

Chapter 1 Compliance Policy Statements

1. Swiss International Company Limited ("Swiss") was incorporated in Hong Kong on 20th October 2023. Its principal business is gold and silver trading;
2. Swiss recognizes and commits to observe the following principles and practices:-
 - a) To takes all reasonable measures to ensure that **proper safeguards exist to mitigate the risks of money laundering and terrorist financing** and to **prevent a contravention of any requirement under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance** (Cap. 615, Laws of Hong Kong) and the related **Guideline on Anti-Money Laundering and Counter-Terrorist Financing** issued by Hong Kong Customs and Excise Department;
 - b) To **make sure that sources of metals are come from legitimate sources**;
 - c) To observe **other applicable laws and regulations of Hong Kong** as well as **best practices** recommended by international organizations such as London Bullion Market Association, Organization for Economic Cooperation and Development and Financial Action Task Force;

Chapter 2 Legal and Regulatory Regimes

3. To comply with the necessary licensing requirement in doing the business of gold and silver trading, Swiss applied for and is granted **a license of Category A Registrant (Registration No.: A-B-23-12-04012)** by Hong Kong Customs and Excise Department (“**Customs**”) under section 53ZUG of Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) (“AMLO”) on 29th December 2023;
4. In addition to the commitments in Chapter 1, Swiss **complies with the following laws and regulations**, which could be categorized into the sections below:

Anti-Money Laundering & Counter Terrorist Financing

- a) AMLO;
- b) Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405)
- c) Organized and Serious Crimes Ordinance (Cap. 455)
- d) United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575)

International sanctions

- e) United Nations Sanctions Ordinance (Cap. 537)
- f) Weapons of Mass Destruction (Control of Provision of Services) Ordinance (Cap. 526)

Customs-related matters

- g) Import and Export Ordinance (Cap. 60)

5. Further, Swiss **complies with other applicable laws and regulations in Hong Kong** (such as those related to customs clearance) as well as **the best practice or standards** initiated by **some important international organizations**, such as London Bullion Market Association (“**LBMA**”), Financial Action Task Force (“**FATF**”) and Organization for Economic Cooperation and Development (“**OECD**”);

Chapter 3 Compliance System

6. This Compliance Manual outlines **the legal and regulatory requirements** as well as **the practical steps** that Swiss and its employees have to follow when engaging its daily operations;
7. In respect of this Manual, Compliance is responsible to:-
 - a) draft the same by including applicable laws and regulations as well as practical procedures herein;
 - b) execute or monitor the execution of the same;
 - c) update and revise the same so that they can meet the latest legal and regulatory requirements;
8. For the purpose of above paragraph 7(c), Compliance should pay heed to the latest developments of the information from **the following important authorities** and update this Manual accordingly if needed:-
 - a) **Customs**; and
 - b) **LBMA**;
9. In addition, Compliance of Swiss performs following functions:-
 - a) **Liaison point** with Customs, other government bodies and the compliance functions of our business partners, such as banks and other gold dealers;
 - b) **Reviewer** of any contracts and documents received from/exchanged with the outside bodies, such as our customers, services providers and banks;
 - c) **Advisor** on any applicable legal and regulatory matters, such as the laws of Hong Kong, rules of the Customs and best practices of the industry;
 - d) **Risk assessor**, in particular the risk posed by money laundering, terrorist financing and sanctions violations;
10. **Compliance reports directly to the senior management of Swiss. It functions independently;**

Chapter 4 Anti-Money Laundering and Counter Financing of Terrorism

General Provisions

11. To assist the precious metals and stones dealers to observe the AMLO, the Customs has promulgated its Guideline on Anti-Money Laundering and Counter-Financing of Terrorism ("**Guideline**") on June 2023;
12. Although the Guideline is only applicable to Category B Registrant, this Manual will **adopt some of its principles and best practices to mitigate the risks of money laundering and terrorist financing**;
13. The interpretation of words contained in this Chapter should be referred to AMLO or the Guideline. If this Chapter does not cover the information as contained in AML or the Guideline or is conflict with the AMLO or the Guideline, the later shall prevail;

Section I – Customer Due Diligence

Customer Due Diligence

14. Swiss should implement the following customer due diligence measures:-
 - a) **identify the customer** and **verify the customer's identity** using documents, data or information provided by a reliable and independent source;
 - b) where there is a **beneficial owner** in relation to the customer, **identify and take reasonable measures to verify the beneficial owner's identity** so that Swiss is satisfied that it knows **who** the beneficial owner is, including in the case of a legal person or trust, measures to enable Swiss to **understand the ownership and control structure** of the legal person or trust;
 - c) obtain information on the **purpose** and **intended nature** of the business relationship (if any) established with Swiss unless the purpose and intended nature are obvious; and
 - d) if a person purports to act on behalf of the customer:
 - i. **identify the person** and **take reasonable measures to verify the person's identity** using documents, data or information provided by a reliable and independent source; and
 - ii. **verify the person's authority** to act on behalf of the customer;

15. Swiss must identify the customer and verify **the customer's identity by reference to documents, data or information** provided by a **reliable and independent source**:
- a) a governmental body;
 - b) the Customs or any other relevant authority ("RA"), such as Hong Kong Monetary Authority;
 - c) an authority in a place outside Hong Kong that performs functions similar to those of the Customs or any other RA;
 - d) a digital identification system recognized by the Customs; or
 - e) any other reliable and independent source that is recognized by the Customs;

