



Swiss Federal Ordinance on Combating Money Laundering and Terrorist Financing in the Financial Sector

(Anti-Money Laundering Ordinance, AMLO)

SR 955.01
of 11 November 2015 (status as at 1 August 2021)

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of 11 November 2015 (status as at 1 August 2021) (Stand am 1. August 2021)

The Swiss Federal Council,
based on Articles 8a(5) and 41 of the Anti-Money Laundering Act of 10 October 1997¹ (AMLA)
decrees:

Chapter 1: General provisions

ARTICLE 1 Subject

This Ordinance shall govern:

- a. the requirements for the professional practice of financial intermediation;
- b. the due diligence and reporting obligations as per Articles 8a and 9(1^{bis}) AMLA that traders must adhere to;
- c.² the supervision of financial intermediaries pursuant to Article 2(3) AMLA by recognized self-regulatory organizations.

ARTICLE 2 Scope of application

1 This Ordinance applies for:

- a. financial intermediaries as per Article 2(3) AMLA that are active in or from Switzerland;
- b. traders as per Article 2(1)(b) AMLA that are active in or from Switzerland.

2 The following are deemed to not be financial intermediaries as per Article 2(3) AMLA:

- a. persons performing the following activities:
 - 1. the mere physical transport or the mere physical storage of assets with exception of those of Article 6(1)(c);
 - 2. debt collection activities;

¹ SR **955.0**

² Inserted with Annex 1 Section II 12 of the Financial Institutions Ordinance dated 6 November 2019, in force since 1 January 2020 (AS **2019** 4633).

3. the transfer of assets as an accessory service to a primary contractual service;
4. the administration of Pillar 3a pension funds by bank foundations or insurance companies;
5. the rendering of services among group companies;
- b. auxiliary persons of financial intermediaries, who hold a Swiss license for their activities or who are affiliated with a self-regulatory organization (SRO), provided they:
 1. are carefully chosen by the financial intermediary and are subject to their directives and controls,
 2. are incorporated in the organizational measures of the financial intermediary for the prevention of money laundering and terrorist financing pursuant to Article 8 AMLA and are correspondingly trained and educated,
 3. trade exclusively under the name and on behalf of the financial intermediary,
 4. are compensated by the financial intermediary and not the end user,
 5. in the case of a money or asset transfer transaction, are only acting for a single licensed or SRO-affiliated financial intermediary, and
 6. have concluded a written agreement with the financial intermediary regarding compliance with the above-mentioned requirements.

Chapter 2: Financial intermediaries

Section 1: Activities

ARTICLE 3 Lending Business

In particular the following are not considered to be lending business as per Article 2(3)(a) AMLA:

- a. borrowing;
- b. the provision of interest-free and gratuitous loans;
- c. the provision of loans between a company and its investors if the investor holds a participation of at least 10% of the capital or votes in the company;
- d. the granting of loans between an employer and employee, provided the employer is obliged to make social security contributions for the employees participating in the credit relationship;
- e. borrowing between two related persons (Article 7(5));

- f. the provision of loans that occur as accessories to another legal transaction;
- g. the provision of an operating lease;
- h. contingent liabilities to the benefit of a third party;
- i. trade financing if its repayment does not occur through the contracting party.

ARTICLE 4 Services Related to Payment Operations

- 1 A service related to payment operations as per Article 2(3)(b) AMLA shall be deemed to be such a service if the financial intermediary:
 - a. transfers liquid financial assets to third parties on behalf of its contracting party and in doing so, physically takes possession of these assets, credits them to an own account or orders the transfer of the assets in the name and by the order of the contracting party;
 - b. assists in transferring virtual currencies to a third party, provided that it maintains a permanent business relationship with the contractual party or that it exercises power of disposal over virtual currencies on behalf of the contractual party, and it does not provide the service exclusively to appropriately supervised financial intermediaries;
 - c. issues or manages non-cash payment instruments which its contracting party uses to make payments to third parties;
 - d. carries out money or asset transfer transactions.³
- 1^{bis} Specifically, the following are considered non-cash means of payment:
 - a. Credit cards;
 - b. Travelers checks;
 - c. virtual currencies that are used in fact or according to the intention of the organizer or issuer as a means of payment for the purchase of goods or services or serve for the transfer of money and value.⁴
- 2 Money or asset transfer transactions are deemed to be the transfer of assets through the acceptance of cash, precious metals, virtual currencies, checks or other payment instruments, and
 - a. the payout of a corresponding sum in cash, precious metals or virtual currencies; or

³ Version according to Section I 8 of the Ordinance of 18 June 2021 on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August 2021 (AS 2021 400).

