VQF Verein zur Qualitätssicherung von Finanzdienstleistungen

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Regulations

of the

Self-regulatory Organisation pursuant to the Anti-Money Laundering Act

VQF Financial Services Standards Association

regarding the

Combating of Money Laundering and Terrorist Financing

Version: 28 September 2015

Contents

Pursuant to Art. 24 Para. 1 letter a of the Federal Act on the Combating of Money Laundering and Terrorist Financing of 10 October 1997 (AMLA), the VQF Financial Services Standards Association (VQF) as an officially approved self-regulatory organisation pursuant to the AMLA (SRO) is obliged to issue regulations in accordance with Art. 25 AMLA. The Management Board of the VQF issues the present regulations[1] (regulations) based on Art. 19 Para. 1 of the VQF by-laws, pursuant to Art. 25 AMLA:

I. Introductory Provisions

Art. 1 Purpose

[1] These regulations regulate the duties of the affiliated members of the VQF SRO (members or SRO members), specify their duties of due diligence according to Chapter 2 AMLA and define how these duties of due diligence must be fulfilled.

[2] They also define:

a. The requirements and the procedure for the admission and exclusion of members.

b. Control of the compliance of members with their duties, especially pursuant to Chapter 2 of the AMLA.

c. The consequences of the violation by members of their duties (measures and sanctions).

Art. 2 Scope of Application

[1] The provisions of these regulations apply to all SRO members under the terms of Art. 3 Para. 1 of the VQF by-laws (professional and non-professional financial intermediaries) who submitted an application for admission to the VQF SRO and were admitted into membership of the VQF SRO. Articles 3 and 4 of the regulations are applicable to applicants for membership of the VQF SRO.

[2] For SRO members under the terms of Art. 3 Para. 1 of the VQF by-laws who were admitted into VQF "non-professional financial intermediary" membership status, the special and exceptional provisions of the "Regulations for Non-Professional Financial Intermediaries" (VQF doc. no. 400.2) apply in addition to these regulations.

[3] In addition to these regulations, the regulations referred to in this paragraph also apply to those SRO members under the terms of Art. 3 Para. 1 of the VQF by-laws who also subjected themselves to the "Regulations for the Practice of Asset Management" (VQF doc no. 500.01) and the "Rules of Conduct for the Practice of Asset Management" (Rules of Conduct; VQF doc. no. 500.02) of the industry organisation for asset management of the VQF Financial Services Standards Association (VQF BOVV) and who thus are also members of the VQF BOVV.

[4] The provisions of these regulations do not apply to those members who are exclusively members of the VQF BOVV under the terms of Art. 3 Para. 1 of the VQF by-laws.

[5] The provisions of these regulations do not apply to members under the terms of Art. 3 Para. 3 of the VQF by-laws (passive members).

[1] The masculine form used in these regulations incorporates the feminine form.

[6] The term "member" as used in the other provisions of these regulations refers exclusively to SRO members.

Art. 3 Admission Procedure

[1] Persons wishing to join the SRO under the terms of Art. 3 Para. 1 of the VQF by-laws must submit a written application to the VQF SRO duly provided with legally valid signature and enclose all the requested documents. The application is deemed to have been submitted on payment of the full amount of the admission fee and the complete submission of all necessary documents.

[2] On submitting the application, the applicant becomes subject to all terms and conditions of admission of the VQF SRO and any conditions and/or provisions of the Federal Financial Market Supervisory Authority (FINMA) such as, for example, the handling of belated or rejected applications.

[3] Following receipt of the admission fee, the submitted application is checked for formal completeness and in the case of incomplete applications the outstanding information and documents are requested from the applicant in order to complete the application.

[4] When the application is complete, or if the applicant fails to complete the application after a second request from Administration, the application is passed to the Supervisory Commission for evaluation.

[5] The Supervisory Commission checks the application and decides whether the applicant will be admitted into membership.

[6] Before taking the decision as to whether to accept or decline the application, the Supervisory Commission may request additional information and documents from the applicant or order an admission audit, insofar as it considers this to be necessary for its decision. The ordering of such additional measures is not contestable.

[7] The following applies with regard to the final decision by the Supervisory Commission on admission or non-admission to the VQF SRO:

a. The decision is communicated to the applicant in writing.

b. No justification needs to be provided with regard to decisions to decline admission (non-admission).

c. Admission may be associated with conditions. The respective conditions must be explicitly stated to the member and described in the decision on admission. Proceedings on sanctions can be opened against the culpable member on non-compliance with a condition.

d. Arbitration is excluded in all cases (Art. 96 of the regulations).

[8] The admission fee and payments made to the VQF against the cost of performing any admission audit on the applicant are not reimbursable either in the event of the withdrawal of an application or on a decision to decline admission (non-admission).

II. Duties of Membership

Art. 4 Membership Requirements

[1] The requirements of Art. 4 of the VQF by-laws apply. Members must refrain from any dealings which may expose them to a charge of money laundering or conspiracy thereto or terrorist financing as either perpetrator or participant.

[2] The member is responsible for ensuring that the persons entrusted with administration and management:

a. Enjoy a good reputation and provide assurance of proper business conduct and compliance with duties pursuant to the AMLA and the by-laws and regulations of the VQF; and

b. Are committed to observing the requirements of a qualitatively high standard of business ethics in the exercising of their activity.

[3] The guidelines of the respective professional organisations qualify among other facts as a measure of professional conduct. The rules of conduct of the VQF BOVV also apply to those SRO members who are subject to them.

Art. 5 Duty of Organisation

[1] The member must have a suitable internal organisation which assures in its business the fulfilment and control of its duties under the AMLA and the by-laws and regulations of the VQF.

[2] The member, in particular, provides for the careful selection, instruction, control and regular training of its bodies, employees and external auxiliary personnel active in the AMLA sector, with regard to the important aspects pursuant to the combating of money laundering and the prevention of terrorist financing.

Art. 6 Duty of Cooperation and Truthfulness

[1] The member is obliged at all times to subject itself to and cooperate with audits conducted by the VQF SRO and to present all documents and provide all information requested of it by the auditor during such audits in a truthful and complete manner.

[2] The member is obliged at all times to present all documents and provide all information to the Supervisory Commission in a truthful and complete manner. The member is also obliged to comply with the measures imposed by the Supervisory Commission (Art. 87 of the regulations).

[3] The member is obliged to submit a self-declaration annually, without being requested to do so. The details and deadline for submission are regulated in the VQF SRO Audit Concept (Audit Concept; VQF doc. no. 700.3), which forms an integral part of these regulations.

Art. 7 Permanent Compliance with Duties of Membership and Duties of Reporting

[1] The requirements for membership and the duties of membership must be met on a permanent basis.

[2] The member must inform the VQF SRO immediately of any changes to material facts and other information (of a personal or structural nature) in the content of the application for admission and obtain its approval of such changes.

[3] In particular, the member must immediately inform the VQF SRO of the opening of criminal and administrative proceedings against the member or persons entrusted with its administration or management, which relate to a business or professional activity. The member must organise itself in such a way as to be informed in good time about relevant criminal and administrative proceedings against its persons entrusted with administration or management, in order that it can comply with its duty of reporting.

III. Duties pursuant to Chapter 2 AMLA

1. Principles

Art. 8 Terms

The definitions of the following terms used in these regulations are as follows:

a. Permanent business relationship:

A business relationship which does not end on the execution of a single subordinated activity.

b. Money and asset transfer:

The transfer of assets in exchange for cash, precious metals, virtual currencies, cheques or other payment instruments in Switzerland and the paying out abroad of a corresponding sum in cash, precious metals, virtual currencies or by means of cashless transfer, remittance or other use of a payment and accounting system, or such transfer in the opposite direction, provided that these transactions are not associated with a permanent business relationship.

c. Cash transactions:

Cash transactions are defined as all types of transactions in cash, especially money exchange, the buying and selling of precious metals, the sale of traveller's cheques, the payment in cash of bearer instruments, cash bonds, debt securities and the encashment of cheques, provided that they are not associated with a permanent business relationship.

d. Group:

An economic entity of companies, where one company holds a direct or indirect interest in the other company or companies with more than half of the voting rights or capital or controls this company or these companies in another way.

e. Reporting Office:

Money Laundering Reporting Office (MROS) of the Federal Office of Police in accordance with Art. 23 AMLA.

f. Politically exposed persons (Art. 2a AMLA):

1. Persons who are or were entrusted with leading public functions abroad, especially heads of state and government, high level politicians at national level, high level functionaries in administration, justice, the armed forces and parties at national level and the top level management of state-run enterprises of national importance (foreign politically exposed persons).

2. Persons who are or were entrusted with leading public functions in politics, administration, justice and the armed forces at the national level in Switzerland and members of the board of directors or executive management of state-run enterprises of national importance (domestic politically exposed persons).

3. Persons who are or were entrusted with a leading function in inter-governmental organisations and international sports federations, especially general secretaries, directors, deputy directors, members of administrative bodies and persons with equivalent functions (politically exposed persons in international organisations).

Natural persons who for family, personal or business reasons have an identifiably close relationship with persons defined under numerals 1-3 are classified as persons associated with politically exposed persons.

Within the meaning of the regulations, domestic politically exposed persons are no longer classified as politically exposed persons 18 months after relinquishing their function. The general duties of due diligence of members continue to apply.

International sports associations within the meaning of numeral 3 are the International Olympic Committee and the non-governmental organisations recognised by it, which regulate one or more official sports at the global level.

g. Persons engaged in the AMLA sector:

1. Persons who perform a financial intermediary activity pursuant to Art. 2 Para. 3 AMLA on behalf of the member.

2. Persons who perform duties of due diligence pursuant to Art. 3 et seq. AMLA on behalf of the member.

3. The AMLA Officer and AMLA Deputy.

Art. 9 Prohibited Assets

[1] The member must not accept any assets which it knows or must assume to be the proceeds of a felony or a qualified tax offence, even if the felony or offence was committed abroad.

[2] The negligent acceptance of assets which are the proceeds of a felony or a qualified tax offence may bring into question the assurance of proper business conduct required of the member.

Art. 10 Prohibited Business Relationships

[1] Members may not carry on business relationships:

a. With business enterprises and persons which it knows or must presume to be involved in terrorist financing or to be a criminal organisation or belong to or support such an organisation.

b. With banks which have no physical presence at their place of incorporation (fictive banks) unless they are part of an appropriately supervised, consolidated financial group.