The Customer is a legal person

16. Swiss should identify the customer by obtaining at least **the following identification information**:
- a) full name;
 - b) date of incorporation, establishment or registration;
 - c) place of incorporation, establishment or registration (including address of registered office);
 - d) unique identification number (e.g. incorporation number or business registration number) and document type; and
 - e) principal place of business (if different from the address of registered office);
17. In verifying the identity of a customer that is a legal person, Swiss should **normally verify its name, legal form, current existence (at the time of verification) and powers** that regulate and bind the legal person by reference to documents, data or information provided by a **reliable and independent source**, examples of which include:
- a) certificate of incorporation;
 - b) record in an independent company registry;
 - c) certificate of incumbency;
 - d) certificate of good standing;
 - e) record of registration;
 - f) partnership agreement or deed;
 - g) constitutional document; or
 - h) other relevant documents, data or information provided by a reliable and independent source (e.g. document issued by a government body);

18. For a customer that is a partnership or an unincorporated body, confirmation of the customer's membership of a relevant professional or trade association is likely to be sufficient to verify the identity of the customer provided that:
- a) the customer is a well-known, reputable organization;
 - b) the customer has a long history in its industry; and
 - c) there is substantial public information about the customer, its partners and controllers;

Customer that is a trust or similar legal arrangement

19. In respect of trusts, Swiss should **identify and verify the trust as a customer** and should also regard **the trustee as its customer** if the trustee enters into a business relationship or carries out occasional transactions on behalf of the trust, which is generally the case if **the trust does not possess a separate legal personality**. In such a case, Swiss should **identify and verify the identity of the trustee** in line with the identification and verification requirements for a customer that is a natural person or a legal person, where applicable;
20. Swiss should identify the customer by obtaining at least **the following identification information**:
- a) name of the trust or legal arrangement;
 - b) date of establishment or settlement;
 - c) the jurisdiction whose laws govern the trust or legal arrangement;
 - d) unique identification number (if any) granted by any applicable official bodies and document type (e.g. tax identification number or registered charity or non-profit organization number); and
 - e) address of registered office (if applicable).
21. In verifying the identity of a customer that is a trust or other similar legal arrangement, Swiss should normally **verify its name, legal form, current existence (at the time of verification) and powers** that regulate and bind the trust or other similar legal arrangement by reference to documents, data or information provided by **a reliable and independent source**, examples of which include:
- a) trust deed or similar instrument;
 - b) record of an appropriate register in the relevant country of establishment;
 - c) written confirmation from a trustee acting in a professional capacity; or
 - d) written confirmation from a lawyer or other professional who has reviewed the relevant instrument;

Connected Party of the Customer

22. Swiss should **identify all the connected parties** of the customer by **obtaining their names**;
23. A connected party of a customer that is a legal person, a trust or other similar legal arrangement:
- a) in relation to a corporation, means a director of the customer;
 - b) in relation to a partnership, means a partner of the customer;
 - c) in relation to a trust or other similar legal arrangement, means a trustee (or equivalent) of the customer; and
 - d) in other cases not falling within subsection (a), (b) or (c) above, means a natural person holding a senior management position or having executive authority in the customer;
24. When identifying a connected party that is a natural person, Swiss should endeavour to obtain **the identification information** as follows:-
- a) full name;
 - b) date of birth;
 - c) nationality; and
 - d) unique identification number (e.g. identity card number or passport number) and document type.

Identification and Verification of identity of beneficial owner

25. Beneficial owner refers to the natural person(s) who ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted. Swiss must **identify any beneficial owner** in relation to a customer, and **take reasonable measures to verify the beneficial owner's identity** so that Swiss is satisfied that it knows **who** the beneficial owner is;
26. When identifying a beneficial owner and connected parties, Swiss should endeavour to obtain **the identification information** as follows-
- a) a full name;
 - b) date of birth;
 - c) nationality; and
 - d) unique identification number (e.g. identity card number or passport number) and document type;

27. In determining **who the beneficial owner is**, Swiss should pay attention the following issues:-
- a) who has **ultimate ownership or control** over the customer,
 - b) who constitutes **the controlling mind and management** of the customer;
 - c) whether there are **several intermediate layers in the chain of ownership**; and
 - d) any **other associated risk** of money laundering and terrorist financing, such as whether he is a politically exposed person;
28. AMLO defines **beneficial owner** in relation to **a corporation** as:
- AN INDIVIDUAL who –
- a) owns or controls, directly or indirectly, including through a trust or bearer share holding, more than 25% of the issued share capital of the corporation;
 - b) is, directly or indirectly, entitled to exercise or control the exercise of more than 25% of the voting rights at general meetings of the corporation; or
 - c) exercises ultimate control over the management of the corporation; or
- IF the corporation is acting on behalf of another person, means THE OTHER PERSON;
29. AMLO defines **beneficial owner**, in relation to **a partnership** as:
- AN INDIVIDUAL who –
- a) is entitled to or controls, directly or indirectly, more than a 25% share of the capital or profits of the partnership;
 - b) is, directly or indirectly, entitled to exercise or control the exercise of more than 25% of the voting rights in the partnership; or
 - c) exercises ultimate control over the management of the partnership; or
- IF the partnership is acting on behalf of another person, means THE OTHER PERSON;
30. AMLO defines **the beneficial owner**, in relation to **a trust** as:
- a) a beneficiary or a class of beneficiaries of the trust entitled to a vested interest in the trust property, whether the interest is in possession or in remainder or reversion and whether it is defeasible or not;
 - b) the settlor of the trust;
 - c) the trustee of the trust;
 - d) a protector or enforcer of the trust; or
 - e) an individual who has ultimate control over the trust.

