

# GUIDELINE

for license applications for **money laundering supervision by the FINMA in accordance with Art. 2 para. 4 AMLO-FINMA 1**

Version April 2010

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## Purpose

These guidelines are not legally binding. They are intended as a tool to facilitate the processing of applications both for the applicant and FINMA. The guidelines list the information and documents that are normally required. This does not prevent the applicant from providing further information or FINMA from asking for further information and documentation.

Applications can be submitted by the financial intermediaries already subject to FINMA supervision or by the subsidiaries or sister companies (group companies) themselves. Applications must be submitted in one of the official Swiss languages and must include at least the following information/documentation:

### 1. General information

#### Information

- 1.1 Full details of the group company's business;
- 1.2 Business purpose and activities (Art. 2 para. 4 lit. a of the Ordinance of the Swiss Financial Market Supervisory Authority on the Prevention of Money Laundering and Terrorist Financing in the Banking, Securities Trading and Collective Investment Schemes Sectors (FINMA Anti-Money Laundering Ordinance 1, AMLO-FINMA 1)
- 1.3 Legal form;
- 1.4 Date of establishment/foundation;
- 1.5 Details of **financial intermediaries** in the same group **that are already subject to FINMA supervision** (Art. 2 para. 4 AMLO-FINMA 1);
- 1.6 Details of the external auditors of the financial intermediaries mentioned under 1.5;
- 1.7 Description of relationships with or position within the group (especially capital and voting rights);
- 1.8 Details of whether the group company is already supervised with regard to the Federal Act on Combating Money Laundering and Terrorist Financing in the Financial Sector (Anti-Money Laundering Act, AMLA) and if so by whom;

- 1.9 Links with other natural persons or legal entities (stakes held by or in third parties, joint venture agreements).

#### **Documentation**

- 1.10 Up-to-date extract from the Commercial Register;
- 1.11 Articles of association or deed of incorporation/foundation;
- 1.12 Annual reports for the last three years, including auditor's reports;
- 1.13 Any reports by the AMLA auditor;
- 1.14 Organization chart for the whole group;
- 1.15 Acknowledgement by the group company that the FINMA can impose measures on it as detailed in Art. 29ff. of the Federal Act on the Swiss Financial Market Supervisory Authority (FINMASA) and 20 AMLA (Art. 2 para. 2 lit. c AMLO-FINMA 1);
- 1.16 Assurance by the financial intermediaries already subject to FINMA supervision and mentioned under 1.5 that they will monitor and enforce compliance with the AMLO-FINMA 1 (Art. 2 para. 2 lit. d AMLO-FINMA 1);
- 1.17 Assurance by the financial intermediaries already subject to FINMA supervision and mentioned under 1.5 that their external auditor has been instructed to check compliance with the AMLO-FINMA 1 and to comment individually on each group company concerned in its audit report for the group (Art. 2 para. 2 lit. e AMLO-FINMA 1).

## **2. Internal organization of the group company (Art. 2 para. 4 lit. b AMLO-FINMA 1 and Art. 14 para. 2 lit. c AMLA)**

#### **Information**

- 2.1 Composition of the Board of Directors;
- 2.2 Composition of the Executive Board;
- 2.3 Auditor: information from the Commercial Register.

#### **Documentation**

- 2.4 Organization chart of the group company;
- 2.5 For natural persons specified under 2.1 and 2.2:
- Copy of a valid passport or valid ID card;
  - Extract from the record of convictions;
  - Signed CV (including at least the following: personal details, education, professional training, a brief description of professional activities and a list of any mandates held);
  - Criminal or administrative proceedings (completed or pending) if these are economically relevant or if they could impinge on the guarantees given pursuant to Art. 14 para. 2 lit. c AMLA.

**3. Due diligence obligations, special bodies defined by the AMLA, training (Art. 2 para. 2 lit. b AMLO-FINMA 1, and Art. 14 para. 2 lit. b and c AMLA)**

**Information**

- 3.1 Overview of the group company's internal procedures for the fulfillment of obligations arising from the AMLA and/or the AMLO-FINMA 1. The following points in particular must be explained in detail:
- Nomination of an internal specialist unit for money laundering in accordance with Art. 13 AMLO-FINMA 1 (details of the internal staff responsible and any delegation to third parties, especially delegation to another group company);
  - Procedures for verifying the identity of the counterparty and establishing the identity of the beneficial owner (requirements, procedures, people responsible, organization and location of document storage, especially of the counterparty register);
  - Implementation of the AMLO-FINMA 1, especially with regard to the definition and management of increased risks in accordance with Art. 7, 8 and 17ff. AMLO-FINMA 1 and the provision of the transaction monitoring system in accordance with Art. 12 AMLO-FINMA 1;
  - Notification and blocking procedures in accordance with Art. 9 and 10 AMLA;
  - Internal staff training (including training for the Executive Board);
  - Description of the internal supervisory processes introduced;
  - Description of any outsourcing or delegation arrangements relating to due diligence obligations.
- 3.2 Point of contact for the FINMA: contact details for the relevant person.

**Documentation**

- 3.3 Internal directives;
- 3.4 List of all the documents used to verify identity;
- 3.5 Outsourcing or delegation agreements;
- 3.6 Confirmation by the group's external auditor (see 1.17) that the group company's organizational structure will allow it to meet its due diligence obligations as set out in the MLA and the AMLO-FINMA 1.