⁴ Inserted by Section I 8 of the Ordinance of 18 June 2021 on the amendment of federal law to take account of developments in the distributed electronic register technology, in force since 1 August. 2021 (AS 2021 400).

- b. through cashless transmission or transfer using a payment or account settlement system.

ARTICLE 5 Trading Activities

- 1 The following are deemed to be trading activities as per Article 2(3)(c) AMLA:
 - a. the purchase and sale of bank notes, coins, foreign currencies and precious metals used in banking as well as currency exchange, on behalf of third parties;
 - b. trading for own account with legally tendered coins and bank notes;
 - c. trading commodities on an exchange for a third-party account;
 - d. off-exchange trading on behalf of third parties, provided the commodities are highly standardized so that they can be liquidated anytime;
 - e. trading for own account with precious metals used in banking.
- 2 Trading with securities shall be deemed to be a trading activity only if it is subject to a FinIA license pursuant to the Financial Institutions Act of 15 June 2018^{5, 6}
- 3 Accessory currency exchange is not deemed to be a trading activity.

ARTICLE 6 Further Activities

- 1 The following activities shall be activities pursuant to Article 2(3)(f) and (g) AMLA, provided they are carried out for a third party account:⁷
 - a. asset management for securities and financial instruments;
 - b. the execution of investment orders;
 - c. the safekeeping of securities;
 - d. activities as executive body of a domiciliary company.
- 2 Legal entities, companies, establishments, trusts, fiduciary companies or similar associations that do not engage in any commercial or manufacturing business or any other form of commercial operation shall be deemed to be domiciliary companies as per this Ordinance.
- 3 The following are not deemed to be domiciliary companies:

⁵ SR **954.1**

⁶ Version according to Annex 1 Section II 12 of the Financial Institutions Ordinance of 6 November 2019 in force since 1 January 2020 (AS **2019** 4633).

⁷ Version according to Annex 1 Section II 12 of the Financial Institutions Ordinance of 6 November 2019 in force since 1 January 2020 (AS **2019** 4633).

legal entities and companies that aim to safeguard their members' or beneficiaries' interests by means of mutual self-help or that pursue political, religious, scientific, artistic, charitable, sociable or similar aims;

legal entities and companies that hold a majority of equity interest of one or several operating companies the main business of which is not the management of assets of others (holding companies).

Section 2: Professional Basis

ARTICLE 7 General Criteria

- 1 A financial intermediary shall be deemed to practice its activity on a professional basis if it:
 - a. achieves a gross revenue of more than CHF 50,000 per calendar year with this activity;
 - b. takes up business relationships with more than 20 contractual parties which are not limited to one-time business activities or which maintains at least 20 such relationships per calendar year;
 - c. has unlimited control of third-party funds which can exceed CHF 5 million at any one point in time, or
 - d. executes transactions where the total volume exceeds CHF 2 million per calendar year.
- 2 For the calculation of the transaction volume pursuant to (1)(d), inflows of assets and restructuring within the same account shall not be taken into account. For mutual commitments, only the payments made by the counterparty must be taken into consideration.
- 3 Activities on behalf of institutions and persons pursuant to Article 2(4) AMLA shall not be taken into account for the determination of the professional basis.
- 4 When determining the professional basis, activities for related parties shall only be taken into account if a gross revenue of more than CHF 50,000 is achieved during the calendar year.
- 5 The following are deemed to be related parties:
 - a. near relatives and in-laws in lineal descent;
 - b. collateral relatives up to the third degree;
 - c. spouses and registered partners;
 - d. co-heirs until the conclusion of the inheritance proceedings;
 - e. reversionary heirs or heirs in remainder pursuant to Article 488 of the Swiss Civil Code⁸;
 - f. persons living in a stable relationship with the financial intermediary.

⁸ SR 210

ARTICLE 8 Lending Business

- 1 The lending business as per Article 2(3) AMLA shall be deemed to be carried out on a professional basis, if:
 - a. in the process gross revenue of more than CHF 250,000 is achieved within the calendar year; and
 - b. a credit volume of more than CHF 5 million is dealt with at any given time.
- 2 After deduction of the portion used for credit repayment, all remaining income from credit transactions is deemed to be gross revenue.
- 3 If a person carries out both credit transactions as well as another activity that qualifies as a financial intermediary, then the professional basis must be determined separately for both areas. If one of the areas is deemed to be performed on a professional basis then the activities in both areas shall be deemed to take place on a professional basis.