Identification and verification of a person purporting to act on behalf of the customer

31. A person may be **appointed** to act on behalf of a customer to establish business relationships, or may be authorized to give instructions to Swiss to conduct various activities through the account or the business relationship established. Whether the person is considered to be a person purporting to act on behalf of the customer ("PPTA") should be determined based on **the nature of that person's roles and the activities** which the person **is authorized to conduct**, as well as **the money laundering and terrorist financing risks** associated with these roles and activities;
32. If a person is a PPTA, Swiss must:
- a) **identify the person and take reasonable measures to verify the person's identity** on the basis of documents, data or information as required under paragraph 15 of this Manual; and
 - b) **verify the person's authority** to act on behalf of the customer with documentary evidence;

Purpose of intended nature of business relationship

33. Swiss must understand **the purpose and intended nature of the business relationship** with the customer. In some instances, this will be self-evident, but in many cases, Swiss may have to obtain information in this regard. The information obtained to understand the purpose and intended nature should be **commensurate with the risk profile** of the customer and **the nature of the business relationship**. In addition, where a customer is not a natural person, Swiss should also understand **the nature of the customer's business**;

Timing of customer due diligence

34. Swiss should verify the identity of the customer and beneficial owner in the event that:-
- a) the customer and the beneficial owner **applies to open an account with Swiss**;
 - b) Swiss **suspects** that the customer and the beneficial owner using the account for the purposes of money laundering, terrorist financing or other illegal activities;
 - c) Swiss **doubts the veracity or adequacy** of any information previously obtained for the purpose of identifying the customer and the beneficial owner or for the purpose of verifying the identities of the customer and the beneficial owner;

Simplified Due Diligence

35. Swiss may apply simplified due diligence (“SDD”) measures in relation to a business relationship or transaction if it determines that, taking into account its risk assessment, the business relationship or transaction presents **a low risk** of money laundering and terrorist financing;
36. Examples of potentially lower risk factors include:
- a) customer risk factors:
 - i. a government entity or a public body in Hong Kong or in a jurisdiction who is a member of Financial Action Task Force (“FATA Member”);
 - ii. a corporation listed on a stock exchange and subject to disclosure requirements, which impose requirements to ensure adequate transparency of beneficial ownership;
 - iii. a financial institution (“FI”) as defined in the AMLO, or other FI incorporated or established in a FATF Member and is subject to and supervised for compliance with AML/CFT requirements consistent with standards set by the Financial Action Task Force; or
 - iv. a collective investment scheme authorized for offering to the public in Hong Kong or in a FATF Member.
 - b) country risk factors:
 - i. countries or jurisdictions identified by credible sources, such as mutual evaluation or detailed assessment reports, as having effective AML/CFT systems; or
 - ii. countries or jurisdictions identified by credible sources as having a lower level of corruption or other criminal activity.
37. SDD measures include:-
- a) accepting other documents, data or information (e.g. proof of license of FI etc.), other than examples provided in paragraphs 17 and 21, for a customer who is listed in paragraph 36 (a);
 - b) adopting SDD in relation to beneficial owners in paragraphs 38 to 40;
 - c) reducing the frequency of updates of customer identification information;
 - d) reducing the degree of ongoing monitoring and scrutiny of transactions based on a reasonable monetary threshold; or
 - e) not collecting specific information or carrying out specific measures to understand the purpose and intended nature of the business relationship, but inferring the purpose and intended nature from the type of transactions or business relationship established;

38. Swiss may choose not to identify or take reasonable measures to verify the beneficial owner in relation to a customer that is listed in paragraph 39;
39. Swiss may choose not to identify or take reasonable measures to verify the beneficial owner of a customer, if the customer is
- a) an FI;
 - b) an institution that-
 - i. is incorporated or established in a FATF Member;
 - ii. carries on a business similar to that carried on by an FI;
 - iii. has measures in place to ensure compliance with requirements similar to those imposed under AMLO; and
 - iv. is supervised for compliance with those requirements by an authority in that jurisdiction that performs functions similar to those of any of the RAs;
 - c) a corporation listed on any stock exchange ;
 - d) an investment vehicle where the person responsible for carrying out measures that are similar to the customer due diligence measures in relation to all the investors of the investment vehicle is-
 - i. an FI;
 - ii. an institution incorporated or established in Hong Kong, or in the FATF Member that- (A) has measures in place to ensure compliance with requirements similar to those imposed under AMLO; and (B) is supervised for compliance with those requirements
 - e) the Government or any public body in Hong Kong; or
 - f) the government of an equivalent jurisdiction or a body in an equivalent jurisdiction that performs functions similar to those of a public body;
40. If a customer not falling within paragraph 39 has in its ownership chain an entity that falls within that paragraph, Swiss is not required to identify or verify the beneficial owners of that entity in that chain when establishing a business relationship with or carrying out an occasional transaction with the customer. However, Swiss should still identify and take reasonable measures to verify the identity of beneficial owners in the ownership chain that are not connected with that entity;
41. It is the policy of Swiss that, **if the customer is a holder of license of precious metals and stones dealer (both Cat A or Cat B Registrants) issued by the Customs, Swiss may apply SDD in the account opening process;**