Art. 11 Subsidiaries and Group Companies Abroad

[1] The member must ensure that its subsidiaries or group companies active in the financial or insurance sector abroad comply with the following principles of the AMLA and these regulations:

a. The principles pursuant to Art. 9 and 10 of the regulations.

b. The identification of the customer.

c. The determination of the controlling person and the beneficial owner of the assets.

d. The use of a risk-based approach.

e. The special duties of clarification in cases of increased risk.

[2] This also applies, in particular, to subsidiaries and branch offices that are located in countries which, at the international level, are associated with increased risk.

[3] The member must inform the Supervisory Commission if local regulations conflict with the pursuit of the basic principles of the regulations or give rise to a serious competitive disadvantage.

[4] The provisions of the host country apply to the reporting of suspicious transactions or business relationships and, if necessary, the freezing of assets.

Art. 12 Global Monitoring of Legal Risks and Risks to Reputation

[1] Members which own subsidiaries abroad or direct a financial group that includes foreign companies must, at the global level, identify, limit and monitor the legal risks and risks to reputation associated with money laundering and terrorist financing.

[2] The member must ensure that:

a. The internal supervisory bodies and group audit company have access if necessary to information about individual business relationships in all group companies; neither a central database of customers, controlling persons and beneficial owners of the assets at group level nor central access to local databases by group internal supervisory bodies are required.

b. Group companies provide important information pertinent to the global monitoring of legal and reputation risks to the competent bodies of the group.

[3] If a member becomes aware that in certain countries, for legal or practical reasons, access to information about the customers, controlling persons and beneficial owners of the assets is excluded or seriously impeded, it must inform the Supervisory Commission without delay.

[4] Members which are part of a national or international financial group must, when required, to the extent necessary for the global monitoring of legal and reputation risks, grant access to information about certain business relationships to the group's internal supervisory bodies and audit company.

Art. 13 Data in the case of Payment Orders

[1] In the case of payment orders, the member states the name, account number and address of the customer and the name and account number of the beneficiary. If no account number is provided, a transaction-based reference number must be given. The customer's address can be replaced by the customer's date and place of birth, customer number or national identity number.

[2] In the case of payment orders within Switzerland, the member can limit the information to the account number or transaction-related reference number, provided that it can deliver the other information on the customer to the beneficiary's financial intermediary and the competent Swiss authorities, on their request, within three working days.

[3] For domestic payment orders which serve as payment for goods and services, the procedure in accordance with Para. 2 may be followed if compliance with Para. 1 is not possible for technical reasons.

[4] The member informs the customer in an appropriate manner of the disclosure of its data in payment transactions.

[5] The member determines how to proceed if it receives payment orders that contain incomplete information on the customer or beneficiary. In doing so it acts in accordance with the risk involved.

2. Duties of Due Diligence in the Narrow Sense

2.1 Identification of the Customer (Art. 3 AMLA)

Art. 14 Principle

[1] On entering into a business relationship, the member must identify its customer by means of a document of evidentiary value.

[2] If the customer changes during the term of an existing business relationship, the new customer must also be identified.

[3] If the member already verified the identity of a person (as customer or account opener) in accordance with the regulations by means of an identity document (first AMLA file) and if it were necessary due to entering into a second business relationship (second AMLA file) to again verify the identity of this (same) person in the context of the second business relationship, the repetition of the verification of the identity of this person can be waived. However, the member must make a note in its files for the subsequently opened business relationship (the second AMLA file) of where (in the first AMLA file) the compliant identity documents of the person concerned can be found.

Art. 15 Identification of Natural Persons and Owners of Sole Proprietorships

[1] On entering into a business relationship with a natural person or an owner of a sole proprietorship, the member mandatorily requires the following information from the customer:

a. Full name and, in the case of sole proprietorship, company name.

b. Residential address and, in the case of sole proprietorship, business address.

c. Date of birth.

d. Nationality.

[2] This information is omitted if the customer originates from a country in which dates of birth or residential addresses are not used. This exceptional situation must be justified by means of a memorandum in the AMLA file.

[3] All identification documents which include a photograph and were issued by a Swiss or foreign authority are permitted.

[4] An additional identification document on the company is to be obtained in the case of sole proprietorship recorded in the Commercial Register (Art. 16 of the regulations).

Art. 16 Identification of Legal Entities and Partnerships

[1] On entering into a business relationship with a legal entity or partnership, the member mandatorily requires the following information from the customer:

a. Company name.

b. Domicile address.

[2] The following documents are permissible for identification purposes:

a. For customers recorded in the Swiss Commercial Register or an equivalent foreign Commercial Register:

1. An extract from the Commercial Register issued by the Registrar; or

2. A written extract (procured by the member) from a database managed by the registration authority; or

3. A written extract (procured by the member) from a reliable, privately managed directory or database.

b. For customers not recorded in the Swiss Commercial Register or an equivalent foreign Commercial Register:

1. The by-laws, founding acts or agreements, auditor's certification, official authorisation to exercise the activity or equivalent documents; or

2. A written extract (procured by the member) from a reliable, privately managed directory or database.

[3] Authorities must be identified by means of an appropriate by-law / resolution or other equivalent documents or sources.

[4] The extract from the Commercial Register, the certification by the auditor and the directory or database extract must be no more than one year old at the time of identification and must correspond to the current circumstances.

Art. 17 Verification of the Identity of Persons Establishing the Business Relationship and Taking note of Power of Attorney Arrangements

[1] For legal entities and partnerships, the identity of the natural persons who establish the business relationship must be verified. This can be done by means of a document within the meaning of Art. 15 of the regulations or a certified copy of an identification document in accordance with Art. 20 of the regulations.

[2] The identity of the persons establishing the business relationship can also be verified by means of authentication of the signature; such authentication can be issued by the persons / institutions named in Art. 20 of the regulations.

[3] When entering into a business relationship with a legal entity or a partnership, the member must also take note of and document the power of attorney arrangements of the customer.

Art. 18 Identification on a Face-to-Face Meeting

[1] If the business relationship is accepted during a face-to-face meeting with the customer, the member must verify the identity of the customer by inspecting the identification document of the customer. The member arranges for the identification documents to be presented in the form of the original or authenticated copy. The member places the authenticated copy in its files or makes a copy of the document presented to it on which it confirms having sight of the original or authenticated copy and signs and dates the copy.

Art. 19 Identification on Entering into the Business Relationship by way of Correspondence or the Internet

[1] If the business is accepted without the customer attending in person, the member identifies the customer by arranging for an authenticated copy of an identification document and in addition validates the residential address by means of postal delivery or other equivalent method.

[2] The Supervisory Commission may authorise an online identification of the customer on request, provided that the member can demonstrate adequate technical and organisational measures that guarantee the quality of the identification. The Supervisory Commission is based here on any criteria established by FINMA. There is no entitlement to approval of such an application for exception. The Supervisory Commission can make any approval subject to requirements and conditions. A negative decision or the imposition of requirements and conditions is not contestable.

Art. 20 Authentication

[1] Certification of the authenticity of the copy of an identification document may be issued by:

a. A notary or public office authorised to issue such certification. In cases of doubt, secondary certification or an apostille must be requested.

b. A financial intermediary as defined by Art. 2 Para. 2 or 3 AMLA with residence or registered office in Switzerland or an accredited lawyer in Switzerland.

c. A financial intermediary with residence or registered office abroad which carries on activity in accordance with Art. 2 Para. 2 or 3 AMLA, provided that it is subject to equivalent supervision and regulation in relation to the combating of money laundering and terrorist financing.

d. A branch, representative office or group company of the member.

[2] A valid certificate of authenticity is also considered to be a copy of an identification document obtained from the database of a recognised provider of certification services according to the Federal Act on Electronic Signatures (ZertES[2]) in combination with an electronic authentication by the customer in this regard. This copy of the identification document must have been obtained in the context of the issuing of a qualified certificate.

[3] The member can waive certification of authenticity (i.e. simple, non-authenticated copies of identification documents suffice) if it takes other measures which allow it to verify the customer's identity and address. The measures taken must be documented and recorded in the AMLA file by way of memorandum.

Art. 21 Missing Identification Documents

[1] If the customer does not dispose of an identification document as specified above, by way of exception identity can be verified by means of conclusive substitute documents. This exceptional situation must be justified by means of a memorandum in the AMLA file.

Art. 22 Cash Transactions

[1] Cash transactions (including money exchange transactions) qualify in principle as transactions with occasional customers (subject to Art. 53 Para. 2 of the regulations).

[2] In the case of cash transactions the member must identify the customer if a single transaction, or several transactions which appear to be connected, reaches or exceeds the following amount:

a. CHF 5,000 for money exchange transactions.

b. CHF 25,000 for all other cash transactions.

[2] Federal Act on Certification Providers in the area of Electronic Signatures (SR 943.03) 19 December 2003

[3] If further transactions are carried out for the same customer under the terms of Para. 2, the member can waive the identification of the customer if it has assured itself that the customer is the person who was identified on the occasion of the first transaction. The member produces a memorandum to this end which it places in the AMLA file.

[4] The member must identify the customer in each case if there are grounds to suspect possible money laundering or terrorist financing or a blatant attempt is made to avoid identification by distributing an amount over several transactions (smurfing).

[5] A complete AMLA file must be created for each individual transaction in the case of cash transactions (including money exchange transactions) with occasional customers subject to duty of identification.

Art. 23 Money and Asset Transfers

[1] Art. 22 Paras. 1 and 3 – 5 of the regulations also apply accordingly to money and asset transfers.

[2] For money and asset transfers from Switzerland to a foreign country the customer must be identified in each case.

[3] The member's name and address must be visible on the payment receipt.

[4] For money and asset transfers into Switzerland from a foreign country, the recipient of the payment must be identified if a single transaction, or multiple transactions which appear to be related, reach or exceed the amount of CHF 1,000. If there are grounds to suspect possible money laundering or terrorist financing, the recipient must be identified in each case.

Art. 24 Publicly Known Legal Entities, Partnerships and Authorities

[1] The member can waive the identification of a legal entity, partnership or authority if the customer is publicly known. The identity is deemed to be publicly known in particular if the customer is a public company or is directly or indirectly associated with such a company.

