

DIRECTIVE 2

RELATING TO THE VERIFICATION OF THE IDENTITY OF THE CONTRACTING PARTY AND TO THE ESTABLISHMENT OF THE IDENTITY OF ITS CONTROLLING OWNER

A. IN GENERAL

Lasting business relationships

- 1 The financial intermediary shall verify the identity of the contracting party of all his lasting business relationships which are subject to the MLA, that is, those which are not limited from the outset to the performance of one-off activities subject to the MLA, and shall do so as from the establishment of contractual links.

Information required

- 2 The financial intermediary must obtain the following information from the contracting party, in so far as it is available:
 - for natural persons: name, first name, date of birth, complete address of permanent residence and nationality;
 - for legal entities and partnerships: corporate name, date of incorporation, complete address of registered office and, if different, address of business establishment involved in the business relationship.

Documents required from natural persons

- 3 The identity of natural persons shall be verified upon the basis of an official document. Approved identity documents are:
 - any official document issued by a Swiss authority and provided with a photograph;
 - a foreign identity card or a foreign passport or any other travel document officially recognized for entry into Switzerland.
- 4 If the contracting party is unable to present one of the above-mentioned documents, his identity may, exceptionally, be verified upon the basis of other probating documents. A written explanation shall then be added to the file of the business relationship.
- 5 When the business relationship is established without the contracting party having been met physically, the address of permanent residence must be verified by an exchange of correspondence or by any other equivalent means.

Documents required from legal entities and partnerships

- 6 The identity of legal entities and partnerships, which are entered in an official Register of the State in which they are legally organised, shall be verified upon the basis of an up-to-date extract from this Register.
- 7 The identity of legal entities and partnerships which are not entered in an official Register shall be verified upon the basis of other probating documents, e.g. articles of association, deed or contract of foundation, official authorisation to exercise an activity, attestation issued by the firm's bodies, or an extract from a database kept by a trustworthy private company.
- 8 When a business relationship is established with a simple partnership, the contracting party is identified by verifying the identity of at least one partner.
- 9 The financial intermediary shall moreover verify and keep records on the identity of the natural persons establishing the business relationship on the contracting party's behalf as well as of the circle and the powers of the persons entitled to bind him.

Controlling owner

- 10 When the contracting party is a legal entity or a partnership engaged in an operational activity or a subsidiary majority controlled by such a partnership, the intermediary must obtain from the contracting party a written declaration indicating the surname, the first name and the address of permanent residence of the natural persons that control at least 25% of the voting rights or the capital of the partnership.
- 11 If the partnership is not controlled by these persons, the financial intermediary must obtain from the contracting party a written declaration indicating who the natural persons are who control the partnership in any other manner whatsoever, for example due to a predominant position, preferential voting rights, a shareholders' agreement, or a contract.
- 12 If it is not possible to identify such controlling owners, the intermediary must obtain from the contracting party a supporting document or a written declaration indicating the surname, the first name and the address of permanent residence of the person or persons responsible for operational general management of the legal entity or the partnership.
- 13 Identification of the controlling owner shall always apply in the case of lasting business relationships.

Exemptions from the obligation to identify and to verify the identity

- 14 The financial intermediary may renounce identifying the controlling owner and verifying the identity of the contracting party when the latter is:

- a legal entity or a partnership listed on an official stock exchange or vested with public authority;
- or a financial intermediary authorised in Switzerland within the meaning of article 2, para. 2 MLA and article 2, para. 4 b) MLA;
- or a financial intermediary legally engaged abroad in the activities mentioned in article 2, para. 2 MLA, and subject to regulation and supervision equivalent to those of the MLA.

Form and processing of documents

- 15 The financial intermediary shall obtain the presentation of originals or certified true copies of the documents used for the verification. The certification of the conformity of the copy of a document with the original shall be issued by an official authority, a notary, the Swiss Post Office, a Swiss attorney-at-law, or a Swiss or foreign financial intermediary who is subject to supervision equivalent to that of the MLA. A copy of the identity document kept in the database of a certification services provider recognized in accordance with the law of 19 December 2003 on the electronic signature, combined with a corresponding electronic authentication by the contracting party, is also deemed to be a certificate of authenticity.
- 16 The documents presented shall be valid or, if their validity is not defined, be dated within the past twelve months, unless they are documents which are not subject to renewal.
- 17 In the case of legal entities and partnerships: If the official Register subject to the supervision of a state authority, in which they are entered, is accessible by computer and continuously updated, the financial intermediary may also verify the identity by means of acceding himself to this official Register, and downloading and printing himself the extract from this Register.
- 18 The financial intermediary shall keep in the file of the business relationship photocopies of the documents presented to him or prints of those downloaded by him; these documents shall be dated and countersigned by him on the day of their receipt or download.