ARTICLE 9 Money or Asset Transfer Transactions

Transactions with cash or asset transfer shall always be deemed to be on a professional basis, unless they are carried out for a related party and their gross revenue does not exceed CHF 50,000 per calendar year.

ARTICLE 10 Trading Activities

For trading activities, gross profit rather than gross revenue shall be used to assess the criterion pursuant to Article 7(1)(a).

ARTICLE 11 Change to Professional Basis

- 1 Persons changing from a non-professional to a professional activity shall:
 - a. promptly comply with the obligations pursuant to Articles 3-11 AMLA; and
 - b. request an affiliation with an SRO within two months following the change or submit an application for a license for the professional practice of activities to the Swiss Financial Market Supervisory Authority (FINMA).
- 2 Until its affiliation with an SRO or until the FINMA has issued an authorization, such financial intermediaries are prohibited from carrying out any activities as a financial intermediary that go beyond those that are absolutely necessary for the preservation of assets.

ARTICLE 12 Withdrawal or Exclusion from an SRO

- 1 If a financial intermediary who still wants to be professionally active as a financial intermediary withdraws or is excluded from an SRO, it must within two months after the withdrawal or after the final exclusion decision apply for affiliation with another SRO or request an authorization by the FINMA

for the professional practice of its activity.

- 2 It may continue its activities solely with already existing business relationships until the receipt of the decision on the application.
- 3 If within two months the financial intermediary has not applied for affiliation with another SRO or requested an authorization from the FINMA, or if affiliation or authorization was refused, it is prohibited from continuing to be active as a financial intermediary.

Chapter 3: Traders

Section 1: General aspects

ARTICLE 13 Traders

Traders as per Article 2(1)(b) AMLA shall also be persons that commercially trade with goods on behalf and on account of third parties, accepting cash.

ARTICLE 14 Commercial Trading

- 1 Trading shall be considered commercial if it constitutes an independent economic activity aimed at generating an ongoing income.
- 2 Thereby, it shall be irrelevant whether the trading is performed as a principal or secondary activity.

ARTICLE 15 Goods

Goods are deemed to be any tangible movable object which is not real-estate as per Article 187 of the Swiss Code of Obligations (CO)⁹ or property for which the purchase is defined in Article 216 CO.

ARTICLE 16 Involvement of Third Parties

If traders appoint a third party to settle a trade by accepting the purchase price in cash, they shall ensure, independent of their relationship with the third party, that the due diligence and reporting obligations of Section II of this Chapter are complied with.

⁹ SR 220

Section 2: Due Diligence and Reporting Obligations

ARTICLE 17 Identification of the Contractual Party

- 1 At the conclusion of an agreement, the trader shall identify the contractual party based on the following information:
 - a. Name and first name;
 - b. Address;
 - c. Date of birth; and
 - d. Nationality.
- 2 For contractual parties originating from a country which does not use birth dates or domicile addresses, this information is not necessary.
- 3 The trader shall identify the contractual party by:
 - a. having the contractual party show an official and original identity document with a photograph, i.e. a passport, identity card or driver's license;
 - b. verifying whether the identification document can be associated with the person;
 - c. copying the identification document; and
 - d. indicating on the copy that the original document has been inspected.
- 4 If the contractual party is being represented, its representative shall:
 - a. provide the information as per (1) if the contractual party is a natural person;
 - b. provide the name and domicile of the contractual party if it is a legal person or partnership.

ARTICLE 18 Establishing the Identity of a Beneficial Owner

- 1 The trader shall identify the beneficial owner by asking the contractual party or its representative whether the contractual party itself is the assets' beneficial owner.
- 2 If the contractual party is not the beneficial owner, the trader shall obtain a written declaration from the contractual party or its representative stating the beneficial owner. The following are considered to be beneficial owners:
 - a. the natural persons on whose account the purchase is made;
 - b. in the case of a purchase for the account of an unlisted, operationally active legal entity

or partnership:

1. the natural persons who exert control directly or indirectly, alone or acting in concert with third parties, owning 25 percent or more of the capital or voting rights; or
 2. the natural persons who exert control in other ways.
- 3 If no beneficial owners can be determined according to (2)(b), the identity of the highest-ranking member of the governing body shall be determined.
- 4 To determine the beneficial owners, the trader requires the following information:
- a. Name and first name;
 - b. Address;
 - c. Date of birth; and
 - d. Nationality.
- 5 Article 17(2) is applicable in analogy.
- 6 For the written declaration as per (2), it is sufficient that the contractual party or its representative countersigns the information on the form or document as per Article 21.
- 7 If a legal entity, based on its legal form as an association or foundation, does not have a beneficial owner as per (2) according to Swiss law, this must be documented accordingly.

