Regulations of the SRO PolyReg according to Art. 25 AMLA

A. Overview and general provisions

§1 Purpose of the Regulations

[1] According to 22 of the Statutes of the SRO PolyReg these Regulations shall specify the duties of due diligence according to Chapter 2 of the Federal Act on Combating Money Laundering and Terrorist Financing of 10 October 1997 (AMLA; SR 955.0) and determine how to fulfil them.

[2] These Regulations also determine and specify:

a) the conditions for the affiliation and exclusion of financial intermediaries;

b) the training of the affiliated financial intermediaries;

c) audits;

d) sanctions in case of breaches of duties.

§2 Scope of application

These Regulations apply for all financial intermediaries, who are a member of the SRO PolyReg, and for their organs, managing persons and all employees and agents, who work in the field of financial intermediation.

§3 Guidelines

[1] Financial intermediaries organise themselves and must take the measures that are required to prevent money laundering and terrorist financing in their field of business.

[2] Financial intermediaries are obliged to fulfil these Regulations, the Statutes and further rules of the SRO PolyReg. In particular, the financial intermediaries are obliged to:

a) act in good faith;

b) fulfil the applicable provisions for their business activity, in particular the Anti-Money Laundering Act and the relevant norms of the Swiss Criminal Code, especially Art. 305^{bis}, 305^{ter}, 260^{ter} and $260^{quinquies}$ Swiss Criminal Code;

c) inform the clients about the legal provisions, in particular of the AMLA and its effect on the business relationship;

d) document all business relationships in accordance with the commercial principles and to preserve these documents in the legally prescribed manner;

e) avoid becoming involved in business of their foreign parent-, sister- or subsidiary company to escape the rules of the existing anti-money laundering and terrorist financing and audits;

f) record globally, limit and monitor their legal and reputation risks and ensure that their foreign branches or subsidiary companies are compliant with the basic principles of the Anti-money laundering. They must also take into account the risks of new products, business practices and technologies.

§4 Acquisition of membership

[1] A financial intermediary can apply for membership of the SRO PolyReg if he fulfils the requirements not only of the Statutes, but also the following conditions:

a) He guarantees compliance with the duties in accordance with the Anti-Money Laundering Act and these Regulations by means of his internal regulations and his organisation.

b) Himself, as well as the persons responsible for the administration and management and all employees and agents, who work for the member in the field of the financial intermediation, enjoy a good reputation in relation to their role as financial intermediaries and guarantee compliance with the duties of the AMLA and these Regulations.

c) The core of the effective financial intermediation must be in Switzerland or performed only from Switzerland. Foreign branches must be subject to supervision of the competent authority and must possess a license.

d) Shareholders and shareowners of the financial intermediary, who hold a voting or capital participation of a minimum of one-third, must have an extract of the Register of Convictions free of any criminal record that might not guarantee the compliance of the financial intermediary.

[2] Otherwise, the conditions and the process of affiliation is determined by the Statutes.

§5 Membership lists (Art. 26 AMLA)

The SRO PolyReg must inform the FINMA about their affiliated members, refused affiliation requests, withdrawn and excluded members as well as about the opening and closing of sanction procedures.

§6 Overview of the duties of the financial intermediary

[1] It is prohibited for the financial intermediary to accept, hold or assist in the investment or transfer of assets which he knows or must assume derive from a crime or a qualified tax offence, or stem from criminal organisations, or are intended to finance terrorism. The financial intermediary commits money laundering according to Art. 305^{bis} SCC, if he takes actions which are designed to obstruct the investigation of the origin of the source, the discovery or confiscation of assets which he knows or must assume derive from a crime or a qualified tax offence.

[2] The financial intermediary must not maintain business relationships with companies or persons whom he knows, or must assume, finance terrorism or support such a criminal organisation in any form.

[3] The financial intermediary is liable to prosecution according to Art. 305ter SCC if, while acting in a professional capacity, he accepts, holds, invests or assists in transferring third party assets and fails to establish the identity of the beneficial owner with the care required in the circumstances.

[4] The financial intermediary is liable to prosecution according to Art. 260^{quinquies} para. 1 SCC, if he intentionally collects, or makes available, assets with the intent to finance a violent crime through which the population, a state or an international organisation is compelled to act or refrain from acting.

[5] In detail, the affiliated financial intermediaries have the following duties:

a) Verification of the identity of the customer and the representative of the legal entities according to §§ 7 et seq.;

b) Establishing the identity of the beneficial owner according to §§ 18 et seq.;

c) Repetition of the verification of the identity of the customer or the establishment of the identity of the beneficial owner and termination of the business relationship in accordance with §§ 26 et seq.;

d) Identification of the nature and purpose of the business relationship according to § 30;

e) Special duties of due diligence according to §§ 31 ff.;

f) Duty to keep records according to §§ 37 et seq.;

g) Organisational measures according to §§ 40 et seq.;

h) Duty to report according to §§ 42 et seq.;

i) Freezing of assets and prohibition of information according to §§ 44 et seq.;

j) Training obligation according to §§ 60 et seq.

B. Verification of the identity of the customer (Art. 3 AMLA)

§ 7 Time of identification

[1] When establishing a business relationship or a spot transaction of considerable financial value with a customer not previously identified, the financial intermediary must verify the identity of the customer on the basis of a document of evidentiary value.

[2] A business relationship is in effect at the time of conclusion of the contract.

[3] In the case of a contract being concluded without the customer being present, the identification, the identity of the beneficial owner and the identification of the nature and purpose of the business relationship shall be promptly made. Until this has occured, the financial intermediary may not undertake any transactions or related dispositions of assets.

§ 8 Information about the customer

[1] At the establishment of a business relatioship or the execution of a cash transaction of a considerable worth according to § 14 Para. 2 and 3 the financial intermediary must obtain the following information:

a) for natural persons and owners of sole proprietorships: Surname, first name, business name (where applicable), date of birth, address and nationality;

b) for legal entities, as well for partnerships and sole proprietorships entered in the commercial register and domiciled in Switzerland: Business name and domicile address;

c) The provisions regulating the power to bind the legal entity, and verify the identity of the persons who enter into the business relationship on behalf of the legal entity.

[2] If a customer originates from a country in which birth dates or home addresses are not used, this requirements wont apply. Such exceptional cases must be documented in a signed and dated memorandum.

§9 Identification of natural persons

[1] The identification of natural persons occur by examining a document bearing a photograph, issued by a Swiss or a foreign authority, which is suitable for identification.

[2] If a natural person is not in possession of an identification document within the meaning of these Regulations, his identity may, by way of exception, be established on the basis of a substitute evidential document (e.g. confirmation of residence, acknowledgment of receipt of documents). Any such exceptional situation must be documented in a signed and dated memorandum.

[3] In the case of doubt that the document is authentic or if the photography is that of the person to be identified, a further evidential document must be obtained.

[4] A sole proprietorships with domicile in Switzerland can also be identified by an extract of the commercial register or an equivalent document (cf. §11 and §12).

[5] When establishing a business relationship with a sole proprietorship, the financial intermediary identifies the customer by identifying all partners or at a minimum identifying one partner and all persons with signature power on behalf of this business relationship.