Failure of verification

- 19 If the contracting party eludes the verification of his identity, or if it has not been possible to verify his identity, the financial intermediary shall refuse to establish a business relationship or, if necessary, immediately break it off in accordance with Directive 13.¹

B. TRANSFER ORDERS

Mention of the person giving the order

- 20 For transfer orders, the financial intermediary of the person giving the order indicates the name, account number and the address of the person giving the order as well as the surname and account number of the beneficiary. In the absence of an account number, a reference number linked to the transaction must be provided. The order-giver's address may be replaced by the place and date of birth, the client number or the national identity number of the order-giver. The financial intermediary makes sure that the details relating to the order-giver are accurate and complete and that those relating to the beneficiary are complete.
- 21 For transfer orders in Switzerland, the financial intermediary may confine itself to indicating the account number or a reference number linked to the transaction, provided that it is able to provide the other details concerning the order-giver to the financial intermediary of the beneficiary and to the competent Swiss authorities, upon request and within a period of three bank working days.
- 22 For domestic transfer orders used to pay for goods and services, the financial intermediary may follow the procedure described in article 21 above if it is not possible, for technical reasons, to proceed according to article 20. The financial intermediary shall provide the order-giver with adequate information on the forwarding of its data in payment transactions.
- 23 The financial intermediary of the beneficiary shall determine the procedure to be followed in the case of transfer orders being received that contain incomplete information about the order-giver or the beneficiary. In this context it shall adopt a risk-based approach.

C. CASH TRANSACTIONS

- 24 A cash transaction is defined as: any transaction in cash, in particular foreign exchange, purchase and sale of precious metals, sale of travellers' cheques, paying up in cash of bearer shares, bank-issued medium-term notes and bond issues, and encashment of cheques, when no lasting business relationship is linked to these transactions.
- 25 The financial intermediary may only waive verification of the identity of the contracting party (and its controlling owner when it is a legal entity) if a cash transaction, or several apparently interconnected transactions, are below the following amounts:
 - a. CHF 1,000 for transactions with virtual currencies;
 - b. CHF 5,000 in a foreign-exchange transaction with no virtual currencies;
 - c. CHF 15,000 in any other cash transaction.

In the case of cash payments or the acceptance of other anonymous payment instruments for the purchase or sale of virtual currencies, it shall take measures to ensure that the threshold of CHF 1,000 is not exceeded by linked transactions within 30 days.¹

- 26 When other cash transactions are carried out with the same contracting party, if the financial intermediary is certain that it is the same person, he can waive verifying again the identity of the latter and of its controlling owner.
- 27 The financial intermediary must in all cases verify the identity of the contracting party, and of its controlling owner where legal entities are concerned, when there are indicia of money laundering, terrorism financing or the existence of a criminal organisation.
- 28 Regarding non-rechargeable data carriers in the area of electronic payment media, the financial intermediary can also waive verification of the contracting party's identity in the following cases:
 - a. if the funds accounted for electronically are used solely to allow the client to pay electronically for the goods and services purchased;
 - b. if the amount made available electronically does not exceed CHF 250 per data carrier and CHF 1,500 in total per transaction and per client.
- 28bis In the case of consumer credit, copies of identification documents do not need to be authenticated in the case of business relationships opened by correspondence, provided that the amount of credit does not exceed CHF 25,000 and:
 - a. it is paid into an existing account of the borrower;
 - b. it is credited to such an account;
 - c. it takes the form of a bank overdraft on such an account; or
 - d. that, in the case of an assignment, it is transferred directly to a seller of goods on the basis of a payment order from the borrower.

D. TRANSFER OF FUNDS AND ASSETS

- 29 Transfer of funds and assets is defined as a transfer of assets which consists of accepting cash, precious metals, virtual currencies, cheques or other payment instruments in Switzerland, and then of paying abroad the equivalent sum in cash, precious metals, virtual or cryptographic currencies or on a cashless basis by means of a transfer, a bank transfer or any other use of a payment or clearing system, or vice versa, provided that no lasting business relationship is linked to these transactions.
- 30 In the case of transfers of funds or assets from abroad to Switzerland, the beneficiary of the payment must be identified if one or more apparently interconnected transactions exceed the amount of CHF 1,000, or if there are indicia of money laundering or terrorism financing.
- 31 In the case of transfers of funds or assets from Switzerland to abroad, the identity of the contracting party, and of the controlling owner where legal entities are concerned, must be verified in every instance.
- 32 When other transfers of funds or assets are made with the same contracting party, if the financial intermediary is certain that it is the same person, he can waive verifying again the identity of the latter and of its controlling owner.

- 33 The identity of the contracting party, and of the controlling owner where legal entities are concerned, must be verified, in the same way as for transfers of funds or assets to abroad, during cash transactions involving currencies that are not legal tender in Switzerland or abroad, such as cryptographic currencies (Bitcoin and similar), if the financial intermediary is not certain that the transaction is limited to an exclusively bipartite relationship with his contracting party (cf. Directive 3C, article 6).
- 34 In the case of a transfer of funds or assets, the name and address of the financial intermediary used by the order-giver must appear on his payment receipt.

¹ In accordance with Committee resolution of 20 March 2023 and FINMA ratification of 25 March 2023