42. SDD measures should not be applied or continue to be applied, where:
- a) the risk assessment changes and it no longer considers that there is a low degree of money laundering and terrorist financing risk;
 - b) money laundering and terrorist financing activities are suspected; or
 - c) there are doubts about the veracity or accuracy of documents or information previously obtained for the purposes of identification or verification;

Enhanced Due Diligence

43. Swiss must apply enhanced due diligence (“EDD”) measures in relation to a business relationship or transaction to mitigate and manage **the high risk** of money laundering and terrorist financing in a situation:
- a) that by its nature may present a high risk taking into account the potentially higher risk factors set out in paragraph 44; or
 - b) specified by the Customs in a notice in writing given to Swiss;
44. Examples of potentially higher risk factors include:
- a) customer risk factors:
 - i. the business relationship is conducted in unusual circumstances (e.g. significant unexplained geographic difference between Swiss and the customer);
 - ii. the legal persons or legal arrangements that involve a shell vehicle without a clear and legitimate commercial purpose;
 - iii. the companies that have nominee shareholders, nominee directors, bearer shares or bearer share warrants;
 - iv. the customer owns or operates cash intensive business;
 - v. the ownership structure of the legal person or legal arrangement appears unusual or excessively complex given the nature of the legal person’s or legal arrangement’s business; or
 - vi. the customer or the beneficial owner of the customer is a politically exposed person (“PEP”);
 - b) product, service, transaction or delivery channel risk factors:
 - i. the precious metals or stones with a worldwide standard and reference price published daily can be considered to be of higher risk; or
 - ii. the buyers of used gold jewellery should remain alert to the possibility of being offered stolen jewellery.

- c) country risk factors:
 - i. the countries or jurisdictions identified by credible sources, such as mutual evaluation or detailed assessment reports, as not having effective AML/CFT Systems;
 - ii. the countries or jurisdictions identified by credible sources as having a significant level of corruption or other criminal activity;
 - iii. the countries or jurisdictions subject to sanctions, embargoes or similar measures issued by, for example, the United Nations; or
 - iv. the countries, jurisdictions or geographical areas identified by credible sources as providing funding or support for terrorist activities, or that have designated terrorist organizations operation.
45. Examples of possible EDD measures include:
- a) obtaining additional information on the customer (e.g. occupation, volume of assets, information available through public databases, internet, etc.), and using the information for customer risk profiling as well as updating more regularly the identification data of customer and beneficial owner;
 - b) obtaining additional information on the intended nature of the business relationship;
 - c) obtaining information on the source of funds or source of wealth of the customer (see paragraphs 46 and 47); or
 - d) obtaining information on the reasons for intended or performed transactions;
46. Source of wealth refers to the origin of an individual's entire body of wealth (i.e. total assets). This information will usually give an indication as to the size of wealth the customer would be expected to have, and a picture of how the individual acquired such wealth. Although Swiss may not have specific information about assets not deposited with or processed by it, it may be possible to gather general information from the individual, commercial databases or other open sources;
47. Source of funds refers to the origin of the particular funds or other assets which are the subject of the business relationship between an individual and Swiss (e.g. the amounts being invested, deposited, or wired as part of the business relationship). Source of funds information should not simply be limited to knowing from which the funds may have been transferred, but also the activity that generates the funds. The information obtained should be substantive and establish a provenance or reason for the funds having been acquired;

48. Swiss should obtain approval from its senior management to establish a business relationship that presents a high money laundering and terrorist financing risk, or continue an existing business relationship where the relationship is subsequently assessed to present a high risk;
49. Swiss should conduct enhanced ongoing monitoring of a business relationship that presents a high money laundering and terrorist financing risk, for example, by increasing the number and timing of controls applied, and selecting patterns of transactions that need further examination;

Politically Exposed Person – Non-Hong Kong

50. A non-Hong Kong politically exposed person (“PEP”) is defined as:
 - a) an individual who is or has been entrusted with a prominent public function in a place outside Hong Kong and
 - i. includes a head of state, head of government, senior politician, senior government, judicial or military official, senior executive of a state-owned corporation and an important political party official;
 - ii. but does not include a middle-ranking or more junior official of any of the categories mentioned in subparagraph (i);
 - b) a spouse, a partner, a child or a parent of an individual falling within paragraph (a) above, or a spouse or a partner of a child of such an individual; or
 - c) a close associate of an individual falling within paragraph (a);
51. A close associate in the above paragraph is defined as:
 - a) an individual who has close business relations with a person falling under above paragraph, including an individual who is a beneficial owner of a legal person or trust of which the person falling under above paragraph is also a beneficial owner; or
 - b) an individual who is the beneficial owner of a legal person or trust that is set up for the benefit of a person falling under above paragraph;
52. **The policy of Swiss is that we will NOT approve the account opening with a non-Hong Kong PEP or any entity associate with non-Hong Kong PEP;**

