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To implement the recommendations issued by the FATF a few years ago, following its evaluation of the Swiss anti-money laundering legal system, a new federal law came into force on February 1, 2009 amending a number of legislative texts, including the MLA.

As far as we are directly concerned, the main changes made to the MLA as from such date - which tend in very broad terms on the one side to expressly include the fight against terrorism, on the other side to improve the identification of the involved persons and the reporting of founded suspicions - are the following (*in free translation by ARIF, no official translation available*) :

- Title

The title of the MLA has been completed to read : "Federal act on combating money laundering and the financing of terrorism in the financial sector".

- Article 1 Subject matter

It is specified that the purpose of this law is also to fight the financing of terrorism (in the meaning of art 260 quinquies Criminal Code).

- Article 3 Verification of the identity of the customer

Where the contracting partner is a legal entity, it will be necessary in addition to the identifications made so far, *i*) to examine on whose authority the entity may be legally bound (i.e. the signature rights), and *ii*) to verify the identity of the individuals opening the relationship.

- Article 6 Duties to clarify

A general duty to identify in the first place the object and aim of the relationship has been added.

- Article 7a Assets of lesser value

As to compensate the strengthening of the system in other respects, this new article introduces an exemption inasmuch as the business relationship exclusively concerns assets said to be "of lesser value" (and moreover if there are no indications of money laundering or financing of terrorism - which remain constant). In such circumstances, the financial intermediary "is not obliged" to respect the duties of due diligence laid down in articles 3 to 7 MLA. What "assets ... of lesser value" covers has not yet been defined.

- Article 9 Duty to report

The duty to report founded suspicions is extended to the period preceding the conclusion of contractual relationships, i.e. to include the stage of discussions. If and when mere pre-contractual talks are broken off because of such founded suspicions - of infringement of art. 305 bis or 260 ter Criminal Code, or of a crime, or of a power of disposal of a criminal organisation, or of financing of terrorism - it will now be mandatory to report.

- Article 10a Prohibition from informing

Former article 10, which dealt as well with the freezing of assets as with the prohibition of disclosure has been split in two : revised article 10 is now only devoted to the freezing measures while a new article 10a sets out additional rules as regards information.

The primary duty to inform neither the concerned persons nor third parties remains. However, going by the spirit of the law - and as was in fact already done in practice - a financial intermediary who is not in a position to freeze assets is authorized to talk to another financial intermediary who himself can take care of it. This is now set black on white, but remains an option ("may inform"), not an obligation. Such (optional) softening is further extended from one financial intermediary to another, on the one condition that the information be required for the respect of the MLA duties, and on the additional condition that both intermediaries either render common services to the same client in relation to the management of assets on a contractual basis, or are part of the same group of companies.

Kindly take due note of these new features clearly applicable from now on. We remain at your disposal should you have any query regarding the foregoing.

The ARIF Self-regulating Rules and Directives will be amended accordingly in the near future.