



# AMLCTF/PF - Theory to Practical: Customer Due Diligence

FIMM Industry Briefing  
22 November 2022

AU LEE MEE

Intermediary & Fund Supervision  
Securities Commission Malaysia

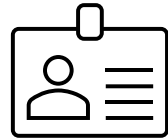
# NOTICE

- The views expressed here are solely those of the speaker in her private capacity and do not in any way represent the views of the Securities Commission Malaysia (SC).
- The cases mentioned in this presentation have been prepared, cited or described on the basis for discussion rather than to illustrate either effective or ineffective handling of a business situation.
- No part of this presentation may be reproduced, stored in a retrieval system or transmitted in any form or by any means without the permission of the SC.

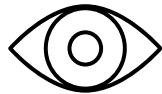
- Main challenge is implementation of the Know Your Customer (KYC) requirements
- But adherence to standards, appropriately applied, can help to create confidence and sustainability in the system
- Emphasis is on the importance of a consultant's roles in helping his/her principal with this AMLCTF/PF obligation

# Know Your Customer (KYC)

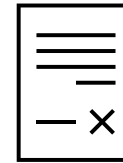
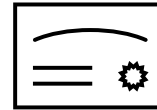
- Identification of a customer is the process whereby a licensed / registered person obtains from the customer all relevant information to identify who the customer is.
- Information on purpose and nature of the financial relationship or transactions is useful in determining the customer's financial capability / capacity at the commencement of said relationship and/or when entering into a transaction



Conduct CDD and obtain evidence of identity and legal existence



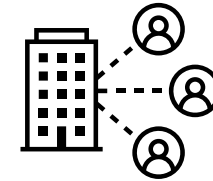
Anonymous account or account in fictitious name



Identify and verify customer's identity



Obtain information on purpose of account opening and intended nature of business relationship



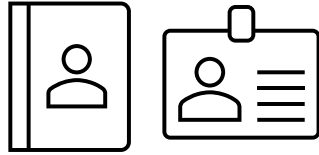
Identify and verify identity of beneficial owner



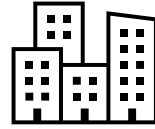
Verify person acting on behalf of customer is authorised; Identify and verify said person

# Individual customer / beneficial owner (BO) – minimum information

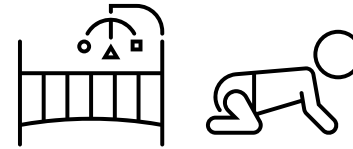
Confidential



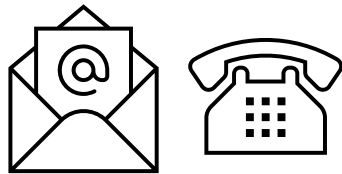
Full name; and  
NRIC number or  
Passport number



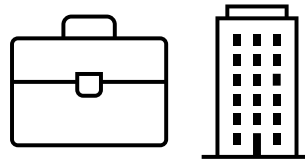
Residential and  
mailing address



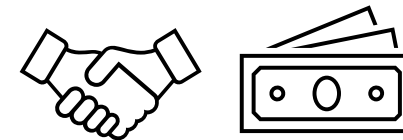
Date of birth; and  
nationality



Contact number; and  
**email address**



Occupation type; and  
name of employer



Purpose of  
transaction

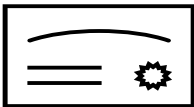


If the above information is **not sufficient**, company must obtain further relevant information from the individual customer or BO

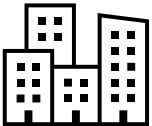
# Identification and verification of legal persons and arrangements (1/2)

Confidential

## Customers (the company/trust)



Name, legal form and proof of existence – certified constituent documents



Address of registered office and principal place of business

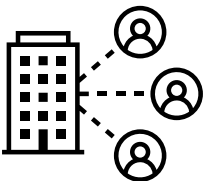


Directors' resolution; and names of relevant Senior Management

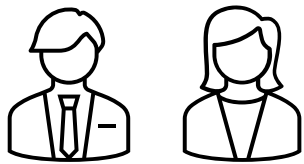
## Beneficial Owners (legal person)



Certified Form 24 and Form 49 by SSM or equivalent documents for a partnership, society, foreign body corporate