Politically Exposed Person – Hong Kong

53. A Hong Kong PEP is defined as:
- a) an individual who is or has been entrusted with a prominent public function in a place within Hong Kong and
 - i. includes a head of government, senior politician, senior government or judicial official, senior executive of a government-owned corporation and an important political party official;
 - ii. but does not include a middle-ranking or more junior official of any of the categories mentioned in subparagraph (i);
 - b) a spouse, a partner, a child or a parent of an individual falling within paragraph (a) above, or a spouse or a partner of a child of such an individual; or
 - c) a close associate of an individual falling within paragraph (a);
54. “Close Associate” in the above paragraph has the same meaning contained in paragraph 51;
55. **The policy of Swiss is that we still accept the account opening application with a Hong Kong PEP or any entity associated with Hong Kong PEP, provided that he or she does not pose high money laundering and terrorist financing risk to Swiss;**

Prohibition on shell bank and anonymous accounts

56. Swiss must **not open, or maintain any account with a shell bank or any anonymous account or account in a fictitious name for any customer;**

Pre-existing Customers

57. Swiss must perform **the CDD measures** in respect of pre-existing customers who intended to engage in **specified transactions**, when:
- a) **a material change** occurs in the way in which the customer’s account is **operated**;
 - b) Swiss **suspects** that the customer or the customer’s account is involved in money laundering and terrorist financing; or
 - c) Swiss **doubts the veracity or adequacy** of any information previously obtained for the purpose of identifying the customer or for the purpose of verifying the customer’s identity;
58. Swiss should also perform on-going monitoring on the transactions and account activities of the pre-existing customers;

59. Swiss should take appropriate steps (e.g. examining the background and purposes of the transactions; making appropriate enquiries to or obtaining additional CDD information from a customer) to identify if there are **any grounds for suspicion**, when:
- a) The customer's transactions are **not consistent with** the Swiss's knowledge of the customer, the customer's business, risk profile or source of funds; or
 - b) Swiss identifies transactions that
 - i. are **complex, unusually large in amount** or of **an unusual pattern**; and
 - ii. have **no apparent economic or lawful purpose**;

Section II – International Sanctions

60. Compliance should **monitor any updates** from the Customs and other relevant bodies **to see whether the customer is subject to domestic** (by the Customs, Security Bureau and Commerce and Economic Development Bureau of Hong Kong Special Administrative Region Government (“HKSAR Government”)) **and international** (by United Nations, US Office of Foreign Asset Control and London Bullion Market Association) **sanctions**;
61. It is particularly vital that Swiss should be **able to identify terrorist suspects and possible designated parties**, and **detect prohibited transactions**. To this end, it is advised to maintain a database of names and particulars of terrorists and designated parties, which consolidates the various lists that have been made known to Swiss. An alternative way is to subscribe to such a database maintained by a third party service provider and to take appropriate measures (e.g. conduct sample testing periodically) to ensure the completeness and accuracy of the database;
62. Such database should include:
- a) the lists published in the Gazette or on the websites of the Security Bureau and the Commerce and Economic Development Bureau of HKSAR Government; and
 - b) the lists that the Customs draws to the attention of Swiss from time to time. The database should also be subject to timely update whenever there are changes, and should be made easily accessible by relevant staff;
63. To avoid establishing business relationship or conducting transactions with any terrorist suspects, sanctioned parties and possible designated parties, **an effective screening mechanism** should be implemented, including:
- a) screening its customers and any beneficial owners of the customers against current database at **the establishment of the relationship or before carrying out with the customer a transaction**; and
 - b) screening its customers and any beneficial owners of the customers **against all new and any updated designations to the database as soon as practicable**;

64. The screening requirements set out in paragraph 63 should extend to connected parties and PPTAs above;
65. When possible name matches are identified during screening, Compliance should conduct **enhanced checks** to determine whether the possible matches are genuine hits. In case of any suspicions of terrorist financing or sanctions violations, Swiss should make **a report to the Joint Financial Intelligence Unit**. Records of enhanced checking results, together with all screening records, should be **documented, or recorded electronically**;

Section III - Suspicious Transactions Reporting and Law Enforcement Request

Suspicious Transactions Reporting

66. It is **a statutory obligation**, that where a person **knows** or **suspects** that
- a) any property:
 - i. in whole or in part directly or indirectly represents any person's proceeds of;
 - ii. was used in connection with, or
 - iii. is intended to be used in connection with **a drug trafficking or an indictable offence**; or
 - b) any property is **terrorist property**,

the person shall as soon as it is reasonable for him to do so, **disclose that knowledge or suspicion to the Joint Financial Intelligence Unit ("JFIU")**;

67. Compliance adopts the **"SAFE"** approach as recommended by the JFIU, which draws out a systematic and practical mechanism to effectively identify suspicious transactions and to ensure the submitted suspicious transactions reports ("STRs") of good quality;
68. The **"SAFE"** approach proposes four key steps, which are:
- a) **Screening** the account for suspicious indicators (i.e. red flag indicators) and recognizing whether there is a suspicious activity indicator or indicators;
 - b) **Asking** the customers appropriate questions;
 - c) **Finding out** the customer's records, reviewing information already known and deciding if the apparently suspicious activity is to be expected; and
 - d) **Evaluating** all the above information and determining whether the transaction is suspicious;
69. **The red flag indicators** present the circumstances that could be **suspicious in nature and associated with money laundering and terrorist financing activities**, which may serve as **a basis for consideration in identifying suspicious transactions**. To effectively fulfil the reporting obligation, Compliance could work out their own set of red flag indicators, so that relevant staff can have a clear understanding of the circumstances that should trigger the suspicious transaction reporting process;

