VQF Verein zur Qualitätssicherung von Finanzdienstleistungen

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Regulations

of the

Self-Regulatory Organisation pursuant to the Anti-Money Laundering Act

VQF Financial Services Standards Association

with regard to

the Combating of Money Laundering and Financing of Terrorism

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According to Art. 24 Para 1 letter a of the Federal Act on the Combating of Money Laundering and Prevention of the Financing of Terrorism of 10 October 1997 ("AMLA"), the VQF Financial Services Standards Association ("VQF") as an officially approved self-regulatory organisation pursuant to AMLA ("SRO") is under obligation to issue regulations in accordance with AMLA. The Management Board of VQF, based on Art. 19 of the Articles of Association of VQF, herewith issues these Regulations[1] ("Regulations"):

I. Introductory provisions

Art. 1 Purpose

[1] These Regulations carry out the duties of the members affiliated with the SRO VQF (“member” or “SRO member”), specify their due diligence obligations in accordance with Chapter 2 AMLA, and stipulate how these duties of due diligence must be fulfilled.

[2] They also define:

a. the requirements and procedure for the admission and exclusion of members;

b. the control of compliance with duties of the members, particularly in accordance with Chapter 2 AMLA;

c. the consequences of any breach of duties by members (measures and sanctions).

Art. 2 Scope of application

[1] The provisions of these Regulations apply to all SRO members in terms of Art. 3 Para.1 of the VQF by-laws (professional and non-professional financial intermediaries). Arts. 3 and 4 of the Regulations apply to applicants for membership of the SRO VQF.

[2]

The provisions of these Regulations do not apply to members in terms of Art. 3 Para. of the VQF by-laws (passive members).

II. Duties pertaining to membership

Art. 3 Membership requirements

[1] The requirements pursuant to Art. 4 of the VQF by-laws apply. Members must refrain from any activities which may be conducive to rendering them subject to accusations of money laundering, any predicate offence with regard to the same, any financing of terrorism, or any qualified tax offence, whether as perpetrator or participant.

[2] Members are responsible for ensuring that the persons entrusted with administration and business management:

a. are of good repute;

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[1] Where the masculine form is used in these Regulations, it is intended to include the feminine form.

b. guarantee compliance with the duties pursuant to AMLA and the by-laws and regulations of the Association;

c. ensure by way of internal regulations and business organisation the duties pursuant to AMLA and the by-laws and regulations of the Association are complied with;

d. undertake to exercise their activity professionally and in accordance with a high standard of business ethics;

e. fulfil all other requirements and conditions stipulated by statute.

[3] Any persons with a qualified stake in the members must be of good repute and guarantee that their influence must not damage a sound and considerate business conduct.

[4] Professional conduct is measured, amongst other standards, by the standards set by the respective professional organisations.

Art. 4 Duties regarding organisation

[1] Members must have an appropriate internal organisation in place which ensures the fulfilment and control of duties arising from AMLA and the by-laws and regulations of VQF in business operations.

[2] Members ensure, in particular, the careful selection, instruction, control and regular training of any bodies, employees and external auxiliary persons working within the scope of AMLA regarding to the aspects of combating money laundering and the financing of terrorism pertinent to them.

Art. 5 Duty of cooperation and truthfulness

[1] Members are subject to being audited by SRO VQF at any time, cooperate in the the audit procedures and present all documents and provide all information completely and truthfully which are requested by the auditor on the occasion of such audit.

[2] Members must provide any and complete documents and information to SRO VQF completely and truthfully at any time. Members must implement and comply with the measures imposed by SRO VQF (Art. 92 of the Regulations).

[3] Members are obliged to submit a self-declaration every year without being requested. The details and deadline for submission are specified in the SRO VQF Supervision Policy ("Supervision Policy"; VQF Doc. No. 700.3), which constitutes an integral part of these Regulations.

Art. 6 Permanent compliance with membership duties and the duty of disclosure

[1] The requirements of membership and the membership duties must be met permanently.

[2] Members must inform SRO VQF without undue delay of any changes on material facts and other information (of a personnel or structural nature) which formed part of the application for membership, and must seek approval of the same.

[3] In particular, a member must notify SRO VQF without delay of the opening of criminal, administrative and supervisory proceedings which are directed against the persons listed below and which are connected with their business or professional activities. This includes all proceedings directed against the following persons: (i) the member, (ii) persons in the function as member of the board of directors, director, member

of the executive board, money laundering compliance office of the member, (iii) person with a qualified direct (≥10%) or indirect (>50%) stake in the member and (iv) legal entities on which persons according to (i) - (iii) can or could have a significant influence. The member must organize itself in such a way that it is informed in due time of the relevant proceedings so that it can fulfill its duty of notification.

III. Duties pursuant to Chapter Two AMLA

1. Principles

Art. 7 Definitions

For the purposes of these Regulations, the following definitions apply:

a. Virtual Asset Service Providers ("VASP"):

Natural or legal entities who perform one or several of the following activities for or by order of another natural or legal entity:

- Exchange between fiat money and virtual assets
- Exchange between one or several virtual assets
- Transaction of virtual assets
- Storage or administration of virtual assets or means to control virtual assets
- Participation in or provision of financial services to an issuer or seller of virtual assets

b. Permanent business relationship:

Business relationships which are not limited to one-off transactions of an activity subject to supervision.

c. Money and asset transfer:

The transfer of assets against acceptance of cash, precious metals, virtual currencies, cheques or other means of payment in Switzerland and pay-out of a corresponding sum in cash, precious metals, virtual currencies or by means of cashless remittance, transfer, or other use of a payment or accounting system abroad, or vice versa, provided no permanent relationship is associated with these transactions.

d. Cash transaction:

All cash transactions, particularly money exchange, the purchase and sale of precious metals, the sale of travel cheques, the issue of bearer instruments, bonds and medium-term notes payable in cash, the cashing of checks, provided no permanent relationship is associated with these transactions.

e. Group:

Economic unit of companies where one company holds a direct or indirect interest in the other company or companies of more than half the votes or capital or controls the other(s) in any other way.

f. Reporting Office:

Money Laundering Reporting Office Switzerland (MROS) of the Federal Office of Police in accordance with AMLA.

g. Politically exposed persons:

1. Persons who are or were entrusted with leading public functions abroad, particularly heads of states and governments, high-level politicians on a national level, high-level officials in administration, the justice system, the military or political parties on a national level, the top level management of state-owned enterprises of national significance (foreign politically exposed persons);

2. Persons who are or were entrusted with leading public functions in politics, administration, the military and the justice system on a national level in Switzerland, and members of the board of directors or executive management of state-owned enterprises of national significance (domestic politically exposed persons);

3. Persons who are or were entrusted with leading function in intergovernmental organisations and international sports federations, particularly general secretaries, directors, deputy directors, members of the administrative bodies and persons holding equivalent functions (politically exposed persons at international organisations).

Natural persons who for family, personal or business reasons have an identifiably close relationship with persons defined under numerals 1-3 are classified as persons associated with politically exposed persons.

Domestic politically exposed persons are deemed no longer politically exposed in terms of these Regulations 18 months after resignation from office. Members' general due diligence obligations continue to apply.

International sports associations in terms of Para. 3 are defined as the International Olympic Committee and the non-governmental organisations recognised by the same which organise one or several official sports on a global level.

h. Persons engaged in the AMLA sector:

1. Persons who perform a financial intermediary activity in terms of AMLA on behalf of the member;

2. Persons who perform due diligence duties in terms of ALA for the member;

3. The AMLA Officer and AMLA deputy.

Art. 8 Prohibited assets

[1] Members must not accept assets whereby they know or must assume that these assets originate from a crime or a qualified tax offence, even if this crime or offence was committed abroad.

[2] Negligent acceptance of assets which derive from a crime or a qualified tax offence may jeopardise the guarantee of proper business conduct required to a member.

Art. 9 Prohibited business relationships

[1] Members must not have business relationships:

a. with persons or companies of whom they know or must assume that they finance terrorism or is a criminal organisation, or are part of or support such an organisation;

b. with banks which have no physical presence at the place of incorporation (fictitious banks) unless they are part of an appropriately supervised, consolidated financial group.

Art. 10 Subsidiaries or affiliated group companies abroad

[1] The member ensures that its branch offices and/or group companies active in the financial or insurance sector abroad adhere to the following principles stipulated in AMLA and these Regulations:

a. the principles set out in Arts. 8 and 9 of these Regulations;

b. the identification of the contracting party;

c. the establishment of the controlling person and the beneficial owner of the assets;

d. the use of a risk-oriented approach, specifically in the classification of risks pertinent to business relationships and transactions;

e. the special duties of clarification in case of increased risks.

[2] The above applies especially to subsidiaries and branch offices which are located in countries considered to be high risk on an international level.

[3] The member must inform SRO VQF if local regulations contradict compliance with the basic principles of these Regulations or if the member suffers serious competitive disadvantages because of this.

[4] The provisions of the respective country apply to the reporting duties of suspicious transactions or business relationships and, if necessary, the freezing of assets.

Art. 11 Global monitoring of legal and reputational risks

[1] Members with subsidiaries or offices abroad or who operate as a financial group with foreign group companies, must identify, limit and monitor their legal and reputational risks related to money laundering and financing of terrorism on a global level. Specifically, they must ensure that

a. the money laundering compliance office or another independent office of the member periodically carries out a consolidated risk analysis;

b. they are provided at least annually with standardised reporting including adequate quantitative and qualitative information from the subsidiaries and group companies to enable them to reliably assess their consolidated legal and reputational risks;

c. the subsidiaries and group companies inform the member without request and in a timely manner on the commencement and continuation of the business transactions which are globally most significant from a risk point of view, and any other significant changes in legal and reputational risks, particularly where these concern significant assets or politically exposed persons;

d. the group's compliance office regularly carries out risk-based internal controls, including on-site spot checks on individual business relationships with subsidiaries and group companies.

[2] They must ensure that:

a. the internal supervisory bodies, specifically the compliance office, the internal auditors and the group's auditing firm have access to information on individual business relationships in all subsidiaries and group companies if required; however, neither a central database of contracting parties, controlling persons and beneficial owners of the assets at group level nor central access to local databases by group internal supervisory bodies are required;

b. the subsidiaries and group companies provide important information pertinent to the global monitoring of legal and reputational risks to the competent bodies of the group.

[3] If a member becomes aware that it is impossible to access information on contracting parties, controlling persons or beneficial owner of the assets in certain countries due to legal or practical reasons or if access is significantly obstructed, it must inform SRO VQF without undue delay.

[4] Members who are part of a national or international financial group grant the group's internal supervisory bodies and the group's auditing firm access to information on certain business relationships as required, provided this is necessary for the purpose of global monitoring of legal and reputational risks.

[5] SRO VQF may request that members who operate as subsidiaries of a national or international financial group provide proof of equivalent supervision in the area of money laundering in scope of the group companies included in consolidated supervision.

Art. 12 Investigations with regard to domiciliary companies

Members must obtain information on the reasons for using domiciliary companies and must document these investigations in the AMLA file.

Art. 13 Required information regarding payment orders

[1] In all payment orders, members state the name, account number and address of the contracting party as well as the name and account number of the beneficiary. If no account number is available, a transaction-based reference number must be stated. The contracting party’s address may be replaced with their date of birth and place of birth, their customer number or the contracting party’s national identification number. Members ensure that the information regarding the contracting party is accurate and complete and that the information regarding the beneficiary is complete.

