nations (Anti-Terrorism Measures) Regulations and other regulations made under the United Nations Act (Cap. 339); and
 - (d) section 19(2) of the Moneylenders Act read with the Moneylenders Rules which deals with mandatory record keeping for a minimum of 5 years.
3. The expressions used in these Guidelines shall, except where expressly defined in these Guidelines or where the context otherwise requires, have the same respective meanings as in the PMFT Rules.
4. Moneylenders are reminded that the ultimate responsibility and accountability for ensuring compliance with anti-money laundering and countering the financing of terrorism (“AML/CFT”) laws, regulations and guidelines rests with the moneylenders.

Key Concepts in the Recommendations of the Financial Action Task Force

Money Laundering

5. Money laundering is a process intended to mask the benefits derived from criminal activity so that they appear to have originated from a legitimate source.
6. Generally, the process of money laundering comprises three stages, during which there may be numerous transactions that could alert a moneylender to money laundering activity:
 - (a) Placement - The physical disposal of the benefits of criminal activity;

- (b) Layering - The separation of the benefits of criminal activity from their source by creating layers of financial transactions designed to end any audit trail at a legitimate financial transaction and avoid a tracing of the benefits all the way to the criminal activity; and
- (c) Integration - The provision of apparent legitimacy to the benefits of criminal activity. If layering succeeds, integration places the laundered funds back into the economy so that they re-enter the financial system appearing to be legitimate business funds.

The chart in Appendix I of these Guidelines illustrates these three stages of money laundering in greater detail.

Terrorist Financing

7. Terrorism seeks to influence or compel governments into a particular course of action or seeks to intimidate the public or a section of the public through the use or threat of violence, damage to property, danger to life, serious risks to health or safety of the population or disruption of key public services or infrastructure. Moneylenders should refer to the legal definitions of “terrorist act” found in the Terrorism (Suppression of Financing) Act (Cap. 325) and the United Nations (Anti-Terrorism Measures) Regulations.

8. Terrorists require funds to carry out acts of terrorism and terrorist financing provides the funds needed. Sources of terrorist financing may be legitimate or illegitimate. It may be derived from criminal activities such as kidnapping, extortion, fraud or drug trafficking. It may also be derived from legitimate income or sources such as loans, membership dues, sale of publications, donations from persons or entities sympathetic to their cause, and sometimes income from legitimate business operations belonging to terrorist organisations.

9. Terrorist financing involves amounts that are not always large, and the associated transactions may not necessarily be complex. Some sources of terrorist funds may even be legitimate. However, the methods used by terrorist organisations to move, collect, hide or make available funds for their activities remain similar to those used by criminal organisations to launder their funds. This is especially so when the funds are derived from illegitimate sources, in which case, the terrorist organisation would have similar concerns as a typical criminal organisation in laundering the funds. Where the funds are derived from legitimate sources, terrorist organisations would usually still need to employ the same laundering techniques to obscure the links between the organisation and the funds.

The Structure of PMFT Rules

10. The PMFT Rules set out your obligations as a moneylender who is referred to in paragraph 1, to take measures to help mitigate the risk of the moneylending industry of Singapore being used for money laundering or terrorist financing. You are expected to familiarise yourself with the requirements and offences under the legislation set out in paragraph 2 and the PMFT Rules, and to comply with the legislation where they apply to you.

Identification of Borrowers and their Agents and Verification of the identities

11. Rule 6(1) and 6(2) of the PMFT Rules set out the circumstances in which you will be required to obtain customer identification by conducting customer due diligence measures ("CDD measures"). The CDD measures are carried out by complying with the requirements specified in the schedule to the Rules.

12. CDD measures are required to be carried out not only on borrowers, but also their agent. An agent is any individual acting on behalf of or for the benefit of the borrower.

13. You are to note that where a borrower is not an individual, paragraphs 1(3), 1(4) and 1(5) of the Schedule require you to further identify the directors, partners or persons having executive authority of the borrower.