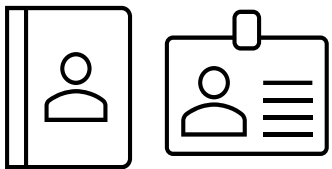


Identification documents of shareholders with equity >25%, directors, partners and office bearers



Letter of authority, directors' resolution and relevant documents for identification

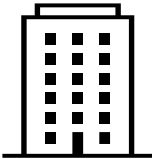
## Beneficial Owners (legal arrangement)



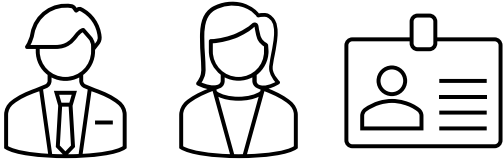
Identification documents of settlor, trustee or beneficiary or class of beneficiaries controlling the trust

# Identification and verification of legal persons and arrangements (2/2)

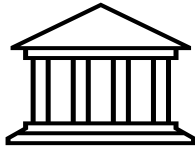
Confidential



Public-listed companies listed on Bursa Malaysia or its majority-owned subsidiaries



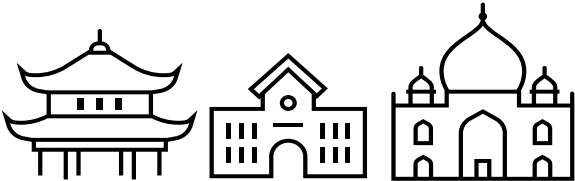
Persons licensed or registered under *CMSA*



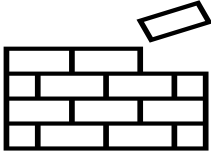
Authorised or registered persons under *Financial Service Act 2013* or *Islamic Financial Service Act 2013*



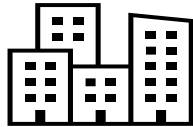
Exemptions



Foreign public-listed companies on exchanges recognised by Bursa Malaysia; and not listed in jurisdiction identified in FATF Public Statements



Prescribed institutions under *Development Financial Institutions Act 2002*



Entities licensed under *Labuan Financial Services and Securities Act 2010* or *Labuan Islamic Financial Services and Securities Act 2010*

# Screening of customers

- Screen against the United Nations Sanctions Council Resolutions (UNSCR) and domestic i.e. Ministry of Home Affairs (MOHA) lists on Targeted Financial Sanctions for Terrorism / Proliferation
- Applicable to both existing and potential / new customers
- Screen the entire customer database within a reasonable time when new names are listed by UNSCR and/or MOHA



- Freeze funds, properties or accounts without delay
- May continue receiving dividends, interests, or other benefits, but such benefits shall still remain frozen
- No outgoing payment should be made out from the frozen funds, properties or accounts without the approval of Minister of Home Affairs
- Report to the SC (*notification*), FIED (*STR*) and PDRM (*match to MOHA listings*), where applicable



Employ technology-based or system-based screening

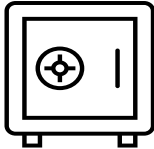


Conduct irregular screening of the entire customer database

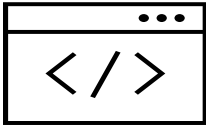


# Non-face-to-face onboarding

**Demonstrate on continuing basis** that appropriate measures for identification and verification of a customer’s identity, when establishing non-face-to-face business relationship, **are as effective** as that for face-to-face customer; and implement monitoring and reporting mechanism **to identify potential ML/TF activities**.



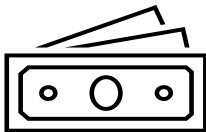
Request additional identification documents e.g. bank statements, utility bills



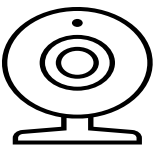
Substantiate information with independent source e.g. database maintained by relevant authorities



Contact customer via digital communication channel



Request customer to make a nominal payment from his/her own account with a licensed bank or Islamic bank



Use new technology solutions e.g. biometric technologies linked incontrovertibly to customer

*Not Applicable*

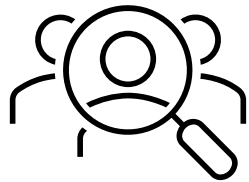
- ✓ Foreign PEP
- ✓ Higher-risk and non-co-operative jurisdictions
- ✓ Targeted financial sanctions

If company is **unable to identify and verify the customer’s identity** by adopting the measures above, company **must initiate face-to-face business relationship**.