[2] For payment orders within Switzerland, members may restrict themselves to providing the account number or a transaction-based reference number, provided they are able to provide the other information on the contracting party to the financial intermediary of the beneficiary and the competent Swiss authorities within three working days of a request by the same.

[3] For domestic payment orders which serve as payment for goods and services, the procedure in accordance with Para. 2 may be followed if compliance with Para. 1 is not possible for technical reasons.

[4] Members inform the contracting party accordingly on the fact that their data was disclosed in the course of payment transactions.

[5] Members determine how to proceed in case payment orders are received which are incomplete with regard to information on the principal or beneficiary. A risk-oriented approach must be taken in this context.

Art. 14 Information regarding payment orders in the blockchain sector

[1] Payment transactions to and from external wallets are only permitted where the wallets are owned by a member's own customer. The customer's authority over the external wallet must be verified using suitable technical measures. Transactions between customers of the same member are permitted.

[2] Transactions to and from external wallets of a third party are permitted if the member previously carries out the same identity checks on the third party as if it would for its own customers, determines the beneficial owner, and has verified the third party's authority over the external wallet through suitable technical measures.

[3] In the case of exchange transactions which involve an external wallet, the customer's authority over the external wallet must be verified using suitable technical measures. Where no such verification takes place, the provisions of Art. 13 apply.

2. Duties of due diligence in the narrow sense

2.1 Identification of the contracting party (Art. 3 AMLA)

Art. 15 Basic principle

[1] Upon entering into a business relationship, members must identify the contracting party by means of a document of evidentiary value.

[2] Where the contracting party changes in the course of an existing business relationship, the new contracting party must be identified likewise.

[3] Where members have already identified a person (e.g. as a contracting party or person initiating the business relationship) in accordance with the regulations (first AMLA file) and the same person would require another identification procedure due to the commencement of a second business relationship (second AMLA file), the repetition of the identification procedure for this person may be waived. However, members must include information in the files on the later business relationship (the second AMLA file) which specifies where the compliant identification documents of the respective person are stored (in the first AMLA file).

Art. 15bis Identification for stablecoins

[1] Issuers of stablecoins must ensure that all persons holding the stablecoins are adequately identified by the issuer or by appropriately supervised financial intermediaries when issuing stablecoins that embody a repayment claim in a national currency against the issuer. This must be ensured by appropriate contractual and - where applicable - technological transfer restrictions. This applies in particular to stablecoins that qualify as funds received whose repayment is guaranteed by a bank within the meaning of Art. 5 para. 3 let. f Banking Ordinance.

Art. 16 Identification of natural persons and owners of sole proprietorships

[1] Upon entering into a business relationship with a natural person or the owner of a sole proprietorship, members must obtain the following mandatory information from the contracting party:

a. first and last name and, in the case of sole proprietorships, the company name;

b. residential address and, in the case of sole proprietorships, the business address;

c. date of birth;

d. nationality.

[2] The requirement of this information is waived if the customer originates from a country in which dates of birth or residential addresses are not used. This exceptional situation must be justified by means of a memorandum in the AMLA file.

[3] All identification documents which carry a photograph and have been issued by a Swiss or foreign authority are acceptable.

[4] In the case of sole proprietorships which are registered in the commercial register, an identification document of the company must be obtained in addition (Art. 20 Regulations).

Art. 17 Identification on a face-to-face meeting

[1] Where a business relationship is commenced by way of a face-to-face meeting with the contracting party, members identify the contracting party by inspecting an identification document of said party. Members must ensure that the identification document is presented as an original or as a certified copy. Members must file the certified copy or create a copy of the presented original document, must confirm on the copy that the original has been seen, and sign and date the copy.

[2] Video identification in accordance with the applicable FINMA circular 2016/7 is deemed equivalent to identification by face-to-face meeting. The requirements for video identification specified in the current version of this circular must be complied with.

Art. 18 Identification by way of correspondence

[1] Where the business relationship is entered into without personal attendance, members identify the contracting party by having a certified copy of an identification document sent to them and additionally verifying the residential address by means of postal delivery or confirming the address by equivalent means.

[2] Online identification in accordance with the applicable FINMA circular 2016/7 is deemed equivalent to the identification procedure for establishing a business relationship by way of correspondence. The requirements for online identification specified in the current version of this circular must be complied with.

Art. 19 Authentication

[1] Certification of the authenticity of a copy of an identification document may be issued by:

a. a notary or public authority which commonly issues such certifications. In case of doubt, supplementary certification or an apostille certification must be requested;

b. a financial intermediary pursuant to Art. 2 Para. 2 or Para. 3 AMLA who is resident or domiciled in Switzerland, or a lawyer licensed to practise in Switzerland;

c. a financial intermediary who is resident or domiciled abroad who performs an activity pursuant to Art. 2 Para. 2 or Para. 3 AMLA, provided the financial intermediary is subject to equivalent supervision and regulation with regard to the combating of money laundering and financing of terrorism;

d. a subsidiary, representative office or group company of the member.

[2] Obtaining a copy of an identification document from the database of a recognised provider of certification services pursuant to the Federal Act on Certification Services in relation to Electronic Signatures (ESigA[2]) in combination with electronic authentication by the contracting party is likewise deemed valid certification in this context. The copy of the identification document must be obtained in the context of the issuance of a qualified certificate.

[3] In exceptional cases, members may waive the need for certification (i.e. a simple copy of the identification documents without certification is sufficient), provided they take other measures enabling them to verify the identity and address of the contracting party. The measures taken must be documented and explained in a memo included in the AMLA file.

Art. 20 Identification of legal entities and partnerships

[1] Upon entering into a business relationship with a legal entity or a partnership, members must obtain the following mandatory information from the contracting party:

a. company name;

b. domicile address.

[2] The following are permissible identification documents:

a. in the case of a contracting party registered in the Swiss commercial register or an equivalent foreign register:

1. an extract from the commercial register issued by the registrar; or
2. a written extract (procured by the member) from a database kept by the registry authority; or
3. a written extract (procured by the member) from trustworthy private indices and databases.

b. in the case of a contracting party not registered in the Swiss commercial register or an equivalent foreign register:

1. the articles of incorporation, the founding acts or agreements or the memorandum of association, a confirmation by the auditors, an official permit to carry out the contracting party's activities or equivalent documents; or
2. a written extract (procured by the member) from trustworthy private indices and databases.

[3] Authorities must be identified by way of a suitable statute/order or by way of other equivalent documents or sources.

[2] Federal Act of 18 March 2016 on Certification Services in relation to Electronic Signatures (SR 943.03).

[4] The register extract, the auditors' confirmation and the index or database extract may not be older than one year at the time of identification and must correspond with the current circumstances.

Art. 21 Verification of the identity of the persons establishing the business relationship and acknowledgement of power of attorney provisions

[1] In the case of legal entities and partnerships, the identity of the natural persons establishing the business relationship must be verified. Such verification may be achieved by way of a document in accordance with Art. 17 of the Regulations or a certified copy of an identification document in terms of Art. 18 of the Regulations.

[2] The identity of the person establishing the business relationship may also be verified by way of confirmation of authenticity of signatures, with the persons/institutions mentioned in Art. 19 of the Regulations having authority to issue such a confirmation.

[3] Upon entering into a business relationship with a legal entity or partnership, members must take note of the contracting party's power of attorney provisions and document the same.

Art. 22 Generally known legal entities, partnerships and public authorities

[1] Members may waive the identification procedure for legal entities, partnerships or public authorities if the contracting party is generally known. General knowledge of a party is given particularly if the contracting party is a public company or is directly or indirectly affiliated with such a company.

[2] Members must create a memo on this circumstance and file it in the AMLA file.

Art. 23 Lack of identification documents

[1] In case the contracting party is unable to supply identification documents as defined above, its identity may be confirmed by way of authentic substitute documents on an exceptional basis. Such exceptional cases must be explained in a memo included in the AMLA file.

Art. 24 Cash transactions

[1] In case of cash transactions, members must identify the contracting party if one or more transactions which appear to be connected reach or exceed the following amount:

a. CHF 5,000 in the case of money exchange transactions;

b. CHF 15,000 in the case of all other cash transactions.

[2] Members may waive identification of the contracting party if they have carried out other transactions in terms of Para. 1 for the same contracting party and have satisfied themselves that the contracting party is the same person whose identity was verified in the first transaction. Members must create a memo on this circumstance and file it in the AMLA file.

[3] Members must identify the contracting party in any case if there is any suspicion of possible money laundering or financing of terrorism or there is an obvious attempt to circumvent identification by spreading an amount over several transactions (smurfing).

[4] In case of cash transactions subject to identification, a complete AMLA file must be created for each individual transaction.

Art. 24bis Business with virtual assets

[1] The member must identify the contracting party if a transaction with a virtual asset or several such transactions that appear to be interconnected reach or exceed the amount of CHF 1,000, provided that these transactions do not constitute money and asset transfers and no permanent business relationship is associated with these transactions.

[1bis] In the case of cash payments or the receipt of other anonymous means of payment for the sale or purchase of virtual assets, the member shall take technical precautions to prevent the threshold referred to in paragraph 1 from being exceeded by interconnected transactions within 30 days.

[2] The member may waive the identification of the contracting party if it has carried out further transactions within the meaning of paragraph 1 for the same contracting party and has assured itself that the contracting party is the person who was already identified in the first transaction. The member shall prepare a memorandum for this purpose and file it in the AML-file.

[3] It must identify the contracting party in any case where there is suspicion of possible money laundering or terrorist financing or where there is an obvious attempt to circumvent identification by spreading an amount over several transactions (smurfing).

[4] In the case of transactions which require identification, a complete AML-file must be created for each individual transaction.

Art. 25 Money and asset transfers

[1] Art. 24 Para. 2-4 of the Regulations apply accordingly to money and asset transfers.

[2] The contracting party must be identified in any case of money and asset transfers from Switzerland to a foreign country.

[3] In the case of money and asset transfers into Switzerland from a foreign country, the recipient of the transfer must be identified if one or several transactions which appear to be connected and reach or exceed the amount of CHF 1,000.

[4] The name and address of the member must be stated on the receipt of payment.

Art. 26 Identification of the contracting party in case of trust relations

[1] The following documents must be obtained if the member acts as a trustee or protector and is subject to the AMLA with regard to this activity:

a. foundation document (trust deed or declaration of trust); and/or

b. any other relevant additional documents (supplemental deeds or supplemental declarations of trust in connection with a change of trustee, protector or beneficiaries, a change of jurisdiction or the forum for administration, etc.).

[2] In addition, in case of a member's activities as trustee or protector subject to the AMLA,

a. the member's contracting party; and

b. the contracting party's representatives and authorised signatories interacting with the member

must be identified in accordance with the general provisions on identification.

[3] Where, in exceptional cases, the member does not have a contracting party (e.g. creation of a trust by testamentary disposition), no identification of the contracting party can be carried out. The member must document this circumstance in an appropriate manner in the AMLA file.

[4] Members who establish a business relationship or carry out a transaction as a trustee must identify themselves as a trustee to their business or transaction partner. The trustee shall confirm in writing that he is authorised to open a business relationship for the trust.

Art. 27 Identification duties of stock exchange listed investment companies

[1] Members who qualify as a stock exchange listed investment company identify the acquirer of shares if by acquisition the latter reaches the disclosure threshold of three per cent stipulated by the Swiss Financial Market Infrastructure Act [3]. Certification of authenticity may be waived.