ARTICLE 19 Additional Clarifications

- 1 The trader shall verify the background of a transaction, in particular the origin of the funds and their purpose, if it appears to be unusual or if there are any indicators of money laundering.
- 2 Indicators of money laundering are, in particular, if:
 - a. the person pays predominantly with small denomination bank notes;
 - b. primarily easily marketable goods with a high degree of standardization are purchased;
 - c. the person does not provide any or only insufficient identification information as per Article 17 or insufficient data to determine the beneficial owner as per Article 18;
 - d. the person provides obviously false or misleading information;
 - e. there are doubts as to the authenticity of the identification documents.
- 3 For an investigation, the trader shall inquire with the contractual party or its representative as to the

background and purpose of the transaction, assess the information provided as to its plausibility and then document the investigations performed in writing.

ARTICLE 20 Reporting Obligation

- 1 If there is concrete evidence or several indications that the cash payment stems from a punishable act, which cannot be dismissed despite additional investigations as per Article 19, this shall constitute according to justified suspicion, triggering a reporting obligation as per Article 9(1^{bis}) AMLO.
- 2 A report shall also be made if the trader cannot associate the punishable act from which the cash stems to a specific criminal offense.
- 3 The report shall be transmitted in accordance with Article 3a(1), (2) and (3) of the Ordinance on the Money Laundering Reporting Office Switzerland¹⁰ of 25 August 2004¹¹.

ARTICLE 21 Documentation

- 1 To document the compliance with due diligence and reporting obligations, traders shall use the form in Annex 1 or a comparable document.
- 2 The form or document must be completed with the following:
 - a. all information available on clients that were obtained as per Articles 17 and 18;
 - b. the result of the additional clarifications as per Article 19;
 - c. whether a report as per Article 20 was submitted.
- 3 The form or document must be marked with the date of the transaction settlement and be signed by the trader.
- 4 It must be retained for at least ten years.

Section 3: Mandating an Audit Firm

ARTICLE 22

- 1 The trader's duty to mandate an audit firm as per Article 15 AMLO is independent of the obligation to have its (consolidated) annual financial statements audited.
- 2 If the trader does not dispose of an audit firm, the senior management or the governing body shall mandate auditors as per Article 5 or an audit firm as per Article 6 of the Audit Oversight Act

¹⁰ Version according to Section III of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS **2019 4701**).

¹¹ SR **955.23**

of 16 December 2005¹² (AOA) for the audit.

Chapter 3a:¹³ Self-Regulatory Organizations

ARTICLE 22a Approval of audit firms

- 1 An audit firm shall be deemed sufficiently organized if it:
 - a. disposes of at least two lead auditors that are admitted to audit AMLA matters;
 - b. disposes of at least two audit engagements for AMLA matters within three years of receiving their license;
 - c. complies with the regulations on documentation and record retention as per Article 730c of the Code of Obligations (CO)¹⁴, regardless of its legal form.
- 2 Not compatible with the license as an audit firm for audits in accordance with Article 24a AMLA shall be the carrying out of an activity for which a license is required under the financial market legislation pursuant to Article 1(1) of the Financial Market Supervision Act of 22 June 2007¹⁵ by the following persons or entities:
 - a. companies which are under common management with the audit firm;
 - b. natural persons who directly or indirectly hold 10 percent or more of the capital or voting rights in a company as per (a) or who can significantly influence the business activity in other ways;
 - c. the lead auditors.
- 3 An audit firm shall be deemed sufficiently covered for liabilities arising from audits under Article 24a AMLA if it holds insurance for financial losses as part of its liability insurance or if it holds a financial security of equal value. The coverage available for all financial losses occurring within one year shall amount to at least CHF 250,000.

ARTICLE 22b Licensing of lead auditors

- 1 Lead auditors shall dispose of sufficient expertise and sufficient practical experience to be licensed to conduct audits in accordance with Article 24a AMLA if they can prove the following:
 - a. five years of professional experience that shows involvement in AMLA audits;
 - b. 200 audit hours in the area of AMLA;

¹² SR **221.302**

¹³ Inserted with Annex 1 Section II 12 of the Financial Institutions Ordinance dated 6 November 2019, in force since 1 January 2020 (AS **2019** 4633).