14. The requirements to verify the identity of the borrower and his agent by use of reliable and independent source documents are intended to ensure that the identity information provided by the borrower is authentic.

15. Where the person whose identity is to be verified is an individual, you should ask to be produced an identification document from a reliable and independent source, and preferably containing a photograph of that person, e.g. his identity card or passport.

16. You should retain a copy of all documents used to establish and verify the identity of the borrower and his agent and the authority of the agent.

Identification of Beneficial Owners and Verification of their Identities

17. You are under a duty to take steps to determine if there exists, other than the person dealing directly with you as a borrower or his agent, any beneficial owner(s) in relation to the borrower. A beneficial owner may be an individual who ultimately owns a borrower who is a body corporate or unincorporate, an individual who exercises effective control over the borrower or any person on whose behalf a relevant loan is obtained by the borrower. Paragraph 2 of the Schedule to the PMFT Rules sets out the requirements for the identification and verification of the identity of the beneficial owner(s).

18. Generally, you should assess and determine the measures which would be appropriate to identify the beneficial owner(s). You should be able to justify the reasonableness of the measures taken to obtain information on and verify the identity of the beneficial owner(s), having regard to the circumstances of each case.

19. You may also consider obtaining an undertaking or declaration from the borrower or his agent on the identity of, and information relating to, the beneficial owner.

20. Paragraph 2(4) of the Schedule states that moneylenders are not required to inquire if there exists any beneficial owner in relation to the entities specified in sub-paragraphs (a) to (g). The reason is that there is already adequate information available on these entities. For example, in the case of public-listed companies, the shareholders would be changing relatively frequently and there would already be disclosure obligations imposed on substantial shareholders of such companies. In the case of financial institutions supervised by the MAS, there would have been adequate disclosure of the ownership and structure to the MAS.

Reliability and Independence of Information and Documentation

21. Where you obtain information or documents from the borrower or a third party, you should take reasonable steps to assure yourself that such information or documents are from a reliable and independent source and, where appropriate, up to date at the time they are provided to you.

22. Where the borrower is unable to produce original documents, you may consider accepting documents that are certified to be true copies by qualified persons, such as lawyers and accountants.

Time for completion of CDD measures

23. You are required to complete CDD measures before undertaking to grant a relevant loan to a borrower. This is to address risks of money laundering and terrorist financing.

24. Where the borrower is reluctant, unwilling or unable to furnish either his particulars or evidence of his identity or withdraws his application for the relevant loan, you shall consider if circumstances warrant the filing of a Suspicious Transaction Report ("STR").

Non-Face-to-Face Verification

25. The CDD measures include the requirement that you must conduct your transactions with the borrower or his agent face to face. You are not allowed to conduct non-face-to-face dealings without the prior approval in writing of the Registrar. You may apply to the Registrar in writing for approval not to have face-to-face contact with the borrower or his agent. In your application, please furnish the following information for the Registrar's consideration:

- a) A description of the proposed type of loan which is to be granted without face-to-face dealing;
- b) A description of the borrower(s) and his/their agent (if any) with whom it is proposed that face-to-face dealing is to be dispensed with;
- c) An explanation and substantiation as to why face-to-face dealings with the borrowers or their agent are not feasible or possible in the circumstances of the proposed type of loan or the proposed type of borrower or agent; and

- d) Your proposal for the implementation of an operating system of internal policies, procedures and controls to mitigate the risk of money laundering or terrorist financing in connection with that part of your business which involves or may involve the grant of relevant loans without the need for face-to-face dealings with the borrower or his agent, and in conjunction with such operating system, that you will require you to undertake CDD measures that are no less stringent than those that would be required to be performed if there were face-to-face dealings.

CDD Measures Performed by Intermediaries

26. You should not delegate your responsibility to conduct CDD measures or outsource that responsibility to a third party intermediary unless prior written approval has been obtained from the Registrar. In your application for the approval, please furnish the following information/documents:

- a) The particulars of the intermediary and its relationship to you, including the nature of your contractual arrangements with the intermediary;
- b) Your reason(s) for appointing an intermediary to perform the CDD measures; and
- c) Confirmation that the intermediary satisfies the requirements under paragraph 5(2)(a)-(d) of the Schedule.