[2] Art. 51 of the Regulations applies to non-stock exchange listed investment companies.

Art. 28 Simple partnerships and joint accounts

[1] Where a business relationship is established with a simple partnership in terms of Art. 530 of the Swiss Code of Obligations[4], members identify the contracting party by identifying either of the following persons:

a. all partners; or

b. at least one partner and those persons who are authorised signatories in relation to the member; or

c. in case of simple partnerships whose purpose is to safeguard the interests of their members or their beneficiaries in mutual self-interest or pursue political, religious, scientific, artistic, charitable, social or similar purposes, only those persons who are authorised signatories in relation to the member.

[2] Members must maintain one single AMLA file for the simple partnership, in which they must file the documentation required pursuant to the Regulations.

[3] The provisions for simple partnerships apply to joint accounts.

Art. 29 Business relationships with minors and persons under guardianship

[1] In case of a business relationships with minors and persons under guardianship, members identify the legal representative (for minors) or the guardian appointed by the adult protection authority (for persons under guardianship) in addition to identifying the contracting party.

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[3] Federal Act on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading 19 June 2015 (SR 958.1)

[4] Federal Act on the Amendment of the Swiss Civil Code (Part Five: Code of Obligations) of 30 March 1911 (SR 220) (SR 220)

[2] In case of representatives appointed by a public authority, members additionally request access to the corresponding resolution and must file a copy of the same (signed and dated by the member, or authenticated).

[3] In case of legal representatives, members request access to the official family record ("Familienausweis") (or an equivalent other official document which confirms legal representation) and must file a copy of the same (signed and dated by the member, or authenticated), or document the inspection of the family record in the AMLA file.

Art. 30 Decease of a contracting party

[1] In the event of the decease of a party contracting, the community of heirs succeeds to the position of contracting party to the member (change of contracting party).

[2] The community of heirs must be identified as follows:

a. Members request access to an extract from an official register of heirs (certificate of inheritance, heir's certificate, etc.) and must either file the original or a copy of the same (signed and dated by the member, or authenticated). This official document is simultaneously deemed adequate confirmation of the beneficial owners of the assets.

b. Individual heirs must be identified in case a new business relationship is established with the member. In the event that only the existing business relationship of the member with the testator is continued unchanged, identification of the heirs may be postponed to the point in time at which the heirs present themselves to the member (e.g. place instructions with the member, request information from the member, etc.). Identification must take place no later than upon distribution of the estate.

c. Representatives of the community of heirs (executors, etc.) who present themselves to the member must likewise be identified. In addition, members must request access to the corresponding power of attorney or appointment resolution and must file a copy of the same (signed and dated by the member, or authenticated).

[3] Members may continue the existing AMLA file created for the testator prior to his decease as the new AMLA file for the community of heirs.

[4] Where, following distribution of the estate, activities of the member which are subject to AMLA are continued on behalf of individual heirs, a separate and complete AMLA file must be maintained for each individual heir for whom this activity is continued.

2.2 Establishing the identity of beneficial owners of companies or assets (Art. 4 AMLA)

2.2.1 Establishing the identity of beneficial owners of operational legal entities and partnerships (controlling person)

Art. 31 Establishing the identity of the controlling person

[1] If the contracting party is an unlisted legal entity or a partnership or a subsidiary majority-owned by such a company, and the member establishes a business relationship with the same, the member must obtain a written declaration from the contracting party regarding the identity of the controlling person holding, directly or indirectly, solely or in joint agreement with others, at least 25% of the voting rights or capital shares in the company.

[2] Where a company is not controlled by persons pursuant to Para. 1, the member must obtain a written declaration from the contracting party regarding the identity of the person who controls the company in another manner.

[3] Where no controlling persons pursuant to Paras. 1 and 2 can be established, the member must alternatively obtain a written declaration regarding the identity of the executive manager.

[4] Only natural persons must be established as the controlling persons.

Art. 32 Content and formal requirements of the written declaration

[1] The member must require the following mandatory information regarding the controlling person from the contracting party:

a. full name;

b. residential address.

[2] Where a controlling person is based in a country which does not use home addresses, this information is not required. Such exceptional cases must be explained in a memo included in the AMLA file.

[3] The (dated) declaration may be signed by the contracting party or a person authorised by the contracting party. In case of legal entities, the declaration must be signed by a person who has the appropriate signatory powers.

[4] The declaration must include the information that providing intentionally false information in terms of Art. 251 of the Swiss Criminal Code (SCC[5]) (falsification of documents) is a criminal offence. The declaration must generally be issued on a separate form (VQF Doc. No. 902.11).

Art. 33 Exemptions from the duty to establish the identity of the controlling person

[1] The following contracting parties are not required to issue a declaration regarding the identity of the controlling person:

a. companies listed on a stock exchange or a subsidiary majority-owned by such a company. Members create a memo on this circumstance and must file it in the AMLA file;

b. authorities;

c. financial intermediaries in terms of Art. 2 Para. 2 AMLA with domicile or registered office in Switzerland;

d. financial intermediaries with domicile or registered office abroad who exercise an activity pursuant to Art. 2 Para. 2 AMLA and are subject to equivalent prudential supervision;

e. other financial intermediaries with domicile or registered office abroad who are subject to appropriate prudential supervision and appropriate regulation with regard to the combating of money laundering and financing of terrorism;

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5 Swiss Criminal Code of 21 December 1937 (SR 311.0)

f. tax-exempt pension funds pursuant to Art. 2 Para. 4 letter b AMLA;

g. simple partnerships;

h. companies and associations whose purpose is to safeguard the interests of their members or their beneficiaries in mutual self-interest or pursue political, religious, scientific, artistic, charitable, social or similar purposes, provided they exclusively pursue the above purposes and have no discernible connections with countries of increased risk;

i. Condominium associations and joint ownership associations registered in the land register, and other companies with a similar purpose.

[2] Members are not required to obtain a declaration regarding the identity of the controlling person in case of cash transactions which do not exceed CHF 15,000, unless there is an obvious attempt to circumvent the identification of the controlling person by spreading an amount across several transactions (smurfing).

2.2.2 Establishing the identity of beneficial owner of assets

Art. 34 Basic principle

[1] Upon every commencement of a business relationship, members establish the identity of the beneficial owner of the assets, applying due diligence according to the circumstances of the case and verify its identity in order to ensure that it knows who the beneficial owner is.

[2] In principle, only natural persons must be established as beneficial owners.

[3] Where the contracting party declares to be the sole beneficial owner and this declaration appears plausible to the member, this must be recorded in writing in suitable form. Subject to the following provisions, members may at their discretion require the contracting party to confirm this declaration in writing and by signature.

Art. 35 Written declaration regarding the beneficial owner of the assets

[1] Members obtain a written declaration from the contracting party confirming the identity of the beneficial owner of the assets if the contracting party is not identical with the beneficial owner of the assets or members have doubts as to whether the contracting party is identical with the beneficial owner of the assets, specifically:

a. if a person who is not recognisably sufficiently closely associated with the contracting party has been granted a power of attorney entitling this person to withdraw assets;

b. if the assets brought in by the contracting party obviously exceed their financial profile;

c. if contact with the contracting party results in any other unusual findings;

d. if the business relationship was established by way of correspondence;

e. if there is suspicion of possible money laundering or financing of terrorism;

f. in case of money or asset transfers from Switzerland to a foreign country.

Art. 36 Content and formal requirements of the written declaration

[1] The contracting party's written declaration regarding the identity of the beneficial owner of the assets must contain the following information:

a. first and last name;

b. residential address;

c. date of birth;

d. nationality.

[2] If the beneficial owner of the assets originates form a country not using dates of birth or home addresses, this information is not required. Such exceptional cases must be explained in a memo included in the AMLA file.

[3] The (dated) declaration may be signed by the contracting party or its authorised representative. In case of legal entities, the declaration must be signed by a person authorised to do so.

[4] The declaration must include the information that providing intentionally false information in terms of Art. 251 of the Swiss Criminal Code (SCC) (falsification of documents) is a criminal offence. The declaration must generally be issued on a separate form SCC (VQF Doc. No. 902.9). Art. 40 of the Regulations must be observed additionally in the case of associations of persons, trusts, foundations or other asset structures.

Art. 37 Exemptions from the duty to establish the identity of beneficial owner of the assets

[1] The following contracting parties are not required to issue a declaration regarding the identity of the beneficial owner of the assets:

a. companies listed on a stock exchange or a subsidiary majority-owned by such a company. Members must create a memo on this circumstance and file it in the AMLA file;

b. authorities;

c. Condominium associations and joint ownership associations registered in the land register, and other companies with a similar purpose.

[2] Members are not required to obtain a declaration regarding the identity of the beneficial owner of the assets in the case of cash transactions which do not exceed CHF 15,000, unless there is an obvious attempt to circumvent the identification of the beneficial owner of the assets by spreading an amount across several transactions (smurfing).

Art. 38 Non-stock exchange listed operational legal entities and partnerships

[1] Members must obtain a written declaration regarding the identity of the beneficial owner of the assets from non-stock exchange operational legal entities and partnerships only if it is known or there are definite indications suggesting that the operational legal entity or partnership is holding the assets on behalf of a third party.

Art. 39 Domiciliary companies

[1] Where the contracting party is a domiciliary company, members obtain a written declaration regarding the identity of the beneficial owner of the assets.

[2] Domiciliary companies are defined as legal entities, companies, institutions, foundations, trusts, fiduciary companies and similar undertakings who do not operate a trading, manufacturing or similarly commercial business.

[3] The definition of domiciliary companies does not include companies:

a. whose purpose is to safeguard the interests of their members or their beneficiaries in mutual self-interest or which pursue political, religious, scientific, artistic, charitable, social or similar purposes;

b. which hold the majority of shares in one or several operational companies in order to consolidate the same under common management through a majority of votes or other means and whose purpose is not primarily the administration of assets of third parties (holding and sub-holding companies). The holding or sub-holding company must be actually exercising its management and control options.

[4] The following factors are evidence for the existence of a domiciliary company:

a. lack of own premises; this is specifically the case in c/o addresses or an office registered at a lawyer's, trust company's or bank's address; or

b. lack of own personnel.

[5] Where a member does not classify the contracting party as a domiciliary company despite one or both of the factors pursuant to Para. 4 applying, the reason must be recorded in writing.

[6] Stock exchange listed domiciliary companies and subsidiaries which are majority-owned by such companies are not required to issue a declaration regarding the identity of the beneficial owner of the assets. Members must create a memo on this circumstances and file it in the AMLA file.

[7] Where a member is active as a body of a domiciliary company, the contracting party in terms of these Regulations is the domiciliary company.

Art. 40 Associations of persons, trusts, foundations and other asset structures

[1] In the case of associations of persons, trusts, foundations and other asset communities, members must obtain a declaration containing the information pursuant to Art. 36 Para. 1 of the Regulations from the contracting party with regard to the following persons:

a. the actual founders;

b. the trustees;

c. any curators, protectors or other persons appointed;

d. the named beneficiaries;

e. if there are no named beneficiaries: the group of people, grouped into categories, who are considered to be beneficiaries;

f. the persons authorised to instruct the contracting party or its bodies;

g. in case of revocable structures: the persons authorised to revoke.