# Conducting Customer Due Diligence (CDD)

Your company must adopt a risk-based approach in determining whether to apply standard or enhanced CDD measures based on the customer's background, transaction types or specific circumstances.

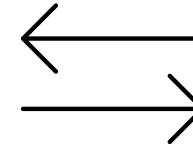
When conducting CDD, your company may take into account the following risk factors for determining circumstances of higher risk:



Customer risk factors



Country or geographic risk factors



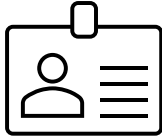
Transaction or distribution channel risk factors

Risk parameters in relation to respective risk factor above are listed in the SC's AMLCTF Guidelines

Your company must refer to **credible sources** (e.g. reports published by international organisations such as the FATF, Asia Pacific Group on Money Laundering, United Nations, World Bank and International Monetary Fund) in identifying country and geographic risk factors.

# Enhanced CDD measures

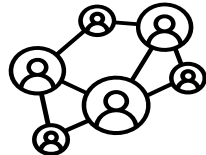
Where the ML/TF risks are assessed as **higher risk**, your company must undertake enhanced CDD measures on the customer and, where applicable, the beneficial owner. These measures include:



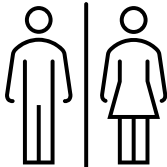
Obtain additional information on customer and BO



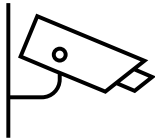
Enquire on source of wealth and funds



Obtain additional information on intended level and nature of business relationship



Regular update on identification data of customer and BO

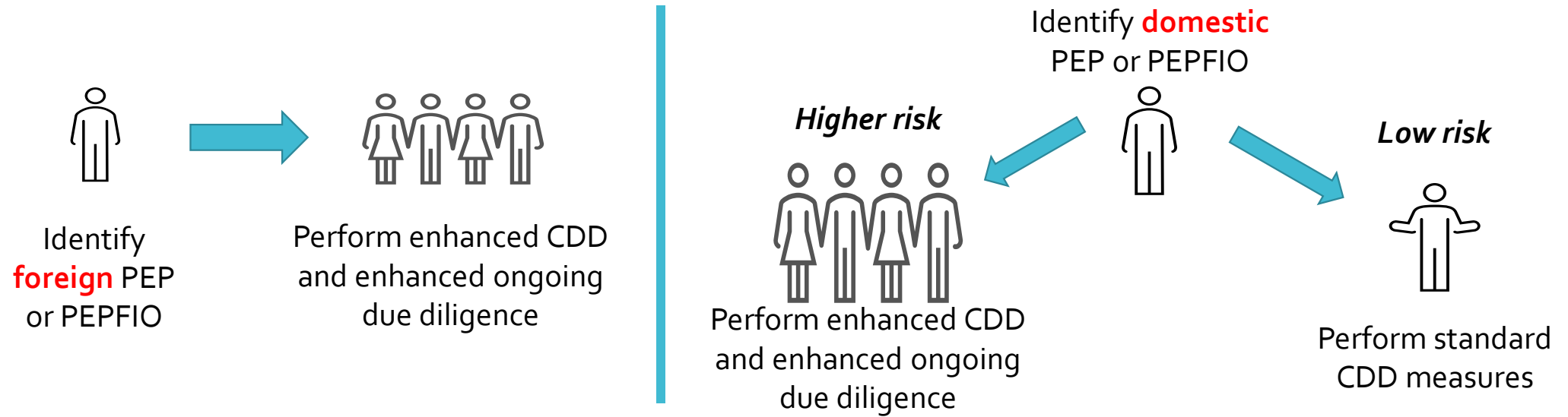


Enhanced **ongoing monitoring**



Obtain approval from **senior management** before establishing business relationship

# Politically exposed persons (PEP) & Higher-risk countries



Conduct enhanced CDD for any business relationship and transaction with any person from countries identified by the FATF as issued under the "FATF Public Statement"<sup>1</sup> or the Government of Malaysia<sup>2</sup> as having ongoing or substantial ML/TF risks.



Iran



North Korea

Conduct enhanced CDD for business relationship and transaction with any person from countries identified by FATF as issued under the "FATF Public Statement"<sup>1</sup> or the Government of Malaysia<sup>2</sup> as having strategic AML/CFT deficiencies and have not made sufficient progress in addressing the deficiencies.