70. Examples of red flag indicators include:

- a) For the customer due diligence and record-keeping purposes, the customer is unable or unwilling to provide relevant information and document for his/her identity and/or the identity of the beneficial owner(s);
- b) Purchase of the precious metals and stones through multiple cash transactions over a short time period, and the cumulative amounts exceeds the statutory threshold for the CDD requirement, i.e. HK\$120,000;
- c) The customer appears to be in a hurry to complete the transaction and/or does not care about the value, size and/or specification of the precious metals and stones or any other costs in the transaction;
- d) The transaction is inconsistent with the profile of the customer. For example, the customer claimed to be a student or a domestic helper, but pays a large amount of cash for the precious metals and stones transaction or offers to sell high-value items;
- e) Regular customer significantly increases the purchase of precious metals and stones, e.g. bullion and loose diamond, or purchases the precious metals and stones unrelated to their main business, for no reasonable explanation;
- f) New customer offers a large amount of precious metals and stones items for sale, e.g. gold or diamond jewelry, where the source of the precious metals and stones are unknown or questionable;
- g) The precious metals and stones are offered at a rate significantly lower than their market value;
- h) The transaction involves third parties either as payers or recipients of payment or products for no apparent business purpose. For example, the customer requires that the precious metals and stones are delivered or the funds are paid to a third party;
- i) The customer cancels the precious metals and stones transaction shortly after deposit or full payment is made and requests a refund;
- j) Overpayment of a transaction with a request to refund the excess to a third party;
- k) The customer requires the precious metals and stones to be shipped through or to a country or territory that is designated as 'high risk for money laundering or terrorism activities' for no apparent economic reason;
- l) The customer appears to be related to a high-risk country or territory or entity that is associated with money laundering or terrorism activities or a person that has been designated as terrorist;
- m) Adverse news from the media or other open sources indicate that the

customer is suspected of being involved in illegal activities, in particular the cases related to money laundering and terrorist financing;

71. Please be reminded that once knowledge or suspicion has been formed, Swiss should **file an STR** with the JFIU even where **no transaction** has been conducted. Also, **the STR must be made promptly after the suspicion was first identified**;
72. Furthermore, the above examples of red flag indicators are not exhaustive but reflect some suspicious circumstances related to the money laundering and terrorist financing activities, and in most cases, they may result from the situations of high money laundering and terrorist financing risk. As such, Swiss should regularly review the relevant policies and procedures to ensure the reporting mechanisms have taken into account the latest money laundering and terrorist financing developments and risk situations in the sector;
73. Employees of Swiss should be reminded that it is an offence (“tipping off”) to reveal to any person any information which might prejudice an investigation; if a customer is told that a report has been made, this would prejudice the investigation and an offence would be committed. The tipping off provision includes circumstances where a suspicion has been raised internally, but has not yet been reported to the JFIU;
74. Compliance personnel is appointed as Money Laundering Reporting Officer (“MLRO”) as a central reference point for reporting suspicious transactions and also as the main point of contact with the JFIU and law enforcement agencies;
75. The MLRO should play an active role in the identification and reporting of suspicious transactions. Principal functions of the MLRO should include having oversight of:
 - a) review of internal disclosures and exception reports and, in light of all available relevant information, determination of whether or not it is necessary to make a report to the JFIU;
 - b) maintenance of all records related to such internal reviews; and
 - c) provision of guidance on how to avoid tipping off.
76. When evaluating an internal report, the MLRO must take reasonable steps to consider all relevant information, including customer due diligence and ongoing monitoring information available concerning the related entities.

Examples of consideration when evaluating an internal report include:

- a) making a review of other transaction patterns and volumes through connected accounts, preferably adopting a relationship-based approach rather than on a transaction-by-transaction basis;
 - b) making reference to any previous patterns of instructions, the length of the business relationship, and CDD and ongoing monitoring information and documentation; and
 - c) appropriate questioning of the customer per the systematic approach to identifying suspicious transactions recommended by the JFIU;
77. The JFIU will acknowledge receipt of an STR made by MLRO. If there is no need for imminent action, e.g. the issue of a restraint order on an account, consent will usually be given for Swiss to operate the account. Otherwise, Swiss should take appropriate action and seek legal advice where necessary;
78. Filing an STR to the JFIU provides Swiss with a statutory defence to the offence of money laundering and terrorist financing in respect of the acts disclosed in the report, provided:
- a) the report is made before Swiss undertakes the disclosed acts and the acts (transaction(s)) are undertaken with the consent of the JFIU; or
 - b) the report is made after Swiss has performed the disclosed acts (transaction(s)) and the report is made on the Swiss's own initiative and as soon as it is reasonable for Swiss to do so;
79. However, the statutory defence stated in paragraph 78 does not absolve Swiss from the legal, reputational or regulatory risks associated with the account's continued operation. Swiss should also be aware that a "consent" response from the JFIU to a pre-transaction report should not be construed as a "clean bill of health" for the continued operation of the account or an indication that the account does not pose a risk to Swiss;
80. Swiss should conduct an appropriate review of a business relationship upon the filing of an STR to the JFIU, irrespective of any subsequent feedback provided by the JFIU, and apply appropriate risk mitigating measures. Filing a report with the JFIU and continuing to operate the relationship without any further consideration of the risks and the imposition of appropriate controls to mitigate the risks identified is not acceptable. If necessary, the issue should be escalated to the Swiss's senior management to determine how to handle the relationship

concerned to mitigate any potential legal or reputational risks posed by the relationship in line with the Swiss's business objectives, and its capacity to mitigate the risks identified;

