

## DIRECTIVE 10

RELATING TO THE DELEGATION OF THE DUTIES OF DILIGENCE

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## Delegation between financial intermediaries

- 1 When several financial intermediaries, who are subject in Switzerland to the MLA, or subject abroad to regulation and supervision equivalent to that of the MLA, intervene within the scope of the same business relationship, or are part of a group of firms placed under a common management, they can charge one of them to carry out the verification of the identity of the contracting parties, the identification of the controlling owners and beneficial owners, the renewal of these formalities, as well as the clarification of business relationships and transactions.
- 2 The financial intermediary to whom one or more of these tasks have been delegated, must forward to each of the others involved in the business relationship a copy certified true by himself of the documents which have been used for the verifications, identifications and clarifications.

## Delegation of duties of diligence to auxiliaries

- 3 The financial intermediary may delegate durably, and for an indefinite number of cases, the verification of the identity of the contracting parties, the identification of the controlling owners and beneficial owners, the renewal of these formalities and the clarification of business relationships and transactions, to one or more auxiliaries in Switzerland or abroad, provided the following conditions are met:
  - the person so delegated must possess the competences sufficient for this activity and provide every guarantee of irreproachable conduct;
  - the person so delegated is not authorised to sub-delegate his mandate;
  - in the field of funds' and assets' transfer, the person so delegated accomplishes this task for one sole financial intermediary only;
  - the person so delegated must undertake to the financial intermediary, by a written agreement subject to Swiss law and the jurisdiction of the Swiss courts, to comply with all the duties in respect of the combat against money laundering and terrorism financing and of the protection of data incumbent on the financial intermediary member of ARIF, and to submit to the controls applicable to him;
  - a copy of the delegation agreement, duly signed by the parties, must immediately be provided to ARIF;
  - the financial intermediary must define in writing the duties of the person so delegated, adequately instruct him about them and make sure that he has had a training equivalent to that required from a financial intermediary member of ARIF;

- the person so delegated and his activity at the service of the financial intermediary must be included within the ambit of this latter's internal controls and MLA audit;
  - the original documents, or their copies certified true by the person so delegated, having served for the verification of the identity of the contracting parties of the financial intermediary or for the identification of their beneficial owner or resulting from the clarification of business relationship or transactions, must be deposited at the financial intermediary in Switzerland as quickly as possible.
- 4 The financial intermediary shall keep an up-to-date record of the auxiliaries which it uses.
- 5 If an auxiliary of the financial intermediary takes commercially part in the subjected business relationships, namely by executing them on behalf and for the account of the financial intermediary, such auxiliary and its staff shall be entirely and directly subject to ARIF's directives, in particular as far as the supply of a complete file, the internal organisation, the training obligations and the extent of the audit are concerned.
- 6 The person taking part in subjected business relationships on his own behalf or for his own account and thereby exercising an activity as an autonomous financial intermediary may not be considered as an auxiliary within the meaning of the present Directive and shall independently become affiliated to a self-regulating organisation accredited by FINMA or obtain from it the authorisation to exercise.

#### Responsibility

- 7 The financial intermediary shall remain responsible, towards the Swiss authorities and ARIF, for the activity of the persons so delegated in the same way as for his own activity.