[2] The member produces a memorandum to this end which it places in the AMLA file.

Art. 25 Identification of the Customer in Trust Relationships

[1] The following documents must be obtained if the member acts as a trustee or protector and is subject to the AMLA with regard to this activity:

a. Founding document (trust deed / declaration of trust); and/or

b. any other applicable additional documents (supplemental deeds or supplemental declarations of trust in connection with changes to the trustee, protector and beneficiaries and changes in jurisdiction or the forum of administration etc.).

[2] In general, in the case the member acts as a trustee or protector and is subject to AMLA,

a. the member's customer; and

b. the customer's representatives and authorised signatories appearing before the member

must be identified in accordance with the general provisions for identification.

[3] If, by way of exception, the member does not have a customer (e.g. testamentary establishment of a trust), the identification of the customer cannot take place. The member suitably records this circumstance in the AMLA file.

[4] A member which enters into a business relationship or performs a transaction as a trustee identifies itself to its business or transaction partner as a trustee.

Art. 26 Duties of Identification of Stock Exchange Listed Investment Companies

[1] A stock exchange listed investment company as a member must identify the acquirer of shares if by such acquisition the latter reaches the disclosure threshold of three percent pursuant to the Financial Market Infrastructure Act[3]. Obtaining a certificate of authenticity may be waived.

[2] For non-stock exchange listed investment companies, Art. 50 of the regulations applies.

Art. 27 Simple Partnership and Joint Accounts

[1] On entering into a business relationship with a simple partnership within the meaning of Art. 530 of the Swiss Code of Obligations[4], the member identifies the customer by selecting from the following persons:

a. All partners; or

b. at least one partner and those persons who are authorised signatories with respect to the member; or

c. for simple partnerships whose purpose is to protect the interests of their members or beneficiaries in mutual self-interest or which pursue political, religious, scientific, artistic, charitable, social or similar objectives, only those persons who are authorised signatories with respect to the member.

[2] For the simple partnership, the member maintains a single AMLA file in which the documentation required by the regulations is kept.

[3] The provisions for the simple partnership apply in the case of joint accounts.

Art. 28 Business Relationships with Minors or Protected Adults

[1] In the case of business relationships with minors or protected adults, in addition to identifying the customer the member must also verify the identity of the legal representative (for underage customers) or the representative appointed by the adult protection authority (for protected adult customers).

[2] For officially appointed representatives, the member also inspects the corresponding resolution, of which it takes a copy (signed and dated by the member or authenticated) for its files.

[3] In the case of legal representatives, the member inspects the family identity document (or other appropriate official document which confirms legal representation) and makes a copy (signed and dated by the member or authenticated) for its files or makes note in the AMLA file of its inspection of the family identity document.

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[3] Federal Act on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading of 19 June 2015 (SR 958.1)

[4] Federal Act on the Amendment of the Swiss Civil Code (Part Five: The Code of Obligations) of 30 March 1911

Art. 29 Death of a Customer

[1] In the event of the death of a member's customer, as the latter's legal successor the community of heirs becomes the member's customer (change of customer).

[2] The community of heirs is to be identified as follows:

a. The member inspects an extract from an official schedule of heirs (certificate of inheritance or similar), of which it takes either the original or a copy (signed and dated by the member or authenticated) for its files. This official document serves concurrently as adequate identification of the beneficial owners of the assets.

b. The individual successors must be identified if a new business relationship is opened with the member. If the previous business relationship between the member and the bequeather is merely to be continued, the identification of the successors can also take place at the time when the successors in question appear before the member (e.g. when issuing instructions to or requesting information from the member etc.). Identification must take place no later than at the time of the distribution of the estate.

c. Representatives of the community of heirs (executors etc.) appearing before the member must also be identified. In addition, the member inspects the corresponding mandate or appointment resolution, of which it takes a copy (signed and dated by the member or authenticated) for its files.

[3] The member can continue the AMLA file previously created on behalf of the bequeather before his death as the new AMLA file for the community of heirs.

[4] If following distribution of the estate the member continues the activity subject to the AMLA on behalf of individual successors, a separate, complete AMLA file must be maintained on each individual successor on whose behalf this activity is continued.

2.2 Establishing the Identity of the Beneficial Owners of Companies and Assets (Art. 4 AMLA)

2.2.1 Establishing the Identity of the Beneficial Owner of Operational Legal Entities and Partnerships (Controlling Person)

Art. 30 Establishing the Identity of the Controlling Person

[1] If the customer is a non-stock exchange listed, operational legal entity or partnership or a majority-controlled subsidiary of such a company and the member enters into a business relationship with the latter, whereby it is obliged to identify the customer, the member must obtain a written statement from the customer with regard to the controlling person who, directly or indirectly, alone or in concert holds at least 25% of the voting rights or equity participation in the company.

[2] If the company is not controlled by the persons referred to in Para. 1, the member must obtain a written statement from the customer with regard to who, as controlling person, controls the company by other means.

[3] If no controlling persons can be determined in accordance with Paras. 1 and 2, the member must alternatively obtain a written statement from the customer with regard to the name of the highest managing director.

[4] In principle, natural persons must be identified as controlling persons.

Art. 31 Content and Form of the Written Declaration

[1] The member requires the following mandatory information from the customer regarding the controlling person:

a. Full name.

b. Residential address.

[2] This information is omitted if the controlling person originates from a country in which residential addresses are not used. This exceptional situation must be justified by means of a memorandum in the AMLA file.

[3] The (dated) declaration can be signed by the customer or its authorised representative. In the case of legal entities, the declaration must be signed by a person authorised to do so.

[4] In addition, the declaration must contain reference to the fact that the deliberate provision of false information is liable to prosecution under the terms of Art. 251 StGB (falsification of documents). The declaration must generally be made on a separate form (VQF doc. no. 902.11).

Art. 32 Exceptions to the Duty of Establishing the Controlling Person

[1] The following customers are not required to give a declaration about the controlling person:

a. Companies which are listed on a stock exchange, or a majority-owned subsidiary of such a company. The member produces a memorandum to this end which it places in the AMLA file.

b. Authorities.

c. Financial intermediaries under the terms of Art. 2 Para. 2 AMLA with residence or registered office in Switzerland.

d. Financial intermediaries with residence or registered office abroad which carry on an activity in accordance with Art. 2 Para. 2 AMLA and are subject to equivalent prudential supervision.

e. Other financial intermediaries with residence or registered office abroad which are subject to appropriate prudential supervision and appropriate regulation in relation to the combating of money laundering and terrorist financing.

f. Tax exempt pension funds in accordance with Art. 2 Para. 4 letter b AMLA.

g. Simple partnerships.

h. Companies and associations whose purpose is to protect the interests of their members or beneficiaries in mutual self-interest or which pursue political, religious, scientific, artistic, charitable, social or similar objectives, provided that they pursue exclusively these purposes and have no discernible relation to countries with increased risks.

i. Condominium associations, joint ownership associations registered in the Land Register and other companies with a similar purpose.

[2] The member likewise is not required to obtain a declaration about the controlling person for money exchange transactions where the amount is less than CHF 25,000, unless a blatant attempt is made to avoid identification of the controlling person by distributing an amount over several transactions (smurfing).

2.2.2 Establishment of the Beneficial Owner of the Assets

Art. 33 Principle

[1] On entering into a business relationship which requires verification of the customer's identity, the member must also determine the beneficial owner of the assets with the due diligence required by the circumstances.

[2] In principle, natural persons must be identified as beneficial owners.

[3] If the customer declares that it is the sole beneficial owner and the member considers this declaration to be plausible, it records this appropriately in writing. In doing so - subject to the provisions detailed below - the member is free to decide whether to ask the customer for a written and signed declaration.

Art. 34 Written Declaration on the Beneficial Owner of the Assets

[1] The member must obtain a written declaration from the customer concerning the identity of the beneficial owner of the assets if the customer and the beneficial owner of the assets are not one and the same person, or if the member has doubts in this regard, namely:

a. If a mandate allowing the withdrawal of assets is granted to a person not identifiably in suitable close relation to the customer.

b. If the assets which the customer introduces are clearly in excess of the customer's financial profile.

c. If contact with the customer gives rise to other, unusual conclusions.

d. If the business relationship was opened by way of correspondence.

e. If there are grounds to suspect possible money laundering or terrorist financing.

f. For money and asset transfers from Switzerland to a foreign country.

Art. 35 Content and Form of the Written Declaration

[1] The customer's written declaration must contain the following minimum information on the beneficial owner of the assets:

a. Full name.

b. Residential address.

c. Date of birth.

d. Nationality.

[2] This information is omitted if a beneficial owner of the assets originates from a country in which dates of birth or residential addresses are not used. This exceptional situation must be justified by means of a memorandum in the AMLA file.

[3] The (dated) declaration can be signed by the customer or its authorised representative. In the case of legal entities, the declaration must be signed by a person authorised to do so.

[4] In addition, the declaration must contain reference to the fact that the deliberate provision of false information is liable to prosecution under the terms of Art. 251 StGB (falsification of documents). The declaration must generally be made on a separate form

(VQF doc. no. 902.9). For associations of persons, trusts, foundations or other asset structures, Art. 39 of the regulations must also be observed.

Art. 36 Exceptions to the Duty of Establishing the Beneficial Owner of the Assets

[1] The following customers are not required to give an explanation about the beneficial owner of the assets:

a. Companies which are listed on a stock exchange, or a majority-owned subsidiary of such a company. The member produces a memorandum to this end which it places in the AMLA file.

b. Authorities.

c. Condominium associations, joint ownership associations registered in the Land Register and other companies with a similar purpose.

[2] The member likewise is not required to obtain a declaration about the beneficial owner of the assets for money exchange transactions where the amount is less than CHF 25,000, unless a blatant attempt is made to avoid identification of the beneficial owner of the assets by distributing an amount over several transactions (smurfing).

Art. 37 Non-Stock Exchange Listed Operational Legal Entities and Partnerships

[1] For non-stock exchange listed operational legal entities and partnerships, the member is only required to obtain a written declaration concerning the identity of the beneficial owner of the assets if it is known or there are definite indications that the operational legal entity or partnership holds the assets on behalf of a third party.

