

DIRECTIVE 7

RELATING TO ORGANISATION AND INTERNAL CONTROL

A. INTERNAL DIRECTIVES

- 1 As from the time of his affiliation, the financial intermediary must have internal directives regulating the implementation (who does what, how, when and where) of the provisions relating to the combat against the laundering of money of criminal origin and the financing of terrorism within the firm. These directives must be adopted by the board of directors or by the management at its highest level.
- 2 In particular, these directives shall determine the behaviour to be observed by:
 - a) the MLA Officer, concerning among others:
 - the tasks assigned to him;
 - his permanent training;
 - the powers conferred to him;
 - b) the individuals in contact with clients, concerning in particular:
 - the procedure for establishing a business relationship;
 - the criteria applicable to the determination of business relationships involving increased risks and the company's policy on politically exposed persons;
 - the permanent monitoring of business relationships and the classification of their consistent risk;
 - the update of client documents;²
 - the principles applicable to the transactions monitoring system;
 - the cases and the clarification procedure¹;
 - the steps to be taken in case of doubts and founded suspicions;
 - the relations with the MLA Officer;
 - the principles governing employee training;
 - c) the Management, concerning among others:
 - the tasks assigned to it in MLA matters, in particular for notifications to the Money Laundering Reporting Office;
 - the appropriate measures in the case of MLA offences within the firm;
 - its relations with the MLA Officer;
 - any powers delegated to the one or the other member of the Management in MLA matters.

B. MLA OFFICER'S PROFILE

- 3 The financial intermediary shall appoint an MLA Officer from among his staff and, in so far as the internal organisation permits, his deputy. Both of them shall usually be present at the office of the main business establishment of the financial intermediary in Switzerland.
- 4 The MLA Officer shall have the powers which are necessary to act effectively for the purposes of putting in place the combat against money laundering and terrorism financing within the firm. In particular, he shall be a member of the Management or directly subordinated to it, and have the right to fully examine the activities of the firm subject to the MLA.
- 5 The MLA Officer must have a good level of education in MLA matters, and maintain it by regular attendance of the training programmes given or approved by ARIF, and by constant research and study of new practices and regulations with respect to the combat against money laundering and terrorism financing.
- 6 The MLA Officer must be able to call on the services of specialists outside the firm when he is faced with complex situations beyond his level of competence.

C. MLA OFFICER'S DUTIES

- 7 The MLA Officer shall be the ordinary contact in MLA matters, for the firm's staff and its MLA Auditor, as well as for ARIF and the MLA supervisory or criminal prosecution authorities. He shall ensure that he is easily and rapidly contactable during working hours and days, and replaced if he is temporarily unavailable.
- 8 The MLA Officer shall have the task of establishing and permanently updating the firm's internal directives in MLA matters, and informing and advising the staff on this subject.
- 9 The MLA Officer shall ensure that the MLA, the Articles of Association, Rules and Directives of ARIF, and the firm's internal directives in MLA matters are complied with within the firm.
- 10 The MLA Officer shall in particular ensure that the procedures for establishing and clarifying a business relationship, risk classification and keeping the MLA Register are complied with. He shall carry out periodic checks, at least once a year, of the contents of the basic files of the business relationships, especially as far as knowledge of the client is concerned.
- 11 The MLA Officer shall ensure that appropriate measures are executed in case of doubt and founded suspicions of money laundering or terrorism financing, particularly as far as the notification of the Money Laundering Reporting Office and the freezing of assets are concerned.
- 12 The MLA Officer shall define the parameters of the transactions monitoring system and ensure that the notifications generated by this system are processed.

- 13 The MLA Officer shall ensure the keeping and archiving of the files of business relationships subject to the MLA.
- 14 The MLA Officer shall establish the planning and ensure compliance with the training obligations by the firm's staff members and managers. In particular he shall ensure that all the persons concerned be regularly informed about indicia of money laundering and terrorism financing, and shall check their knowledge on this subject.
- 15 The MLA Officer shall propose to the Management the internal investigations to be effected in MLA matters, carry out with diligence those entrusted to him, and report to the Management any breach of the MLA rules by staff members.
- 16 If certain functions of the MLA Officer (e.g. training manager, contact with the Authorities and ARIF, Special Internal Auditor) are assigned to distinct persons, the MLA Officer shall coordinate their actions.
- 17 The MLA Officer shall periodically conduct a risk analysis in order to combat money laundering and terrorism financing and shall take account in particular of the clients' domiciles and segments and of the products and services offered. The risk analysis procedure must be adopted by the board of directors or by the management at its highest level, and be updated periodically.
- 18 The MLA Officer shall ensure that the risks of money laundering and terrorism financing involved in the development of new products and commercial practices or in the use of new technologies or those developed for new or existing products are assessed in advance and, if applicable, identified, limited and adequately monitored in the context of risk management.
- 19 To the extent that the size of the company so permits, the MLA Officer must not monitor the risks of the business relationships of which he is himself operationally in charge.

D. MANAGEMENT'S DUTIES

- 20 The Management shall retain the supreme control and responsibility for combating against money laundering and terrorism financing within the firm.
- 21 In particular the Management shall be bound to carefully select, instruct and supervise the MLA Officer, and to give him the necessary means to perform his duty.
- 22 The Management shall decide on implementation, risk monitoring and assessment and conduct regular checks on business relationships involving increased risks.
- 23 The Management shall take the necessary decisions in the case of founded suspicions of money laundering or terrorism financing.

- 24 The Management shall order investigating measures and appropriate steps in the case of non-compliance with the rules concerning the combat against money laundering and terrorism financing by members of the firm's staff.

E Group of companies and business establishments abroad

- 25 The financial intermediary shall ensure that the companies and business establishments operating in the financial sector, and which it controls in Switzerland or abroad, comply with the following principles, particularly in the countries deemed to involve increased risks of money laundering or terrorism financing, and to the full extent allowed by the legislation applicable at the location where the activity is carried out:
- a. the principles laid down in articles 7 (duty to draw up and keep records of the business relationship and transactions) and 8 MLA (adequate internal organisation);
 - b. verification of the identity of the contracting party, and identification of the controlling owner of the contracting party when they are legal entities or partnerships engaged in an operational activity;
 - c. identification of the beneficial owner of the assets that are the subject of the business relationship;
 - d. the use of a risk-based approach;
 - e. the special clarification duties in the event of increased risks.

The financial intermediary informs ARIF when local regulations preclude application of the above-mentioned fundamental principles, or when they result in a serious competitive disadvantage for the intermediary.

Notification to the competent authorities of transactions or business relationships suspected of money laundering or terrorism financing and, if applicable, freezing of assets, are governed by the legislation applicable at the location where the activity is carried out.

- 26 A financial intermediary that heads a financial group comprising foreign branches or companies must determine, limit and control on a global basis the legal and reputational risks related to money laundering and terrorism financing to which it is exposed. To this end, it shall allow the group's internal or external auditing bodies to have access to the information on given business relationships, to the extent allowed by the legislation applicable at the location where the activity is carried out.

¹ In accordance with Committee resolution of 02 December 2019 and FINMA ratification of 23 January 2020

² In accordance with Committee resolution of 20 March 2023 and FINMA ratification of 25 April 2023