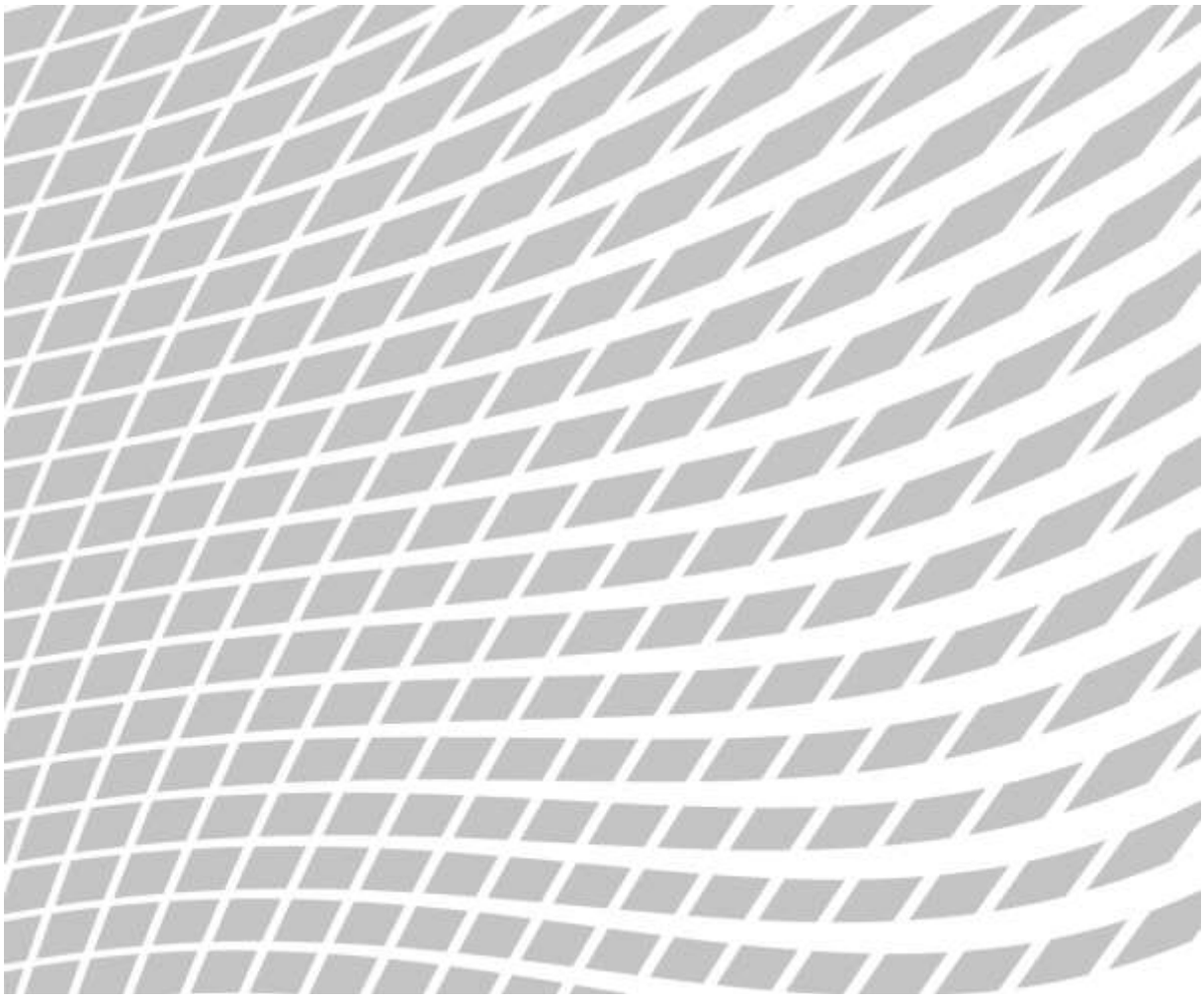
Eidgenössische Finanzmarktaufsicht FINMA
Autorité fédérale de surveillance des marchés financiers FINMA
Autorità federale di vigilanza sui mercati finanziari FINMA
Swiss Financial Market Supervisory Authority FINMA

11 February 2015

Total revision of the FINMA Anti-Money Laundering Ordinance (AMLO-FINMA)

Key points



Laupenstrasse 27, 3003 Bern
Phone +41 (0)31 327 91 00, Fax +41 (0)31 327 91 01
www.finma.ch

A225844/00097/1046297

Key points

1. The FINMA Anti-Money Laundering Ordinance has been in force in its current form since 1 January 2011. The FATF recommendations, representing the internationally recognised standards on combating money laundering and the financing of terrorism, were partially revised in 2012. The Federal Department of Finance then drafted a legislative proposal to implement the revised FATF recommendations. The revised Anti-Money Laundering Act (AMLA) was passed by Parliament on 12 December 2014.

2. The current revision of the FINMA Anti-Money Laundering Ordinance takes account of both the revised FATF recommendations and the revised Anti-Money Laundering Act, and reflects the regulations contained in both pieces of legislation. The revised ordinance also includes insights gained from supervisory practice and recent market developments. A total revision was undertaken in order to provide a clear overview of the new extended structure and structural levels/articles.

3. The new title contains provisions for fund managers, Collective Investment Scheme Act- (CISA) investment companies and CISA-asset managers (Title 3, Art. 39 f.). On the one hand, these provisions set out the principle that both the subscriber and the beneficial owner must be identified; on the other, they provide for relaxation of due diligence requirements.

4. In the title "Special provisions for DSFIs" (Title 5, Art. 43 ff.) a new section has been added to Chapter 2. This is based on a central innovation regarding the identification of beneficial owners in operationally active legal entities. According to the standard defined in the legislation, the beneficial owner in these cases must always be a natural person. The identification process is based on a three-stage cascade principle and establishes the concept of the “controller”.

5. Another innovation concerns the handling of and compliance with due diligence requirements for new payment methods and virtual currencies. Where new payment methods are concerned, the emphasis is on the prerequisites for relaxation of and/or exemption from compliance with diligence requirements. In the case of virtual currencies, due diligence requirements equivalent to those for money/asset transfers are established.

6. Amendments to the provisions on terminating a business relationship/reporting obligations are the result of a system change defined in the legislation and the expanded remit of MROS. The key points are that all client instructions must be executed despite a report from a financial intermediary and that significant assets may only be withdrawn in a form which enables prosecuting authorities to follow the trail.

7. The legislation includes a new extended definition of a politically exposed person, which means that the corresponding definition at ordinance level is deleted and the criteria for business relationships involving increased risk are amended.

8. More information must now be provided in the case of payment instructions. In the case of cross-border payment instructions, financial intermediaries must now provide details of both the beneficiary and the ordering party.

9. The requirements to be met by a financial intermediary's internal organisation have also been extended. On the one hand, financial intermediaries are required to analyse their business activities in terms of the inherent money laundering risks and take account of emerging new technologies. On the other, they must define a clear division of duties and responsibilities between the anti-money laundering competence centre and other business units with responsibility for implementing due diligence requirements. The requirements for internal policies have also been extended.