Art. 38 Domiciliary Companies

[1] If the customer is a domiciliary company, the member must obtain a written declaration from the customer concerning the identity of the beneficial owner of the assets.

[2] Legal entities, companies, institutions, foundations, trusts, fiduciary companies and similar undertakings which do not engage in trading, manufacturing or commercial activities are classified as domiciliary companies.

[3] Not classified as domiciliary companies are companies:

a. Whose purpose is to protect the interests of their members or beneficiaries in mutual self-interest or which pursue political, religious, scientific, artistic, charitable, social or similar objectives.

b. Which hold the majority of the shares in one or more operational companies in order to consolidate them by majority vote or otherwise under a single management and whose main purpose does not consist in the management of third party assets (holding and sub-holding companies). In this case the holding or sub-holding company must also actually exercise its management and control options.

[4] Indications of the existence of a domiciliary company are given, in particular, in the following cases:

a. Absence of own premises, as is the case in particular when a c/o address is given, or a registered office with a lawyer, trustee or bank; or

b. absence of own personnel.

[5] If in spite of the presence of one or both indications given under Para. 4 a member does not qualify the customer as a domiciliary company, it must record the reason in writing.

[6] Stock exchange listed domiciliary companies and majority-controlled subsidiaries of such companies are not required to provide a declaration about the beneficial owner of the assets. The member produces a memorandum to this end which it places in the AMLA file.

[7] If the member is active as a body of a domiciliary company, this domiciliary company qualifies as the customer under the terms of these regulations.

Art. 39 Associations of Persons, Trusts, Foundations and other Asset Structures

[1] In the case of associations of persons, trusts, foundations or other asset structures, the member must obtain a written declaration from the customer, which contains information in accordance with Art. 35 Para. 1 of the regulations, about the following persons:

a. The actual founders.

b. The trustees.

c. Any curators, protectors or other appointed persons.

d. The named beneficiaries.

e. If there are no named beneficiaries: the circle of persons broken down by category which come into consideration as beneficiaries.

f. The persons who can issue instructions to the customer or its bodies.

g. For revocable structures: the persons entitled to revocation.

[2] Para. 1 applies accordingly to companies which operate in a similar way to associations of persons, trusts, foundations or other asset structures.

[3] In place of the customer, the declaration in accordance with Para. 1 can also be obtained from:

a. the actual founder;

b. the trustee;

c. the protector;

d. a member of the foundation board; or

e. a member of the supreme supervisory body of a subsidiary company

of the association of persons, trust, foundation or other asset structure. The member records on file the reason for which the declaration was not obtained from or signed by the customer and justifies why no case exists under Art. 65 (refusal or cancellation of the business relationship) or Art. 67 of the regulations (duty to report pursuant to Art. 9 AMLA). Each person who signs the declaration in accordance with Para. 1 certifies in this declaration that it is authorised to make this declaration on behalf of the customer or that it made this declaration to the best of its knowledge and belief.

[4] For a case as defined in Para. 1 letter e, the member collects the information on the beneficiaries of the association of persons, trust, foundation or other asset structure, as prescribed by Art. 35 Para. 1 of the regulations, by no later than the time at which the beneficiary is actually benefited, and documents the corresponding assigned benefit.

[5] The declaration in accordance with Para. 1 must contain reference to the fact that the deliberate provision of false information is liable to prosecution under the terms of Art. 251 StGB (falsification of documents). In general, the (dated) declaration must be submitted on a separate form (VQF doc. no. 902.12 or 902.13) and signed by the customer or person in accordance with Para. 3.

Art. 40 Financial Intermediaries subject to Special Statutory Supervision or Tax Exempt Pension Funds

[1] No declaration must be obtained on the beneficial owner of the assets if the customer is:

a. A financial intermediary under the terms of Art. 2 Para. 2 AMLA with residence or registered office in Switzerland.

b. A financial intermediary with residence or registered office abroad which carries on an activity in accordance with Art. 2 Para. 2 AMLA and is subject to equivalent prudential supervision.

c. A tax exempt pension fund in accordance with Art. 2 Para. 4 letter b AMLA.

[2] A declaration on the beneficial owner of the assets must always be demanded from the customer if:

a. There are grounds to suspect possible money laundering or terrorist financing.

b. FINMA issues a warning about general misuse or a specific customer.

c. The customer's domicile or registered office is in a country against whose institutions FINMA has issued a general warning.

Art. 41 Collective Investment Schemes or Investment Companies

[1] If a collective investment scheme or investment company has twenty or less investors, the member must obtain a customer declaration on the beneficial owners of the assets. Subject to Art. 40 of the regulations.

[2] If there are more than twenty investors, a broad circle of addressees can be assumed and establishment of the beneficial owners of the assets can be waived, unless the collective investment scheme or investment company is domiciled in a high risk, non-cooperative country as defined by FATF.

[3] A declaration on the beneficial owners of the assets can also be waived if:

a. The collective investment scheme or investment company is listed on the stock exchange.

b. A financial intermediary within the meaning of Art. 40 Para. 1 of the regulations acts as a promoter or sponsor of a collective investment scheme and demonstrates the application of appropriate rules with respect to the combating of money laundering and terrorist financing.

[4] For asset managers of non-stock exchange listed foreign collective investment schemes also the exemptions provided for in Art. 49 of the regulations apply.

Art. 42 Simple Partnerships

[1] If in a business relationship with a simple partnership the partners themselves are the beneficial owners of the assets, it is not necessary to obtain a declaration on the beneficial owners of the assets if all partners were identified (Art. 27 Para. 1 letter a of the regulations) and the entitlement of the partners of the simple partnership is recorded in writing.

[2] For simple partnerships with more than four partners whose purpose is to protect the interests of their members or beneficiaries in mutual self-interest or which pursue political, religious, scientific, artistic, charitable, social or similar objectives, it is not necessary to identify the beneficial owners of the assets if they have no discernible relation to countries with increased risks.

[3] If the simple partnership declares that it holds the assets on behalf of a particular third party, this third party must be established as a beneficial owner of the assets.

Art. 43 Collective Safekeeping Accounts and Collective Accounts

[1] In the case of collective safekeeping accounts and collective accounts, the customer must provide the member with a complete list of the beneficial owners of the assets containing the information in accordance with Art. 35 Para. 1 and advise the member immediately of any changes.

[2] Accounts of operating companies through which transactions are made in connection with professional services do not qualify as collective accounts. The member must justify the corresponding exceptional situation by means of a memorandum in the AMLA file.

2.3 General Provisions for the Identification of the Customer and Establishing the Beneficial Owners of Companies and Assets

Art. 44 Acceptance of Business Relationships and the Execution of Transactions

[1] A business relationship is considered to be accepted on closure of the contract.

[2] All documents and information required for the identification of the customer and to establish the identity of the controlling person and the beneficial owner of the assets must be available in their entirety before transactions can be executed in the context of a business relationship.

[3] If, despite the member's request, the (potential) customer refuses to cooperate with the identification or to provide a written declaration on the controlling person or beneficial owner of the assets or if doubt remains as to the correctness of the customer's declaration and these doubts cannot be eliminated by means of further clarification, the member rejects the opening of the business relationship or cancels this in accordance with Art. 65 of the regulations.

Art. 45 Repetition of the Identification or Establishment of the Controlling Person and the Beneficial Owner of the Assets

[1] The identification of the customer or the establishment of the controlling person and the beneficial owner of the assets must be repeated during the course of the business relationship if doubt arises as to whether:

a. the information on the identity of the customer is accurate; or

b. the customer or controlling person and the beneficial owner of the assets are one and the same; or

c. the customer's explanation about the controlling person or beneficial owner of the assets is accurate;

and these doubts cannot be eliminated by means of further clarification.

2.4 Waiver of Compliance with Duties of Due Diligence and Simplified Duties of Due Diligence

Art. 46 Identification of the Customer and Establishment of the Controlling Person and Beneficial Owner of the Assets in the Group

[1] A procedure in accordance with Art. 14 et seq. of the regulations is not required if a customer in the context of the group to which the member belongs was already identified in an equivalent manner. In these cases the member must hold copies of the original identification documents. This does not apply in cases where the law does not allow this data transfer.

[2] The same applies if in the context of the group a declaration on the controlling person or beneficial owner of the assets was already obtained.

Art. 47 Waiver of Compliance with Duties of Due Diligence

[1] In permanent business relationships with customers, the member may waive compliance with duties of due diligence in the area of payment instruments for cashless payment transactions which serve exclusively the cashless payment of goods and services, provided that one of the following situations is given:

a. Not more than CHF 1,000 can be paid per transaction and not more than CHF 5,000 per calendar year; any repayments of the payment instrument may only take place in favour of accounts at banks licensed in Switzerland or banks abroad subject to equivalent supervision and in the name of the customer and the amount per repayment may not exceed CHF 1,000.

b. Not more than CHF 5,000 per month and not more than CHF 25,000 per calendar year and per customer can be paid to dealers in Switzerland, whereby the outgoing payments must be debited exclusively from and any repayments of the payment instrument credited exclusively to an account in the customer's name at a bank licensed in Switzerland.

c. The payment instruments can only be used within a specific network of service providers or goods suppliers and the turnover amounts to no more than CHF 5,000 per month and CHF 25,000 per calendar year and per customer.

d. This is a finance lease and the annual lease payments including VAT do not exceed CHF 5,000.

[2] In permanent business relationships with customers, the member may waive compliance with duties of due diligence in the area of payment instruments for cashless payment transactions which do not serve exclusively the cashless payment of goods and services if not more than CHF 200 per month can be made available per payment instrument and payments are debited exclusively from and any repayments of the payment instrument credited exclusively to an account in the customer's name at a bank licensed in Switzerland.

[3] The member may waive compliance with duties of due diligence for non-reloadable payment instruments if:

a. the credit balance serves exclusively for the customer to pay electronically for goods and services acquired with the payment instrument;

b. not more than CHF 250 is made available electronically per data medium; and

c. not more than CHF 1,500 is made available per transaction and per customer.

[4] The member may only waive compliance with duties of due diligence if it disposes of suitable technical facilities that allow it to detect the exceeding of the respective thresholds. In addition, the member must take precautions to prevent any accumulation of amount limits and violations of these provisions. Art. 54 and 58 of the regulations apply with respect to the monitoring of transactions.

