



CUSTOMS AND EXCISE DEPARTMENT

*Anti-Money Laundering and Counter-Terrorist Financing
Ordinance, Chapter 615, Laws of Hong Kong*

Guidance Notes

of

Fit and Proper Person Declaration Form

(for corporate partner / director)

Form 3B

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Part A - General Information

1. Introduction

- 1.1 Under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Chapter 615, Law of Hong Kong (AMLO), any person carries out a specified transaction and a specified cash transaction in Hong Kong is required to obtain Category B registration from the Commissioner of Customs and Excise (CCE).
- 1.2 The CCE may grant a Category B registration to an applicant only if he/she is satisfied that the applicant who is a licensed hawkler/sole proprietor/each partner/each director of applicant which is a partnership/corporation and the ultimate owner (if any) of the applicant is a “fit and proper person”. To meet the “fit and proper person” criteria, the sole proprietor and/or ultimate owner in relation to the sole proprietorship, partners and/or ultimate owners in relation to the partnership, directors and/or ultimate owners in relation to the corporation should, but not limited to, not have been convicted of the specified offences locally and overseas or is/are not currently subject to an undischarged bankrupt or bankruptcy proceedings in respect of an individual or liquidation or winding up order in respect of a corporation. For details of the Fit and Proper Person Criteria, please refer to *Appendix A*.
- 1.3 The Fit and Proper Person Declaration Form must be accompanied with a fee specified in Schedule 3K of the AMLO for each person who is subject to the fit and proper person test.

2. Submission of Fit and Proper Person Declaration Form

2.1 Declaration Forms

- (i) Declaration forms can be obtained from the Dealers in Precious Metals and Stones Supervision Bureau (DPSB) of the Customs and Excise Department (C&ED) or downloaded at <https://www.drs.customs.gov.hk>.
- (ii) Applicants are required to submit Form 3B for any corporate partner/director.
- (iii) If the applicant submits Forms 1B(BR), 2(BR) or 4 through our registration system, Form 3B is not required to be uploaded.

2.2 Supporting Documents

- (i) Local company:
 - (a) A copy of valid Business Registration Certificate
 - (b) A copy of Certificate of Incorporation
 - (c) A copy of Memorandum and Articles of Association

- (ii) Non-Hong Kong company:
 - (a) A copy of valid Business Registration Certificate
 - (b) A copy of Certificate of Registration of non-Hong Kong Company
 - (c) A copy of Memorandum and Articles of Association

- (iii) Corporation not registered in Hong Kong:

A copy of the Certificate of Incorporation or its equivalent certified in accordance with reg. 3 of the Companies (Forms) Regulations, Chapter 32B

2.3 In person or by post

- (i) The declarant has to duly complete the declaration form and sign on it. The declarant may submit the declaration form together with the relevant supporting documents (copies only) in person or by post.

- (ii) If there is any change to the information provided by the declarant or the declarant wishes to amend or provide supplementary information in relation to the submitted declaration during the declaration processing stage, the declarant must notify the DPSB in writing promptly. The supplementary information should be submitted together with copies of relevant supporting documents to the office of DPSB.

3. Assessment of Fit and Proper Person

On receipt of a declaration, various checks will be carried out to make sure the information provided is correct. The information will be checked against the declarant's own records and the records kept by other regulatory authorities, Government department and law enforcement agencies.

Part B - Notes on How to Complete the Application Form

Please fill in the form in capital letter and black ink according to the instructions stated in the declaration form and the Guidance Notes. An illegible handwritten form will not be processed.

Part I General Information of the Applicant/Category B registrant connected to this Declaration Form

- 1.1 Please provide the information of the Applicant connected with the Declaration including name of the Applicant's/Registrant's business/corporation and business registration number.

Part II Particulars of the corporate Partner/Director of the Applicant's Business/ Corporation or the Particulars of the Corporate proposing to become Registrant's Partner/Director

- 2.1 Please provide the company information of the partner/director.

Part III Answer the Questions

- 3.1 Please state whether the partner/director:
- (i) has any conviction record in Hong Kong or outside Hong Kong;
 - (ii) has failed to comply with any requirement imposed under AMLO or any regulation made by the CCE under section 53ZVS of the AMLO;
 - (iii) is in liquidation or is the subject of a winding up order, or there is a receiver appointed in relation to the corporation;
- 3.2 Applicants may use additional sheets by making photocopies of the relevant page when necessary for filling in the required information.