§10 Conclusion of a contract by correspondence

[1] If a business relationship is entered into by correspondence, the customer must identify himself by sending a certified copy of the identification document, as well as the information required for identification in accordance with §8.

[2] The residential address of the customer in a contract by correspondence shall be determined by postal delivery or equivalent, as long as the address doesnt result from the identification documents.

§11 Identification of legal entities and companies

[1] The identity of a legal entity, partnership or sole proprietorship, which are registered in the commercial register and domiciled in Switzerland, may be established on the basis of an extract of the commercial register issued by the registrar.

[2] Provided that all the relevant informations are supplied, legal entities or partnerships may be identified on the basis of a print-out from a database run by an official authority (e.g. ZEFIX) or from a trustworthy privately managed directory or database (e.g. Teledata, Dun & Bradstreet, Creditreform).

[3] Legal entities not listed in the commercial register (such as associations or foundations) or partnerships with legal capacity must be identified on the basis of their statutes or equivalent documents. For the present purpose equivalent documents shall be understood to mean, apart from § 9, the owners identification documents, the certificate of incorporation, the contract of the formation, an auditors certificate, a factory inspectorate permit or a written extract from a trustworthy privately managed directory or database (e.g. Teledata, Dun & Bradstreet, Creditreform).

[4] The extract of the commercial register, the auditors certificate or the directory or database print-out must be no more than twelve months old and must reflect the current situation of the company.

[5] The financial intermediary himself shall obtain the ZEFIX print-out or the extract from the directories and databases referred to in Para. 2 and attributes the mark 'printed on . . . ' dated and signed.

[6] The identity of legal entities and partnerships domiciled abroad may be established on the basis of an extract of the commercial register or an equivalent document (e.g. notarised contract of formation, „certificate of incorporation") or on the basis of a written extract from an official or trustworthy privately managed database or directory, provided that this document supplies all the relevant information.

§ 12 Identification of the representatives of legal entities

[1] Where the customer is a legal entity, partnership or a sole proprietorship identified by means of an extract of the commercial register and is domiciled in Switzerland, the financial intermediary must acknowledge the provisions regulating the power to bind the legal entity of these persons, who enter into the business relationship on behalf of the legal entity. The identification of these persons needs to be verified.

[2] The provisions regulating the power to bind the legal entity may be confirmed by an extract of the commercial register of the customer, a proxy document, a power of attorney, an excerpts of the minutes or similar documentation with a valid signature in the name of the customer. The authorisation shall be documented. No authentication is needed.

[3] A confirmation of a power of attorney provided orally must be recorded in a memorandum.

§ 13 Waiver of the identification

[1] The financial intermediary may dispense with the identification of a legal entity when she is listed on a stock exchange in Switzerland or abroad.

[2] The financial intermediary can also dispense with the identification of public law customers of Switzerland, e.g. states, cantons, communes or further public law corporate bodies, institutions and their legally competent department or units, such as the police, fire brigade, schools, etc.

[3] The reasonable ground for the waive of the identification must be documented in a dated and signed memorandum.

[4] The financial intermediary can also dispense with the identification for non-reloadable instruments for electronic payment methods, if:

a) the money stored electronically is exclusively used by the customer to pay for goods and services electronically:

b) not more than CHF 250 is available for each data carrier;

c) not more than CHF 1'500 is available per transaction and per customer.

§14 Cash transactions

[1] Cash transactions, when no long term business relationship exist, mean all cash transactions, in particular money exchange, the sale of travellers cheques, the encashment of cheques, the cash subscription of bearer bonds (e.g. cash bonds or bonds) and the sale and purchase of precious metals, as well as single transactions for casual customers.

[2] In case of cash transactions the customer needs to be identified, if:

a) where one or more transactions which appear to be linked reach or exceed the sum of CHF 25'000;

b) in case of money exchange transactions, when the denomination of notes or coins in one currency is exchanged, or when notes or coins on one currency are exchanged in an other currency and the value of the entire transaction or of a number of apparently linked transactions exceeds CHF 5'000.

[3] The mandating party shall be identified in each case where money and assets are transferred[1] abroad. If money or assets are transferred to Switzerland from abroad and one (or more transactions which appear to be linked) exceed the sum of CHF 1'000, the sender needs to be identified. If grounds for suspicion of money laundering or terrorist financing arise, the receiver of money and values transfers shall be identified in each case.

[4] For the execution of payment orders the financial intermediary discloses the name, address and account number of the client and the name and the account number of the beneficiary. If no account number is available, a transaction-referenced identification number is needed. The address of the client may be replaced with the date and place of birth, his/her client number or national ID number. For domestic payment orders, the financial intermediary is not required to disclose these informations, provided he can deliver them, if requested, to the Swiss authorities within three working days.

[5] If there are grounds for suspicion of possible money laundering regarding Para. 1, the identification must be done even if the relevant amounts have not been reached.

§15 Authentication of documents

[1] The financial intermediary receives the original identification documents or copies thereof which have been authenticated. He shall place the authenticated copies in his files or makes a copy of the document presented. He must confirm with signature and date on the photocopy that the document originally inspected was the original or an authenticated copy.

[2] The authentication of the copy of the identification document may be issued by:

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[1] Money and asset transfer is defined as the transfer of assets by receiving cash, precious metals, virtual currencies, checks or other methods of payment in Switzerland and payment of an appropriate sum to a third party in cash, precious metals, virtual currencies or cashless transfer, transfer or other use of a payment and settlement system abroad, or in the opposite direction, unless there is no permanent business relationship associated with these transactions.

a) the financial intermediary himself, when he inspected and copied the original document;

b) by a notary or an attorney-at-law admitted in Switzerland or a public authority which customarily performs such authentication services;

c) a Swiss financial intermediary in accordance with Art. 2 Para. 2 or 3 AMLA or foreign financial intermediary who carries on an activity in accordance with Art. 2 Para. 2 or 3 AMLA, provided that he is subject to equivalent regulation and supervision in relation to combating money-laundering.

[3] As a valid authentication also can be obtained the retrieval of the copy of an identification document from a database of a recognized certification service provider subject to the Federal Act on the Electronic Signature in combination with the electronic authentication of the customer of 19 December 2003. The copy of the identification document must be provided together with a qualified certification issued by the service.

§16 Waiving authentication

[1] The financial intermediary may dispense with the authentication if he takes other measures enabling the verification of identity and address of the customer. The measures taken must be documented.

[2] When issuing credit and consumer cards by correspondence, it can be dispense with the need to obtain an authentication of the copy of the identification document, as long as the monthly limit of the card does not exceed CHF 25'000.

§17 Failure of the identification of the customer

[1] If the customer cannot be identified, the financial intermediary can refuse the business relationship or must terminate it according to the provisions of §§ 27 et seq.

C. Establishing the identity of the beneficial owner (Art. 4 AMLA)

§18 Beneficial owner

[1] The beneficial owner must be a natural person.

[2] The beneficial owner of an operational legal entity or partnership (controlling owner) are these natural persons, who ultimately control the entity or partnership directly or indirectly, alone or together with others owning at least 25 percent of all capital or voting power or control them in a different manner. If these persons cannot be identified, the identity of the member of the highest managing body shall be established as the controlling owner .