27. Approval will not be granted for you to rely on any intermediary to conduct on-going monitoring of your borrowers on your behalf. You are to note that even where approval has been granted for you to rely on an intermediary to conduct CDD measures on your behalf, you remain responsible for your obligation to perform the CDD measures.

Simplified CDD Measures

28. Before applying in writing to the Registrar for approval to perform simplified CDD, you must be satisfied that the risk of money laundering or terrorist financing is low with regards to the loan transactions in question.

29. You should also consider the following factors in determining whether to apply for approval to perform simplified CDD measures:

- a) Whether reliable information on the borrower is publicly available; or
- b) Whether the borrower is a financial institution that is subject to and supervised for compliance with AML/CFT requirements consistent with standards set by the FATF, or a listed company that is subject to regulatory disclosure requirements.

30. In your application, please furnish the following particulars:

- a) A description of the type of loan which is to be granted;
- b) A description of the borrowers; and

- c) Your reason(s) as to why only simplified CDD measures are necessary in relation to the type of borrower(s).

Identifying and Dealing with Politically-exposed Persons (“PEPs”)

31. Your duty to conduct enhanced CDD measures in relation to PEPs is set out in paragraph 7 of the Schedule to the PMFT Rules, which would be to –

- a) implement internal policies, procedures and controls which would enable you to determine if a borrower or a beneficial owner is a PEP; and
- b) establish, via appropriate and reasonable means, the source of wealth and source of funds of such borrower or beneficial owner.

32. You are to note the meaning of PEP as defined in the PMFT Rules. In particular, you are to note that while prominent public individuals may come from a country outside Singapore, his immediate family member or close associate need not.

33. It would generally be considered acceptable for you to refer to databases of PEPs either compiled commercially or by official authorities. However, you are expected to exercise a measure of discretion and sound judgment in determining for yourself whether an individual is a PEP, and the manner by which you establish the source of any assets they place with you or at your disposal, and the source of any wealth possessed by the PEP.

Enhanced CDD measures in other cases

34. Paragraph 8 of The Schedule requires enhanced CDD measures to be applied to other categories of borrowers, apart from PEPs, which you may consider to present a greater risk of money laundering or terrorist financing. In assessing the risk of money laundering or terrorist financing, you may take into account factors such as the type of borrower, the type of loan the borrower is applying for, the background and purpose of the loan, the borrower’s profession, trade or business and the borrower’s personal or business profile.

35. You are to give particular attention to relevant loans granted to persons from or in countries or territories that have inadequate AML/CFT measures, in accordance with paragraph 8(1)(b) of The Schedule. For this purpose, you may take a range of steps, including the adoption of measures similar to those for PEPs and other high risk categories.

36. While the Registry may from time to time circulate the names of countries and territories with inadequate AML/CFT regimes (which can then be used as a reference guide), you are also encouraged to refer, where practicable, to other sources of information to identify countries and territories that are considered to have inadequate AML/CFT regimes.

Suspicious Transaction Reporting

37. You are required to have adequate policies, processes and systems for detecting and identifying suspicious transactions. The Registry also expects you to put in place effective and efficient procedures for reporting suspicious transactions.

38. You should ensure that your internal processes for evaluating whether a matter should be referred to the Suspicious Transactions Reporting Office ("STRO") via an STR are completed without delay and not exceed 15 working days from the date the case is referred by the relevant reporting staff, unless the circumstances are exceptional or extraordinary.

39. Circumstances of suspicious transactions are set out in Rule 7(1)(a) to (e) of the PMFT Rules and elaborated on in Appendix II of these Guidelines. These circumstances and indicators are not intended to be exhaustive and are the most basic and common circumstances which would raise suspicions of money laundering or terrorism financing. If any transaction similar to those in Rule 7(1)(a) to (e) or Appendix II is identified, this should prompt further enquiries. If further enquiries reveal reasonable grounds for a moneylender to suspect money laundering or terrorism financing to be taking place, the moneylender must forthwith report the transaction to the STRO.