[2] Para. 1 applies to companies accordingly which operate in a similar manner to associations of persons, trusts, foundations and other asset structures.

[3] Instead of the contracting party, the declaration pursuant to Para. 1 may also be obtained from

a. the actual founder;

b. the trustee;

c. the protector;

d. a member of the foundation board; or

e. a member of the supreme supervisory body of a subordinate company

of the association of persons, the trust, the foundation or the other asset structure. Members must document and file the reason why the declaration was not obtained from and signed by the contracting party and must explain why Art. 77 of the Regulations (termination and rejection of business relationship) and Art. 66 of the Regulations (duty to report pursuant to Art. 9 AMLA) do not apply. Any person who signs the declaration pursuant to Para. 1 confirms in the declaration being authorised to make the declaration on behalf of the contracting party or having made the declaration to the best of his knowledge and belief.

[4] Where Para. 1 letter e applies, members obtain the information pursuant to Art. 36 Para 1 of the Regulations on the association of persons, the trust, the foundation or the other asset structure at the latest at the time at which the beneficiary becomes entitled and must document the respective benefit.

[5] The declaration pursuant to Para. 1 must include the information that providing intentionally false information in terms of Art. 251 SCC (falsification of documents) is a criminal offence. The (dated) declaration must generally be issued on a specific form (VQF Doc. No. 902.12 or 902.13) and must be signed by the contracting party or the person pursuant to Para. 3.

Art. 41 Financial intermediaries subject to special statutory supervision or tax-exempt pension funds

[1] No declaration regarding the identity of the beneficial owner of the assets is required if the contracting party is:

a. a financial intermediary in terms of Art. 2 Para. 2 letter a or b-c AMLA with domicile or registered office in Switzerland;

b. a securities firm under Art. 2 para. 2 letter d AMLA with its registered office in Switzerland that itself holds accounts under Art. 44 Para. 1 letter a FinIA;

c. a financial intermediary with domicile or registered office abroad who exercises an activity pursuant to Art. 2 Para. 2 letter a or b-c AMLA and is subject to equivalent prudential supervision;

d. a financial intermediary with domicile or registered office abroad who exercises an activity pursuant to Art. 2 Para. 2 letter d AMLA that itself holds accounts and is subject to equivalent supervision and regulation;

e. a tax-exempt pension fund pursuant to Art. 2 Para. 4 letter b AMLA.

[2] A declaration by the contracting party regarding the identity of the beneficial owner of the assets is always required if:

a. there is suspicion of possible money laundering or financing of terrorism;

b. FINMA has issued a warning regarding general misuse or a specific contracting party;

c. the contracting party is domiciled or registered in a country against whose institutions FINMA has issued a general warning.

Art. 41a Life insurance with separate account and deposit management (Insurance Wrapper)

[1] The member must obtain a declaration on the policyholder and, if different from the policyholder, on the effective premium payer for a life insurance policy as a contracting party if:

a. the assets brought into the insurance are derived from a contractual relationship between the member and the policyholder or the effective premium payer, that was immediately prior in time or from a contractual relationship to which the policyholder or the effective premium payer was the beneficial owner;

b. the policyholder or the effective premium payer has a power of attorney or a right of disclosure to the investment portfolio;

c. the assets brought into the insurance are managed in accordance with an investment strategy agreed between the member and the policyholder or the effective premium payer; or

d. the insurance company does not confirm that the insurance product complies with the requirements for life insurance in force in the policyholder's country of taxation or domicile, including the regulations concerning biometric risks.

[2] If the member opens a business relationship on the basis of a confirmation from the insurance company that none of the cases mentioned in Para. 1 applies, the confirmation from the insurance company must also include a description of the characteristics of the insurance product with regard to the points mentioned in Paras. 1 letter a-d.

[3] If the member establishes during the term of the business relationship that the policyholder or the effective premium payer can directly or indirectly influence the individual investment decisions in a way other than in accordance with Para. 1, the policyholder or the effective premium payer must be identified in writing.

Art. 42 Collective investment schemes or investment companies

[1] Where a collective investment scheme or investment company has twenty or fewer investors, members must obtain a declaration regarding the identity of the beneficial owner of the assets. This applies without prejudice to Art. 41 of the Regulations.

[2] Where there are more than twenty investors, the member must obtain a declaration of beneficial owners only if the investment vehicles or investment companies are not subject to adequate supervision and regulation with respect to combating money laundering and terrorist financing.

[3] A declaration regarding the identity of the beneficial owner of the assets can be waived if:

a. the collective investment scheme or investment company is listed on the stock exchange;

b. a financial intermediary in terms of Art. 41 Para. 1 of the Regulations acts as promoter or sponsor for a collective investment scheme or investment company and proves the application of appropriate rules with regard to the combating of money laundering and financing of terrorism.

[4] The exceptional provisions of Art. 50 of the Regulations apply additionally to asset managers of non-stock exchange listed foreign collective investment schemes.

Art. 43 Simple partnerships

[1] Where, in a business relationship with a simple partnership, the partners themselves are the beneficial owners of the assets, no declaration regarding the identity of the beneficial owner of the assets is required in case all shareholders have been identified (Art. 28 Para. 1 letter a of the Regulations) and the beneficial ownership of the partners of the simple partnership has been recorded in writing.

[2] In case of simple partnerships with more than four partners whose purpose is to safeguard the interests of their members or their beneficiaries in mutual self-interest or which pursue political, religious, scientific, artistic, charitable, social or similar purposes, the beneficial owners of the assets only need to be identified if they are connected to countries of increased risk.

[3] If the simple partnership declares holding the assets on behalf of a particular third party, this third party must be identified as the beneficial owner of the assets.

Art. 44 Collective safekeeping accounts and collective accounts

[1] In case of collective safekeeping accounts and collective accounts, the contracting party must provide the member with a complete list of all beneficial owners of the assets, including the information stipulated in Art. 36 Para. 1 of the Regulations, and must immediately inform the member of any changes.

[2] The definition of collective account does not include accounts of operational companies which are used to implement transactions related to professional services. The respective exceptional case must be explained by the member in a memo included in the AMLA file.

2.3 Joint establishment of the identity of the contracting party and of the beneficial owners of companies and assets

Art. 45 Acceptance of business relationship and execution of transactions

[1] A business relationship is deemed accepted at the moment of contract conclusion.

[2] All documents and information required to identify the contracting party, the controlling person and the beneficial owner of the assets must be obtained in full before any transactions may be carried out in the context of a business relationship.

[3] In the event of a refusal by a (potential) contracting party to cooperate in the process of identification or to issue a written declaration regarding the identity of the controlling person or the beneficial owner of the assets, or if there are doubts with regard to the veracity of the contracting party's declaration and such doubts cannot be eliminated by further investigations, the member must refuse to establish a business relationship or must terminate the business relationship in accordance with the provisions of Art. 9b AMLA and Art. 12a and 12b AMLO (Art. 73-75 of the Regulations).

Art. 46 Repetition of establishment of the identity of the controlling person and the beneficial owner of the assets;

[1] The identification of the contracting party or the establishment of the identity of the controlling person and the beneficial owner of the assets must be repeated in the course of the business relationship if there are any doubts with regard to whether

a. the information regarding the identity of the contracting party or the controlling person is accurate; or

b. the identity of the contracting party or the controlling person is identical with the identity of the beneficial owner of the assets; or

c. the declaration of the contracting party regarding the controlling person or the beneficial owner of the assets is accurate;

and these doubts could not be eliminated by any further investigations.

2.4 Waiving compliance with due diligence duties and simplified due diligence

Art. 47 Establishment of the identity of the contracting party and the controlling person and beneficial owner of the assets in the group

[1] Where a contracting party has been identified in a manner which is equivalent as to how stipulated by the provisions of these Regulations due to being part of a group to which the member belongs, the procedure pursuant to Art. 15 et seq. is not required. The member must obtain copies of the original identification documents in these cases. The above does not apply to cases in which the law prohibit this data transfer.

[2] The same applies where a declaration regarding the controlling person or the beneficial owner of the assets has already been obtained within the group.

Art. 48 Waiving compliance with due diligence duties

[1] Members may waive compliance with due diligence duties in permanent business relationships with contracting parties in the area of payment instruments for cashless payment transactions which exclusively serve the purpose of cashless payment for goods and services provided one of the following situations applies:

a. No more than CHF 1,000 per transaction and no more than CHF 5,000 per calendar year and contracting party may be paid, any refunds through the payment instrument are made exclusively to accounts held with banks licensed in Switzerland or at banks abroad subject to equivalent supervision and which are held in the name of the contracting party, and refunds may not exceed CHF 1,000.

b. No more than CHF 5,000 per month and CHF 25,000 per calendar year and contracting party may be paid to dealers in Switzerland, with the outgoing pay-

ments being debited and any refunds through payment instruments being credited exclusively to an account held in the name of the contracting party with a bank licensed in Switzerland.

c. The payment instruments can only be used within a defined network of service providers or goods suppliers and the turnover does not exceed CHF 5,000 per month and CHF 25,000 per calendar year and contracting party.

[2] Members may waive compliance with due diligence in permanent business relationships with contracting parties in the area of payment instruments for cashless transactions which do not exclusively serve the purpose of cashless payment for goods and services if no more than CHF 200 per month can be made available per payment instrument and payments are debited and any refunds through payment instrument are credited exclusively to an account held in the name of the contracting party with a bank licensed in Switzerland.

[3] Members may waive compliance with due diligence duties for non-reloadable payment instruments if:

a. the credit balance exclusively serves for electronic payment goods and services purchased by the contracting party;

b. no more than CHF 250 can be made available electronically per data carrier; and

c. no more than CHF 1,500 is made available per transaction and per contracting party.

[4] Members may only waive compliance with due diligence duties if they have adequate technical measures in place which recognise any exceeding of the respective thresholds. The member must also put measures in place which prevent any cumulation of the limits and violations of these provisions. Arts. 55 and 59 of the Regulations continue to apply with regard to monitoring of the transactions.

[4bis] The member may waive compliance with the due diligence requirements if the lease is a finance lease and the annual lease instalments to be paid including VAT do not exceed CHF 5,000.

Art. 49 Simplified due diligence duties

[1] Issuers of payment instruments are exempt from the obligation to obtain copies of documents for the identification of contracting parties and the establishment of the identity of the controlling person and beneficial owner of the assets for their files if they have concluded a delegation agreement with a bank licensed in Switzerland which provides the following:

a. The bank discloses the information regarding the identity of the contracting party, the controlling person and the beneficial owner of the assets to the issuer of the payment instrument.

b. The bank informs the issuer of the payment instrument whether the contracting party, the controlling person or the beneficial owner of the assets is a politically exposed person.

c. The bank immediately informs the issuer of the payment instrument about any changes to the information pursuant to letters a and b.

d. In the event of a request for information from the competent Swiss authority to the issuer of the payment instrument, the issuer responds to the request and

refers the authority to the respective bank for any required disclosure of documents.

[2] Issuers of payment instruments are not required to obtain certification of authenticity for copies of identification documents for business relationships concluded directly and by way of correspondence if:

a. payment instruments enabling cashless payment for goods and services and cash withdrawal, the use of which is subject to electronically stored credit balance, do not allow payments or cash withdrawals of more than CHF 10,000 per month and contracting party;

b. payment instruments for which transactions are debited at a later date do provide limits for cashless payment for goods and services and cash withdrawal of CHF 25,000 per month and contracting party;

c. payment instrument which allow for cashless payment transactions between private individuals domiciled in Switzerland do not allow transactions from or to private individuals of over CHF 1,000 per month and CHF 5,000 per calendar year and contracting party; or

d. payment instrument which allow for cashless payment transactions between private individuals without restriction as to domicile do not allow transactions from or to private individuals of over CHF 500 per month and CHF 3,000 per calendar year and contracting party.