Art. 48 Simplified Duties of Due Diligence for Issuers of Payment Instruments

[1] Issuers of payment instruments are exempt from the requirement to take for their files copies of the documents for the identification of the customer and the establishment of the controlling person and beneficial owner of the assets, provided that they have concluded a delegation agreement with a bank licensed in Switzerland which provides for the following:

a. The bank provides the issuer of the payment instrument with the information about the identity of the customer, controlling person and beneficial owner of the assets.

b. The bank informs the issuer of the payment instrument whether the customer, controlling person or beneficial owner of the assets is a politically exposed person.

c. The bank immediately informs the issuer of the payment instrument about changes to the information under letters a and b.

d. In the case of a request for information from the competent Swiss authority to the issuer of the payment instrument, the latter responds to the request and refers the authority to the bank in question for the release of any documents.

[2] The issuer of payment instruments is not required to obtain authentication for copies of identification documents for business relationships opened directly or by correspondence, provided that:

a. for payment instruments for the cashless payment of goods and services and for cash withdrawals in which an electronically stored credit balance is a prerequisite for transactions, not more than CHF 10,000 per month and per customer can be paid out or withdrawn in cash;

b. for payment instruments where transactions are invoiced in arrears, the limits for the cashless payment of goods and services and for cash withdrawals do not exceed CHF 25,000 per month and per customer;

c. for payment instruments which allow cashless payment transactions between private individuals with residence in Switzerland, not more than CHF 1,000 per month and CHF 5,000 per calendar year and per customer can be received by or transferred to private individuals; or

d. for payment instruments which allow cashless payment transactions between private individuals without residence restrictions, not more than CHF 500 per month and CHF 3,000 per calendar year and per customer can be received by or transferred to private individuals.

[3] Pursuant to Paras. 1 and 2, if in the course of monitoring the transaction the issuer of the payment instrument obtains information on a transfer of the payment instrument to a person who has no identifiable close relationship with the customer, the issuer must re-identify the customer and establish the beneficial owner of the payment instrument.

Art. 49 Special Provisions for Asset Managers of Foreign Collective Investment Schemes

[1] Asset managers of non-stock exchange listed foreign collective investment schemes as members must identify the subscriber and establish the controlling person or beneficial owner of the assets of the foreign collective investment scheme if:

a. neither the foreign collective investment scheme nor its management company are subject to appropriate prudential supervision and appropriate regulation in relation to the combating of money laundering and terrorist financing;

b. they do not demonstrate the application of appropriate regulation in relation to the combating of money laundering and terrorist financing through another financial intermediary which is subject to appropriate prudential supervision; and

c. the invested amount exceeds CHF 25,000.

[2] They are not required to obtain a declaration on the controlling person or beneficial owner of the assets if the subscriber is a financial intermediary pursuant to Art. 2 Para. 2 letters a - d AMLA or a foreign financial intermediary which is subject to appropriate prudential supervision and appropriate regulation in relation to the combating of money laundering and terrorist financing.

Art. 50 Special Provisions for Non-Stock Exchange Listed Investment Companies

[1] Non-stock exchange listed investment companies as members must identify the subscriber upon subscribing and establish the controlling person or beneficial owner of the assets if the subscribing exceeds the amount of CHF 25,000.

[2] They are not required to obtain a declaration on the controlling person or beneficial owner upon subscribing if the subscriber is a financial intermediary pursuant to Art. 2 Para. 2 letters a - d AMLA or a foreign financial intermediary which is subject to appropriate prudential supervision and appropriate supervision and regulation in relation to the combating of money laundering and terrorist financing.

2.5 Customer Profile

Art. 51 Principle

[1] On acceptance of a permanent business relationship, the member creates an individual customer profile which allows it to understand the customer's financial background, the origin of the assets involved and the purpose of the transactions and business relationship as well as to check their plausibility in terms of legitimacy or identify circumstances which require particular clarification.

Art. 52 Scope and Documentation

[1] The member requests from the customer all information necessary for the creation of the customer profile such as, for example, the nature, purpose and date of the business relationship or initiation of the business relationship, the amount and currency of the assets involved, information about income, assets (origin), professional or business activities and connections, bank accounts involved (including regulation of signature authorisations and any credit cards involved), relationships to the beneficial owner of the assets, authorised representatives or beneficiaries as well as any family situation etc. Depending on the business relationship and circumstances, this information may relate to both the customer and the beneficial owner of the assets or to the founder / creator of a trust or foundation.

[2] As far as it is possible and reasonable, the member arranges for the requested information to be presented in the form of appropriate documents. If the member decides

not to make copies of these documents for its AMLA files, on entering this information in the customer profile it makes a note of the documents which it personally inspected.

Art. 53 Cash Transactions and Money and Asset Transfer Transactions

[1] For cash transactions where the member is obliged to identify the customer, the member must at least clarify the nature and purpose of the desired business relationship and document this in the AMLA file. The scope of the information to be obtained is in accordance with the risk which the business relationship or transaction represents.

[2] If a customer regularly appears before the member for the purpose of carrying out cash transactions (including money exchange transactions) or money and asset transfer transactions, at variance from Art. 22 Para. 1 of the regulations the member can also treat the customer concerned as a regular customer. Transactions with regular customers are classified as permanent business relationships.

[3] The customer profile to be created for a regular customer must provide information, in particular, on the usual business volume of such transactions (for the purpose of validating the transactions made during the period of the business relationship) and also on the beneficiary in the case of money and asset transfer transactions (full name, address etc.).

[4] One AMLA file must be created for each customer in the case of cash transactions (including money exchange transactions) and money and asset transfer transactions.

2.6 Special Duties of Clarification (Art. 6 AMLA)

Art. 54 Supervision of Business Relationships and Transactions

[1] The member provides for effective, risk-based supervision of business relationships and transactions.

[2] Members which perform money or asset transfer transactions use a computer-supported system to identify and monitor increased risk transactions.

Art. 55 Additional Clarifications for Increased Risks

[1] The member performs additional clarifications with reasonable due diligence if:

a. The transaction or business relationship is associated with increased risk.

b. The transaction or business relationship appears unusual, unless its legitimacy is clearly evident.

c. Evidence exists that assets are the proceeds of a felony or a qualified tax offence pursuant to Art. 305bis numeral 1bis StGB, subject to the power of disposal of a criminal organisation (Art. 260ter numeral 1 StGB) or serve the financing of terrorism (Art. 260^{quinquies} Para. 1 StGB).

d. The information on a customer, controlling person, beneficial owner of the assets or authorised signatory of a business relationship or transaction matches or is very similar to the information which was forwarded to the member by FINMA or the VQF SRO under Art. 22a AMLA.

[2] Appropriate evidence of unusual or suspicious circumstances under the terms of Para. 1 can be found in the typology list (VQF doc. no. 905.1), which forms an integral part of these regulations. However, this list is not exhaustive.

[3] Depending on the circumstances, the following must be clarified:

a. Whether the customer is the beneficial owner of the assets introduced.

b. The origin of the assets introduced.

c. The intended use of withdrawn assets.

d. The background and plausibility of large incoming payments.

e. The source of the assets of the customer, controlling person or beneficial owner of the assets.

f. The professional or business activity of the customer, controlling person or beneficial owner of the assets.

g. The question whether the customer, controlling person or beneficial owner of the assets is a politically exposed person.

Art. 56 Means of Clarification

[1] Depending on the circumstances, the clarifications include the following:

a. Gathering written or verbal information on the customer, controlling person or beneficial owner of the assets.

b. Visits to the places where the customer, controlling person or beneficial owner of the assets carry on their business activity.

c. Consultation of generally accessible sources and databases.

d. Enquiries with trustworthy persons where appropriate.

[2] The member checks the plausibility of the results of clarification. The results must be recorded by way of a memorandum in the AMLA file.

Art. 57 Increased Risk Business Relationships

[1] All of the following are classified as increased risk business relationships:

a. Business relationships with foreign politically exposed persons.

b. Business relationships with persons closely related to the persons referred to under letter a.

[2] The following are classified as increased risk business relationships in connection with one or more other risk criteria:

a. Business relationships with domestic politically exposed persons.

b. Business relationships with politically exposed persons in international organisations.

c. Business relationships with persons closely related to the persons referred to under letters a and b.

[3] A business relationship with a politically exposed person also exists if the politically exposed person merely acts as controlling person, beneficial owner of the assets or authorised representative.

[4] Members maintaining more than twenty permanent business relationships define additional criteria which point to increased risk business relationships.

[5] Depending on the member's business activity, the following criteria, in particular, come into question:

a. The registered office or domicile of the customer, controlling person or beneficial owner of the assets and the nationality of the customer or beneficial owner of the assets.

b. The nature and location of the business activity of the customer or beneficial owner of the assets.

c. The lack of personal contact with the customer and beneficial owner.

d. The nature of the requested services or products.

e. The amount of the assets introduced.

f. The amount of inflowing and outflowing assets.

g. The country of origin or target country of frequent payments.

h. The complexity of the structures, e.g. through the use of domiciliary companies).

[6] In developing criteria in relation to qualified tax offences which indicate increased risks in new and existing business relationships, and in determining and identifying such business relationships, members may refer to the maximum tax rate of the country of tax residence of the customer in order to assess whether the evaded taxes reach the threshold of CHF 300,000 defined in Art. 305bis numeral 1bis StGB. They are not required to determine the individual tax factors for the business relationship.

[7] The member determines and documents the increased risk business relationships in an appropriate manner (e.g. in the risk profile, VQF doc. no. 902.4) and flags these relationships.

Art. 58 Increased Risk Transactions

[1] The member generates criteria for the identification of increased risk transactions.

[2] Depending on the member's business activity, the following criteria, in particular, come into question:

a. The amount of inflowing and outflowing assets.

b. Considerable variance from the type, volume and frequency of transaction usual to the business relationship.

c. Considerable variance from the type, volume and frequency of transaction usual to comparable business relationships.

[3] All of the following are classified as increased risk transactions in any case:

a. Transactions in which assets with an equivalent value of CHF 100,000 are physically introduced at the beginning of the business relationship, either at once or in a staggered manner.

b. Money and asset transfers whereby a single transaction, or multiple transactions which appear to be related, reach or exceed the amount of CHF 5,000.