40. You are required to keep watch for suspicious transactions in the course of conducting screening against lists of terrorist suspects as may be required by law or circulated by any relevant authority. You should consider filing an STR even though there is no positive match against any name if the surrounding circumstances raise sufficient suspicions.

41. Subject to any written law or any directions given by STRO, you should as far as possible follow the reporting formats specified in Appendices III and IV to these Guidelines. In the event that urgent disclosure is required, particularly where a transaction is known to be part of an ongoing investigation by the relevant authorities, you should give initial notification to the STRO by telephone or email and follow up with such other means of reporting as the STRO may direct.

42. You are to maintain a complete file of all transactions that have been brought to the attention of your AML/CFT compliance officer or unit, including transactions that are not reported to STRO.

Compliance

43. The responsibilities of the AML/CFT compliance officer should include the following:

- a) ensuring a speedy and appropriate reaction to any matter in which money laundering or terrorism financing is suspected;
- b) advising and training your senior management and staff on developments and trends in money laundering and terrorism financing;

- c) implementing internal policies, procedures and controls on AML/CFT as well as training;
- d) reviewing earlier relevant loans which you have granted to borrowers for compliance with the PMFT Rules and these Guidelines; and
- e) promoting compliance with the PMFT Rules and these Guidelines, including in particular observance of the underlying principles on AML/CFT in the Guidelines and taking overall charge of all AML/CFT matters within the organisation.

Record keeping

44. You are required to prepare, maintain and retain documentation on all relevant loans granted to borrowers such that:

- a) all requirements imposed by law (including these Guidelines) are met;
- b) any relevant loan granted can be reconstructed so as to provide, if necessary, evidence for prosecution of criminal activity;
- c) the relevant law enforcement authority and your internal and external auditors are able to review the relevant loans which you have granted and assess the level of compliance with the law and these Guidelines; and
- d) you can satisfy, within a reasonable time or any specific time period imposed by law, any enquiry or order from the relevant law enforcement authority for information.

45. You are required to keep such records for a period of at least 5 years from the full repayment of the relevant loan to which the record relates or from the date of termination of that relevant loan contract.

46. You may retain such records 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.

47. You are required to retain records pertaining to a matter which is under investigation or which is the subject of an STR for such longer period as may be necessary in accordance with any request or order from the STRO or from another law enforcement authority.

Training

48. As stipulated in Rule 9(1)(b) of the PMFT Rules, it is your responsibility to provide appropriate training on AML/CFT measures for your staff. To help ensure the effectiveness of training, you should monitor attendance at such training and