[3] A domiciliary company cannot be a beneficial owner. The beneficial owner of a domiciliary company is defined as the person who based on consultation, managerial authority, organ status, voting or capital participation or for other reasons ultimately has the ability to dispose or to arrange the disposition of the assets of the domiciliary company.

§19 Establishing the identity of the beneficial owner

[1] The financial intermediary must identify the beneficial owner or the controlling owner with the due diligence required in the circumstances. The financial intermediary must obtain a written declaration from the customer as to the identity of the individual who is the beneficial owner, if:

a) the customer is a natural person and not identical to the beneficial owner or if there is any doubt about the matter;

b) the customer is a domiciliary company;

c) a cash transaction of considerable financial value in accordance with §14 para. 2 lett. a) or b), which has or exceeds the amount of CHF 25'000, is being carried out.

d) a money or assets transfer according to §14 Para. 3 is being carried out;

e) the customer is an operational legal entity or partnership and is not listed on stock exchange nor a subsidiary company which is controlled in majority by such a company.

[2] The declaration concerning the beneficial owner (Form A or Form K for controlling owner) must contain the following information:

a) in cases of Para. 1 Lett. a) - d): Family name, first name, date of birth, address and nationality of the beneficial owner or owners;

b) in cases of Para. 1 Lett. e): The information in accordance with Art. 697l Code of Obligations, like the first and family name as well as the address of the beneficial owner, in the case of bearer shares the nationality and date of birth must be included.

[3] The declaration must be signed by the customer or by one of its authorised signatories. If the financial intermediary or his employees, who request the beneficial owner declaration, act in fiduciary matters for the customer, the declaration may be signed by the beneficial owner himself.

[4] If a customer or beneficial owner comes from a country in which birth dates or home addresses are not used, this information cannot be included. The reasons for these exceptional cases must be documented in a signed and dated memorandum.

[5] No establishment of the identity of the beneficial owner is needed if the disclosure would be contrary to the provisions concerning the professional secrecy of lawyers and notaries in their customary activities according to §47 of these Regulations.

[6] In the case of non-reloadable data instrument in the field of eletronical payment methods the establishment of the identity of the beneficial owner can be waived if:

a) the electronically stored money exclusively enables the customer to pay for services and goods electronically;

b) not more than CHF 250 is made available for each data carrier;

c) not more than CHF 1'500 is available per transaction and customer.

§20 Financial intermediary subject to special legal supervision

[1] If the customer is a financial intermediary subject to special legal supervision or a tax-exempt occupational pension institution within the meaning of Art. 2 Para. 4 Lett. b AMLA, it is not necessary to obtain a declaration of the beneficial owner.

[2] Financial intermediaries subject to special legal supervision are:

a) a Swiss financial intermediary according to Art. 2 Para. 2 AMLA;

b) a foreign financial intermediary who carries on an activity under Art. 2 Para. 2 AMLA provided that he is subject to an equivalent regulation and supervision in the combating money laundering.

[3] In the case of suspected misuse or general warnings of the FINMA about single institutions or institutions of a particular country, the customer in accordance with Para. 1 must provide a declaration of the beneficial owner.

§21 Collective investment scheme or investment companies

[1] If the customer is a collective investment scheme or an investment company with 20 or fewer investors, the financial intermediary must obtain a declaration of the beneficial owner.

[2] If the customer is a collective investment scheme or an investment company with more than 20 investors, the financial intermediary must only obtain a declaration of the beneficial owners if the investment scheme or investment company is not subject to adequate supervision and regulations in regard to money laundering and terrorist financing.

[3] If the collective investment scheme, investment company or domiciliary company is listed on a stock exchange, no declaration of the beneficial owner is needed.

[4] If a financial intermediary is subject to adequate rules to combat money laundering and terrorist financing and acts as a promoter or sponsor for a collective investment scheme or an investment company like §20, it is possible to waive the declaration of the beneficial owner.

§22 Doubt as to beneficial ownership

Doubts as to the beneficial owner of the customer are possible in the following cases:

a) a power of attorney is granted to a person who is not sufficiently closely related to the customer;

b) the assets contributed by the customer are clearly beyond his financial resources;

c) a business relationship is entered into without any previous personal contact;

d) the contact with the customer reveals further unusual conclusions.

§23 Domiciliary companies

[1] Domiciliary companies are defined as legal entities, companies, institutions, foundations, trusts, fiduciary companies and similar entities that do not operate a trading, manufacturing or other commercial business. Indications of a domiciliary company are in particular:

a) do not maintain own premises , in particular if the company's address is a c/o address, domiciled in a lawyer's office, a fiduciary company or a bank; or

b) have no employees or the employees tasks are administrative.

[2] Legal entities and companies domiciled in Switzerland are not considered as domiciliary companies when they:

a) protect their members' or beneficiaries' interests by means of common self-help or those that pursue political, religious, scientific, artistic, charitable, sociable or similar aims, provided that these statutory purposes are actually carried out;

b) hold directly or indirectly a majority in one or several operating companies and whose main business is not the asset management of a third party (holding companies).

[3] In a business relationship with a sole proprietorship, which has more than four shareholders, no connection to countries with increased risks and a purpose pursuant to Para. 2 Lett. a), no declaration of the beneficial owner is needed unless there is any evidence that the company is acting for the account of others.

§24 Partnerships, trusts and other asset units

[1] In the case of partnerships, trusts or other asset units, which have no beneficial owner, the declaration of the customer must contain the information according to §19 Para. 2 Lett. a for the following persons:

a) the actual (not fiduciary) founder;

b) the trustees;

c) any curators, protectors or other such persons;

d) the beneficiaries by name;

e) if there are no beneficiaries by name: a class of persons who could be seen as beneficiaries, broken down by category;

f) the persons who can instruct the customer or its organs;

g) for revocable structures, the person entitled to revoke the structure.

[2] Para. 1 also apply to companies with similar functions as partnerships, trusts or other asset units.

[3] A financial intermediary that enters into a business relationship or carries out a transaction as a trustee shall be identified as trustee by the financial intermediary of the customer or the transaction partner.

§25 Failure of the establishing the identity of the beneficial owner

If doubts remain as to the accuracy of the declaration made by the customer despite further clarifications, the financial intermediary refuses to enter into a business relationship or terminates it according to §§27 et seq.

§25bis Special provisions for investment companies

[1] A share relationship is the legal relationship of an investment company according to Art. 2 Para. 3 CISA to its shareholder or participant, which cannot be terminated by the investment company. Therefore, the following apply:

a) The share relationship begins with the purchase of shares (stocks or participation certificates), and ends with the sale of all shares by an investor.

b) The relationship of the investment company to bondholders is treated as a share relationship, if the acquisition of the bonds is made by the investor and not by subscription to the investment company.

c) The acquisition of derivative instruments on shares of the investment company by an investor establishes a share relationship, if it is under reporting obligation according to Art. 120 Para. 1 FMIA.