[4] The member documents the generated criteria for the identification of increased risk transactions in an appropriate manner (e.g. in the risk profile, VQF doc. no. 902.4).

Art. 59 Time of Additional Clarifications

[1] If increased risk is evident in a business relationship, the member initiates the additional clarifications immediately and completes them as quickly as possible.

Art. 60 Acceptance and Control of an Increased Risk Business Relationship

[1] The acceptance of an increased risk business relationship requires the approval of a senior person or body or the management.

[2] The senior executive body, or at least one of its members, decides on:

a. The acceptance and, annually, continuation of an increased risk business relationship with a politically exposed person, insofar as this relates to an increased risk business relationship (Art. 57 Paras. 1 and 2 of the regulations).

b. The arrangement of regular internal controls on all increased risk business relationships and the monitoring and evaluation of those relationships.

[3] Members with very extensive financial intermediary activity and multi-level hierarchical structures may transfer this responsibility to the management of a business unit.

3. Documentation and Duty to Keep Records (Art. 7 AMLA)

Art. 61 General Requirements on Documentation

[1] The member compiles and organises its documentation in such a way as to allow a competent third party – especially the auditors appointed to perform the AMLA audit – to be able at any time to form a reliable picture of compliance of the member with the (legal and regulatory) duties for the combating of money laundering and terrorist financing.

[2] The documents and records must be compiled and kept in such a way that the member is able to comply with the information and seizure demands of the criminal prosecution authorities or other authorised entities within the required period of time. The documents and records must make it possible to reconstruct the individual transactions.

[3] The member must keep an AMLA file for each customer (exceptions: Art. 22 Para. 5, Art. 27 Para. 2 and Art. 29 Para. 3 of the regulations) and in addition a list containing the acquisition and exit dates of all business relationships subject to the AMLA (VQF doc. no. 902.8).

[4] The AMLA files must be kept permanently up to date. The member must dispose of current physical or electronic copies of relevant documents.

[5] The VQF SRO provides suitable forms for basic documentation and updating, which can be downloaded from the VQF website (www.vqf.ch). If the member decides not to use the VQF forms, for the purpose of a minimum standard the member must ensure that its own forms contain the data required by the VQF SRO forms.

[6] The documents and records must be kept in a safe place in Switzerland (not accessible to unauthorised third parties).

[7] Documents which are of fundamental importance to determining the material facts of an AMLA-relevant business relationship must be filed in the AMLA file. Documents of fundamental importance are classified as all documents which are required in order to comprehend a specific transaction or verify compliance with (legal and regulatory) duties for the combating of money laundering and terrorist financing:

a. All documents referred to in these regulations and especially the following: AMLA standard forms of the VQF SRO or own forms, identity documents, memoranda to be compiled in specific cases in accordance with these regulations and copies of reports in accordance with Art. 67 of the regulations (Art. 9 AMLA) and Art. 66 of the regulations (Art. 305ter Para. 2 StGB).

b. All other documents in the AMLA file which are necessary for the purpose of comprehension or in order to verify the information in the AMLA standard forms or which give rise to or form part of additional clarification, especially: documents on executed transactions (bank documents, mandates, receipts etc.), contracts, correspondence, telephone and other memoranda, invoices, accounting etc.

[8] The filing of transaction records (account extracts), accounting documents and statements in the AMLA file can be waived if a written record (memorandum/reference) is made in the AMLA file of where these documents are located and the documents not kept in the AMLA file are managed and kept in such a way as to comply with the duty of documentation and retention.

[9] Documents which are of significance in determining the facts of an AMLA-relevant business relationship and are not written in a national language of Switzerland or in English must be translated into English or a national language of Switzerland by a suitably qualified, approved translator.

Art. 62 Additional Requirements for Electronic Documentation

[1] In case of electronic document storage the following must be assured in addition to the requirements according to Art. 61 of the regulations:

a. The necessary information can be printed out in paper form on request.

b. The requirements of Art. 9 and 10 of the Ordinance on Accounting Records[5] must be met.

c. The server used is located in Switzerland (otherwise the member must dispose of actual physical or electronic copies of relevant documents in Switzerland) and is accessible for the member at all times.

Art. 63 Retention Period

[1] The retention period by the member is at least 10 years following completion of the business relationship or transaction in accordance with Art. 61 et seq. of the regulations.

Art. 64 Transfer of Business Relationships subject to the AMLA

[1] If a member (or its customer) transfers business relationships subject to the AMLA to another member or financial intermediary, the previously responsible member (transferring financial intermediary) must document this termination in its AMLA file in accordance with regulations (memorandum, filing of notification letter and other documents associated with termination) and must retain all (original) documents or authenticated copies thereof found in the AMLA file for a period of 10 years.

[2] With the customer's consent, the transferring financial intermediary can transfer authenticated copies of its AMLA file to the financial intermediary newly responsible for the customer (single certification for each AMLA file). If the transferring financial intermediary retains authenticated copies of the documents in its AMLA file in accordance with

[5] Ordiance on Keeping and Retainig of Accounting Records of 24 April 2002 (SR 221.431)

the regulations, with the customer's consent the original documents can also be transferred to the accepting financial intermediary.

[3] The newly responsible financial intermediary (accepting member) which accepts the business relationship subject to the AMLA must ensure that the identification of the customer and the establishment of the controlling person or beneficial owner of the assets are compliant with the regulations at the time of closure of the new contract (i.e. on acceptance of the business relationship) and must therefore, where necessary, repeat the identification of the new customer or the establishment of the controlling person or beneficial owner of the assets. In relation to the customer profile and any special clarifications made, the newly responsible financial intermediary (accepting member) must verify and document the plausibility and currentness of the information received from the transferring financial intermediary.

[4] This re-identification in accordance with Para. 3 can be waived if the former relationship manager (natural person) takes the customers (contract parties) with him (change of employer or initiation of new independent activity). Re-identification in accordance with Para. 3 can also be waived if business relationships are transferred within a group of companies from one affiliated company to another.

4. Cancellation and Rejection of Business Relationships and Duties in the event of Suspected Money Laundering or Terrorist Financing (Art. 9 - 11 AMLA)

4.1 Cancellation and Refusal of Dubious Business Relationships and Right to Notify

Art. 65 Cancellation and Refusal of Dubious Business Relationships

[1] The member cancels or refuses the business relationship as quickly as possible, in accordance with the following provisions, if:

a. doubts concerning the information on the customer persist after the procedure in accordance with Art. 45 of the regulations has been carried out;

b. the member has reason to suspect that it was knowingly misled with regard to the identity of the customer, controlling person or beneficial owner of the assets; or

c. the customer refuses to repeat the identification process or again establish the controlling person or beneficial owner of the assets despite being requested to do so by the member without stating a reason.

[2] If the member cancels a dubious business relationship without a justified suspicion of money laundering or terrorist financing and without reporting to the Reporting Office, it may only permit the withdrawal of significant assets in a form which, if necessary, allows the criminal prosecution authorities to trace the transaction ("paper trail"). In the case of cash transactions, repayment in cash may only be made to the person who introduced the assets, against receipt.

[3] The member may neither cancel a dubious business relationship nor permit the withdrawal of significant assets if there are definite indications that official freezing measures are imminent.

[4] The business relationship with the customer must not be cancelled if the reporting requirements are met in accordance with Art. 67 of the regulations (Art. 9 AMLA).

[5] If the member cancels the business relationship it must document this fact.

Art. 66 Dubious Business Relationships and Right to Notify

[1] If the member has no reasonable grounds pursuant to Art. 67 Para. 1 letters a and b of the regulations (Art. 9 Para. 1 letters a and b AMLA) or no ground pursuant to Art. 67 Para. 1 letter c of the regulations (Art. 9 Para. 1 letter c AMLA), but has made observations that allow it to conclude that assets are the proceeds of a felony or a qualified tax offence or serve the financing of terrorism, it may report this to the Reporting Office under Art. 305ter Para. 2 StGB.

[2] If in the case of dubious business relationships with significant assets the member does not exercise its right to notify, it documents the reasons for this.

[3] If the member continues the dubious business relationship, it must monitor this closely and check for indications that point to money laundering or terrorist financing.

4.2 Duty to Report

Art. 67 Duty to Report (Art. 9 AMLA)

[1] A member must immediately file a report with the Reporting Office if it:

a. Knows or has reasonable grounds to suspect that assets involved in the business relationship:

   1. are connected to a punishable offence in accordance with Art. 260ter numeral 1 or Art. 305bis StGB;

   2. are the proceeds of a felony or a qualified tax offence pursuant to Art. 305bis numeral 1bis StGB;

   3. are subject to the power of disposal of a criminal organisation; or

   4. serve the financing of terrorism (Art. 260^{quinquies} Para. 1 StGB).

b. Breaks off negotiations for the acceptance of a business relationship due to justifiable suspicion in accordance with letter a (Art. 9 Para. 1 letter a AMLA).

c. As a result of the clarifications performed pursuant to Art. 55 of the regulations (Art. 6 Para. 2 letter d AMLA), the member knows or has reason to suppose that the information forwarded by FINMA or the VQF SRO about a person or organisation corresponds to the information about a customer, controlling person or beneficial owner of the assets or an authorised signatory of a business relationship or transaction.

[2] The member's name must be identifiable from the report. The member's personnel involved in the case can remain anonymous, provided that the possibility of immediate contact remains open to the Reporting Office and responsible criminal prosecution authorities.

[3] Lawyers and notaries are not subject to duty to report provided that their activity is subject to professional secrecy under Art. 321 StGB.

Art. 68 Form of Reporting

[1] The report must be submitted in accordance with the instructions published by the Reporting Office, in particular by using the official form of the Reporting Office.

4.3 Freezing of Assets and Ban on Information

Art. 69 Customer Orders with regard to Reported Assets (Art. 9a AMLA)

[1] During the period of the analysis performed by the Reporting Office, the member executes customer orders which involve reported assets pursuant to Art. 67 Para. 1 letter a of the regulations (Art. 9 Para. 1 letter a AMLA) or Art. 66 of the regulations (Art. 305ter Para. 2 StGB).

Art. 70 Form of Execution of Customer Orders

[1] The member executes customer orders in accordance with Art. 69 of the regulations exclusively in a form which allows the transaction to be tracked ("paper trail"). In the case of cash transactions, repayment in cash may only be made to the person who introduced the assets, against receipt.