[2bis] In case obtaining certification of authenticity is waived, issuers of payment instruments inspect whether the copies of identification documents display any evidence suggesting the use of a fraudulent or fake identification document. If such evidence was found, the exemptions according to Paras. 1 and 2 do not apply.

[3] Where the issuer of payment instruments pursuant to Para. 1 and 2 finds evidence that the means of payment is being made available to persons who are not recognisably closely associated with the contracting party, the issuer must repeat the identification procedure for the contracting party and re-establish the identity of the beneficial owner of the payment instrument.

[4] When granting consumer credit, the member does not have to obtain confirmation of the authenticity of copies of identification documents for business relationships opened by correspondence, provided the credit amount does not exceed CHF 25,000 and:

a. is paid into an existing account of the borrower;

b. is credited to such an account;

c. is granted in the form of an overdraft on such an account; or

d. in the case of a ceding transaction, is transferred directly to a seller of goods on the basis of a payment order from the borrower.

Art. 50 Special provisions for asset managers of foreign collective investment schemes

[1] Members who are asset managers of non-stock exchange listed foreign collective investment schemes must identify the subscriber and the controlling person or the beneficial owner of the assets of the foreign collective investment scheme if:

a. neither the foreign collective investment scheme nor its management company is subject to appropriate prudential supervision and adequate regulation with regard to the combating of money laundering and financing of terrorism;

b. they do not show evidence of the application of appropriate regulations with regard to the combating of money laundering and financing of terrorism through another financial intermediary who is subject to appropriate prudential supervision; and

c. the invested amount exceeds CHF 15,000.

[2] They are not required to obtain a declaration regarding the controlling person or the beneficial owner of the assets if the subscriber is a financial intermediary pursuant to Art. 2 Para. 2 letter a-d AMLA or a foreign financial intermediary who is subject to appropriate prudential supervision and appropriate regulation with regard to the combating of money laundering and financing of terrorism.

Art. 51 Special provisions for non-stock exchange listed investment companies

[1] Members who are non-stock exchange listed investment companies must identify the subscriber upon subscription and establish the identity of the controlling person and the beneficial owner of the assets if the subscription exceeds the amount of CHF 15,000.

[2] They are not required to obtain a declaration regarding the controlling person or the beneficial owner of the assets upon subscription if the subscriber is a financial intermediary pursuant to Art. 2 Para. 2 letter a-d AMLA or a foreign financial intermediary who is subject to appropriate prudential supervision and appropriate supervision and regulation with regard to the combating of money laundering and financing of terrorism.

2.5 Customer profile

Art. 52 Basic principle

[1] Upon establishing a permanent business relationship, members must create an individual customer profile allowing to understand the financial background, the origin of the assets involved and the purpose of transactions and the business relationship and to check their plausibility in terms of legitimacy or identify any circumstances which require special clarification.

Art. 53 Scope and documentation

[1] Members request the contracting party to provides all information required to create the customer profile, such as the nature, purpose and date of the business relationship or initiation of the business relationship, amount and currency of the assets involved, information regarding income, assets (origin), professional and/or business activities and connections, bank accounts involved (incl. regulation of signatory powers and any credit cards involved), relationships to the beneficial owner of the assets, authorised representatives or beneficiaries, family situation where applicable, etc. Depending on the business relationship and the circumstances, this information may relate to the contracting party itself as well as to the beneficial owner of the assets or the settlor/founder of a trust or foundation.

[2] Wherever possible and reasonable, members must require the requested information to be evidenced by way of appropriate documentation. In case a member does not create copies of such evidential documentation for the AMLA file, the member must record which documentation has been personally viewed by the member upon entering this information in the customer profile.

Art. 54 Cash transactions and money and asset transfer transactions

[1] In case of cash transactions for which the member is required to identify the contracting party, as a minimum the member must obtain information regarding the nature and

purpose of the requested business relationship and document the same in the AMLA file. The scope of the information to be obtained is determined by the risk represented by the business relationship or the transaction.

[2] In cases where a contracting party regularly appears for the purpose of conducting cash transactions (incl. money exchange transactions) or money and asset transfer transactions, the member may treat the contracting party equivalent to a permanent business relationship in deviation from Art. 24 Para. 1 of the Regulations.

[3] The customer profile to be created for a permanent business relationship must particularly include information regarding the usual business volume (for the purpose of validating the transactions performed during the period of the business relationship) and, in the event of money and asset transfer transactions, information regarding the beneficiary (first and last name, address, etc.) of such transactions.

[4] In case of cash transactions and money and asset transfer transactions which are classified as permanent business relationships, an AMLA file must be created for each contracting party.

2.6 Special duties to investigate (Art. 6 AMLA)

Art. 55 Monitoring of business relationships and transactions

[1] Members ensure that business relationships and transactions are subject to effective, risk-based monitoring.

[2] Members who perform money or asset transfers transactions must use IT-based systems to identify and monitor transactions carrying an increased risk.

Art. 56 Additional clarification in cases of increased risk

[1] Members must conduct additional clarifications with reasonable effort and expense if:

a. the transaction or business relationship is associated with increased risk;

b. the transaction or business relationship appears unusual, unless its legitimacy is clearly evident;

c. there are indications of assets being proceeds of a criminal act or a qualified tax offence pursuant to Art. 305bis numerals 1bis SCC, are subject to the power of disposal of a criminal organisation (Art. 260ter numeral 1 SCC) or serve the financing of terrorism (Art. 260^{quinquies} Para.1 SCC);

d. the information on a contracting party, a controlling person, a beneficial owner of the assets or an authorised signatory in a business relationship or transaction are identical or very similar to the information provided to the member by FINMA or SRO VQF pursuant to Art. 22a AMLA.

e. a contracting party, its beneficial owner, controlling person or representative is listed by the State Secretariat for Economic Affairs (SECO) as a sanction addressee. The provisions of the Embargo Act and the ordinances issued on the basis thereof, namely the blocking and reporting obligations, remain reserved.

[2] Indications of unusual or potentially suspicious circumstances in terms of Para. 1 are defined in the typology list (VQF Doc. No. 905.1), which forms an integral part of these Regulations. However, the list is not exhaustive.

[3] Depending on the circumstances, the following clarification is required:

a. whether the contracting party is the beneficial owner of the assets introduced;

b. the origin of the assets introduced;

c. the intended use of assets withdrawn;

d. the background and plausibility of large incoming payments;

e. the source of the assets of the contracting party, of the controlling person or of the beneficial owner of the assets;

f. the professional or business activities of the contracting party, the controlling person or the beneficial owner of the assets;

g. The question as to whether the contracting party, the controlling person or the beneficial owner of the assets is a politically exposed person.

Art. 57 Means of clarification

[1] Depending on the circumstances, the clarifications must specifically include the following:

a. obtaining written or verbal information from the contracting party, the controlling person or the beneficial owner of the assets;

b. visits to the place where the business activities of the contracting party, the controlling person or the beneficial owner of the assets are carried out;

c. consultation of generally available sources and databases;

d. in cases where appropriate, requests for information from trustworthy persons.

[2] Members check the plausibility of the results of their clarifications. The results must be recorded in a memo in the AMLA file.

Art. 58 Increased risk business relationships

[1] The following business relationships are always deemed to carry an increased risk:

a. business relationships with foreign politically exposed persons;

b. business relationships with persons who are closely associated with persons pursuant to letter a;

c. business relationships with persons resident in a country which is considered "high risk" or non-cooperative by the FATF and for which FATF demands a higher level of due diligence.

[2] The following business relationships are deemed to carry an increased risk in combination with one or more other risk criteria:

a. business relationships with domestic politically exposed persons;

b. business relationships with politically exposed persons in international organisations;

c. business relationships with persons who are closely associated with persons pursuant to letters a and b.

[3] The business relationships pursuant to Para. 1 letter a, b and c and Para. 2 are deemed business relationships carrying an increased risk irrespective of whether the persons involved are the:

a. contracting parties;

b. controlling persons;

c. beneficial owners of the assets;

d. authorised representatives.

[4] Members who maintain more than twenty permanent business relationships define further criteria which indicate a business relationship carrying increased risk.

[5] Depending on the member's business activities, the following criteria may particularly require consideration:

a. the registered office or residence of the contracting party, the controlling person or the beneficial owner of the assets, specifically residence in a country considered "high risk" or non-cooperative by the Financial Action Task Force (FATF), and nationality of the contracting party or the beneficial owner of the assets;

b. nature and place of business activities of the contracting party or the beneficial owner of the assets, specifically in case of business activities taking place in a country considered "high risk" or non-cooperative by the FATF;

c. lack of personal contact to the contracting party and the beneficial owner;

d. nature of requested goods or services;

e. the amount of assets introduced;

f. amount of inflowing and outflowing assets;

g. country of origin or destination of frequent payments, specifically payments from or to a country which is considered "high risk" or non-cooperative by FATF;

h. complexity of structures, particularly if using several domiciliary companies or a domiciliary company with fiduciary shareholders, in a non-transparent jurisdiction, without evidence for the purpose of short-term wealth investment;

i. frequent transactions carrying an increased risk.

[6] Members must record whether each of these criteria are relevant for their business activities on the basis of their risk analysis. They must further define the relevant criteria in internal regulations considered in the clarifications of their business relationships carrying an increased risk.

[7] In the development of criteria indicating new and existing business relationships carrying increased risks in connection with an qualified tax offence, and in the identification and designation of such business relationships, members may refer to the maximum tax rate of the country in which the customer is domiciled for tax purposes to assess whether the evaded taxes meet the threshold of CHF 300,000 stipulated in Art. 305bis numeral 1bis SCC. They are not required to determine the individual tax factors applicable to the business relationship.

[8] Members identify and document business relationships carrying an increased risk in a suitable manner (e.g. in the risk profile VQF Doc. No. 902.4) and flag them as such.

Art. 59 Increased risk transactions

[1] Members develop criteria to identify transactions carrying an increased risk.

[2] Depending on the member's business activities, the following criteria may particularly require consideration:

a. the amount of inflowing and outflowing assets;

b. any considerable variance from the types, volumes and frequency of transactions usual to the business relationship;

c. any considerable variance from the types, volumes and frequency of transactions usual in comparable business relationships;

d. country of origin or destination of payments, particularly in the case of payments from or to a country which is considered "high risk" or non-cooperative by the FATF.

[3] The following transactions are always deemed to carry an increased risk:

a. transactions in cases where, at the beginning of a business relationship, assets equivalent to a value of CHF 100,000 are physically introduced, whether in one payment or split into several payments;

b. money and asset transfers in one or split into several transactions which appear connected reach or exceed the amount of CHF 5,000;

c. payments from or to a country which is considered "high risk" or non-cooperative by the FATF and for which the FATF demands a higher level of due diligence.

[4] Members document the criteria developed to identify transactions carrying an increased risk in a suitable manner (e.g. in the risk profile VQF Doc. No. 902.4).

