

DIRECTIVE 3C  
RELATING TO NEW PAYMENT METHODS

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- 1 This Directive applies restrictively to the activity of financial intermediaries operating in the area of payment media for cashless payment transactions or involving currencies that are not legal tender in Switzerland or abroad, such as cryptographic currencies (Bitcoin and similar).
- 2 If the issuer of payment media is informed that the payment medium has been transferred to a person who does not maintain any recognizable close relationship with the contracting party, it must again identify the contracting party and determine the beneficial owner of the payment medium.
- 3 In the case of lasting business relationships with contracting parties in the area of payment media for cashless payment transactions that are used solely for cashless payment of goods and services, the financial intermediary may waive identification of the contracting party:
  - a. if payments cannot exceed CHF 1,000 per transaction and CHF 5,000 per calendar year and per contracting party; any reimbursements of the payment medium are paid only onto accounts held with banks authorized in Switzerland or with banks subject to equivalent supervision abroad and held in the name of the contracting party and may not exceed CHF 1,000 per reimbursement;
  - b. if payments made to merchants in Switzerland cannot exceed CHF 5,000 per month and CHF 25,000 per calendar year and per contracting party, with debit payments being charged exclusively to, and any reimbursements of payment media being credited exclusively to, an account held in the name of the contracting party with a bank authorized in Switzerland;
  - c. if the payment media can only be used within a specific network of suppliers or providers and if the turnover does not exceed CHF 5,000 per month and CHF 25,000 per calendar year and per contracting party; or
  - d. if it is a financial leasing and if the charges due each year, including value-added tax, do not exceed CHF 5,000.
- 4 In the case of lasting business relations with contracting parties in the area of payment media for cashless payment transactions that are not used exclusively for cashless payment of goods and services, the financial intermediary may waive compliance with the due diligence duties if the amount that can be made available per payment medium does not exceed CHF 200 per month and if the payments are charged exclusively to, and any reimbursements of the payment medium are credited exclusively to, an account held in the name of the contracting party with a bank authorised in Switzerland.

- 5 The financial intermediary may only waive identification of the contracting party if he has sufficient technical and computing equipment to detect an overshoot of the applicable thresholds or the presence of indicia of money laundering or terrorism financing or increased risks. He must, in addition, take measures to prevent any aggregation of the limits on the amount.
- 6 Regarding cash transactions involving currencies that are not legal tender in Switzerland or abroad, such as cryptographic currencies (Bitcoin and similar), the financial intermediary must have sufficient technical and computing equipment to be certain that such transactions are limited to an exclusively bipartite relationship with his contracting party (cf. Directive 2 Article 33), failing which such transactions are in all cases deemed to be transfers of funds or assets;
- 7 Without prejudice to the forms of delegation laid down by ARIF Directive 10, the issuer of payment media is released from the obligation to hold, in his own file, the documents used to identify the contracting party and to identify the controlling owner and the beneficial owner of the assets, to the extent that he has entered into a delegation agreement with a bank authorised in Switzerland according to which:
  - a. the bank communicates to the issuer of the payment medium the information about the identity of the contracting party, the controlling owner and the beneficial owner of the assets;
  - b. the bank informs the issuer of the payment medium whether the contracting party, the controlling owner or the beneficial owner of the assets is a politically exposed person;
  - c. the bank immediately informs the issuer of the payment medium of the changes made to the information referred to in letters a) and b) of this article;
  - d. the issuer of payment media replies to the requests for information from the competent Swiss authority and refers to the correspondent bank for any remittal of documents.
- 8 For business relationships entered into directly and those opened by correspondence, the issuer of payment media can waive the requirement to obtain a certificate of authenticity for the copies of identity documents:
  - a. if it is not possible to make cash withdrawals or payments in excess of CHF 10,000 per month and per contracting party through payment media used for cashless payment of goods and services and for cash withdrawals, for which an electronically recorded credit balance is the condition for the transactions;
  - b. if the limit for cashless payment of goods and services and for cash withdrawals does not exceed CHF 25,000 per month and per contracting party for payment media for which transactions are invoiced a posteriori;
  - c. if the funds received by individuals or paid to individuals do not exceed CHF 1,000 per month and CHF 5,000 per calendar year and per contracting party for payment

media authorising cashless payment transactions between individuals domiciled in Switzerland; or

- d. if the funds received by individuals or paid to individuals do not exceed CHF 500 per month and CHF 3,000 per calendar year and per contracting party for payment media authorising cashless payment transactions between individuals without any domicile restriction.

If it decides to waive requesting a certificate of authenticity, the issuer of payment media shall check whether the copies of the identity documents contain indicia of the use of a false or forged identity document. If such indicia exist, the eased requirements provided for in this article shall not be applicable.<sup>1</sup>

- 9 For business relationships initiated by correspondence, ARIF, after having consulted and obtained prior permission from FINMA, can also authorize the financial intermediary generally or specifically to use methods other than those laid down in Directive 2 in order to verify the identity and address of contracting parties who are natural persons and to authenticate the documents used for this purpose.

The use of such methods should make it possible to verify the identity of the contracting party with a degree of both technical and legal certainty equivalent to that obtained by applying Directive 2.

- 10 Upon prior request, ARIF can, after having consulted and obtained prior permission from FINMA, authorize other exemptions from compliance with the due diligence obligations under the MLA for lasting business relationships if a low risk of money laundering within the meaning of Art. 7a MLA is proven.
- 11 At the time of admission and in connection with the process of supervising members active in the new payment methods or involving currencies that are not legal tender in Switzerland or abroad, such as cryptographic currencies (Bitcoin and similar), ARIF can set additional conditions suited to the special characteristics of the business conducted, and in particular with regard to:
  - the operating budget of the company;
  - the competency of the persons involved in the development of the company;
  - the accounting audit under the MLA and to the competencies of the auditing firms used;
  - cash flow management when the financial intermediary holds assets for the account of clients without being subject to banking legislation;
  - the effectiveness of the computing and human mechanisms put in place to detect suspicions of money laundering or terrorism financing linked to business relationships and transactions;
  - the effectiveness of the computing and human mechanisms and resources put in place to be certain that cash transactions involving currencies that are not legal tender in Switzerland or abroad, such as cryptographic currencies

(Bitcoin and similar), are limited to an exclusively bipartite relationship between the financial intermediary and his contracting party (cf. Directive 2 article 33);

- the effectiveness of the provision of goods and services acquired by means of payment platforms and with regard to the fact that it does not constitute a disguised transfer of funds or assets;
- compliance with the limits on amounts and duration that allow the financial intermediary not to be subject to banking legislation in Switzerland;
- the attention paid to regulatory and cross-border risks, in particular on the Internet.

<sup>1</sup> In accordance with Committee resolution of 04 March 2019 and FINMA ratification of 20 February 2019