



*Index Reference:*

**Regulations: Legal  
Practitioners Ordinance,  
Practice Directions and Rules**

CIRCULAR 23-310 (SD)

25 May 2023

**23-310 (SD) ANTI-MONEY LAUNDERING AND  
COUNTER-TERRORIST FINANCING (AMENDMENT)  
ORDINANCE 2022 (CAP. 615)  
("AMENDMENT ORDINANCE")**

**REVISED PRACTICE DIRECTION P ("PDP")**

1. The Amendment Ordinance was published in the Gazette (Ord. No. 15 of 2022) on 16 December 2022 and will come into operation on 1 June 2023.
2. The Amendment Ordinance introduces a number of miscellaneous amendments to ensure alignment of the regulatory regime with the latest international standards set by the Financial Action Task Force ("FATF"). In addition, the Law Society made further revisions to the PDP to better align with the Amendment Ordinance and FATF recommendations, provided additional guidance to some of the requirements, and introduced provisions relating to the combat of proliferation financing ("PF"), to align the PDP with the corresponding provisions in Hong Kong legislation and with FATF's expectations in this area.

**Please click [here](#) for the updated PDP which will take effect from 1 June 2023.**

3. The major amendments to the PDP are as follows:
  - (a) Amend the technical definition of politically exposed person ("PEP") to align to the FATF requirements. The PEP definition includes PEPs from other parts of China outside Hong Kong. Further guidance was provided regarding the treatment of foreign ("Non-Hong-Kong" PEPs), domestic ("Hong-Kong" PEPs) and international organisation PEPs – see Table A, sections 4-6 of the PDP.

As a result of the change to the PEP definition, the section relating to enhanced due diligence ("EDD") was also updated – see Table A, section 7 (EDD measures for Hong Kong and International organisation PEPs) and paragraphs 122-125 of the PDP;



- (b) Allow for the exemption of EDD requirements in respect of former PEPs, if risks of money laundering and terrorist financing are low, by permitting legal practitioners to determine the extent of client due diligence (“CDD”) required in respect of such persons – see Table A, section 8 (Treatment of former Hong Kong, Non-Hong Kong and International Organisation PEPs) of the PDP;
- (c) Align the definition of “beneficial owner” in relation to a trust under the Amendment Ordinance with that of “controlling person” under the Inland Revenue Ordinance (Cap.112), by clarifying that, where a trust is concerned, it includes trustees, beneficiaries and class(es) of beneficiaries – see Annexure 8 to the PDP;
- (d) Add a definition of PF and reflect the requirement to identify, combat and report PF activities in some of the subsequent paragraphs – see Annexure 2 (paragraphs 93-103), Table A, section 3 (EDD) limb (iii), Table A, section 12 (Staff awareness and training), paragraphs 15, 18, 21 and 32-36 of the PDP;
- (e) Add a requirement to conduct a risk assessment in relation to new services, new business practices and use of new technologies, to address FATF’s requirements in Recommendation 15 – see paragraph 39 of the PDP;
- (f) Add the prospect of a periodic firm-wide risk assessment, depending on the size and complexity of the law firm, to address FATF’s recommendations in the Guidance for a Risk-Based Approach for Legal Professionals, June 2019 – see paragraph 41 of the PDP;
- (g) Provide additional guidance regarding the conduct of client risk assessment as part of the CDD process to address FATF’s recommendations in the *Guidance for a Risk-Based Approach for Legal Professionals, 2019* – see Table A, section 2 (Client due diligence), limb “How” (v), paragraph 120.5 and 121 of the PDP;
- (h) Align the definition of Simplified Due Diligence (“SDD”) with Section 4, Division 1, Part 2, Schedule 2 of the Amendment Ordinance – see Table A, section 9 (SDD) of the PDP;
- (i) Amend the name screening provision in relation to a client and a beneficial owner to reflect Sanctions and PF requirements – see Table A, section 2 (Client due diligence), limb “How” (iv), footnote 2 and paragraph 120.4 of the PDP; and
- (j) Provide additional guidance regarding the use of documents and information to identify and verify a beneficial owner or persons having ultimate ownership or control over the client – see paragraph 108 of the PDP.

Legal practitioners are reminded to review the Amendment Ordinance and the revised PDP and ensure compliance with the requirements. The Amendment Ordinance can be found on the Government’s website by clicking [here](#).



4. Clarification on the use of digital identification systems:

The Amendment Ordinance introduces “recognized digital identification system” as a new method to verify a client’s identity, in situations where the client is not physically present for identification and verification purposes so that, if the CDD requirements are met using reliable and independent digital identification system, the EDD requirements contained in Schedule 2, Part 2, Division 1, Section 9 and Section 5(3) of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap.615) (“AMLO”) are not required.