Part C - Personal Information Collection Statement

1. Purpose of Collection

- 1.1 Personal data provided to CCE pursuant to the requirements of the AMLO will be used by CCE for one or more of the following purposes:
- i. to process new / renewal applications for registration as a Dealer in Precious Metals and Stones (DPMS) under the AMLO;
 - ii. to process applications for approvals to become an ultimate owner a partner a director of a DPMS registrant or notifications of changes in particulars under the AMLO;
 - iii. to administer the AMLO;
 - iv. to enforce relevant provisions of the AMLO (including relevant conditions of DPMS registrant);
 - v. to maintain a register of registrants (the Register) containing the name of every registrant, their category of registration and the address(es) of the principal place of business and branch(es) for public inspection;
 - vi. to provide a certified copy of an entry in an extract from the Register or a certificate issued by CCE under the AMLO to any person subject to payment of a fee; and
 - vii. to disclose to the public the material facts of cases in which CCE exercised disciplinary powers under the AMLO.
- 1.2 Provision of the required personal data to CCE is obligatory for compliance with the AMLO. The DPSB will not be able to process the relevant applications / notifications if the required personal data are not provided.

2. Classes of Transferees

The personal data you provide in the application form as well as any updates of them may be disclosed to other Government departments / bureaux or organizations for the purposes mentioned above; or any third parties under section 76D of the AMLO; or where such disclosure is authorized or required by law.

3. Access to Personal Data

You have the right of access to and correction of your personal data as provided for in the Personal Data (Privacy) Ordinance (PDPO). Your right of access includes the right to obtain a copy of your personal data provided in this form. In accordance with the provisions of the PDPO, we have the right to charge a reasonable fee for the processing of any data access request.

4. Enquiries to Personal Data

Enquiries concerning the personal data collected by the application form and annex, including the request for access to and correction of personal data, should be addressed to Departmental Secretary, Office of Departmental Administration, Customs and Excise Department, 31/F, Customs Headquarters Building, 222 Java Road, North Point, Hong Kong.

Part D - General Enquiry

1. Applicants may visit the website at <https://www.drs.customs.gov.hk> for details of application information. For enquiries on individual application, the applicant may write to dpms_enquiry@customs.gov.hk or call the following enquiry hotlines during normal office hours:

Enquiry Hotlines: 3580 1483 (Chinese) / 3580 1484 (English)

2. This set of Guidance Notes is not a legal document. It only serves as a guide in completing the Form 3B Fit and Proper Person Declaration Form for partner / director which is a corporation. In case of doubt about legal issues, you should refer to the AMLO, or if necessary seek assistance from your legal advisor.

Appendix A

Fit and Proper Test

[Section 53ZUN of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Chapter 615, Laws of Hong Kong (AMLO)]

In determining whether a person is a fit and proper person for the purposes of section 53ZUO, 53ZUQ, 53ZUU, 53ZUW, 53ZUX or 53ZUY, the Commissioner of Customs and Excise (CCE) must, in addition to any other matter that he considers relevant, have regard to the following:

- (a) whether the person has been convicted of —
 - (i) an offence under section 5(5), (6), (7) or (8), 10(1), (3), (5), (6), (7) or (8), 13(1), (3), (5), (6), (7) or (8), 17(9), 20(1), 61(2) or 66(3) of the AMLO;
 - (ii) an offence under section 14 of the United Nations (Anti-Terrorism Measures) Ordinance, Chapter 575;
 - (iii) an offence under section 25(1), 25A(5) or (7) of, or any offence specified in Schedule 1 to the Drug Trafficking (Recovery of Proceeds) Ordinance, Chapter 405; or
 - (iv) an offence under section 25(1), 25A(5) or (7) of, or any offence specified in Schedule 1 or 2 to the Organized and Serious Crimes Ordinance, Chapter 455;
- (b) whether the person has a conviction in a place outside Hong Kong —
 - (i) for an offence in respect of an act that would have constituted an offence specified in AMLO section 53ZUN(a) had it been done in Hong Kong;
 - (ii) for an offence relating to money laundering or terrorist financing; or
 - (iii) for an offence for which it was necessary to find that the person had acted fraudulently, corruptly or dishonestly;
- (c) whether the person has persistently failed to comply with any requirement imposed under the AMLO or any regulation made by the CCE under section 53ZVS of the AMLO;
- (d) if the person is an individual, whether he or she is an undischarged bankrupt or is the subject of any bankruptcy proceedings under the Bankruptcy Ordinance (Cap. 6);
- (e) if the person is a corporation, where it is in liquidation or is the subject of a winding up order, or there is a receiver appointed in relation to it.