

CHAPTER 7

PERSON WHO ACTS FOR A NON-CORPORATE FINANCIAL INSTITUTION TO MAINTAIN FINANCIAL ACCOUNTS

For a reporting financial institution that is not a corporation, sections 50B, 50C and 50D of the IRO apply to a person who acts for the institution to maintain financial accounts as if the obligations were imposed on that person.

2. To determine whether a person acts for a reporting financial institution to maintain financial accounts, all the relevant facts have to be considered, in particular whether the person is performing due diligence obligations under AML legislation. The person who acts for a reporting financial institution to maintain financial accounts could differ with a different type of financial institutions. The determination depends very much on the particular facts of each case. Generally, the following person is considered to be acting for the reporting financial institution to maintain financial accounts:

Types of financial institution		Person who acts for the financial institution to maintain financial accounts
(a)	Custodial institution	The person who holds custody over the assets in the account
(b)	Authorized Collective Investment Scheme	The fund manager who is the product provider of the CIS with responsibility for fulfilling the AML obligations or having the most in-depth knowledge of equity or debt interest holders
(c)	Investment entity that is trading or managing financial assets for customers (e.g. private equity fund, hedge fund or other similar investment vehicle which are not authorized CIS)	The fund manager with responsibility for fulfilling the AML obligations or having the most in-depth knowledge of equity or debt interest holders



(d)	Professionally managed trust other than (b) and (c) above (e.g. the trustee is a financial institution or the trustee has appointed a discretionary fund manager who is a financial institution to manage the trust assets)	The trustee responsible for the overall management of the trust is considered as the person who acts for the trust to maintain financial accounts in respect of debt or equity interests
(e)	Other non-corporate investment entity	Depending on the particular facts of the case, the general consideration is the person who is obliged to apply AML due diligence procedures or who is obligated to make payments with respect to the financial accounts