Art. 71 Freezing of Assets (Art. 10 AMLA)

[1] The member freezes the assets entrusted to it which relate to the report pursuant to Art. 67 Para. 1 letter a of the regulations (Art. 9 Para. 1 letter a AMLA) or to Art. 66 of the regulations (Art. 305ter Para. 2 StGB) as soon as the Reporting Office informs the member that this report will be forwarded to a criminal prosecution authority.

[2] The member immediately freezes the assets entrusted to it which relate to the report pursuant to Art. 67 Para. 1 letter c of the regulations (Art. 9 Para. 1 letter c AMLA).

[3] The member continues to freeze the assets until it receives an order from the competent prosecution authority but at the most five working days from the time at which, in the case of Para. 1, the Reporting Office informed the member of the referral of the report or, in the case of Para. 2, the member filed the report with the Reporting Office.

Art. 72 Ban on Information (Art. 10a AMLA)

[1] The member may inform neither the persons concerned nor third parties about the submission of the report pursuant to Art. 67 of the regulations (Art. 9 AMLA) or to Art. 66 of the regulations (Art. 305ter Para. 2 StGB). The VQF SRO is not classified as a third party.

[2] If the member is unable to impose the freezing of assets, it may inform a financial intermediary subject to the AMLA who is in a position to do so.

[3] The member may likewise inform another financial intermediary subject to the AMLA that it has submitted a report in accordance with Art. 67 of the regulations (Art. 9 AMLA) provided that this is necessary in order to comply with duties pursuant to the AMLA and that both financial intermediaries:

a. provide common services to a customer in connection with the management of the customer's assets on the basis of a contractual cooperation agreement; or

b. belong to the same group of companies.

[4] The member who was informed by another financial intermediary on the basis of Para. 2 or 3 (Art. 10a Para. 2 or 3 AMLA) is subject to the ban on information in accordance with Para. 1 (Art. 10a Para. 1 AMLA).

[5] The protection of own interests in the context of a civil action or criminal or administrative proceedings is excluded from the ban on information.

4.4 Continuation of Business Relationship after Report to Reporting Office and Unlawful Cancellation of Business Relationship

Art. 73 Conduct in Absence of Disposition by Authorities

[1] The member can decide on the continuation of the business relationship at its own discretion if:

a. After a report pursuant to Art. 67 Para. 1 letter a of the regulations (Art. 9 Para. 1 letter a AMLA) the Reporting Office within twenty working days:

   1. Provides no information.

   2. Informs that the report will not be forwarded to the criminal prosecution authority.

   3. Informs that the report is being forwarded to the criminal prosecution authority, and within a period of five working days from the time of this notification the member does not receive a disposition from the criminal prosecution authority.

b. After a report pursuant to Art. 67 Para. 1 letter c of the regulations (Art. 9 Para. 1 letter c AMLA), the member does not receive a disposition from the criminal prosecution authority within a period of five working days.

c. After a freeze imposed by the criminal prosecution authority based on a report pursuant to Art. 67 of the regulations (Art. 9 AMLA) or Art. 66 of the regulations (Art. 305ter Para. 2 StGB) the member is informed of the lifting of the freeze, subject to other notification by the criminal prosecution authorities.

[2] The member which does not wish to continue the business relationship may only permit the withdrawal of significant assets in a form which allows the criminal prosecution authorities to continue to track the assets ("paper trail"). In the case of cash transactions, repayment in cash may only be made to the person who introduced the assets, against receipt.

4.5 Duty of Documentation and Duty to Notify the VQF SRO

Art. 74 Documentation

[1] The member records in the AMLA file all information associated with a report pursuant to Art. 67 of the regulations (Art. 9 AMLA) or Art. 66 of the regulations (Art. 305ter Para. 2 StGB) (including a copy of the report and the notifications/dispositions of the authorities).

Art. 75 Information to the VQF SRO on Reports to the Reporting Office

[1] The member immediately informs the VQF SRO about reports to the Reporting Office pursuant to Art. 67 of the regulations (Art. 9 AMLA) or Art. 66 of the regulations (Art. 305ter Para. 2 StGB).

[2] In the information to the VQF SRO, the member may anonymize the customer data.

5. Duty of Organisation and Training (Art. 8 AMLA)

5.1 General Provisions

Art. 76 New Products, Business Practices and Technologies

[1] The member ensures that the risks of money laundering and terrorist financing arising from the development of new products or business practices or from the use of new or enhanced technologies are assessed in advance and appropriately recorded, limited and monitored in the context of risk management.

Art. 77 Special Department for Money Laundering

[1] The member appoints a qualified person as AMLA Officer. In principle, the place of domicile or habitual residence of the AMLA Officer must be in Switzerland.

[2] The AMLA Officer has the following responsibilities, in particular:

a. To ensure compliance with all duties of the member under the AMLA and SRO regulations.

b. To plan, supervise and document the ongoing basic and advanced training of all persons of the member subject to training (Training Officer).

c. To prepare, if necessary, the internal directives for combating money laundering and terrorist financing.

d. To act as contact to the VQF SRO and the authorities.

[3] If a member has more than twenty people engaged in the AMLA sector, the AMLA Officer also prepares a risk analysis in relation to the member's field of activity and type of business relationships from the perspective of combating money laundering and terrorist financing, taking particular account of the domicile or residence of the customers, the customer segment and the products and services offered. The risk analysis must be approved by the Management Board or the senior executive body and periodically updated.

[4] A member with more than five persons engaged in the AMLA sector appoints a qualified person as AMLA Deputy. In principle, the place of domicile or habitual residence of the AMLA Deputy must be in Switzerland.

[5] Instead of a Deputy, a member with a maximum of five persons active in the AMLA sector can appoint instead a person who allows access to AMLA-relevant documents in the absence of the AMLA Officer (so-called authorised access person). In principle, the place of domicile or habitual residence of the authorised access person must be in Switzerland and can be an external person.

Art. 78 Internal Directives

[1] A member with more than ten persons engaged in the AMLA sector issues internal directives for combating money laundering and terrorist financing and notifies the persons concerned in an appropriate manner. They must be approved by the Management Board or the senior executive body.

[2] The directives must regulate, in particular:

a. The criteria which are used to identify increased risk business relationships pursuant to Art. 57 of the regulations.

b. The criteria which are used to identify increased risk transactions pursuant to Art. 58 of the regulations.

c. The essential features of transaction monitoring pursuant to Art. 54 of the regulations.

d. The amount limits pursuant to Art. 57 Para. 5 letters e and f and Art. 58 Para. 2 letter a of the regulations.

e. The cases in which the AMLA Officer has to be involved and the senior executive body has to be informed.

f. The essential features of the basic and advanced training of the people engaged in the AMLA sector.

g. The business policy with regard to politically exposed persons.

h. The responsibility for reports to the Money Laundering Reporting Office.

i. The methods which the member uses to identify, limit and monitor increased risks.

j. The criteria according to which third parties can be engaged pursuant to Art. 80 et seq. of the regulations.

k. The remaining in-house allocation of the tasks and responsibilities between the AMLA Officer and the other business units charged with implementing due diligence.

[3] The Supervisory Commission can also demand that members who employ up to ten persons in the AMLA sector issue internal directives if this is necessary for an appropriate operating organisation.

5.2 Duty of Training

Art. 79 Duty of Training / Training Concept

[1] The member is obliged to provide the following persons with basic training and regular advanced training:

a. All bodies and employees who are engaged in the AMLA sector.

b. The AMLA Officer and AMLA Deputy.

[2] Basic training and advanced training for members or their respective persons subject to training is aimed at the fundamental aspects of the combating of money laundering and terrorist financing and ensures that members or their respective persons subject to training are and remain in a position to fully comply with the duties arising from the AMLA and these regulations.

[3] The specific form of the duty of training is in accordance with the relevant VQF SRO training concept (VQF doc. no. 610.1), the provisions of which are an integral component of these regulations.

5.3 Engagement of Third Parties

Art. 80 Engagement of Third Parties for the Fulfilment of Duties of Due Diligence

[1] A member may charge external persons and companies with the identification of the customer, the establishment of the controlling person and beneficial owner of the assets and the duties of additional clarification if it:

a. has carefully selected the appointed person and the latter offers assurance of proper business conduct;

b. has instructed the latter about its responsibilities;

c. can control whether the appointed person complies with the duties of due diligence; and

d. has made a written agreement with the appointed person or company.

[2] The member can entrust the fulfilment of these duties of due diligence to the following without a written agreement:

a. A body within a company or group, provided that an equivalent standard of due diligence is exercised; or

b. another financial intermediary, provided that the latter is subject to equivalent supervision and regulation in relation to the combating of money laundering and terrorist financing and has taken measures to fulfil the duties of due diligence in an equivalent manner.

[3] The member must ensure that the third party engaged does not in turn engage any other persons or companies.

[4] The member remains responsible for compliance with the duties for which the third parties were engaged in all cases.

[5] The member must take for its files copies of the documents which served to fulfil compliance with duties relating to the combating of money laundering and terrorist financing and arrange for written confirmation from the appointed person that the copies given to the member correspond to the original documents. The member checks the plausibility of the results of the additional clarifications.

[6] If a member wishes to engage third parties for the fulfilment of duties of due diligence other than those referred to in Para. 1, it requires the prior written approval of the Supervisory Commission. There is no entitlement to approval of such an application for exception. The Supervisory Commission can make any approval subject to requirements and conditions. A negative decision or the imposition of requirements and conditions is not contestable.

[7] Duty of reporting in accordance with Art. 67 of the regulations (Art. 9 AMLA) and duty to freeze assets in accordance with Art. 71 of the regulations (Art. 10 AMLA) cannot be delegated to third parties.

Art. 81 Engagement of a Third Party as AMLA Officer

[1] The member may, under its own responsibility, appoint an external qualified person as AMLA Officer if:

a. Due to the size of its organisation it is not in a position to establish its own special department; or

b. the establishment of such a department would be unreasonable.

[2] The engagement of an external person as AMLA Officer requires the prior written approval of the Supervisory Commission. There is no entitlement to approval of such an application for exception. The Supervisory Commission can make any approval subject to requirements or conditions. A negative decision or the imposition of requirements and conditions is not contestable. The provisions of Art. 80 Para. 1 of the regulations apply accordingly.

