

Annex
(referred in Article 5 of Administrative Regulation no. 17/2017)

MACAO SPECIAL ADMINISTRATIVE REGION

Administrative Regulation No. 7/2006

Preventative measures for the crimes of money laundering and financing of terrorism

The Chief Executive, having consulted the Executive Council, decrees, pursuant to subparagraph 5) of Article 50 of the Basic Law of the Macao Special Administrative Region, to paragraph 1 of Article 8 of Law no. 2/2006 and to Article 11 of Law no. 3/2006, the following with the force of administrative regulation:

CHAPTER I

General provisions

Article 1

Object

This administrative regulation regulates the prerequisites and contents of the duties relative to the prevention of the criminal offences of money laundering and financing of terrorism and establishes the supervisory system for compliance.

Article 2

Supervisory authorities

1. Compliance with the duties established in this administrative regulation falls under the supervision of:

- 1) The Monetary Authority of Macao and the Gaming Inspection and Coordination Bureau, in relation to the entities subject to their respective supervision;

- 2) The Financial Services Bureau, in relation to auditors, accountants and tax advisers;
- 3) The Macao Lawyers Association, in relation to lawyers;
- 4) The Independent Commission for the Exercise of the Disciplinary Power over Solicitors, in relation to solicitors;
- 5) The Legal Affairs Bureau, in relation to notaries and registrars;
- 6) The Macao Trade and Investment Promotion Institute, in relation to the entities that are under its supervision and which carry out the activities listed in subparagraphs (3), (4) and (6) of paragraph 6) of Article 6 of Law no. 2/2006;
- 7) The Housing Bureau, in relation to real estate intermediaries and agents;
- 8) The Macao Economic Services, in relation to other entities.

2. The supervisory authorities are responsible for the implementation of the prerequisites referred to in paragraph 1 of Article 3 and Article 7, as well as the systematization of the procedures for compliance with the duties referred to in the following articles, through instructions communicated by one of the following means:

- 1) General notice, registered letter or recorded delivery by hand;
- 2) Notice or normative act to be published in the Official Gazette of the Macao Special Administrative Region.

3. The supervisory authorities shall inform the Public Prosecutions Office whenever they become aware, in the exercise of their supervisory competences,

of facts that lead them to suspect the commission of the crimes of money laundering or financing of terrorism.

4. The supervisory authorities may carry out the necessary inspection actions that they may deem necessary for the effective compliance of their supervisory duties.

CHAPTER II

Duties

Article 3

Duty to adopt customer due diligence measures concerning the contracting parties, clients and patrons

1. Entities nominated in Article 6 of Law no. 2/2006 should obtain identification information and carry out appropriate verification of the identification of the contracting parties, clients or patrons using reliable and independent source documents, data or information, whenever:

- 1) They establish business relationships;
- 2) The operations might indicate the commission of the crimes of money laundering or financing of terrorism, due to, inter alia, their nature, complexity, amounts involved, volume or non-habitual occurrence, relative to the activity of the contracting parties, clients or patrons;
- 3) Occasional transactions occur and the operations are equal to or exceed, either each one taken individually or all of them taken together, the amounts for such purpose established under paragraph 2 of the previous Article;
- 4) There are doubts about the veracity or adequacy of previously obtained identification data provided by the contracting parties, clients or patrons.

2. Entities nominated in Article 6 of Law no. 2/2006 also have to carry out the following duties:

1) Identify and verify the identity of the ultimate beneficial owners of the activity of the contracting parties, clients or patrons; and when the contracting parties, clients or patrons are legal persons or legal arrangements, there must also be adequate measures that allow the knowledge of their corporate structure or equivalent structure and the determination of the individuals that hold their ultimate effective control;

2) Carry out risk assessment on customer profile and implement enhanced due diligence measures in relation to high risk contracting parties, clients or patrons according to the guidelines issued under paragraph 2 of the previous Article;

3) Obtain information on the purpose and intended nature of the business relationship; and when the risk profile of the contracting parties, clients or patrons as well as the characteristics of the transaction justify the needs to do so, even to obtain the relevant information on the origin and destination of the funds moved within a business relationship or an occasional transaction;

4) Carry out ongoing monitoring of the operations performed with due care, in order to ensure that such operations are consistent with the knowledge which the entities has on the activities and risk profile of the contracting parties, clients or patrons;

5) Maintain updated information obtained during the course of the business relationship.

3. Entities nominated in Article 6 of Law no. 2/2006 should refuse the opening and maintenance of any anonymous accounts or accounts in fictitious names

4. The duty to identify and verify the identity is extended to the representatives of the contracting parties, clients or patrons.

5. Whenever there is knowledge of the fact, or there are grounds for suspicion, that the contracting parties, clients or patrons are not acting on their own, the duty to identify and verify the identity shall entail obtaining from such contracting parties, clients or patrons information concerning the identity of the person on behalf of whom they are acting.

6. In the context of this Article, information relating to the identification of contracting parties, clients and patrons, as well as information on all operations carried out, shall be recorded.

Article 4

Duty to adopt adequate measures to detect suspicious operations

Entities nominated in Article 6 of Law no. 2/2006 should adopt the measures deemed necessary to identify operations suspected to involve practice of money laundering or terrorism financing crimes, according to the guidelines issued by their respective supervisory agencies..

Article 5

Duty to refuse performing specific operations

The performance of any operation in the absence of elements necessary for the compliance of the duties prescribed in Articles 3 and 4 shall be refused, except when complying with the final part of paragraph 5 of Article 7 of Law no. 2/2006.

Article 6

Duty to keep the certifying documents

1. The supporting documents related to the compliance of the duties contained in Articles 3 and 4 must be kept for a period of at least 5 years following completion of the operation even though the business relationship has since been terminated.

2. Entities should maintain all records of the identification information, account files and business correspondence for at least 5 years following the termination of an account or business relationship.

3. The documents referred to in the previous 2 paragraphs may be substituted by microfilms or transferred to a digital platform, in which case Articles 47, 48 and paragraph 2 of Article 49 of the Commercial Code shall be applicable with the necessary adaptations.

Article 7

Duty to report suspicious operations

1. The operations that might provide indicia of the commission of the crimes of money laundering or financing of terrorism, due to, inter alia, their nature, complexity, amounts involved, volume or non-habitual occurrence, relative to the activity of the contracting party, client or patron, must be reported to the entity referred to in paragraph 2 of Article 8 of Law no. 2/2006 within 2 working days after detection of such operations, regardless of the amounts involved.

2. The reporting duty referred in the previous paragraph exists even if, due to the duty of refusal contained in Article 5, or due to any other reason, the operation has not been performed.

Article 8

Duty to co-operate

All assistance, especially the disclosure of information and the delivery of documents, shall be provided to, as and when requested by, the competent authorities for the prevention and suppression of the crimes of money laundering and terrorism financing.

CHAPTER III

Final provisions

Article 9

Cross reference

Non-compliance with the duties established in Articles 3 to 8 of this Administrative Regulation is sanctioned in accordance to the terms set out in Articles 7-B to 7-E of Law no. 2/2006.

Article 10
Entry into force

This administrative regulation enters into force 180 days following its publication.

Approved on 7 April 2006.

To be published.

The Chief Executive, *Ho Hau Wah*.