

# FINMA Guidance

## 07/2020

**Exemptions relating to identification under the Anti-Money  
Laundering Act due to the COVID-19 pandemic**

2 October 2020

## 1 Background

In Guidance 03/2020 of 7 April 2020, FINMA granted exemptions for the opening of new client relationships on the basis of Article 17 of the Anti-Money Laundering Act (AMLA; SR 955.0) in conjunction with Article 3 para. 2 of the FINMA Anti-Money Laundering Ordinance (AMLO-FINMA; SR 955.033.0). Some of these exemptions were extended in Guidance 06/2020 of 19 May 2020.

The current developments permit a return to the previous opening procedure. Exemptions are no longer required for clients domiciled in Switzerland. For clients domiciled abroad the situation varies greatly depending on the domicile or individual situation. The exemptions therefore now apply as described below for certain new client relationships entered into before 30 June 2021.

## 2 Financial intermediaries to whom the CDB applies

Article 45 CBD 20 already provides that in exceptional cases, if this is necessary so as not to interrupt the ordinary course of business, an account may already be used if only particular information and/or documents are not available or particular documents have not been provided in the appropriate form and, on the basis of a risk-based assessment, the application of this exemption is deemed appropriate. In such cases, it must be ensured that sufficient information regarding the identity of the contracting partner and the beneficial owner or controlling person is available.

This provision can be applied to new business relationships, such that they can be entered into with a simple copy of the identification document. The requirement is that restrictions resulting from COVID-19 must make it impossible to enter into the new business relationship in a face-to-face meeting and also by correspondence and that onboarding via digital channels has not yet been implemented by the financial intermediary for the country in question. Regarding the lack of confirmation of authenticity (not regarding any other missing documents or information, which must be considered on a case-by-case basis), the COVID-19 pandemic is generally recognised as a situation within the meaning of Article 45 of CBD 20 that requires by way of exception that a business relationship already be utilised, so as not to interrupt the ordinary course of business. The restrictions resulting from COVID-19 must be documented in the individual client file, even if they are identical for whole countries or regions.

For business relationships with increased risks (unlike those without increased risks), however, it must continue to be assessed and documented

on a case-by-case basis whether this application of the exception is acceptable in view of the associated money laundering risks. The confirmation of authenticity must, regardless of the risk category of the relationship, be presented within 120 days (instead of 30 days in accordance with Art. 45 of CDB 20). If this is not possible within 120 days due to restrictions resulting from COVID-19, the missing confirmation of authenticity must be obtained as soon as possible.

### **3 SO-supervised financial intermediaries**

The same rules apply as for financial intermediaries to whom the CDB applies.

### **4 SRO-supervised financial intermediaries**

A self-regulatory organisation can also grant a facilitation as described in this guidance.