

## ***Anti money laundering as of 1.1.2023 - Verification of the identity of beneficial owners and actuality of client documentation***

This newsletter focuses on the two most relevant updates, namely the verification of the identity of beneficial owners and the obligation to periodically check the required client records in order to ensure that they are up to date and, if necessary, the start of the renewal process.

Separately, we have listed all other updates concerning the AMLA, AMLO and AMLO-FINMA in some tables, which we provide on request.

### **The verification of the identity of the beneficial owners**

In addition to the establishment of the beneficial owner his identity must also be verified. This verification must be based on documents, meaningful information or data from reliable, independent sources.

In case of a domiciliary company - registered in an offshore jurisdiction - a bank should obtain the necessary assurance that the persons listed in Form A are indeed the "ultimate beneficial owners" and not mere nominee shareholders holding the shares on behalf of the real shareholders.

### **Periodic check of actuality of client records**

With regard to this topic the following points should be considered:

- Coverage: it applies to all business relationships, regardless of their risk category.
- The risk assessment covers the entire customer relationship, i.e., all account relationships with the same beneficial owner(s). Thus, they are reviewed as a whole at the same time.
- With regard to the periodicity, scope and nature of the review, FINMA states that this is based on the risk of each individual customer relationship identified according to appropriate and weighted criteria.
- In our view, the analysis for determining the "periodicity, scope and nature of the check and update" should be carried out annually in order to timely take into account changes in the risk structure of the client population. The check itself does not have to be done annually.
- In case of client relationships whose continuation is subject to annual approval by the management, the underlying risk analysis has logically to include a review of the client documentation
- With regard to the determination of the periodicity, the requirements of other regulations must also be taken into account. For example, QI, FATCA and the AEOI/CRS.

Thus, it is important to identify and weight the appropriate risk criteria that best capture the risk characteristics of the client population. There are essentially three categories of risks:

- Customer risk factors (domicile, asset-holding-vehicles, Nominee shareholders, complexity)
- Country risk factors (Domicile or location of the company in high-risk countries)
- Product, service, transaction or delivery channel risk factors

### **Summary**

The update of the existing directives turns out to be the easier part of the task, because for each financial institution the challenge is to identify and weight the appropriate risk criteria for the determination of the periodicity, scope and nature of the review and update. In our opinion their appropriateness, completeness and weighting factors must be analyzed annually, while the review itself does not need to be performed annually.

In the area of anti-money laundering and terrorist financing, the task for each financial institution is to determine the appropriate risk criteria for determining the "periodicity, scope and type of review and updating". In our view, their appropriateness and completeness must be analyzed annually and, if necessary, adjusted to changes in the risk structure of the client population. This means that periodicity, scope and type of review are to be understood as dynamic variables. For the individual client relationship, this means that the monitoring intensity can also decrease and not always only increase.

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