Art. 60 Time of the additional clarifications

[1] In case increased risks become evident with regard to a particular business relationship, members must initiate the clarifications immediately and complete them as swiftly as possible.

Art. 61 Establishment and control increased risk business relationships

[1] The establishment of a business relationship with increased risk requires the approval of a senior person or body or the management.

[2] The senior executive body or at least one of its members must make the decision with regard to:

a. the establishment and, on an annual basis, continuation of a business relationship with politically exposed persons, if such a relationship carries an increased risk (Art. 58 Para. 1 and 2 of the Regulations);

b. the ordering of regular internal controls of all business relationships carrying an increased risk and monitoring and evaluation of the same.

[3] Members with very extensive activities as financial intermediaries and multi-layered hierarchical structures may delegate this responsibility to the management of a business unit.

3. Duties to document and retain (Art. 7 AMLA)

Art. 62 General requirements regarding documentation

[1] The member creates and organises its documentation relating to business relationships and transactions in a manner allowing a competent third party – especially the auditors appointed to perform the AMLA audit – at any time to make reliable conclusions regarding compliance with the (legal and regulatory) obligations concerning the combating of money laundering and the financing of terrorism by the member.

[1bis] The member must periodically check the required records to ensure that they are up to date, and update them if need be. The periodicity, scope and type of checking and updating are based on the risk posed by the customer.

[2] Documents and records must be created and stored in a manner allowing the member to respond to any requests for information and seizure by the criminal prosecution authorities or other authorised entities within the required period of time. Such documents and records must enable each individual transaction to be reconstructed.

Members who perform money and asset transfers must maintain electronic and evaluable documentation of transactions per client, beneficial owner and recipient.

[3]Members must maintain an AMLA file for each contracting party (exceptions: Art. 24 Para. 4, Art. 28 Para. 2 and Art. 30 Para. 3 of the Regulations) and must additionally maintain a list of the acquisition and exit data of all business relationships which are subject to AMLA (VQF Doc. No. 902.8).

[4] The AMLA files must be kept up to date at all times. Members must have current physical and electronic copies of all significant documents in their possession.

[5] SRO VQF provides appropriate forms for basic documentation and updates, which are available on the VQF website (www.vqf.ch). If a member chooses not to use the VQF forms, the member must ensure that their own forms contain the information required by SRO VQF as a minimum standard.

[6] Documents and reports must be stored in a secure place (inaccessible to unauthorised third parties) in Switzerland.

[7] Documents of fundamental significance to the establishment of facts with regard to an AMLA-relevant business relationship must be filed in the AMLA file. All documents which are required in order to understand a particular transaction or to audit compliance with the (legal and regulatory) obligations concerning the combating of money laundering and the financing of terrorism are deemed documents of fundamental significance:

a. all files and documents mentioned in these Regulations, particularly: SRO VQF standard AMLA forms, or a member's own forms, identification documents, memos to be created in special cases in accordance with these Regulations, copies of reports pursuant to Art. 66 of these Regulations (Art. 9 AMLA) and Art 67 of these Regulations (Art. 305ter Para. 2 SCC);

b. all other documents in the AMLA file which are required in order to understand or verify the information in the standard AMLA forms or which result in special clarifications or are part of special clarifications, particularly: documents on the transactions carried out (bank documents, powers of attorney, receipts, etc.), contracts, correspondence, telephone and other memos, invoices, accounting, etc.

[8] Members are not required to file transaction records (account extracts), accounting documents and statements in the AMLA file if there is a written record (memo/reference)

in the AMLA file specifying where these documents can be found and if the documents which are not kept in the AMLA file are organised and kept in compliance with the duties to document and retain.

[9] Documents which are of fundamental significance for the establishment of facts concerning an AMLA-relevant business relationship and which are not written in one of the official languages of Switzerland or in English must be translated into English or into one of the official languages of Switzerland by an appropriately qualified and approved translator.

Art. 63 Additional requirements regarding electronic documentation

[1] Where documents are stored electronically, the following requirements apply in addition to the requirements pursuant to Art. 62 of the Regulations:

a. it must be possible to print out the necessary information on paper if requested;

b. the requirements pursuant to Arts. 9 and 10 of the Swiss Accounts Ordinance[6] must be met;

c. the server used must be located in Switzerland (otherwise the member must be in possession of current physical or electronic copies of the relevant document in Switzerland) and be accessible to the member at all times.

Art. 64 Retention period

[1] Members must retain documentation pursuant to Art. 62 et. seq. of the Regulations for a period of ten years following the end of the business relationship or the conclusion of the transaction.

[2] The retention period for documents related to a report to MROS is five years.

Art. 65 Transfer of contractual relationships which are subject to AMLA

[1] In case a member (or its contracting party) transfers business relationships which are subject to AMLA to another member or another financial intermediary, the previously responsible member (transferring financial intermediary) must document the termination in its AMLA file in accordance with the provisions of these Regulations (memo, filing the notice of termination and other documents related to the termination) and must keep records of all (original) documents or authenticated copies thereof found in the AMLA file for a period of ten years.

[2] Subject to the consent of the contracting party, the transferring financial intermediary may hand out authenticated copies of its AMLA file (one certification per AMLA file) to the financial intermediary becoming responsible for the contracting party. Provided that the transferring financial intermediary retains authenticated copies of the documents in the AMLA file in compliance with the Regulations, the original documents may be provided to the financial intermediary taking over the relationship with the contracting party – subject to the consent of the contracting party.

[3] The newly responsible financial intermediary (assuming member) who is taking over the business relationship subject to AMLA must ensure that the identification of the contracting party and the establishment of the identity of the controlling person or the beneficial owner of the assets are compliant with the Regulations at the time of conclusion of the new contract (i.e. upon establishing the business relationship) and must therefore, where applicable, repeat the identification of the new contracting party or the

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[6] Ordinance of 24 April 2002 on the Maintenance and Retention of Accounts (SR 221.431)

establishment of the identity of the controlling person or the beneficial owner of the assets. With regard to the customer profile and any special clarifications conducted, the newly responsible financial intermediary (assuming member) must verify the plausibility and current nature of the information received from the transferring financial intermediary and must document the verification process.

[4] Re-identification pursuant to Para. 3 may be waived in cases where the previous relationship manager (natural person) is keeping the customers (contracting parties) (change of employer or commencement of self-employment). Re-identification pursuant to Para. 3 may also be waived if business relationships are transferred within a group of companies from one affiliated company to another.

4. Duty to report, right to report and obligations in the event of suspicion of money laundering and financing of terrorism (Art. 9 - 11 AMLA, Art. 12a – 12c AMLO)

4.1 Duty to report and right to report

Art. 66 Duty to report (Art. 9 AMLA)

[1] The member must immediately file a report with the Money Laundering Reporting Office Switzerland (the Reporting Office) as defined in Art. 23 AMLA if it:

a. knows or has reasonable grounds to suspect that assets involved in the business relationship:

   1. are connected to an offence in terms of Art. 260ter or Art. 305bis SCC,
   2. are the proceeds of a felony or an aggravated tax misdemeanour under Art. 305bis number 1bis SCC,
   3. are subject to the power of disposal of a criminal or terrorist organisation, or
   4. serve the financing of terrorism (Art. $260^{quinquies}$ para. 1 SCC).

b. terminates negotiations aimed at establishing a business relationship because of a reasonable suspicion as defined in letter a;

c. knows or has reason to assume based on the clarifications carried out under Art. 6 Para. 2 letter d AMLA (Art. 56 of the Regulations) that the data on a person or organisation passed on under Art. 22a para 2 or 3 AMLA correspond to the data of a customer, a beneficial owner or an authorised signatory in a business relationship or transaction.

[1bis] A dealer must immediately fila a report with the Reporting Office if it knows or has reasonable grounds to suspect that cash payments made in the course of a commercial transaction:

a. are connected to an offence under Art. 260ter or 305bis SCC;

b. are the proceeds of a felony or an aggravated tax misdemeanour under Art. 305bis number 1bis SCC;

c. are subject to the power of disposal of a criminal or terrorist organisation; or

d. serve the financing of terrorism (Art. $260^{quinquies}$ para. 1 SCC);

[1ter] The name of the member must appear in any report in accordance with paragraph 1 and 1bis. The identity of the member's staff who are in charge of the case may be

made anonymous in the report, provided it is guaranteed that the Reporting Office and the competent prosecution authority are able to contact them without delay.

[1quater] In the cases referred to in paragraph 1, reasonable grounds to suspect exist if the member has specific evidence or several indications that paragraph 1 letter a may apply to the assets involved in the business relationship and this suspicion cannot be dispelled on the basis of additional clarifications in accordance with Art. 6 AMLO (Art. 56 of the Regulations).

[2] Lawyers and notaries are not subject to the duty to report insofar as they are bound in their activities by professional secrecy in terms of Art. 321 SCC.

Art. 67 Right to report

[1] If a member has no reasonable suspicion under Art. 66 para. 1 lit. a and b of the Regulations (Art. 9 para. 1 lit. a and b AMLA) or no grounds under Art. 66 para. 1 lit. c of the Regulations (Art. 9 para. 1 lit. c AMLA), but if it has made observations which suggest that assets originate from a crime or a qualified tax offense or serve the financing of terrorism, it may report these to the Reporting Office on the basis of the right to report under Art. 305[ter] para. 2 SCC.

[2] If, in the case of dubious business relationships involving significant assets, the member does not exercise its right to report under Art. 305ter para. 2 SCC, it shall document the reasons.

[3] If the member continues the dubious business relationship, it must monitor it closely and check for indications of money laundering or terrorist financing.

Art. 68 Form of reporting

[1] Communication with the Reporting Office is governed by the provisions of Art. 3a of the Money Laundering Reporting Office Ordinance (MROSO).

Art. 69 Customer orders relating to the reported assets (Art. 9a AMLA)

[1] During the analysis conducted by the Reporting Office according to Art. 23 para 2 AMLO, the member shall execute client orders relating to assets reported under Art. 9 para. 1 lit. a AMLA (Art. 66 para. 1 lit. a) of the Regulations or under Art. 305[ter] para. 2 SCC (Art. 67 of the Regulations).

[2] The member shall execute client orders involving significant assets solely in a form that allows the prosecution authorities to follow their trail.

4.2 Freezing of assets and ban on information

Art. 70 Freezing of assets (Art. 10 AMLA)

[1] The Member shall freeze the assets entrusted to it that are related to the report under Art. 9 para. 1 letter a AMLA (Art. 66 para. 1 letter a of the Regulations) or under Art. 305[ter] para. 2 SCC (Art. 67 of the Regulations) as soon as the Reporting Office informs it that the it is transmitting the information to a prosecution authority.

[1bis] It shall withoud delay freeze the assets entrusted to it that are related to the report under Art. 9 Para. 1 letter c AMLA (Art. 66 para. 1 letter c of the Regulations).

[2] It shall continue to freeze the assets until it receives an order from the competent prosecution authority, but at most for five working days from the date on which the

Reporting Office gives notice of transmitting the reported information under para 1 or on which it filed the report with the Reporting Office under para 2.

Art. 71 Ban on information (Art. 10a AMLA)

[1] The Member is prohibited from informing the persons concerned or third parties that it has filed a report under Art. 9 AMLA (Art. 66 of the Regulations) or Art. 305ter Para. 2 SCC (Art. 67 of the Regulations). The authorities and organisations responsible for supervision under Art. 12 AMLA or under Art. 43a of the Financial Market Supervision Act (FINMASA) and people who carry out audits within the framework of supervision are not deemed to be third parties.