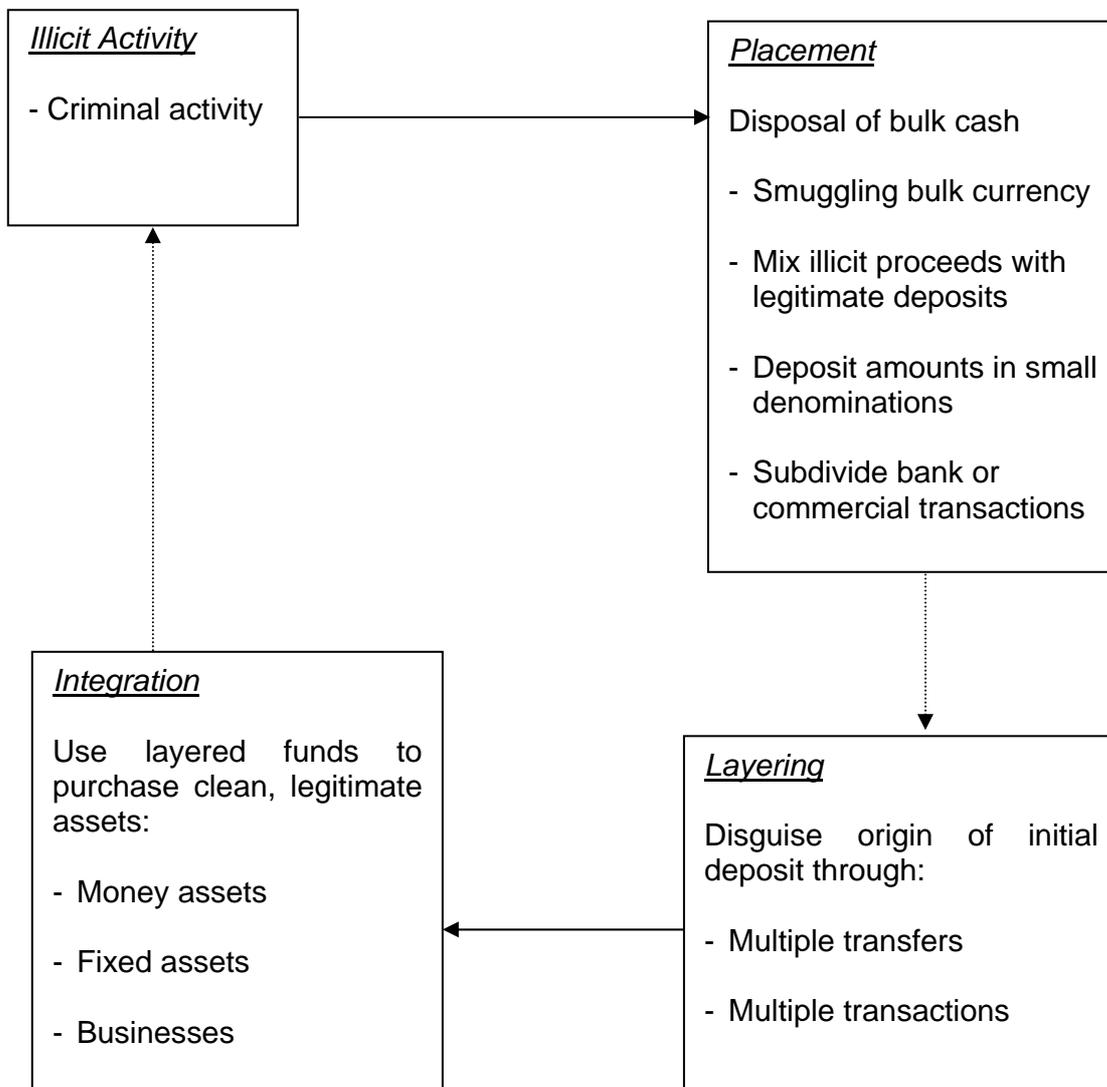
take the appropriate and prompt follow-up action in relation to staff who were absent at an earlier training session.

49. Apart from the initial training, you should also provide refresher training at regular intervals to ensure that staff are reminded of their responsibilities and are kept informed of developments. Refresher training should be held at least once every two years.

49. Proper records on training provided to the staff should be maintained by you.

APPENDIX I

PROCESS OF MONEY LAUNDERING



APPENDIX II**INDICATORS OF SUSPICIOUS TRANSACTIONS****1 General Comments**

i) The list of indicators given below is intended to highlight the basic ways in which money may be laundered. While each individual indicator may not be sufficient to suggest that money laundering is taking place, a combination of such indicators may be reasonable grounds for a suspicious transaction. The list is not exhaustive and will require constant updating and adaptation to changing circumstances and new methods of laundering money. The list is intended solely as an aid, and must not be applied perfunctorily or mechanically in place of common sense.

ii) A borrower's declarations regarding the background of such transactions should be checked for plausibility. Not every explanation offered by the borrower can be accepted without scrutiny.

iii) It is reasonable to suspect any borrower who is reluctant to provide normal information and documents required in the course of processing a relevant loan application. You should pay attention to borrowers who provide minimal, false or misleading information or, information that is difficult for you to verify or which can only be verified by you at unreasonable expense.