[2] The share relationship is considered as a business relationship within the meaning of the §§ 7 ff. of the Regulations. The implementation of the duties of due diligence of the AMLA regarding share relationships is carried out according to the Regulations with the following specific requirements:

a) The share relationship becomes a business relationship within the meaning of the Regulations when the investment company obtains actionable knowledge on the identity of the shareholder, which makes it possible to contact him.

b) Listed investment companies identify all shareholders who hold three percent or more of the shares. The calculation of the threshold value is performed according to the method of Art. 120 and 121 FMIA.

c) Unlisted investment companies identify all shareholders.

d) If a shareholder has already been identified within the group of companies to which the investment company belongs, this identification document can be used. This use must be documented.

e) It shall be ensured by appropriate organisational measures that regulators and law enforcement authorities have at all times immediate and unrestricted access to this existing identification.

f) For listed investment companies the information to establish the identity of the beneficial owner according to Art. 22 and 23 FMIO is sufficient.

g) The unlisted investment company shall establish the identify of the beneficial owner according to the Regulations and can dispense with the establishing of the identity of the beneficial owner when the shareholder is a prudentially supervised financial intermediary, subject to appropriate supervision authority in combating money laundering and terrorist financing, or if the shareholder is a listed collective investment scheme or an investment company.

[3] If the identification of a shareholder cannot be made within three months due to lack of cooperation or the identity of the beneficial owner cannot be established, the investment company shall immediately consider whether a report according to Art. 9 AMLA or Art. 305^{ter} SCC is required resp. appropriate.

[4] If an investment company submits a report according to Art. 9 AMLA, she informs in accordance with Art. 10a Para. 2 AMLA all the other financial intermediaries of which she is aware, that they are able to freeze assets in connection with the report.

[5] If the investment company dispenses with a report, the reasons needs to be documented.

D. Repetition of the verification of the identity of the customer or the establishment of the identity of the beneficial owner (Art. 5 AMLA) and termination of the business relationship

§26 Repetition of the verification of the identity of the customer or the establishment of the identity of the beneficial owner

In the course of the business relationship the identification of the customer or the establishment of the identity of the beneficial owner must be repeated, if doubts arise that:

a) the information on the identity of the customer is accurate;

b) the customer and the beneficial owner are the same person;

c) the declaration about the establishment of the identity of the beneficial owner is correct.

§27 Termination of the business relationship

[1] The financial intermediary must decide to continue or terminate a business relationship if:

a) following a report according to Art. 9 Para. 1 Lett. a. AMLA the Money Laundering Reporting Office Switzerland makes no reply within twenty working days, or informs the financial intermediary that the case will not be forwarded to the prosecuting authority and no notification from the authority is received within five working days;

b) the financial intermediary filed a report pursuant to Art. 9 Para. 1 Lett. c. AMLA and receives no notification from the prosecuting authority within five working days;

c) after the reporting right is exercised, as set out in Art. 305^{ter} SCC, the Money Laundering Reporting Office Switzerland gives notice that the case will not be forwarded to the prosecuting authorities.

[2] The financial intermediary must terminate the business relationship, according to §29, if:

a) doubts persist about the information about the customer, even after carrying out repetition of the verification of the identity of the customer or the establishment of the identity of the beneficial owner;

b) the customers refuses the repetition of the verification of the identity or the establishment of the identity of the beneficial owner.

[3] The existing relationship must be terminated as soon as possible under consideration of no breach of contract. If the financial intermediary is unable or due to instructions for correspondence not allowed to contact the customer, he may defer the termination of the business relationship until the next contact with the customer.

§28 Procedure for the withdrawal of assets

[1] If the financial intermediary terminates a business relationship for the abovementioned reasons, refuses to enter into a business relationship or if he executes client orders according to Art. 9a AMLA, he can allow the withdrawal of assets only, if the paper trail which enables the cantonal prosecution service to trace them, is granted.

[2] Exceptions to Para. 1 are cash transactions with cash and precious metals, deposit businesses and all civil law relations that provide the customer, if requested, with a claim to pay in a legal currency.

§29 Prohibited termination of the business relationship

[1] If the conditions for the duty to report according to Art. 9 Para. 1 Lett. a or c AMLA are fullfiled, the business relationship can only be terminated after the successfull report and under consideration of the regulations and deadlines according to §27 Para. 1.

[2] During the freeze of assets according to Art. 10 AMLA the business relationship cannot be terminated.

E. Special duties of due diligence (Art. 6 AMLA)

§30 The nature and purpose of the business relationship

[1] The financial intermediary is required to ascertain the nature and purpose of the business relationship wanted by the customer. The finding has to be recorded in a memorandum or in the customer profile.

[2] The extend of the information depends on the risk posed by the customer. In a business relationship with an increased risk the nature and purpose must be fully documented.

[3] If the nature and purpose of the relationship arises from the circumstances or the contract itself, no further documentation is needed.

§31 Special clarification

[1] The financial intermediary must clarify the economic background and the purpose of a transaction or of a business relationship if:

a) a business relationship or transaction appears unusual, unless its legality is clear;

b) there are indications that assets are the proceeds of a felony or an aggravated tax misdemeanour (Art. 305^{bis} No. 1^{bis} SCC) or are subject to the power of disposal of a criminal organisation (Art. 260^{ter} No. 1 SCC) or serve the financing of terrorism (Art. $260^{quinquies}$ Para. 1 SCC);

c) the transaction or business relationship carries a higher risk according to §32 or §33;

d) the data of a customer, a beneficial owner or an authorised person with signatory power of a business relationship or a transaction are identical or are very similar to the data that the SRO PolyReg as in Art. 22a Para. 2 Lett. c. AMLA required publishes on its website or transmits to the members.

§32 Business relationship with higher risk

[1] The financial intermediary must examine every case or employ a transaction monitoring system, to determine whether or not the business relationship is a higher risk. He must take into account the general indicators for Money Laundering according to the appendix of the AMLO-FINMA. A person can constitute a higher risk, whether as a customer, controlling owner, beneficial owner or as a representative. Depending on the business activities of the financial intermediary general indications for higher risk are:

a) domicile or address of the customer and/ or beneficial owner or their nationality;

b) nature and location of the business activities of the customer and/ or beneficial owner;

c) lack of personal contact with the customer and/ or beneficial owner;

d) nature of the requested services or products;

e) level of the assets deposited;

f) level of the asset flows;

g) origin or target country of frequent payments;

h) complex structures, especially the use of domiciliary companies.

[2] For the purposes of Para. 1, the financial intermediary may establish his own independent criteria for business relationships with a higher risk within his own area of business and clients. He must submit such criteria to the SRO PolyReg administrative office for their information.

