

DIRECTIVE 9

RELATING TO THE PROCEDURE FOR ENTERING INTO A BUSINESS RELATIONSHIP

A. PROCEDURE FOR ACCEPTANCE OR REFUSAL OF A BUSINESS RELATIONSHIP

- 1 The procedure for acceptance or refusal of a business relationship must be implemented for each business relationship which is subject to the MLA.
- 2 Regarding new business relationships, the procedure must be completed before any transaction is carried out.
- 3 The notion of “client” within the meaning of the present Directive means the contracting party and the beneficial owner.

First level: the person in direct contact with the client

- 4 Preparation of the file for entering into a business relationship shall be the responsibility of the person in direct contact with the client (first level of control), who must make sure that all the documents and information required by the MLA and Rules and Directives of ARIF, as well as the financial intermediary’s internal directives, are gathered.
- 5 The person in direct contact with the client must in particular:
 - identify the contracting party and obtain the required identity documents concerning him;
 - identify the natural person or persons who control the contracting party where it is a legal entity or a partnership engaged in an operational activity, and obtain the written declaration from the contracting party about these persons;
 - write a note justifying his assessment when he is certain that the beneficial owner of the assets which are the subject of the business relationship is the contracting party;
 - obtain the written declaration from the contracting party about the identity of the beneficial owner when he is not certain that the beneficial owner of the assets which are the subject of the business relationship is the contracting party, as well as when he knows that they are different persons;
 - obtain an in-depth description of the activity of the contracting party and the beneficial owner and of the origin of the assets which are the subject of the business relationship;
 - identify the nature and purpose of the business relationship wanted by the contracting party;

- search for possible links (professional, family, group etc.) between the client and other business relationships of the financial intermediary;
 - complete the form for entering into a business relationship;
 - attach to the file any exchange of correspondence with the client (letters, faxes, e-mails, special instructions etc.) as well as reports of visits and records of telephone calls;
 - attach to the file any organisation charts, brochures, balance sheets, management reports, press cuttings, and all information or documents suitable for clarifying the economic background of the business relationship and of the assets which are the subject thereof;
 - detect business relationships and transactions which require clarification or increased vigilance, or show indicia of money laundering or illicit or terrorism-financing activities, and in this case, collect the information and documents expedient for a clarification. ¹
- 6 As from the first contact, the financial intermediary shall endeavour to acquire a good knowledge of his client. As far as possible, each client must be met by at least two staff members of the financial intermediary.
- 7 If a lasting business relationship or a cash transaction exceeding CHF 25'000.-- is involved, or if clarification or increased vigilance are required, or if there are indicia of money laundering or terrorism financing, the file opened when entering into the business relationship, duly completed, shall be forwarded to the MLA Officer.

Second level: the MLA Officer

- 8 The MLA Officer shall examine the form for entering into the business relationship and the documents gathered by the person in direct contact with the client, upon the basis of which he shall issue a recommendation to the Management to accept or refuse the business relationship, with an indication of the reasons. If required, he shall request confirmation of the information received and carry out a clarification, particularly in case of business relationships requiring increased vigilance. He shall in particular verify that the extent of the information collected is adequate in accordance with the risk of the business relationship.

Third level: the Management

- 9 The acceptance or refusal to enter into a business relationship shall be the responsibility of the financial intermediary's Management. This latter can delegate this competence in writing to staff members having the capacity to exercise it, with the exception of business relationships with politically exposed persons.
- 10 If the refusal to enter into a business relationship is the result of reasons or circumstances to which Art. 9 or 9a MLA is applicable, the Management and the MLA Officer shall

proceed in accordance with ARIF Directive 13 relating to the obligations to report, freeze the assets and maintain secrecy.

B. FORM FOR ENTERING INTO A BUSINESS RELATIONSHIP

- 11 The form for entering into a business relationship shall comprise information which the person in direct contact with the client must collect prior to acceptance of a business relationship by the Management. This information shall subsequently be completed and updated throughout the entire business relationship.
- 12 This information work must be carried out by seeking information as far as possible at its source and should not content itself with reproducing the result of research carried out by other financial intermediaries.
- 13 The following headings call for special comments:
 - financial situation (assets, revenue): as far as possible, it is proper to determine the size of the client's assets and revenues upon the basis of his declarations and other elements known to the financial intermediary, in order to detect any possible discrepancy between the resources of a person and the financial flows recorded in the context of the business relationship;
 - tracing of funds: this consists in describing from which bank, town, country the transfer of funds is made and in what form (cash payment, cheques, bank transfer, set off etc.);
 - economic origin of the funds: it is proper to indicate the economic activity which made it possible to generate them. It is insufficient to take the information from the Commercial Register or to give a vague and general description of the economic origin (such as "*assets*", "*inheritance*" or "*savings*"). The declarations of the client concerning the economic background of his activities must be documented as far as possible and prove to be plausible, independently of the diligence work done by other financial intermediaries;
 - Clarifications: a written note must be issued on all business relationships that are the subject of clarifications, stating the reasons, the content and the conclusions of the clarification, with all the documents that it comprises. ¹
- 14 In the annex to the present Directive, ARIF proposes a model of a form for entering into a business relationship, which the financial intermediary will adapt as faithfully as possible to the particularities of his activity.

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