

Hong Kong Licensed Money Lender Ongoing Compliance Obligations

This brief note provides information about ongoing compliance requirements of Money Lender Licensee in Hong Kong. The information may be changed over the time that the latest information should be updated in the website of Hong Kong Companies Registry at link below:

www.cr.gov.hk/en/services/money-lenders/governing.htm

1. Filing Obligations

Filing of documents is required under the Money Lender Ordinance (the “MLO”) under the following circumstances:

- (a) Where there is a change in the registered particulars of the Licensee (e.g. change of shareholding structure, managing directors and particulars of the shareholders or managing directors), notice is required to be given to the Registrar of Money Lenders in writing **within 21 days after** the change.
- (b) Where the Company intends to carry on business as a money lender at any additional or substituted premises, an application for endorsement on the license is required.
- (c) Where the Licensee dies, the widow or widower or any member of the family of the age of 21 years or above, or any person on behalf of the family, may deliver an application for endorsement of his or her name on the license.

2. Renewal of a Money Lenders License

The Licensee can apply **within 3 months prior** to the date of expiration of your license. A renewed license will normally be granted in 2 to 3 months’ time from the date of delivery of the application for renewal.

3. Appointment of Third Parties for the Granting of Loans

The Licensee should keep an updated list of all their appointed third parties and the Registrar has provided the following forms for use by Licensee to report about their appointed third parties:

- (a) Notice of Particulars of Third Party Appointed by Licensed Money Lenders in relation to Granting of Loans;
- (b) Notice of Changes in Particulars of Appointed Third Party of Licensed Money Lenders;
- (c) Notice of Termination of Appointment of Appointed Third Party of Licensed Money Lenders

The Licensee should from time to time ascertain the appointed third parties' continuous compliance with the relevant requirements for the purposes of the Licensee's continuous compliance with the licensing conditions and the provisions of the MLO, in particular should ensure that the appointed third parties do not charge borrowers or intending borrowers any fees for or in relation to the loans granted by Licensee.

4. Anti-Money Laundering (“AML”) and Counter-Terrorist Financing (“CTF”) Requirements

Ongoing Customer Due Diligence

The Licensee should undertake reviews of existing customer due diligence (“CDD”) records of customers on a regular basis and/or upon trigger events. Clear policies and procedures should be developed, especially on the frequency of periodic review or what constitutes a trigger event.

All customers that present high ML/TF risks should be subject to a minimum of an annual review, or more frequent reviews if deemed necessary by the Licensee, to ensure the CDD information retained remains up-to-date and relevant.

Ongoing Monitoring of Business Relationship with Customers

Licensee must continuously monitor the business relationship with a customer by:

- (a) Reviewing from time to time documents, data and information relating to the customer that have been obtained for the purpose of complying with CDD requirements to ensure that they are up-to-date and relevant;
- (b) Conducting appropriate scrutiny of transactions carried out for the customer to ensure that they are consistent with your knowledge of the customer and the customers' business, risk profile and source of funds; and
- (c) Identifying transactions that are complex, unusually large in amount or of an unusual pattern or that have

Record Keeping

The Licensee should maintain proper records as required under the various licensing conditions including but not limited to:

- (a) Particulars of their appointed third parties and their written confirmations on not charging borrowers or intending borrowers any fees for or in relation to loans granted by Licensee;
- (b) Written confirmations from any party from which personal data is obtained or collected that the disclosure / provision of such personal data is not in contravention of the provisions of the Personal Data (Privacy) Ordinance;
- (c) Records which show the Licensee's compliance with the requirement on providing explanations to intending borrowers of the terms of the loan agreements;
- (d) Written confirmations or approvals by the relevant authorities produced by borrowers for loan agreements involving the acceptance of subsidized flats as collateral.

Licensee should maintain all relevant records that are necessary and sufficient to meet the record-keeping requirements under the AMLO, and other relevant regulatory requirements. For instance, Licensee should keep the original or a copy of the documents in connection with each transaction for **at least 5 years after the completion of a transaction** regardless of whether the business relationship ends during the period. The Licensee should also keep the original or a copy of the



client onboarding documents **throughout the continuance of the business relationship** with the customer and for a period of **at least 5 years after the end of the business relationship**.

Staff AML Training

Licensee should ensure sufficient staff training on AML/CFT are provided to their staff and

- trained in what they need to carry out in their roles with respect to AML/ CFT
- implement a clear and well-articulated policy for ensuring that relevant staff receives adequate AML/CFT training
- training methods and assessment should be determined by the Licensee according to the size and complexity of the business and the type and level of MT/TF risk

CompliancePlus is an independent consulting firm focused on providing a complete range of proven and reliable compliance solutions to fund management companies and hedge fund managers in Asia. Our dedicated team of compliance officers has years of professional experience equipped with in-depth knowledge of both functional and compliance experience in managing and minimizing regulatory, operational and reputational risks.

We have been providing real time compliance support and proactive recommendations to start-up hedge funds, fund of hedge funds and multi-strategies hedge funds with our solid compliance knowledge.

By partnering with **CompliancePlus**, our clients gain access to compliance solutions that they can trust and the latest knowledge of regulatory policies and procedures. Through building up strong relationships with our clients and by ensuring our availability to them, we are trusted advisors helping clients to navigate a challenging and changing regulatory environment.

Contact:

Josephine Chung is Director of CompliancePlus Consulting Limited specializing in compliance matters for hedge fund managers and mutual fund management companies with over 15 years of industry experience. Before joining CompliancePlus Consulting, she was the Head of Legal and Compliance for a major asset management company in Hong Kong.

Josephine can be contacted at +852-3487 6903 (email: jchung@complianceplus.hk) and WeChat: jyychung

– End –