[3] A business relationship is always a high risk, if there is:

a) a business relationship with foreign politically exposed persons[2] and their family members or close associates;

b) a business relationship with domestic politically exposed persons and with a politically exposed persons in international organisations and their family members or close associates are deemed when combined with one or more further risk criteria according to Lett. d) - e) or §32 Para. 1 and 2;

c) business relationship with a politically exposed persons in a leading function in an international sport organisation or with their family members or close associates are deemed when combined with one or more further risk criteria according to Lett. d) - e) or §32 Para. 1 and 2;

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[2] Politically Exposed Persons (PEPs) are: **a)** those who hold leading public offices abroad, such as heads of state and governments, senior politicians at national level, senior officials in national administrative, judiciary, or military departments and national level political parties, as well as officeholders in state-owned companies. **b)** Persons, who hold in Switzerland leading public offices at national level, or who serve as senior officials in national administrative, military and justice departments or in political parties at national level, as well as Board members of state-owned companies or public enterprises. This domestic status as a politically exposed persons expires 18 months after the termination of the public function. **c)** Persons, who act or acted in a management position for in inter-governmental organizations and international sports federations with a managerial function. International sports federations recognized by the International Olympic Committee include non-governmental organisations that regulate one or more official sports at the global level, and the International Olympic Committee. **d)** Persons who are their family members or close associates.

d) domicile, residence or place of business activity of the customer or the beneficial owner or their nationality are in a country without effective measures to combating money laundering;

e) the business relationship , the level of assets or the transaction volume seem under consideration of the customer profile or the circumstances unusual, unless its legality is clear.

[4] In its criteria for assessing whether the tax evaded is a possible qualified tax offense under Art. 305^{bis} No. 1^{bis} SCC the financial intermediary may use the maximum tax rate of the tax domicile of his client and waive the determination of individual tax factors. The financial intermediary takes in consideration for his assessment the taxes according to DBG, StGH and tax fraud within the meaning of Art. 14 VStrR.

[5] The establishment of a high-risk business relationship requires the approval of a line manager, a superior office, or the executive board of the company (§ 34 Para. 4).

§ 33 Transactions with higher risk

[1] A transaction carries a higher risk:

a) where the amount of the assets or the volume of the transactions appears unusual, considering the customer's profile or the circumstances; especially when there are indications of money laundering within the meaning of the Annex to AMLO-FINMA, without a clear explanation;

b) where, in the specific business relationship or in similar business relationships, considerable deviations are noted from customary transaction nature, volumes and frequencies;

c) where cash, bearer bonds or precious metals with a value of CHF 100'000 or more are paid or withdrawn;

d) where, in money or asset transfers one or more transactions which appear to be interrelated amount to or exceed a sum of CHF 5'000;

[2] For the purposes of Para. 1, the financial intermediary may establish his own independent criteria for transactions with a higher risk within his own area of business and clients. He must submit such criteria to the SRO PolyReg administrative office for their information.

[3] In case of money or asset transfer the name and address of the financial intermediary must be documented on the payment receipt.

§ 34 Monitoring of business relationships and transactions

[1] The financial intermediary shall take the necessary personnel and organisational measures to ensure effective monitoring of business relationships and transactions.

[2] The establishment of a long-term business relationship the financial intermediary must obtain, document, and from time to time, update the information needed for monitoring purposes (customer profile).

[3] In particular, the financial intermediary must, regarding the long-term business relationships, know his contracting parties well enough to be able to judge if a transaction or a business relationship is unusual.

[4] The highest management organ or at least one of its members shall decide about:

a) the establishment of long-term business relationships with politically exposed persons according to §32 Para. 3 Lett. a) and b) and their annual review;

b) the arrangement of regular checks of all business relationships with higher risk and their monitoring and evaluation.

[5] Financial intermediaries with extensive wealth management and multi-level hierarchical structures can transfer this responsibility to a business unit.

§35 Timing and content of clarifications

[1] The financial intermediary must start with the clarifications as soon as the conditions for a special duty of clarification are apparent.

[2] Depending on the circumstances, the following points needs to be clarified:

a) the source of the assets deposited;

b) the purpose of the assets withdrawn;

c) the backgrounds of the payments received;

d) the origin of the assets of the customer and the beneficial owner;

e) the professional or business activity of the customer and the beneficial owner;

f) the financial situation of the customer and the beneficial owner;

g) for legal entities: Who controls them;

h) in case of money and asset transfer: the surname, first name and address of the beneficiary.

§36 Procedure and consequences

[1] Depending on the circumstances the clarifications can be made as follows:

a) Obtain written or verbal details from the customer or the beneficial owner;

b) Visit the place of business of the customer or the beneficial owner;

c) Consult generally accessible public sources and databases;

d) Inquiries with third parties.

[2] The financial intermediary will consider the plausibility of his findings and document them.

[3] Subject to §27 and §28 and under reserve of §29 the financial intermediary must terminate the business relationship, when:

a) the doubts about the information of the customer persist also after the duty of the special clarification;

b) there is a strong suspicion that false information has knowingly been given about the identity of the customer or the beneficial owner.

F. Duty to keep records (Art. 7 AMLA)

§37 Preparation and Organisation of the documents

[1] The financial intermediary must prepare these documents and receipts of his business relationship with the customer in a manner, that third parties, particularly the SRO PolyReg and his auditors, can make an audit about the compliance with the provisions of these Regulations and the AMLA.

[2] The financial intermediary must keep an AMLA-register that includes all AMLA-relevant business relationships according to § 44 Para. 1 of the Statutes and document the identification, findings and clarifications according to §§ 7–36 and reports to Art. 9 AMLA. Dossiers that include business relationships with higher risk or politically exposed persons have to be labelled as such. Reports must be kept separately.

[3] The documentation must enable reconstruction of each individual transaction.

[4] The documents and records required by Art. 7 AMLA must be retained in a safe location so the financial intermediary is able to respond within a reasonable time to any requests from the SRO PolyReg, the auditors designated by itself, the FINMA as well as for prosecution authorities.

[5] Electronic dossier management and archiving are permitted. The storage medium or the server must be in Switzerland. A Copyright, readable documents at any time and enough security copies are under the consideration of the state of the art technology requested.

§38 Conditions for the involvement of third parties

[1] The financial intermediary may involve another financial intermediary or a third party as defined in Art. 2 Para. 2 Lett. b of the Ordonnance of the AMLA to identify the customer and the representatives of legal entities, to establish the identity of the beneficial owner, to repeat the identification or the establishment of the identity of the beneficial owner and to implement the special duty of clarification, provided that such a financial intermediary is subject to equivalent supervision and regulation combating money laundering.

[2] Upon written request, the SRO PolyReg may, if there are sufficient grounds, grant a financial intermediary permission to involve a third party, who is not a financial intermediary within the meaning of Para. 1, to carry out duties of due diligence, provided that he concludes a written agreement with the said third party to ensure that he is carefully selected, instructed in his tasks and monitored with regard to the fulfilment of the duty.

§39 Responsibility of the financial intermediary with third parties

[1] In any event, the financial intermediary shall remain responsible for the fulfilment of the delegated tasks.

[2] The financial intermediary shall take appropriate measures (confirmation of the sender, encrypted transmission, etc) to ensure that the documents maintained in his files correspond to the original documents which have served to fulfil the due diligence.

[3] Any further delegation to a third party is excluded.

§39bis Waiver and reliefs of the duties of due diligence

[1] In long-term business relationships and in the field of payment methods for the cashless payment system the financial intermediary can determine with the duties of due diligence in accordance with Art. 11 AMLO-FINMA.

