

## Combating money laundering: financial intermediaries must comply with due diligence requirements

Financial intermediaries must comply with stringent due diligence and reporting requirements. Tasked with ensuring compliance, both the Swiss Financial Market Supervisory Authority FINMA and the self-regulatory organisations seek to prevent money laundering. This in turn enhances the credibility and proper functioning of the financial system.

The term 'money laundering' implies concealing the origins of criminal assets to such an extent that the identification of their location and source is rendered impossible. Combating money laundering should prevent assets of criminal origin from entering the legal financial system. The statutory provisions in place should thus help to impede organised crime and financing of terrorism.

### **Supervision performed by FINMA and the self-regulatory organisations**

Money-laundering regulations in Switzerland are based on two pillars: while money laundering is a criminal offence prosecuted by the criminal authorities, the Anti-Money Laundering Act, on the other hand, prescribes compliance for financial intermediaries with due diligence and reporting requirements

when concluding business with clients. And this is where FINMA takes action: one of its responsibilities is to directly supervise banks, securities dealers, insurers and institutions subject to the Collective Investment Schemes Act. Every year, audit firms conduct on-site reviews to ensure compliance with those provisions, a duty which FINMA is also increasingly assuming.

Individuals and companies in the para-banking sector who accept or hold assets on a professional basis, or assist in the investment or transfer of such assets are subject to the Anti-Money Laundering Act. This includes credit and leasing companies, credit card firms, asset managers, fiduciaries, payment services and money exchangers.

To monitor compliance with due diligence and reporting requirements, other institutions can either be supervised directly by FINMA or become a member of a FINMA-approved self-regulatory organisation (SRO). FINMA only monitors compliance with the anti-money laundering requirements; there is no other form of comprehensive supervision. The SROs must monitor their members' compliance with the anti-money laundering requirements, while

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audit firms mostly assume responsibility for the actual audit for compliance.

**Financial intermediaries fulfil their obligations**

Due diligence and reporting requirements comprise the following:

- Financial intermediaries may not accept assets originating from criminal activities. They may not have business relationships with persons and companies who engage in financing terrorism or are linked to criminal organisations.
- As a precautionary measure, financial intermediaries must establish the client's identity and the beneficial owners of the assets deposited.
- Where business relationships or transactions seem unusual, or there are indications that the assets originate from criminal activities, are subject to the power of disposal of a criminal organisation, or serve the financing of terrorism, financial intermediaries must clarify the economic background and the purpose of a transaction or a business relationship.
- Business relationships and transactions involving increased risk must be recorded and clarified accordingly. This may, for instance, include business relationships with clients from high risk countries or with politically exposed persons. Other criteria that indicate increased risk are the total amount of assets deposited, inflows and outflows, type of services or products requested, and the origin or target country for frequent payments.

– Records of the transactions and clarifications made must be kept.

– Financial intermediaries must comply with organisational measures required to prevent money laundering and financing of terrorism. This includes controls, issuing internal directives and training staff.

– Where suspicions of money laundering arise in a business relationship, financial intermediaries must file a report with the Money Laundering Reporting Office Switzerland (MROS) of the Federal Department of Justice and Police (FDJP).

**FINMA-imposed measures**

FINMA takes action when it becomes aware of breaches of the Anti-Money Laundering Act. The supervisory authority ensures that supervised financial intermediaries make every effort to maintain compliance with the provisions. In severe cases, FINMA may impose measures to restore compliance with the law, organise extraordinary audits, initiate enforcement proceedings and order the disgorgement of profits generated by the institution at fault.

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