

REGULATORY UPDATE

Administrative Ordinance no.17/2017: Preventive Measures for the Crimes of Money Laundering and Terrorism Prevention and Repression

On the 29th of May 2017, the Macau Chief Executive of Macau issued the Administrative Ordinance 17/2017, which consists of an amendment to the Preventive Measures for the Crimes of Money Laundering and Terrorism Prevention and Repression Administrative Ordinance.

1. What is the scope of the administrative ordinance?

The ordinance aims to regulate the requirements and content of the preventive duties of the commitment of money laundering and terrorist financing crimes and also establishes a system of supervision of compliance with the duties imposed by law. The administrative ordinance will enter into force 180 days after its publication.

2. Amendments

2.1 Supervisory authority

The supervisory authorities, according to Administrative Ordinance 7/2006, were: the Macau Lawyers Association; Legal Affairs Bureau; Finance Department, Independent Commission for the Exercise of Disciplinary Power over Solicitors and the Macao Economic Services. The newly enacted amendment added three new competent supervisory authorities, which are:

- The Monetary Authority of Macau (AMCM);
- The Macao Trade and Investment Promotion Institute;
- The Housing Bureau.

2.2 Obligated parties

(i) Entities who are subject of the supervision of the AMCM: credit institution, financial companies, “offshore” financial institutions, insurance companies, currency exchange offices and cash delivery companies;

(ii) Entities who are subject of the supervision of DICJ, namely, gaming businesses, lotteries, mutual bets and promoters

(iii) Business owners of high value goods, namely, trade pledges, precious metals and luxury vehicles and auctioneers;

(iv) Lawyers, solicitors, notaries, registrars, auditors, accountants and tax advisers, when participating or assisting, in the exercise of their professional activities, the operations of:

- (1)** Buying and selling of real property;
- (2)** Managing of client funds, securities or other assets;
- (3)** Managing of bank, savings or securities accounts;
- (4)** Organization of contributions necessary for the creation, operation or management of companies;
- (5)** Creation, operation or management of legal persons or entities without legal personality or buying and selling of enterprises.
- (6)** Providers of services, in preparing or performing operations for a customer, within the scope of the following activities: **(1)** Acting as an agent in forming legal persons; **(2)** Acting as a director or secretary of a company, a partner or holding of a similar position in relation to other legal persons; **(3)** Providing a registered office, business address, premises, administrative or postal address for a company, or any other legal person or entities without legal personality; **(4)** Acting as a trustee; **(5)** Acting as a partner of a company on behalf of another person; **(6)** Carrying out the measures necessary for a third party to act in the manner prescribed above.

REGULATORY UPDATE

Administrative Ordinance no.17/2017: Preventive Measures for the Crimes of Money Laundering and Terrorism Prevention and Repression**2.2 Duties**

i) Duty to adopt customer due diligence measures concerning the contracting parties, clients and patrons: the abovementioned entities should obtain and verify the identification of the contracting parties, clients or patrons using reliable and independent source documents, data or information (e.g. by carrying out risk assessment on customer profile and implement enhanced due diligence measures in relation to high risk contracting parties; obtain information in regards to the establishment and nature of business relationships);

ii) Duty to adopt adequate measures to detect suspicious operations;

iii) Duty to refuse performing specific operations;

iv) Duty to keep the certifying documents: the supporting documents related to the compliance of the abovementioned duties must be kept for a period of 5 years following the completion of the operation. Further, entities should also maintain all records of identification information, account files and business correspondence for at least 5 years after the termination of an account or business relationship;

v) Duty to report suspicious operations: upon indicia of commission of crimes of money laundering or financing terrorism, entities must report the detection of operation within 2 working days.

vi) Duty to co-operate: namely, by providing the necessary information and delivery of documents to the competent authorities.

3. Sanctions

From an administrative perspective, the violation of the special duties imposed by Law will entail in fines ranging from MOP\$10,000.00 to MOP\$5000000,00 depending on the nature of its offenders (whether it was an individual person or a corporate entity). If the benefit obtained by the offender surpasses half of the maximum limit, the amount will be doubled to the benefit obtained.

Further, legal entities, even irregularly constituted, associations, without no legal personality and the special commissions will be liable for the commitment of administrative infringements by their representative's bodies on their behalf and in their collective interest. Notwithstanding, the abovementioned liability will be excluded when the agent who committed the infraction has acted against orders or instructions.

Moreover, if the offender is a legal entity, the administrators of the legal entity will be jointly liable.

Should you have any queries, please do not hesitate to contact us at mdme@mdme.com.mo or:



José Espírito Santo Leitão
Partner
Co-Head of Banking & Finance
jleitao@mdme.com.mo

T: +853 2833 3332
M: +853 6632 7935



Joana Coimbra de Almeida
Associate
Banking & Finance
jca@mdme.com.mo

T: +853 2833 3332
M: +853 6301 7659



MEMBER OF
MLGTS LEGAL CIRCLE
INTERNATIONAL TIES WITH THE PORTUGUESE-SPEAKING WORLD

Angola | Macau | Mozambique | Portugal

Member
LexMundi
World Ready