81. Swiss should be aware that the reporting of a suspicion in respect of a transaction or event does not remove the need to report further suspicious transactions or events in respect of the same customer. Further suspicious transactions or events, whether of the same nature or different to the previous suspicion, must continue to be reported to the MLRO who should make further reports to the JFIU if appropriate;
82. Compliance must establish and maintain a record of all STRs made to the JFIU. The record should include details of the date of the STR, the person who made the STR, and information to allow the papers relevant to the STR to be located. This register may be combined with the register of internal reports, if considered appropriate;

Law Enforcement Request

83. Swiss may be served with various court documents from law enforcement agencies, e.g. search warrants, production orders, restraint orders or confiscation orders, pursuant to relevant legislations in Hong Kong. These court documents are crucial to aid law enforcement agencies to carry out investigations as well as restrain and confiscate illicit proceeds;
84. Swiss should respond to any search warrant and production order within the required time limit by providing all the information or material that fall within the scope of the court document. Where there is difficulty in complying with the timeframes stipulated, Compliance should at the earliest opportunity contact the officer-in-charge of the investigation for further guidance;
85. During a law-enforcement investigation, Swiss may be served with a restraint order, which prohibits the dealing with particular funds or property pending the outcome of an investigation. Swiss must ensure that it is able to withhold the relevant property that is the subject of the order. It should be noted that the restraint order may not apply to all funds or property involved within a particular business relationship and Swiss should consider what, if any, funds or property may be utilised subject to the law of Hong Kong;

86. Upon the conviction of a defendant, a court may order the confiscation of his criminal proceeds and Swiss may be served with a confiscation order in the event that it holds funds or other property belonging to that defendant that are deemed by the court to represent his benefit from the crime. A court may also order the forfeiture of property where it is satisfied that the property is terrorist property;
87. When Swiss is served with a court document (e.g. search warrant or production order) or crime-related intelligence requests from a law enforcement agency (e.g. notification letter) in relation to a particular customer or business relationship, Swiss should timely assess the risks involved and the need to conduct an appropriate review on the customer or the business relationship to determine whether there is any suspicion and should also be aware that the customer to whom the court document relates can be a victim of crime;
88. Compliance is responsible to liaise with the court and other law enforcement agencies for the purpose of this section;

Section IV - Record Keeping and Training

Record Keeping

89. Swiss should **keep the following documents**:-

- a) the original or a copy of the documents, and a record of the data and information, obtained in the course of identifying and, where applicable, verifying the identity of the customer and/or beneficial owner of the customer and/or beneficiary and/or persons who purport to act on behalf of the customer and/or other connected parties to the customer;
- b) other documents and records obtained throughout the customer due diligence and ongoing monitoring process, including simplified due diligence and enhanced due diligence;
- c) where applicable, the original or a copy of the documents, and a record of the data and information, on the purpose and intended nature of the business relationship;
- d) the original or a copy of the records and documents relating to the customer's account (e.g. account opening form or risk assessment form) and business correspondence with the customer and any beneficial owner of the customer (which at a minimum should include business correspondence material to customer due diligence measures or significant changes to the operation of the account) ; and the results of any analysis undertaken (e.g. inquiries to establish the background and purposes of transactions that are complex, unusually large in amount or of unusual pattern, and have no apparent economic or lawful purpose).

90. Swiss should **maintain the original or a copy of the documents, and a record of the data and information**, obtained or generated in connection **with each transactions that Swiss carries out**. The record should be sufficient to **permit reconstruction of individual transaction** so as to provide, if necessary, evidence for prosecution of criminal activity;

91. All documents and records mentioned in paragraphs 89 and 90 should be kept **throughout the continuance of the business relationship** with the customer and **for a period of at least five (5) years after the end of the business relationship**;

92. The Customs may, by notice in writing to Swiss, require it to keep the records relating to a specified transaction or customer **for a period specified by the Customs that is longer than those referred to in paragraph 91**, where the records are relevant to an ongoing criminal or other investigation carried out by the Customs, or to any other purposes as specified in the notice;

Training

93. Compliance could find out and attend (or invite other colleagues to attend) **AML training and seminars** that are relevant to the business of Swiss;

Chapter 5 Account Opening Process

94. The customer who wants to open an account with Swiss should **complete** the following Account Opening Documents below and **agree to be bound by the terms and conditions contained therein**:

- a) Account Opening Form;
- b) Annex I List of Conflict Zones and High Risk Areas ("List");
- c) Annex II Agreement;
- d) Checklist for Customer's documents ("Checklist");

95. Account Opening Form is **intended to identify the customer and its beneficial owner(s) and to help Swiss to understand the customer** in respect of the following information:-

- a) Name;
- b) Office Address;
- c) Place of Incorporation;
- d) Business Registration Number;
- e) Company Incorporation Number;
- f) Licensing information;
- g) Beneficial Ownership;
- h) Connected persons such as director and authorized signor;
- i) Source of fund and/or metals;
- j) Purpose of transactions; and
- k) Physical item of transactions;