[3] The member's application must contain the following, in particular:

a. Documented evidence of compliance with the requirements of Para. 1.

b. A copy of the written agreement between the member and the external AMLA Officer.

[4] The written agreement between the member and the external AMLA Officer must include, in particular, the duty to comply with the AMLA and the rules (by-laws, regulations etc.) of the VQF SRO (including basic and advanced training), the duty of direct disclosure to the VQF SRO and the duty of personal fulfilment of contract. In addition, provision must be made for all notifications pursuant to Art. 67 of the regulations (Art. 9 AMLA) and the freezing of assets pursuant to Art. 71 of the regulations (Art. 10 AMLA) to take place with the participation of an internal person of the member (body or employee).

[5] In principle, the written agreement must be concluded between the member and the AMLA Officer (natural person). If the AMLA Officer is employed by a specialist compliance company or a financial intermediary pursuant to Art. 2 Paras. 2 and 3 AMLA, the agreement can be concluded with this company, provided that the AMLA Officer is named in and a co-signatory of the agreement.

[6] The provision applies accordingly with regard to the engagement of a third party as AMLA Deputy.

Art. 82 Engagement of a Third Party as AMLA Officer in the Group Situation

[1] If the member belongs to a group which is active in the financial sector and has a uniform compliance organisation, a qualified person who is employed by another group company can be appointed as AMLA Officer.

[2] The member must provide evidence of the group relationship and the employment relationship of the AMLA Officer with a group company. A written agreement and an application for exemption pursuant to Art. 81 Para. 2 of the regulations are not required.

Art. 83 Engagement of Third Parties for Money and Asset Transfers

[1] A member which makes money and asset transfers keeps an up to date list of the external auxiliary persons and agents of system operators which it engages.

IV. Supervision and Auditing

Art. 84 Principles / Audit Concept

[1] The Supervisory Commission supervises all SRO members in accordance with Art. 3 Para. 1 of the VQF by-laws (professional and non-professional financial intermediaries) for compliance with their duties consistent with the VQF by-laws, the AMLA and these regulations. The Supervisory Commission is authorised to demand the information and documents required for the purposes of supervision from the member at any time.

[2] The specific form of this supervision and the audits are regulated by the Audit Concept of the VQF SRO (VQF doc. no. 700.3). The provisions of this audit concept form an integral part of these regulations.

Art. 85 Procedure on Suspicion of Violation of Art. 9, 10 or 10a AMLA

[1] The Chairman of the Supervisory Commission and the CEO must be informed immediately in the event that auditors or members of the Supervisory Commission charged with performing an audit report encounter grounds for suspicion of the violation of Art. 9, 10 or 10a of the AMLA during an audit on a VQF SRO member. The VQF SRO

must take all the necessary actions and verify whether it is obliged to report to the Reporting Office (Art. 27 Para. 4 AMLA). The VQF SRO may order additional clarification if there is doubt concerning the reporting of suspicion in advance.

V. Measures and Sanctions

1. General Provisions

Art. 86 Competence for Measures and Sanctions

[1] The Supervisory Commission is competent for clarifying, investigating and imposing sanctions with regard to the violation of the by-laws and regulations and for ordering all measures for the restoration and maintenance of compliance with the by-laws and regulations.

[2] The Supervisory Commission determines the procedure and cost implications for measures and sanctions and regulates the principles for this in its rules of procedure (VQF doc. no. 607.01).

[3] Termination by the member of its VQF SRO membership has no effect on the existence of the Supervisory Commission's authority to impose sanctions for the violation of duties in accordance with the by-laws or these regulations committed during the period of membership. The decision to impose sanctions is also binding on former VQF SRO members provided that the former member was notified in writing of the decision to impose sanctions by no later than the end of a period of six months following termination of its VQF SRO membership.

[4] In the event of a change of membership category Para. 3 applies correspondingly.

2. Measures

Art. 87 Measures

[1] The Supervisory Commission in the context of its duty of supervision can order all appropriate measures for the restoration of a state of affairs in compliance with the by-laws and regulations.

[2] In relation to the member it may, in particular:

a. Impose a time limit for the restoration of compliance with the by-laws and regulations (generally no more than three months from notification of this measure).

b. Impose conditions of a personal or organisational nature.

c. Impose a time limit on members for regular reporting on specific events or facts.

[3] Measures of this type are not contestable unless they are associated with a sanction under the terms of Art. 88 et seq. of the regulations.

3. Sanctions

Art. 88 Types of Sanction

[1] The Supervisory Commission may impose the following types of sanction on members:

a. Censure.

b. Penalty of up to CHF 250,000.

c. Exclusion from the Association.

[2] Sanctions in accordance with Para. 1 letters a and b may be combined with measures in accordance with Art. 87 of the regulations and exclusion from the Association may be combined with a financial penalty in accordance with Para. 1 letter b.

[3] The amount of the financial penalty is measured in accordance with the severity of the violation and the degree of liability. The financial capacity of the member, if known, is also taken into consideration.

Art. 89 Violation of the Regulations (Basic Offence)

[1] A penalty of up to CHF 250,000 is payable on violation of the provisions of these regulations.

Art. 90 Minor Violation of the Regulations (Privileged Offence)

[1] A censure or financial penalty of up to CHF 25,000 may be pronounced in the case of minor as well as negligent infringements (petty offence).

[2] Sanctions may also be waived in the case of petty offences if the member fully complies with a request to restore compliance within the set period of time - generally no more than three months from notification of the request.

Art. 91 Serious Violations of the Regulations (Qualified Offence)

[1] The Supervisory Commission may exclude a member in case of serious violations of the regulations.

[2] A serious violation of the regulations exists, specifically:

a. in the case of violation of the duty of assurance of proper business conduct pursuant to Art. 4 of the VQF by-laws and/or Art. 4 of the regulations;

b. in the case of deliberate violation of the duty of truthfulness (Art. 6 of the regulations);

c. if despite two written reminders the member fails to observe a demand for compliance or restore a state in accordance with regulations (violation of the duty to cooperate pursuant to Art. 6 of the regulations);

d. if the member fails to fulfil conditions pursuant to the admission decision (Art. 3 Para. 7 letter c of the regulations);

e. in the case of deliberate or grossly negligent violation of elementary provisions of the regulations;

f. in the case of the systematic violation (e.g. failure to keep full documentation) in regard to one or more duties of due diligence;

g. if due to violation of the regulations (excluding petty offences) it was already necessary to impose a valid financial penalty on the member and within five years from the legal effect of this sanction further violations are identified which are not qualified as petty offences; or

h. if despite two written reminders a member fails to pay due demands for payment from the Association (e.g. membership contributions and other fees pursuant to the regulation on fees, valid financial penalties or procedural costs arising from internal sanctions or external appeal proceedings).

[3] Exclusion may be waived and in its place a financial penalty of up to CHF 250,000 imposed if:

a. the culpable person was excluded from the member's organisation; and / or

b. the member subject to sanctions proceedings restores a state in accordance with regulations and provides a guarantee of compliance with regulatory obligations.

[4] The member must demonstrate compliance with the requirements pursuant to Para. 3 within the comment period in the association's internal sanctions proceedings.

[5] Exclusion from the Association can be combined with a financial penalty of up to CHF 250,000.

Art. 92 Combination of Sanctions Proceedings

[1] If by certain conduct an SRO / BOVV member violates not only the regulations of the VQF SRO but also the regulations and rules of conduct of the VQF BOVV, the Supervisory Commission may combine the two sanctions proceedings.

Art. 93 Confirmation of Sanctions (Extract) and Statutory Limitation Period

[1] The current or former member may request written confirmation from the VQF SRO in respect of the SRO sanctions proceedings concerning the member. This confirmation of sanctions is chargeable and only relates to the last five years since its issuance.

2 The prosecution of violations of the AMLA, by-laws, regulations, training or audit concept of the VQF SRO lapses after seven years from perpetration. The statutory period of limitation is interrupted by any act of the VQF SRO (or its appointed auditor) due to the breach of duty in question. The statutory period of limitation is suspended during the course of sanctions or arbitration proceedings relating to the breach of duty in question. The longer statutory period of limitation under criminal law applies if the member is subject to criminal prosecution in respect of a violation.

Art. 94 Reporting to FINMA

[1] FINMA must be informed in the event that proceedings which may result in financial penalty or exclusion are opened against a member. In addition, FINMA must be informed of the outcome of the proceedings on their completion.

4. Arbitration Request and Arbitration Procedure

Art. 95 Request for Arbitration regarding Sanction Decisions and Legal Effect of Decisions

[1] Art. 32 of the VQF by-laws and the VQF arbitration regulations apply to arbitration requests (VQF doc. no. 608.01).

[2] If no arbitration request regarding a decision to impose sanctions is made within the period for objection pursuant to Art. 32 Para. 1 of the VQF by-laws, the sanctions decision is deemed to be accepted without reservation by the current (or former) member and the Association's internal sanctions proceedings are deemed to be legally final.

Art. 96 Arbitration Procedure

[1] The arbitration proceedings are governed by Art. 32 of the VQF by-laws and the VQF arbitration regulations (VQF doc. no. 608.01).

VI. Final Provisions

Art. 97 Severability Clause

1 If individual provisions of these regulations are ineffective or unworkable or become ineffective or unworkable during the period of membership or the validity period of the regulations, the effectiveness of the regulations remains otherwise unaffected. The ineffective or unworkable provision is replaced by an effective and workable regulation the effects of which come closest (primarily) to the Association's purpose and (secondarily) to the purpose of the ineffective or unworkable provision.

Art. 98 Entry into Force and Transitional Provision

[1] These regulations were approved by FINMA on 8 September 2015.

[2] They enter into force on 1 January 2016.

[3] These regulations also apply to sanctions proceedings already opened by the Supervisory Commission but not yet resolved.

[4] It is not necessary to replace the previous forms for existing business relationships.

[5] The new rules on the identification of the customer and the establishment of the controlling person or beneficial owner of the assets must be applied if a new business relationship is entered into after the date of entry into force of these regulations or if the procedure for the identification of the customer and the establishment of the identity of the controlling person or beneficial owner of the assets has to be repeated. The new rules apply to existing business relationships if they are more favourable.