¹⁴ SR 220

¹⁵ SR **956.1**

- c. four hours of continuous professional development (CPD) in AMLA matters within one year prior to submitting the licensing request.
- 2 After being licensed, lead auditors shall continue to dispose of sufficient expertise and appropriate practical experience to conduct audits in accordance with Article 24a AMLA if they can prove the following:
 - a. 100 audit hours in AMLA matters over the period of the last four years;
 - b. four hours of continuous professional development (CPD) in the area of AMLA per year.
- 3 The license for performing audits in an area of supervision as per Article 11a(1)(a)-(c) of the Audit Oversight Ordinance (AOO) of 22 August 2007¹⁶ or as per Article 62 FinIA¹⁷ shall also be an authorization to perform audits of AMLA matters.

ARTICLE 22c License for performing audits of lawyers and notaries public active in AMLA matters

- 1 Lead auditors shall dispose of pertinent AMLA expertise, the relevant practice and the necessary CPD (Article 18(4)(c) AMLA) if they fulfill the conditions set out in Article 22b.
- 2 A natural person licensed to audit lawyers and notaries public in accordance with the AMLA may perform independent audits without being registered in the commercial register as admitted sole proprietorships and without being admitted as auditor in accordance with Article 5 AOA¹⁸.
- 3 A natural person licensed to audit lawyers and notaries public in accordance with the AMLA shall be deemed independent of the member to be audited if he or she complies with the requirements set out in Article 11 AOA and Article 728 CO¹⁹.

ARTICLE 22d Continuous professional development (CPD)

- 1 Continuous professional development pursuant to Articles 22b and 22c, including those based on new information technologies and distance learning, shall fulfill at least the following criteria:
 - a. the CPD addresses AMLA matters;
 - b. both external and internal CPD events shall last at least one hour;
 - c. internal CPD events shall have at least three participants.
- 2 Credit shall be given for the actual duration of the CPD event. Double credit shall be given to persons acting as speakers and holding talks or providing technical training.

¹⁶ SR **221.302.3**

¹⁷ SR **954.1**

¹⁸ SR **221.302**

¹⁹ SR **220**

- 3 Self-study courses do not count as CPD.

Chapter 4: Transitional and Final Provisions

ARTICLE 23 Repeal and amendment of previous law

The repeal and amendment of other enactments are set out in Annex 2.

ARTICLE 24 Entry into force

This Ordinance shall enter into force on 1 January 2016.

Transitional provision in regard to the amendment of 6 November 2019²⁰

If a financial intermediary which is directly supervised by FINMA until the Act enters into force joins a self-regulatory organization as per Article 24 AMLA, it shall submit a report to the self-regulatory organization on the conformity of its business activities with the provisions of the AMLA.

²⁰ AS 2019 4633

Annex 1

(Article 21(1))

Form for traders for the compliance with due diligence and reporting obligations

Identification of contractual party (Article 17 AMLA)

Contractual party;

Name: _____ and First name: _____

Address: _____

Date of birth: _____

Nationality: _____

Purchase on behalf of a legal person or partnership? Yes ☐ No ☐

Company name: _____

Domicile: _____

Identification of the beneficial owner (Article 18 AMLO)

- ☐ The contractual party is at the same time the beneficial owner
- ☐ The contractual party or its representative hereby declares that the following natural person(s) is/are the beneficial owner(s):

Person 1

Person 2

Name / First name _____

Address _____

Date of birth _____

Nationality _____

Person 3

Person 4

Name / First name

Address

Date of birth

Nationality

Signature of the contractual party or the representative:

Additional Clarifications (Article 19 AMLO)**Reporting (Article 20 AMLO)**

Reporting to MROS:

Yes ☐No ☐

Justified suspicion of:

Place and date:

Signature of the trader:

Annex 2

(Article 23)

Repeal and amendment of other enactments

I

The Implementing Ordinance on the Professional Activity as Financial Intermediary (OPAFI) of 18 November 2009²¹ is repealed.

II

The enactments below shall be amended as follows:

...²²

²¹ [AS **2009** 6403]

²² The amendments may be consulted under AS **2015** 4819.

Contacts

Philipp Rickert

Partner, Head of Financial
Services,
Member of the Executive
Committee
Zurich
Tel. +41 58 249 42 13
prickert@kpmg.com

Helen Campbell

Partner, Banking Transformation
Tel. +41 58 249 35 01
hcampbell@kpmg.com

Thomas Dorst

Partner, Assurance & Regulation
Tel. + 41 58 249 54 44
tdorst@kpmg.com

Nicolas Moser

Partner, Geneva Office
Tel. +41 58 249 37 87
nmoser@kpmg.com

www.kpmg.ch

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