[2] The provider of payment methods may apply the reliefs of the requirements of Art. 12 in conjunction with Art. 8 Para. 2 AMLO-FINMA under the preconditions set out therein.

[3] The SRO PolyReg can, in agreement with FINMA, grant further or other reliefs of the requirements to a member, upon request. The member must bear the cost of the procedures.

G. Organisational measures (Art. 8 AMLA)

§40 Measures to be taken by the SRO PolyReg

[1] Where necessary or when conditions change, the SRO PolyReg will take supplementary measures to prevent and combat money laundering.

[2] Within the framework of such measures, the SRO PolyReg may issue instructions particularly with regard to:

a) in which cases the Executive Director of the SRO PolyReg must be informed;

b) resources for the practical fulfilment of the duty of documentation by the financial intermediary (e.g. by supplying forms etc);

[3] The financial intermediaries who work in the field of money and asset transfer keep an up-to-date record of all their assistants and agents of system operators, so that the Executive Director is informed when any changes occur. They themselves and their assistants must comply with the regulations as in Art. 2 Para. 2 Lett. b. AMLA[3].

[4] In money and asset transfer business an electronic system should be used in order to monitor transactions with higher risks when the volume exceeds 500 transactions in the last 12 months. The Executive Director can also use such a system in other mass businesses.

§41 Measures taken by the financial intermediary

[1] The financial intermediary must ensure effective monitoring of business relationships and transactions, to be certain that higher risks are identified.

[2] The financial intermediary shall appoint one or more qualified persons to act as an anti-money laundering department. The designated SRO contact person and the company training officer should carry out these duties, unless other persons are designated to perform this function.

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[3] Ordinance of Swiss Confederation on the Prevention of Money Laundering and Terrorism Financing (MLO), SR 955.01

[3] The anti-money laundering department shall prepare internal directives on the combating of money laundering and terrorist financing, as well as to plan and administer internal training. It supports and advises line managers and senior management in the implementation of these regulations, without this taking away individual responsibility for them.

[4] In larger concerns, with more than twenty people with AMLA related duties, a clear separation between monitoring and the business relationship personnel must be ensured. The anti-money laundering department has the following tasks:

a) it monitors the operation of internal policies to combating money laundering and terrorism financing in consultation with internal auditors, external auditors and line management;

b) it sets parameters for the transaction monitoring system as per § 40 Para. 4;

c) it analyses reports generated by the transaction monitoring system;

d) it orders additional clarifications as per § 35 or performs these itself;

e) it provides the responsible management with the appropriate informations to determine whether to accept or continue a business relationship according to § 34 Para. 4;

f) depending on the business field it shall prepare a risk analysis for combating money laundering and terrorism financing, specifically taking into consideration the client's domicile or residence, the client segment as well as the products and services offered. The risk analysis shall be approved by the Board of Directors or the Executive Management and updated periodically.

[5] Financial intermediaries with more than eight employees engaged in AMLA activity must create a written policy for internal monitoring procedures, which must include the following instructions and information:

a) in which situations the SRO PolyReg must be informed;

b) the procedure for establishing new business relationships;

c) who in the organisation will decide on admission and continuation of business relationships with higher risk;

d) the content and the management of AMLA dossiers;

e) the archiving and storage of documents;

f) assignment of tasks and responsibilities within the financial intermediary.

H. Duty to report (Art. 9 AMLA) and the right to report (Art. 305ter Para. 2 SCC)

§ 42 Cause for report

[1] A financial intermediary must immediately file a report with the Money Laundering Reporting Office Switzerland („the Reporting Office") as defined in Art. 23 AMLA if it:

a) knows, or has reasonable grounds to suspect, that assets involved in the business relationship:

1. are connected to an offence in terms of Art. 260ter No. 1 or 305bis SCC,

2. are the proceeds of a felony or an aggravated tax misdemeanour under Art. 305bis No. 1bis SCC,
3. are subject to the power of disposal of a criminal organisation, or
4. serve the financing of terrorism (Art. 260^{quinquies} Para. 1 SCC);

b) terminates negotiations aimed at establishing a business relationship because of a reasonable suspicion as defined in Lett. a);

c) knows, or has reason to assume based on the clarifications carried out under Art. 6, Para. 2 Lett. d that the data passed on by FINMA, the Federal Gaming Board or a self-regulatory organisation relating to a person or organisation corresponds to the data of a customer, a beneficial owner or an authorised signatory in a business relationship or transaction.

[2] Lawyers and notaries are not subject to the duty to report insofar as they are bound in their activities by professional secrecy in terms of Article 321 SCC.

[3] If a financial intermediary has no suspicion as in Art. 9 Para. 1 Lett. a. AMLA, nor as in Art. 9 Para. 1 Lett. c. AMLA, but still has made observations leading to the conclusion that assets arise from a felony or aggravated tax misdemeanor, or may serve to finance terrorism, he can report this to the Money Laundering Reporting Office, based on the right to report in Art. 305ter Para. 2 SCC.

§43 Form of report

[1] The report must be in written form, according to Art. 9 AMLA, or Art. 305ter Para. 2 SCC.

[2] It must be sent by fax, or if a fax machine is not available, via A-Post. A report via e-mail is not permitted.

[3] The report should be submitted on the form provided by the Money Laundering Reporting Office.

[4] The report shall indicate the individual or company name of the financial intermediary, and include the name of the responsible contact person. The staff member involved with the case may remain anonymous in the report.

[5] The financial intermediary shall ensure that the designated contact person can be reached during office hours.

[6] The SRO PolyReg must be informed without delay and provided with a copy of the report. Reports made according to Art. 305ter Para. 2 SCC must also be sent to the SRO PolyReg.

I. Freezing of assets and prohibition of information (Art. 10 and 10a AMLAGwG)

§44 Freezing of assets

[1] The financial intermediary shall freeze the assets entrusted to it that are related to the report under Art. 9 para. 1 letter a AMLA or under Article 305ter para. 2 SCC as soon as the Reporting Office informs it that it has forwarded the report to the prosecution authority.

[2] It shall without delay freeze the assets entrusted to it that are related to the report under Art. 9 para. 1 letter c AMLA.

[3] It shall continue to freeze the assets until it receives a ruling from the competent prosecution authority, but at most for five working days from the date on which the Reporting Office gives notice of forwarding the report under para. 1 or on which it filed the report with the Reporting Office under para. 2.

§45 Prohibition of information

[1] The financial intermediary is prohibited from informing the persons concerned or third parties that it has filed a report under Art. 9 AMLA or under Article 305ter para. 2 SCC. The self-regulatory organisation to which the financial intermediary is affiliated is not regarded as a third party. The same applies to FINMA and the Federal Gaming Board in relation to the financial intermediaries under their supervision.

[2] If the financial intermediary itself is unable to freeze the assets, it may inform the financial intermediary that is able to do so and which is subject to this Act.

[3] It may also inform another financial intermediary subject to this Act that a report has been submitted under Art. 9 AMLA, provided this is required in order to comply with duties under this Act and provided both financial intermediaries:

a) provide joint services for one customer in connection with the management of that customer's assets on the basis of a contractual agreement to cooperate; or

b) are part of the same corporate group.