5. The new definition of “recognized digital identification system” in Part 2, Division 2, Section 33, para 8 (page A 1385) of the Amendment Ordinance requires regulatory bodies e.g. the Law Society to specifically recognize the digital system(s) that can be used by the legal practitioners to identify and verify a client’s identity.
6. The Law Society recognizes iAM Smart, developed and operated by the HKSAR Government, as a digital identification system which can be used for identity verification of a natural person.
7. The iAM Smart platform developed by the Office of the Government Chief Information Officer (“OGCIO”) was launched in December 2020 and is currently the only relevant digital identification system in Hong Kong meeting the FATF requirements contained in the *FATF Guidance on Digital Identity, 2022*. The iAM Smart provides Hong Kong residents with a single digital identity. All Hong Kong residents holding Hong Kong Identity Card (“HK ID”) and age 11 or above can apply for iAM Smart accounts free of charge on a voluntary basis.
8. Law firms are required to have an IT system in place for integration with the iAM Smart platform to verify their prospective clients’ digital identity. A prospective client must be a prior registered user of the iAM Smart in order to enable the client to authenticate his/her identity using his/her mobile phone with biometric authentication function. The client’s identity is verified against the government record held by the Immigration Department. Clients who are not registered users of iAM Smart will not be able to be verified using this method.
9. At present, there are no other third-party vendor solutions that are able to meet the FATF criteria for a digital identification system. The iAM Smart is different from other pre-existing e-Know Your Customer (“e-KYC”) or e-CDD solutions as it is considered to provide an extra level of reliability through use of personal data held by the Immigration Department to verify a client’s identity.
10. Application process for adoption of iAM Smart:

The process of integration with iAM Smart would require submission of an application form to the Law Society. The Law Society would coordinate and liaise with the OGCIO by passing on firm’s application details. In addition, law firms will be required to test their system in an integration testing environment with iAM Smart, which can only be accessed through the “Sandbox Programme”. Finally, the system security checking and the Privacy Impact Assessment (“PIA”) would have to be performed on the law firm’s IT system by an



independent assessor. The iAM Smart Sandbox website provides a list of the IT service providers that have experience in “iAM Smart” adoption for reference purposes, although law firms may consider other service providers if they wish to. The list of IT service providers can be accessed at: <https://iamsmart.cyberport.hk/it-services-providers/>.

For details of iAM Smart and “Sandbox Programme”, please visit [www.iamsmart.gov.hk](http://www.iamsmart.gov.hk) and <https://iamsmart.cyberport.hk>.

11. In September 2022, the Law Society issued guidance regarding client remote on-boarding, *the Alternative Processes to Verify Client's Identity* (the “Guideline”), allowing law firms to use digital identification systems to identify and verify a client’s identity in non-face to face situations. In light of the above, Section 5 of the Guideline acknowledges iAM Smart as a recognized digital identification system by the Law Society.
12. For the avoidance of doubt, law firms can continue to use solutions provided by the third-party vendors commonly referred to as e-KYC or e-CDD for remote client on-boarding in accordance with Schedule 2, Part 2, Division 1, Section 2(1) (ab)(i) and Section 9(1) (b) to the AMLO, where conduct of identity verification is undertaken on the basis of a document provided by a government body i.e. HK ID card or passport, official identity document(s) issued by the Government using appropriate technology.
13. The third-party solution should be a reliable, independent system with appropriate built-in information security protocols which will help mitigate fraud risks, and should include technology elements such as: (i) authentication of identity documents (HK ID card or passport); (ii) facial recognition; and (iii) liveness detection. These solutions do not fall within the definition of “recognized digital identification system” in Part 2, Division 2, Section 33, para 8 of the Amendment Ordinance but instead, Schedule 2, Part 2, Division 1, Section 2(1) (ab)(i) to the AMLO.
14. Based on the practices of foreign jurisdictions, the leading digital identification framework is developed and operated by the government, which sets an appropriate assurance framework, standards, assessment and certification mechanism for use of other digital identification systems. The Law Society will closely monitor developments in this area and provide further guidance in the future.
15. If you have any enquiries regarding this circular, please contact the AML Executive at the Law Society on +852 2805 9101 or by email to [aml@hklawsoc.org.hk](mailto:aml@hklawsoc.org.hk).

This Circular will supersede Circular 18-647(SD) when the above amendments take effect on 1 June 2023.