

# Ordinance of the AML Control Authority for Combating Money Laundering on the Professional Exercising of Financial Intermediary Activities in the Non-Banking Sector (VB-AMLA)

of 20 August 2002 (edition of 25 April 2006)

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*The Anti-Money Laundering Control Authority for Combating Money (AML Controlling Centre), based on Article 41 of the Federal Act on Combating Money Laundering of 10 October 1997<sup>1</sup> (AMLA), decrees:*

## Section 1: General conditions

### Art. 1 Purpose

This Ordinance stipulates the requirements for the activity of financial intermediaries to qualify as professional under Article 2 paragraph 3 AMLA.

### Art. 2 Relationship of criteria

Unless otherwise stated in the individual regulations, an activity is exercised professionally whenever one of the criteria for professional activity is fulfilled in accordance with Section 2.

### Art. 3 Concepts

The meanings of the concepts used in this Ordinance are:

- a. *Subordinated activities*: one or more activities in accordance with Article 2 paragraph 3 AMLA.
- b. *Earnings*: All income from supplies and services in accordance with Article 663 paragraph 2 of the Swiss Code of Obligations<sup>2</sup> obtained by means of subordinated activities. Gross earnings before reduction are determinative.
- c. *Gross profit*: Sales revenue after deduction of the cost of goods (acquisition price) but before other reductions in earnings.
- d. *Continuing business relationships*: Business relationships which do not come to an end on completion of single subordinated transactions subject to supervision of compliance with duties.

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AS 2002 2687

<sup>1</sup> SR 955.0

<sup>2</sup> SR 220

- e.<sup>3</sup> *Associated persons*: First degree relatives and relatives through marriage, relatives to the third degree in the collateral line, spouses (including after divorce), persons in civil unions, co-heirs until completion of the distribution of estate, beneficiary heirs and heirs in remainder in accordance with Article 488 of the Swiss Civil Code<sup>4</sup>.
- f.<sup>5</sup> Earnings from lending transactions: All income from lending transactions less the proportion serving to repay the loan.

## Section 2: Criteria for professional activity

### Art. 4 Earnings

<sup>1</sup> Anyone who obtains earnings of more than CHF 20,000 from subordinated activities subject to supervision of compliance with duties in a calendar year is deemed to trade professionally.

<sup>2</sup> Gross profit is determinative in the case of trading firms which manage their income statements on the basis of the gross method.

### Art. 5 Number of customers

Anyone who accepts or maintains continuous business relationships with more than ten customers in a calendar year is deemed to trade professionally.

### Art. 6 Extent of foreign assets

Anyone who in the context of continuous business relationships has power of disposal over foreign assets which at any given time exceed CHF 5 million is deemed to trade professionally.

### Art. 7 Transactions

<sup>1</sup> Anyone who in the context of activities subject to supervision of compliance with duties carries out transactions to a volume which exceeds CHF 2 million in a calendar year is deemed to trade professionally.

<sup>2</sup> The following transactions are not taken into consideration in the case of continuous business relationships:

- a. The inflow of assets;
- b. Regrouping within the same deposit.

<sup>3</sup> In the case of contracts with obligations on both sides, only the service brought by the counterparty is to be added to the total volume of transactions.

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<sup>3</sup> Wording according to No. I of V of the Controlling Centre of 21 March 2006, in force since 1 May 2006 (AS 2006 1359).

<sup>4</sup> SR 210

<sup>5</sup> Inserted by No. I of V of the Controlling Centre of 21 March 2006, in force since 1 May 2006 (AS 2006 1359).

**Art. 8** Accessory money exchange

Anyone who practices money exchange as an accessory business alongside a main activity outside the financial sector always trades professionally if he/she transacts, or is prepared to transact, single or multiple associated money exchange transactions in the amount of CHF 5,000 or more.

**Art. 9<sup>6</sup>**

**Art. 10** Activities on behalf of associated persons

Activities subject to supervision of compliance with duties on behalf of associated persons are only considered in the assessment of professional activity if earnings in accordance with Article 4 paragraph 1 are obtained as a result.

**Art. 10a<sup>7</sup>** Credit transactions

Credit transactions according to Article 2 paragraph 3 letter a AMLA are only exercised professionally if:

- a. Earnings of more than CHF 250,000 are obtained in the calendar year;  
and
- b. A credit volume of more than CHF 5 million is dealt with at any given time.

### **Section 3: Final provisions**

**Art. 11** Change to activity as a professional financial intermediary

<sup>1</sup> Anyone who changes from non-professional to professional activity as a financial intermediary in accordance with Section 2 must:

- a. immediately comply with duty of due diligence in accordance with Chapter 2 AMLA;
- b. affiliate to a self-regulatory organisation within 2 months or submit an application to the AML Control Authority for authorisation to exercise the activity.

<sup>2</sup> Financial intermediaries in accordance with paragraph 1 are prohibited from carrying out the following activities until they have affiliated to a self-regulatory organisation or have been awarded authorisation by the AML Control Authority:

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<sup>6</sup> Repealed by No. I of V of the AML Control Authority of 21 March 2006, effective from 1 May 2006 (AS 2006 1359).

<sup>7</sup> Inserted by No. I of V of the AML Control Authority of 21 March 2006, in force since 1 May 2006 (AS 2006 1359).

- a. accepting new business relationships which are subordinated;
- b. handling transactions which are subordinated but not absolutely essential for the maintenance of assets, in existing business relationships.

**Art. 12**            Entry into force

This Ordinance enters into force on 15 September 2002.