

Ordinance of the Swiss Financial Market Supervisory Authority on Combating Money Laundering and Terrorist Financing (AMLO-FINMA) –partial revision

Key Points

8 March 2022

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- 1.- This revision aims to effectuate the necessary implementation of the latest revision of the Federal Act on Combating Money Laundering and Terrorist Financing in the Financial Sector (AMLA) and the amendments to the Federal Ordinance on Combating Money Laundering and Terrorist Financing (AMLO) in the Ordinance of the Swiss Financial Market Supervisory Authority on Combating Money Laundering and Terrorist Financing (AMLO-FINMA).
2. The following amendments to the AMLA and AMLO are relevant to the AMLO-FINMA:
 - Establishment of the identity of the beneficial owner (Art. 4 para. 1 first sentence nAMLA)
 - Periodic validation that client data is up to date (Art. 7 para. 1^{bis} nAMLA)
 - Transfer of the duties in the event of a suspicion of money laundering the AMLO-FINMA (Arts. 30 - 34 AMLO-FINMA) to the AMLO
3. *Establishment of the identity of the beneficial owner:* As stated in the dispatch on the AMLA revision, this amendment to the law codifies the current practice and an existing implicit duty in law. Apart from the clear legislation and detailed explanations in the dispatch, there is no need for further implementing provisions at the level of the AMLO-FINMA.
4. *Periodic validation that client data is up to date:* The risk-based approach combines the principles of differentiated and proportional regulation. It allows the financial intermediary to implement individualised risk management tailored to their business model and client population. Further implementing provisions are not necessary for this amendment to the law. According to the dispatch, the financial intermediaries are responsible for specifying the scope and frequency of the updates. By contrast, Article 26 AMLO-FINMA concerning the requirements for internal directives is to be supplemented to the effect that the financial intermediaries have to issue an internal directive on the criteria for the risk-based periodic validation that client data is up to date and on the relevant processes.
5. *Duties in the event of a suspicion of money laundering transferred from the AMLO-FINMA to the AMLO:* As a result of the duties in the event of a suspicion of money laundering being transferred, the corresponding provisions are to be repealed in the FINMA Ordinance.
6. A few minor adjustments to the AMLO-FINMA are also suggested as a form of housekeeping (extension of the scope of application to DLT

trading facilities, clarification regarding the threshold for transactions with virtual currencies, specification of the regulatory competency of SRO-SIA).

7. The publication and entry into force of the partially revised AMLO-FINMA is planned for 1 December 2022.