Myanmar

# Ongoing due diligence

Conduct ongoing due diligence and scrutiny on the business relationship with its customers **throughout the course of the business** relationship.



Continuous monitor and detect pattern of transaction



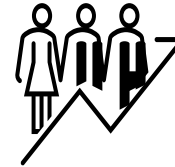
Ensure data and information collected are up-to-date

The frequency in must be commensurate with the level of ML/TF risks posed by the customer based on the risk profiles and nature of transactions.

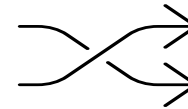
Enhance the control measures, increase the number of monitoring of the relevant customers' accounts, and timing of controls applied.

# Monitoring of accounts

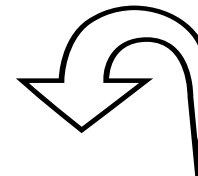
- Flagging accounts with suspicious transactions
- Reclassifying a customer as higher risk
- Consider lodging a suspicious transaction report (STR) with the FIED



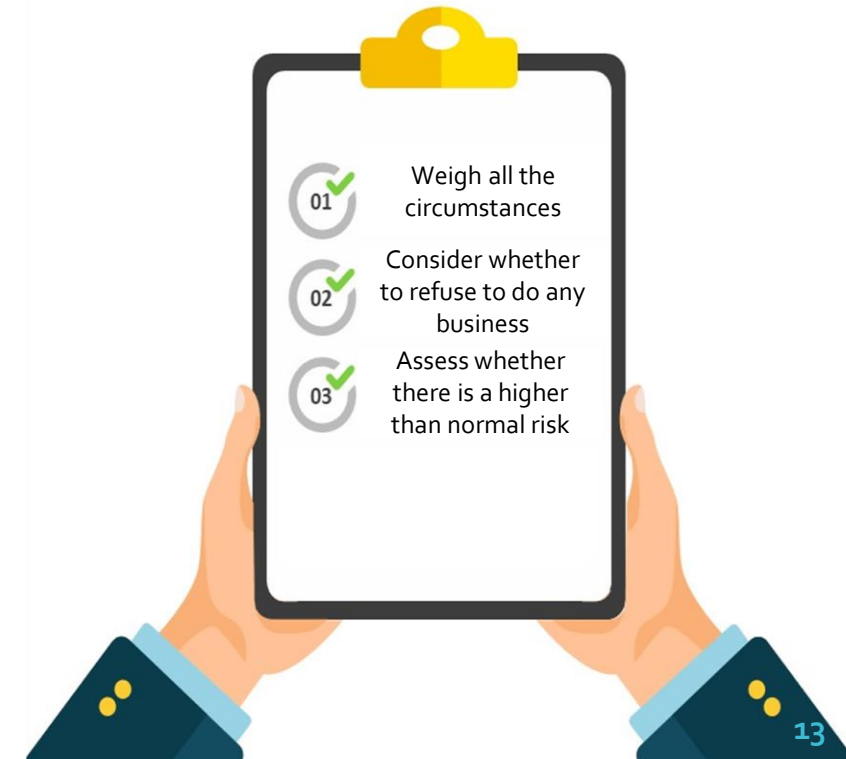
Inconsistent pattern of account activity / does not commensurate with customers' background



Unusual transaction pattern

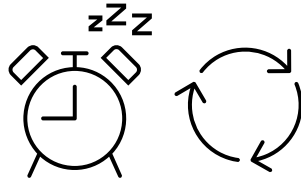


Material change in account

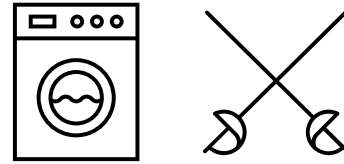


# Renewed CDD

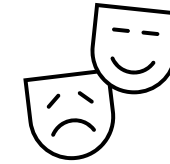
When to undertake renewed CDD?



Account has been dormant;  
and when customer seek to  
reactivate it



Suspicion of ML/TF risks



Doubt on adequacy of ID  
obtained previously

If you fail to satisfactorily complete CDD, what do you do?



Must not commence any  
business relationships or  
transaction with the customer



Terminate any business  
relationships or transaction  
with the customer



Consider lodging STR  
to FIED

Thank You!

# Question & Answer Session