[2] If the member itself is unable to freeze the assets, it may inform the financial intermediary that is able to do so and which is subject to the AMLA.

[3] The member may also inform another financial intermediary subject to the AMLA that it has filed a report under Art. 9 AMLA (Art. 66 of the Regulations) or under Art. 305ter Para. 2 SCC (Art. 67 of the Regulations), provided this is required in order to comply with duties under the AMLA and provided both financial intermediaries:

a. provide joint services for one customer in connection with the management of that customer's assets on the basis of a contractual agreement to cooperate; or

b. belong to the same corporate group.

[3bis] The Member may also, under the conditions set out in Art. 4quinquies BankA, inform its parent company abroad that it has filed a report under Art. 9 AMLA or under Art. 305ter paragraph 2 SCC, provided that the parent company undertakes to comply with the prohibition on providing information. The supervisory authority of the parent company is not deemed to be a third party.

[4] The financial intermediary who has been informed on the basis of paragraph 2 or 3 is subject to the prohibition of information in paragraph 1.

[5] The dealer is prohibited from informing the persons concerned or third parties that it has filed a report under Art 9 AMLA (Art. 66 of the Regulations).

[6] The prohibition on providing information under paragraphs 1 and 5 does not apply to protecting personal interests in the context of a civil action or criminal or administrative proceedings.

Art. 72 Exclusion of criminal and civil liability

[1] The exclusion of criminal and civil liability is governed by Art. 11 AMLA.

4.3 Termination and rejection of suspicious business relationships

Art. 73 Prohibition of Termination of Business Relationship (Art. 12a AMLO)

[1] The member is not permitted to terminate a business relationship on his own initiative if the requirements for a report under Art. 9 AMLA are met or if he exercises the right to report under Art. 305ter para. 2 SCC.

[2] If there are concrete indications that official confiscation measures are imminent, the member is prohibited:

a. from terminating a business relationship for which it decides not to exercise the right to report under Art. 305ter para. 2 SCC, even though the requirements are met;

b. from allowing the withdrawal of significant assets.

Art. 74 Termination of the business relationship (Art. 9b AMLA)

[1] If, following a report under Art. 9 Para. 1 lit. a AMLA or under Art. 305ter Para. 2 SCC, the Reporting Office does not inform the Member within 40 working days that it is transmitting the reported information to a prosecution authority, the Member may terminate the business relationship.

[2] The Member who decides to terminate the business relationship may permit the withdrawal of significant assets solely in a form that allows the prosecution authorities to follow their trail.

[3] The termination of the business relationship and the date of termination must be notified to the Reporting Office without delay.

[4] After the business relationship has been terminated, the prohibition on providing information pursuant to Art. 10a Para. 1 AMLA (Art. 71 of the Regulations) must continue to be complied with.

Art. 75 Termination of the business relationship (Art. 12b AMLO)

[1] Except in the case provided for in Art. 9b Para. 1 AMLA, the Member may terminate the business relationship if:

a. following a report under Art. 9 Para. 1 lit. a AMLA or Art. 305ter Para. 2 SCC, the Reporting Office notifies it within 40 working days that it is transmitting the reported information to a prosecution authority and it does not receive a ruling from the prosecution authority within five working days of this notification;

b. following a report under Art. 9 para. 1 lit. c AMLA, it does not receive an order from the prosecution authority within five working days;

c. after a blocking ordered by the prosecution authority based on report under Art. 9 para. 1 AMLA or Art. 305ter Para. 2 SCC it is informed of its lifting , unless a prosecution authority informs the member otherwise.

[2] If the member terminates a business relationship for which it decides not to exercise the right to report under Art. 305ter Para. 2 SCC, even though the requirements are met, it may permit the withdrawal of significant assets only in a form that allows the prosecution authorities to follow their trail.

[3] In the cases referred to in paragraph 1 the termination of the business relationship and the date of termination do not have to be reported to MROS.

Art. 76 Notification to a financial intermediary (Art. 12c AMLO)

[1] If the member notifies another financial intermediary that it has filed a report under Art. 9 Para. 1 AMLA or Art. 305ter para. 2 SCC, it shall record this fact in an appropriate form.

Art. 77 Termination and rejection of suspicious business relationships

[1] Members terminate a business relationship in compliance with Art. 9b AMLA and Art. 12a and 12b AMLO (Art. 73-75 of the Regulations) at the earliest possible opportunity subject to the following provisions if:

a. suspicion regarding the information of the contracting party remains even after conclusion of the procedure pursuant to Art. 46 of the Regulations;

b. the member has reason to suspect that false information has been deliberately provided with regard to the identity of the contracting party, the controlling person or the beneficial owner; or

c. the contracting party refuses to repeat identification or the establishment of the identity of the controlling person or beneficial owner without stating reasons, despite request by the member.

[2] If a member terminates the business relationship, the termination must be documented.

4.5 Duty to document and duty to inform SRO VQF

Art. 78 Documentation

[1] Members record all information related to a report pursuant to Art. 66 of the Regulations (Art. 9 AMLA) or Art. 67 of the Regulations (Art. 305ter Para. 2 SCC) and must file the associated documents (incl. a copy of the report and any notifications/orders by the authorities) in the AMLA file.

[2] If the member does not submit a suspicious activity report because it was able to clear the suspicion on the basis of additional clarifications in accordance with Art. 56 of the Regulations, it shall document the underlying reasons.

Art. 79 Informing SRO VQF of the report to the Reporting Office

[1] Members must immediately inform SRO VQF of any reports pursuant to Art. 66 of the Regulations (Art. 9 AMLA) and Art. 67 of the Regulations (Art. 305ter Para. 2 SCC) filed with the Reporting Office.

[2] Members may anonymise customer data in their notice to SRO VQF.

5. Duties or organisation and training (Art. 8 AMLA)

5.1 General provisions

Art. 80 New products, business practices and technologies

[1] Members ensure that the risks of money laundering and financing of terrorism inherent in the development of new products or business practices or in the use of new or enhanced technologies are evaluated in advance and adequately recorded, limited and monitored in the context of risk management.

Art. 81 Money Laundering Compliance Office

[1] Members appoint a qualified person to be the AMLA Officer. The AMLA Officer must have domicile or habitual residence in Switzerland.

[2] The AMLA Officer has the following responsibilities in particular:

a. ensuring compliance with all duties of the member with regard to AMLA and SRO regulations;

b. planning, supervision and documentation of all current basic and advanced trainings of the member's personnel who is required to undergo training;

c. where required, drafting of the internal regulations regarding the combating of money laundering and financing of terrorism;

d. to act as contact with SRO VQF and the authorities.

[3] Where a member employs more than twenty persons engaged in the AMLA sector, the AMLA Officer must also create a risk analysis in respect of combating money laundering and the financing of terrorism, taking into account the member's specific field of activity and type of business relationships; said risk analysis must pay attention particularly to the domicile or residence of customers, the customer segment and the products and services offered. The risk analysis must be subject to approval by the board of directors or the senior executive body and must be updated periodically.

[4] Members who employ at least six persons engaged in the AMLA sector must appoint a qualified person as Deputy AMLA Officer. The Deputy AMLA Officer must have their domicile or habitual residence in Switzerland.

[5] Members who employ a maximum of five persons engaged in the AMLA sector may, instead of appointing a deputy, appoint a person who can grant access to the AMLA-relevant documentation in the absence of the AMLA Officer (so-called authorised access person). The person with access authorisation must have domicile or habitual residence in Switzerland and may be a person external to the company.

Art. 82 Internal directives

[1] Members who employ more than ten persons engaged in the AMLA sector issue internal directives regarding the combating of money laundering and the financing of terrorism and notify the affected persons in an appropriate manner. Such directives must be subject to approval by the board of directors or the senior executive body.

[2] The directives must particularly stipulate:

a. the criteria applied to identify business relationships carrying an increased risk pursuant to Art. 58 of the Regulations;

b. the criteria applied to identify transactions carrying an increased risk pursuant to Art. 59 of the Regulations;

c. the basic principles of transaction monitoring pursuant to Art. 55 of the Regulations;

d. the thresholds regarding amounts pursuant to Art. 58 Para. 5 letter e and f and Art. 59 Para. 2 letter a of the Regulations;

e. in which cases the AMLA Officer is to be involved and the senior executive body be informed;

f. the basic principles of basic and advanced training of persons engaged in the AMLA sector;

g. the company policy with regard to politically exposed persons;

h. the responsibility for reports to the Money Laundering Reporting Office;

i. the modalities according to which the member records, limits and monitors increased risks;

j. the criteria according to which third parties may be engaged pursuant to Art. 85 et. seq. of the Regulations;

k. the remaining internal allocation of tasks and responsibilities between the AMLA Officer and the other business units entrusted with carrying out due diligence.

j. the updating of customer documents.

[3] SRO VQF may request that a member who employs up to ten persons engaged in the AMLA sector issue internal directives if required in order to ensure appropriate operating organisation.

[4] Virtual asset service providers issue internal directives regarding the combating of money laundering and the financing of terrorism irrespective of the number of persons engaged in the AMLA sector. Their content must be determined on a risk-oriented basis.

Art. 83 Decision-making powers regarding reports

[1] The senior executive body must decide upon the submission of reports pursuant to Article 9 AMLA or Article 305ter para. 2 SCC. This responsibility may be delegated to the Money Laundering Compliance Office.

5.2 Training duties

Art. 84 Training duties / Training concept

[1] Members provide basic and regular advanced training to the following persons:

a. all bodies and employees engaged in the AMLA sector;

b. the AMLA Officer and AMLA deputy.

[2] Basic and advanced training focus on the essential aspects of combating money laundering and the financing of terrorism relevant to the respective trainee and must ensure that the member, or the trainee respectively, is and remains in a position to fully comply with the duties resulting from AMLA and these Regulations.

[3] The specific implementation of the training duties is determined by the current training concept of SRO VQF (VQF Doc. No. 610.1), the provisions of which form an integral part of these Regulations.

5.3 Engagement of third parties

Art. 85 Engagement of third parties for the fulfilment of duties of due diligence

[1] Members may mandate external persons and companies with the identification of the contracting party, the establishment of the identity of the controlling person or the beneficial owner of the assets and the duties of additional clarification if they:

a. have carefully selected the appointed person and this person guarantees proper business conduct;

b. have instructed the person with regard to his responsibilities;

c. are able to control whether the appointed person is complying with the duties of due diligence or not; and

d. have concluded a written agreement with the appointed person or company.

[2] The following bodies/organisations may be entrusted with the fulfilment of these due diligence duties without need for a written agreement:

a. a body within the corporation or group, provided an equivalent standard of due diligence is applied; or

b. another financial intermediary, provided the financial intermediary is subject to equivalent supervision and regulation with regard to the combating of money laundering and the financing of terrorism and has put measures in place to comply with an equivalent standard of due diligence.

[3] Members must ensure that any third parties engaged do not themselves engage any other persons or companies.

[4] Members remain responsible for compliance with the duties carried out by third parties.

[5] Members file copies of the documents related to compliance with the duties regarding the combating of money laundering and the financing of terrorism and require the appointed person to confirm in writing that the provided copies are identical with the original documents. Members must check the plausibility of the results of any further clarifications by themselves.