2 Transactions Which Do Not Make Economic Sense

i) Relevant loans which are incompatible with your knowledge and experience of the borrower in question or with the purpose for the loan.

ii) Concealment of or disguising significant previous loan transactions to avoid disclosure for record purpose by obtaining frequent or numerous loans such that each loan by itself is not required to be recorded.

iii) Loans that cannot be reconciled with the usual activities of the customer.

iv) Large and regular loans that cannot be identified as bona fide transactions, or that are required to be remitted to countries associated with the production, processing or marketing of narcotics or other illegal drugs.

v) Loan amount that is not commensurate with the borrower's known profile (e.g. age, occupation, income).

vi) Relevant loans applied for by borrowers or for beneficial owners in or from countries or entities that are reported to be associated with terrorist activities or with persons that have been designated as terrorists.

vii) Frequent changes to the local address of the borrower or the beneficial owner.

APPENDIX III**Reporting Format**

(1) Reporting of Suspicious Money Laundering Transactions pursuant to Section 39, Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act.

(2) Reporting of Suspicious Terrorist Financing Activities pursuant to Section 8, Terrorism (Suppression of Financing) Act.

NATURAL PERSONS

Reporting Moneylender	
Name:	
Branch:	
Address:	
Telephone No.:	
Fax No.:	
E-mail:	
Moneylender's Reporting Officer	
Name:	
Designation:	
Transaction Reference:	
Telephone No:	
E-mail:	
Contact Officer(if different from Reporting Officer):	
Designation:	
Telephone No.:	
E-mail:	
Borrower's Particulars	
Name:	
NRIC/Passport No.:	
Birth Date:	
Nationality:	
Address:	
Telephone No:	
Fax No.:	
Occupation:	
Date when particulars were last updated (where available):	
Employment Details	
Employer's Name:	
Address:	
Telephone No.:	

Suspicious Transaction(s)	
Date of Loan / Loan Application	Amount of loan (\$)

Reason(s) for Suspicion:

Other Relevant Information (Including any actions taken by the reporting moneylender in response to the transaction):

A copy each of the following documents is attached:

- Borrower's Identification Documents
- Relevant Documents Supporting the Suspicious Transactions

(Signature of Reporting Officer)

Date: _____

APPENDIX IV

Reporting Format

(1) Reporting of Suspicious Money Laundering Transactions pursuant to Section 39, Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act

(2) Reporting of Suspicious Terrorist Financing Activities pursuant to Section 8, Terrorism (Suppression of Financing) Act

CORPORATIONS, CORPORATE & UNINCORPORATED BODIES*

Reporting Moneylender	
Name:	
Branch:	
Address:	
Telephone No.:	
Fax No.:	
E-mail:	
Moneylender's Reporting Officer:	
Name:	
Designation:	
Transaction Reference:	
Telephone No.:	
E-mail:	
Contact Officer: (if different from Reporting Officer)	
Designation:	
Telephone No.:	
E-mail:	
Borrower's Particulars	
Name:	
Country of Registration:	
Registration Date:	
Registration No.:	
Address:	
Telephone No.:	
Fax No.:	
Names of directors/partners/sole-proprietor/persons having executive authority*:	
Date when particulars were last updated (where available):	
Agent's Particulars	
Name:	
Birth Date:	

Nationality:	
NRIC/Passport No.:	
Home Address:	
Telephone No.:	
E-mail:	
Designation:	
Employer's name (if different from borrower)	
Employer's address (if different from borrower)	

* Delete if not applicable.

Suspicious Transaction(s)	
Date of Loan / Loan Application	Amount of loan (\$)

Reason(s) for Suspicion:

Other Relevant Information (Including any actions taken by the reporting moneylender in response to the transaction):

A copy each of the following documents is attached:

- Borrower's Identification Documents
- Relevant Documents Supporting the Suspicious Transactions

(Signature of Reporting Officer)

Date: _____