[4] The prohibition on providing information does not apply to protecting personal interests in the context of a civil action or criminal or administrative proceedings.

§46 Exclusion of criminal and civil liability (Art. 11 AMLA)

Any person who in good faith files a report under Art. 9 AMLA or 305ter Para. 2 SCC or who freezes assets may not be prosecuted for a breach of official, profession or trade secrecy or be held liable for breach of contract.

K. Special provisions for persons subject to professional secrecy

§47 Lawyers and notaries

Lawyers and notaries are released from the provisions concerning the duties of due diligences and the duty to report, if they accept assets from third parties to which they themselves hold no beneficial title and administer such assets in accounts / safe custody deposits with regard to which they are subject to the legal obligation of professional secrecy under Article 321 SCC.

§48 Accounts subject to professional secrecy

[1] Accounts/safe custody deposits used and identified as being exclusively for the following purposes are subject to professional secrecy under Art. 321 SCC:

a) the settlement and, where advisable, the related short-term investment of advances for court costs, deposits, public law charges etc. as well as payments to or from parties, third parties or authorities (marking for example as „Client funds Settlement account/safe custody deposit“);

b) the deposit and, where advisable, the related investment of assets from a pending inheritance or execution of an estate (marking for example as „Inheritance“ or „Legacy“);

c) the deposit, and, where advisable, the related investment of assets from a pending division of property in a divorce or separation (marking for example as „Division of property divorce“);

d) the deposit of securities and, where advisable, the related investment of assets in civil or public law actions (marking for example as „Escrow account/safe custody deposit“, „Blocked share purchase deposit“, „Deposit of securities contractor's bond“, „Deposit of securities real estate capital gains tax“ etc.)

e) the deposit, and, where advisable, the related investment of assets in civil or public law actions before ordinary courts or arbitration tribunals and in enforcement proceedings (marking for example as „Advance payments“, „Security for court costs“, „Bankruptcy assets“, „Arbitration proceedings“ etc.).

[2] For questions about the delineation between activity as a financial intermediary and forensic work as a lawyer or notary, while upholding professional secrecy, the board of the SRO PolyReg is responsible.

L. Audits

§49 Audit firms

[1] By accepting the Statutes, the members authorise the Executive Board of the SRO PolyReg to appoint permanent independent audit firms to carry out the periodic ordinary audit of members. Audit firms in accordance with §33 and §34 of the Statutes have to be approved by the SRO PolyReg according to Art. 11a Para. 2 AOO.

[2] The audit firms act on behalf of the SRO PolyReg, but on account of the financial intermediary under review. They submit a written report on the completed inspection to the Managing Director and the Executive Board of the SRO PolyReg.

[3] In the case of review of professional secrecy, the audit firms will consider the special conditions of professional secrecy of the financial intermediary. If the report includes secret relevant information, the audit firms will report directly to the Executive Board.

§50 Independent investigators

Special audits to clarify any irregularities or violations identified shall, unless conducted by the executive director himself or is subject in a sanction procedure, be carried out by an independent investigator, who acts on behalf of the executive board and reports his findings in writing to the executive board. The financial intermediary shall bear the costs of the special audit by the independent investigator.

§51 Ordinary periodic audit

[1] The SRO PolyReg shall verify compliance with the duties of the association, duties of due diligence and duty to report of the member audited in his premises.

[2] The Executive Director of the SRO PolyReg mandates the audit firm to verify compliance of the financial intermediary on or by a specific date. Extensions may be granted for good reason.

[3] The Executive Director may, at written request of a member, defer the ordinary audit once or twice by a year when:

a) the last audit was carried out by an SRO PolyReg audit firm and was not a first audit and

b) the two previous audits did not reveal any material shortcomings. In the case of inactive members in contrary to Lett. a) and b) one previous audit is sufficient; and

c) if there is little risk of money-laundering, given the scale of the member's business (transaction volume, assets under management, number of clients etc.), the origin of the clients and the stability of the business relationships. In any case, money and assets transfer is considered as a business with higher risk.

The grounds for the acceptance or rejection of a deferral request must be documented.

[4] The request for the initial postponement of the audit must be sent to the SRO PolyReg within 6 months after the last ordinary audit; the request for a second postponement of the audit shall be made no earlier than 12 and no later than 18 months after the last ordinary audit. The SRO PolyReg reserves the right to arrange an audit at any time without cause.

[5] The audit will be scheduled or — if its purpose of the audit dictates — unscheduled. The time period audited shall be at least up to the last audit.

[6] The financial intermediary audited must present the audit firm with documents and records evidencing compliance with his duties. The audit firm may have sight of the financial intermediary's bookkeeping and the vouchers for the accounts of his firm or his clients. The audit firm must be provided with all relevant information.

[7] The audit firms shall identify themselves to the financial intermediary by means of an audit mandate issued by the SRO PolyReg. The auditors and the SRO PolyReg shall protect the business or professional secrecy of the members.

§52 Content of the audit

[1] The audit firms shall verify compliance with the provisions of the AMLA, the Statutes and these Regulations and report to the SRO PolyReg using the prescribed forms.

[2] The audit shall proceed in accordance with the terms of the concept of control and shall, in particular, cover:

a) that the documents required to carry out the duties of due diligence and to keep records have been properly drawn up and maintained in a file;

b) that the filed documents prove that the duties of identification and clarification have been complied with;

c) that the duty to report has been fulfilled;

d) that the training obligation has been complied with and the employees have adequate knowledge, and where appropriate, an in-house training plan has been fully implemented.

[3] The audit shall also cover whether the conditions for a membership of the SRO PolyReg are satisfied and ensure that all changes have been notified immediately in accordance with §8 of the Statutes.

[4] The audit firms shall forward a copy of its report to the Executive Director of the SRO PolyReg no more than 14 days from the conclusion of its audit. In addition, it shall give the Executive Director immediate verbal notice of any serious violations or reasonable suspicion thereof. The audit firm will assess the risk posed by the activities of the audited financial intermediary and may apply for additional measures. The Executive Board will decide on request of the Executive Director what action to take (appointment of an independent investigator, sanctions, report to FINMA).

§53 Extraordinary audits

[1] An independent investigator will be appointed to examine any grounds for suspicion or irregularities, as well any identified violations. He will report to the Executive Committee or Board Delegation of the SRO PolyReg. He will conduct a detailed examination of any suspicious or obscure transactions.

[2] The independent investigator take evidences on files and draw up a written report of his findings. His report may also call for the application of sanctions.

[3] The member concerned must assist the independent investigator and permit him to carry out all necessary access.

[4] The cost of the extraordinary audit shall be determined by the Executive Board, and as a rule, borne by the member. The Executive Director of the SRO PolyReg will make the necessary arrangements in this regard.

M. System of sanctions

§54 Sanctions

[1] For violations of the AMLA, other financial market laws, the Statutes or these Regulations for the implementation of the AMLA or the association duties, the following sanctions can be imposed on the financial intermediary:

a) a warning;

b) a financial penalty ranging from CHF 300 to CHF 1'000'000;

c) the threat of exclusion;

d) the exclusion from the Self-Regulatory Organisation.