[6] The prior approval of SRO VQF is required if members wish to mandate third parties with the performance of any due diligence duties and activities other than those mentioned in Para. 1. There is no entitlement to approval of such an application for exception. SRO VQF may approve subject to conditions and requirements. Any negative decision or implementation of conditions and requirements are final.

[7] The duty to report pursuant to Art. 66 of the Regulations (Art. 9 AMLA), the right to report pursuant to Art. 67 of the Regulations (Art. 305ter Abs. 2 SCC) and the duty to freeze assets pursuant to Art. 70 of the Regulations (Art. 10 AMLA) may not be delegated to third parties.

Art. 86 Engagement of a third party as AMLA Officer

[1] Members may appoint a professional external person as AMLA Officer on their own responsibility if:

a. its size of organisation does not allow it to establish its own money laundering compliance office; or

b. the establishment of such an office would be disproportionate.

[2] The engagement of an external person as AMLA Officer requires the prior approval of SRO VQF. There is no entitlement of approval of such an application for exception. SRO VQF may approve subject to conditions and requirements. The provisions of Art. 85 Para. 1 of the Regulations apply accordingly.

[3] A member's application particularly include:

a. proof of the requirements pursuant to Para. 1 being met;

b. a copy of the written agreement between the member and the external AMLA Officer.

[4] The written agreement between the member and the external AMLA Officer particularly has to include the duty to comply with AMLA and the regulations (Articles of Association, Regulations, etc.) of SRO VQF (incl. the duty for basic and advanced training), the duty of direct disclosure to SRO VQF, and the duty of personal fulfilment of contract. Provisions must also be made to ensure that reports pursuant to Art. 66 of the Regulations (Art. 9 AMLA) and Art. 67 of the Regulations (Art. 305ter Abs. 2 SCC) as well as the freezing of assets pursuant to Art. 70 of the Regulations (Art. 10 AMLA) always take place in collaboration with internal personnel of the member (body or employee).

[5] The written agreement must be concluded between the member and the AMLA Officer (natural person). If the AMLA Officer is employed by a specialised compliance firm or a financial intermediary according to Art. 2 Paras. 2 or 3 AMLA, the agreement may be concluded with this firm, provided the AMLA Officer is mentioned by name in the agreement.

[6] Members must ensure that any third parties engaged do not themselves engage any other persons or companies.

[7] Members remain responsible for compliance with the duties for which third parties have been engaged.

[8] These provisions apply accordingly to the engagement of a third party as Deputy AMLA Officer.

Art. 87 Engagement of a third party as AMLA Officer within a group of companies

[1] If the member is a part of a group of companies active in the finance sector which has a uniform compliance organisation in place, a qualified person employed by another group company may be appointed as AMLA Officer.

[2] The member must prove the group relationship and the employment of the AMLA Officer with a company within the group. No written agreement or application for exemption pursuant to Art. 85 of the Regulations is required in such case.

Art. 88 Engagement of third parties in money and asset transfers

[1] Members who perform money and asset transfers must maintain a current list of the external auxiliary persons engaged and the agents of system operators.

A member acting behalf of and for the account of other licensed financial intermediaries or financial intermediaries affiliated with an SRO may only do so for a single financial intermediary in money and asset transfer.

IV. Supervision and audits

Art. 89 Basic principles / Audit Concept

[1] SRO VQF supervises all SRO members in accordance with Art. 3 Para. 1 of the VQF by-laws of VQF (professional and non-professional financial intermediaries) with regard to compliance with the duties pursuant to the VQF by-laws, AMLA and these Regulations. SRO VQF is entitled at any time to require members to provide all information and documents chargeable necessary for supervision.

[2] The specific organisation of this supervision and of audits is regulated especially in the Audit Concept of SRO VQF (VQF Doc. No. 700.3). The provisions of the Supervision Policy are an integral part of these Regulations.

Art. 90 Procedure in the event of a suspected breach of Art. 9, 10 or 10a AMLA

[1] In the event of auditors being instructed by SRO VQF to conduct an audit or SRO VQF itself suspects a breach of Art. 9, 10 or 10a AMLA, the Head of Legal & Compliance Desk and the CEO must be informed immediately. SRO VQF must take all measures necessary to establish whether it is under obligation to submit a report to the Reporting Office (Art. 27 Para. 4 AMLA). In case there are any doubts with regard to the suspicion, SRO VQF may initially order further clarifications.

V. Measures and sanctions

1. General provisions

Art. 91 Competence for measures and sanctions

[1] SRO VQF is responsible for clarifying, investigating, imposing sanctions with regard to any breaches of VQF by-laws and the Regulations and for the ordering of measures to restore and maintain compliance with the VQF by-laws and the Regulations. Measures to restore and maintain compliance with the VQF by-laws and the Regulations and Sac-ntions in regard to any breaches of VQF by-laws and the Regulations can be combined.

[2] SRO VQF determines the internal responsibilities, the procedure and the cost implica-tions of measures and sanctions and must regulate the associated basic principles in its organisational policy (OGR), its rules of procedure (VerfR; VQF Doc. No. 607.01) and other required regulations.

[3] Termination of membership of SRO VQF by the member does not affect the existence of the VQF's authority to impose sanctions for violation of the duties pursuant to the VQF by-laws or these Regulations committed during the period of membership. Any decision with regard to sanctions is effective to a former member of SRO VQF who has cancelled his membership if the decision to sanction is communicated in writing within a period of six months following termination of the SRO VQF membership.

2. Measures

Art. 92 Measures

[1] In the context of its supervisory duty, SRO VQF may order any suitable measures to reinstate conditions in compliance with the VQF by-laws and the Regulations.

[2] In particular, it may:

a. impose a deadline by which conditions in compliance with the VQF by-laws and the Regulations must be reinstated (generally at most three months from the notification of this measure);

b. request that a member attends a meeting;

c. impose personnel or organisational conditions on a member;

d. impose a deadline for periodic reporting with regard to particular occurrences or circumstances.

[3] Unless combined with a sanction in terms of Art. 93 et seq. of the Regulations, such measures cannot be appealed against.

3. Sanctions

Art. 93 Types of sanctions

[1] SRO VQF may impose the following sanctions on a member:

a. censure;

b. penalty up to CHF 1’500’000;

c. exclusion from the Association and from the SRO.

[2] Sanctions pursuant to Para. 1 letters a and b may be combined with measures pursuant to Art. 92 of the Regulations, and exclusion from the Association and from the SRO may be combined with a penalty pursuant to Para. 1 letter b.

[3] The amount of the penalty is calculated in accordance with the severity of the violation and the degree of liability. The financial capacity of the member must be taken into account if known.

[4] SRO VQF reserves the right to publish sanctions which have been imposed on a member.

Art. 94 Violation of the Regulations (basic offence)

[1] Violations of the provisions of these Regulations are punished with a penalty of up to CHF 1’500’000.

Art. 95 Minor violation of the Regulations (privileged offence)

[1] A censure or a penalty of up to CHF 150’000 may be imposed in the event of minor breaches of the Regulations .

[2] Sanctions for petty offences may be waived if the member fully complies with an order to restore compliance within a set period of time - usually at most three months from the order being communicated.

Art. 96 Serious violations of the Regulations (qualified offence)

[1] In the event of serious violation of the Regulations, SRO VQF may exclude a member.

[2] A serious violation of the Regulations is constituted particularly by the following:

a. violation of the guarantee pursuant to Art. 4 of the VQF by-laws of VQF and/or Art. 3 of the Regulations;

b. intentional violation of the duty of truthfulness (Art. 5 of the Regulations);

c. failure by the member to comply with a request to comply with or reinstate proper conditions (violation of the duty to cooperate pursuant to Art. 5 of the Regulations);

d. failure of the member to comply with conditions imposed in the admission decision (Art. 11 Para. 6 letter b VerfR);

e. intentional or grossly negligent violations of elementary provisions pursuant to the Regulations;

f. systematic violations (e.g. failure to keep full documentation) of individual or several due diligence obligations;

g. where a previous sanction involving a legally effective penalty was imposed on a member due to a violation of the Regulations (with the exception petty offences) and new breaches are identified within five years of this sanction coming into effect, provided the new breaches are not minor breaches; or

h. failure by a member to pay due demands for payment from the Association (e.g. membership fees or other fees pursuant to the regulations on fees, legally effective penalties or legally effective procedural costs from sanction proceedings internal to the Association or legal proceedings external to the Association), despite two written warnings.

[3] Exclusion may be waived and instead a penalty of up to CHF 1’500’000 be imposed if:

a. the person at fault has been dismissed from the member's organisation; and/or

b. the member has restored compliance in the course of the sanction proceedings and guarantees the performance of all regulatory duties.

[4] The conditions pursuant to Para. 3 must be proven by the member within the time period set for submitting a statement in the course of the Association's internal sanction proceedings.

[5] Exclusion from the Association may be combined with a penalty of up to CHF 250,000.

Art. 97 Confirmation of sanctions (sanction extract) and statutory limitation period

[1] Any current or former member may request written confirmation from SRO VQF of the SRO sanction proceedings concerning the particular member. This confirmation of sanctions is subject to a fee and only relates to five years preceding the time of issuance of the confirmation.

[2] The prosecution of violations of AMLA, VQF by-laws, the Regulations and the training or audit concept of SRO VQF expires seven years after the violation has been committed. This statutory period of limitation is interrupted by any act of SRO VQF (or an auditor instructed by the same) which is conducted due to the breach of duty in question. The statutory period of limitation is suspended for the time of any sanction or arbitration proceedings concerning the breach of duty in question. If a member is subject to criminal prosecution due to a breach, the longer criminal period of limitation applies.

Art. 98 Reporting to FINMA

[1] FINMA must be informed in case proceedings are opened against a member which may result in the imposition of a penalty or an exclusion order. FINMA must likewise be informed of the outcome of the proceedings once they have been brought to a close with legal effect.

4. Request for arbitration and arbitration proceedings

Art. 99 Request for arbitration with regard to sanction decisions and legal validity of sanction decisions

[1] Art. 27 of the VQF by-laws and the arbitration regulations of VQF (VQF Doc. No. 608.01) apply to requests for arbitration.

[2] Where a sanction decision is not appealed against by a request for arbitration within the limitation period pursuant to Art. 27 Para.1 of VQF by-laws, it is deemed accepted without reservation by the (current or former) member and the Association's internal sanction proceedings are deemed concluded with legal effect.

Art. 100 Arbitration proceedings

[1] Arbitration proceedings are governed by Art. 27 of the VQF by-laws and the arbitration regulations of VQF (VQF Doc. No. 608.01).

VI. Final provisions

Art. 101 Severability clause

[1] Should individual provisions of these Regulations be ineffective or unenforceable or become ineffective or unenforceable during the period of membership or the period of applicability of the Regulations, the effectiveness and binding nature of the remaining parts of the Regulations shall not be affected. The ineffective or unenforceable provision shall be automatically replaced by an effective and enforceable provision the effect of which fits most closely with (primarily) the purpose of the Association or (secondarily) the purpose of the ineffective or unenforceable provision.

Art. 102 Entry into force and transitional provisions

[1] These Regulations were approved by FINMA on 10th Ocotober 2025.

[2] They enter into force on 1 January 2026.

[3] The members must implement the technical measures in accordance with Art. 24 Para. 1bis within six months of the entry into force of these regulations.

[4] These Regulations also apply to any sanction proceedings already opened but not yet decided upon by the SRO VQF.