Account Opening Form itself **fulfils the policy commitments and legal/regulatory obligations of customer due diligence** in Chapters 1, 2 and 4 of this Manual;

96. In respect of the List, **it is the policy of Swiss that it will NOT engage with any transactions with entities located in or related to the countries or places contained in the List**. Swiss also requests our customer to follow that practice;

The List itself **fulfils the policy commitments in and the legal/regulatory obligations of international sanctions** in Chapters 1, 2 and 4 of this Manual;

97. The Agreement contains the terms and conditions that the customer will acknowledge and agree to be bound if the customer applies to open an account and establishes business relationship with Swiss;
98. The Checklist assists the customer to collate the necessary supporting documents so that Swiss can identify and verify the customer and its beneficial owner(s).
99. Upon receipt of the completed Account Opening Documents, Compliance carry out the Account Opening Review Procedures to make sure that Swiss could:-
 - a) understand who the customer is, which business the customer engages and what the customer does in the operation of the account etc.;
 - b) assess the money laundering, terrorist financing and sanctions risks associated with the customer and take up the necessary measures to mitigate the risks;
 - c) otherwise protect the legal rights of Swiss;
100. Kindly refer to the Account Opening Process for details;
101. Compliance will submit the same for **senior management's approval** if all forms and documents are ready;
102. If senior management approves the account opening, Compliance will send an email to Accounts confirming the approval decision;
103. All the account opening documents from the customer are kept by Compliance **for future reference and for compliance of record keeping requirements** under Chapter 4;

Chapter 6 Applications for opening accounts with Banks

104. To facilitate the business operations with the customers and other business partners, Swiss applies to open bank accounts with different banks which are licensed by Hong Kong Monetary Authority ("HKMA") under the Banking Ordinance (Cap. 155);
105. For the purpose above, Compliance is responsible to complete the account opening application forms and collates the necessary documents to be submitted to the Banks;
106. In the process, Compliance needs to **pay heed to:-**
- a) **Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (For Authorized Institutions)** on 25th May 2023 issued by HKMA;
 - b) **Frequently Asked Questions in relation to Anti-Money Laundering and Counter-Financing of Terrorism** (Developed by the Hong Kong Association of Banks) issued on 5th October 2023 by HKMA;
 - c) Circulars issued by HKMA in respect of Account Opening and Maintenance, such as **Access to Banking Services for Corporate Customers** on 27th April 2023;
 - d) The request of information prescribed in the format of **the Correspondent Banking Due Diligence Questionnaire** and **Financial Crime Compliance Questionnaire** issued by Wolfsberg Group;
 - e) Other industrial best practice on account opening, such as **General Guide to Account Opening** on 19th February 2016 issued by Basel Committee on Banking Supervision;
 - f) the **internal policies and practices** as well as **pamphlets, leaflets and booklets** issued by the Banks;
 - g) any **compliance or business questions or concerns** raised out by the officials of the Banks;
107. Compliance should follow up regularly with the officials of the Banks about the status of account opening application;

Chapter 7 Miscellaneous Compliance Tasks

Liaison with Customs and other governmental bodies

108. In addition to the liaison duties mentioned above, Compliance is responsible to communicate with Customs on licensing matters, such as imposition/cessation of licensing conditions (if any) or payment of annual fees;
109. If other governmental or regulatory bodies besides Customs make an enquiry with Swiss, Compliance is responsible to contact them and reply to their requisitions;

File Management

110. In present, Compliance keeps and maintains the following box files:-
- a) Customers' File;
 - b) Tether's File;
 - c) Compliance Manual's File;
111. Compliance should review regularly these files and see what follow-up actions could be done;

Review of legal documents

112. Legal documents such as agreements prescribe the rights and obligations for the parties agree to be bound when they sign the documents;
113. Compliance is responsible to review and comment on any document having a legal impacts (say rights and obligations);
114. In this exercise, Compliance may bear in mind of the following issues:-
- a) Rights and obligations of respective contractual party;
 - b) Commercial objective Swiss wants to achieve when signing such documents;
 - c) Different legal and business interests considerations of each party;
 - d) Costs and benefits of Swiss in carrying out the obligations under such documents;
 - e) Implications with the applicable laws and regulations which Swiss is obliged to observe;
 - f) Relief or other dispute resolution mechanism if the documents are terminated or one of the parties default;

115. Also, Compliance should remain alert to and keep the senior management updated of any change of other applicable laws and regulations, such as import and export, customs clearance, consumer protection, and trade descriptions;

Other requirements of Customs

116. Since Swiss engages in international trading of gold and silver, it has to follow the requirements under Import and Export Ordinance (“IEO”) and the subsidiary legislations;

117. For instance, every person who imports/exports any article shall lodge **within 14 days** after such import/export with the Customs an accurate and complete **import/export declaration** relating to such article using the services of the services providers appointed by the Customs;

118. Failure to obey IEO and the subsidiary legislations shall be guilty of criminal offence or being charged of fines by the Customs;

Concluding Remarks

119. Since the compliance developments change rapidly, senior management and compliance should be kept updated and this Manual should be renewed frequently;

120. The purpose of this Manual is to assist Swiss and its staff to comply with the applicable laws and regulations. The requirements contained in this Manual are non-exhaustive and may not cover every aspect which is or will be applicable to the operations of Swiss. If there is any differences in the content or in the interpretation between this Manual and the applicable laws and regulations, the later shall prevail.