[2] The financial penalty can be the higher amount of 10% of the share capital, or 10% of the annual revenue of the financial intermediary, if either exceeds the maximum amount of the range of the penalty, above, in Para. 1 Lett. b.

[3] Where necessary, the sanction is combined with a demand to restore the proper legal situation within a maximum period of three months. The demand may be combined with instructions and conditions for the internal organisation of the financial intermediary.

§55 Financial penalties

[1] Any financial penalties applied must be in proportion to the seriousness of the breach, the degree of culpability and the economic capacity of the financial intermediary. The fact that the state applies measures and / or penalties at the same time shall not prevent the SRO PolyReg from imposing its own sanctions. However, such penalties should be moderated if the combination of penalties would be unreasonably harsh.

[2] In the case of minor breaches arising out of negligence, a warning may be given instead of a financial penalty.

§56 Exclusion

[1] Exclusion may be ordered in case of breaches of the regulations as set out in §54 Para. 1, if the financial intermediary does not restore the legal, regulatory, or statutory situation within the set time frame, or in case of a repeated violations.

[2] A member will be excluded if he no longer satisfies the membership conditions, particularly if he cannot guarantee compliance of his personnel and organisation or fails to restore the proper situation within a fixed time limit of three months maximum.

[3] A prior warning or a set time limit to act can be waived if it appears to have no effect.

[4] A member must be excluded if it either intentionally or by gross negligence breaches important provisions of the AMLA, namely the duty to report and in cases of §8 Para. 4 and §10 Para. 4 of the Statutes.

[5] In any case of exclusion or threat of exclusion, additional financial penalties may be imposed.

§57 Enforcement of exclusion

[1] If a member appeals against his exclusion, the suspension effect can be withdraw, if the member ceases to fulfil the qualifications for membership, if a member no longer can be monitored properly, if fulfilment of membership obligations in the future appears doubtful, if the exclusion was based on compelling reasons (§56 Para. 4) or if through its continued activity, third parties' interests appear to be at risk.

[2] Members who cannot be reached at their last address, have lost the legal capacity or declare bankruptcy may be excluded directly.

[3] If a member has several accountable organs and employees and the grounds for exclusion apply only to one of them, without the responsibility or negligence on the part of the others, then the exclusion may be overturned and a fine imposed instead. The member must prove that all fallible organs and employees are completely excluded, and no longer exercise voting or equity participation of a third or more, alone or in concert with any third parties.

[4] In such a case as described in Para. 3, the Executive Board can, upon request, to reconsider a pending exclusion decision until the legal force, if a security is given for the proposed financial penalty and the projected costs of a pending arbitration proceeding. The Executive Board determines the amount of the security deposit. If the exclusion is overturned, the Executive Board can impose a new financial penalty.

§58 Report to the FINMA

[1] If a sanction or exclusion proceeding, which may result in a financial penalty or exclusion from the SRO PolyReg, is instituted against an affiliated financial intermediary, the decisions concerning the opening and conclusion of the proceedings shall be disclosed to the FINMA

[2] If the proceeding is instituted against a person subject to professional secrecy, the Board Delegation must take the necessary steps to ensure that professional secrecy is maintained (for example by anonymising documents).

§59 Internal remedies

In accordance with §37 of the Statutes, all sanction decisions may be appealed to the Arbitration Court.

N. Training

§60 Training obligation, Implementation and Dispensation

[1] The financial intermediary and all employees with financial intermediation functions are obliged to complete the SRO PolyReg training courses. Employees must also be provided intern concerning the measures and instructions adopted by the financial intermediary to prevent money-laundering.

[2] The SRO PolyReg training consists of an basic training and annual recurrent training.

§61 Implementation of training

[1] Unless training is provided directly by the SRO PolyReg itself, the responsibility for carrying out the training lies with the organisation commissioned by the SRO PolyReg. The Executive Director may, upon prior request, recognise that the training requirements are satisfied through attendance at a different training course.

[2] The SRO PolyReg may authorise in-house trainings to be provided by the financial intermediary if there is a training officer with the necessary expertise. In that case, the financial intermediary must draw up a detailed training programme to be presented to the Executive Board for approval. The SRO PolyReg shall supervise the implementation of the training programme. The audit firms shall check and document compliance on the occasion of their audit.

[3] New employees and newly affiliated financial intermediaries shall be given basic training within an appropriate period, at the latest within six months.

[4] At least one representative of the financial intermediary, usually the training supervisor and the contact person, must attend the annual recurrent training and ensure the appropriate internal training of other employees.

§62 Dispensation from training

[1] If new employees, who work in the field of the financial intermediation, have already received training concerning the duties and implementation of the AMLA, the member may apply in writing to the SRO PolyReg for a dispensation. The request must be made within three months, stating the reasons. Such employees must be given further training by the member concerning the SRO PolyReg requirements as well as its internal measures and directives to prevent money laundering.

[2] The employees, who work at financial intermediaries, who are not professionally active[4], in the field of financial intermediation, shall be excused from the obligation of annual recurrent training as long as the member do not act professionally. As a condition the inactivity form for the next calender year has to be sent in time. However, if more than three years elapse between the last training course and a switch to professional activity, the persons concerned must attend another basic training course. The Executive Director may permit exceptions upon written request.

§63 Training goal

[1] In order to ensure a reliable implementation of the AMLA, the persons who work in financial intermediation, must, according to their function, understand the legal provisions, the indications of money-laundering, the regulation of the SRO PolyReg as well as their intern measures taken to prevent money laundering.

[2] The training program shall cover the regulations aimed at combating money laundering, particularly the duties of due diligence (Art. 3-8 AMLA), the duty to report (Art. 9 AMLA), the freezing of assets (Art. 10 AMLA) and the prohibition on informing affected parties or third parties that a report has been sent (Art. 10 Para. 3 AMLA) and the regulations for the implementation of the AMLA, the relevant provisions of the penal code (Art. 260^{ter}, $260^{\text{quinquies}}$, Art. 305^{bis} and Art. 305^{ter} SCC), regulations and the intern measures to prevent money laundering.

[3] The SRO PolyReg shall inform its members in writing of the trainings offered by the association and create a training concept.

O. Final Provisions

§64 Transitional provisions

[1] Aggravated tax misdemeanors under Art. 305^{bis} Para. 1^{bis} SCC that were committed before the amendment of the 12 December 2014 comes into force, are not considered predicate offences within the meaning of Art. 305^{bis} Para. 1 SCC.

[2] The provisions on the establishement of the identity of the controlling owner of operative legal entities have no retrospective effect on existing business, with reservation to §26.

[3] §4 Para. 1 Lett. d) has no retrospective application.

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[4] Ordinance of Swiss Confederation on the Prevention of Money Laundering and Terrorism Financing (MLO), Art. 7; SR 955.01

§65 Commencement

These Regulations have been approved by the Swiss Financial Market Supervisory Authority FINMA in its decision of 1. October 2015. They shall come into force regarding the sections L., M. and N. within 30 days of approval and otherwise on 1. January 2016.

PolyReg: Zurich, 11. September 2015