

Effect of the new Act to Combat Money Laundering and Terrorist Financing on legal entities

Did you know that the new Act on Actions to Combat Money Laundering and Terrorist Financing places **great obligations on financial undertakings** and other parties that fall within the scope of the Act? The Act requires these parties to have knowledge of the operation, ownership and governance of their customers and that they verify information provided by customers. Emphasis is placed on gathering adequate information about the beneficial owner of a customer, as well as any parties who are in a position to influence its operation and activities, and to carry out due diligence on all these parties.

Due diligence

Legal entities, trusts or comparable parties must **prove their identity** with information from the Enterprise Register of the Directorate of Internal Revenue (Fyrirtækjaskrá ríkisskattstjóra) or similar public register. Individuals who are in a position to influence the operation and activities of a customer shall provide **proof of identity**, as shall individuals who are beneficial owners¹. Parties representing trusts or comparable entities **shall at their own volition** inform financial undertakings of their trustee status. Certain circumstances require **enhanced due diligence**.

Enhanced due diligence

Enhanced due diligence requires the gathering of further information on legal entities, trusts or comparable parties, as well as parties who are in a position to influence operations and beneficial owners.

Enhanced due diligence is required:

- When legal entities, trusts or comparable parties are located in states categorised as high risk or uncooperative by the Steering Committee on Actions Against Money Laundering, appointed by a minister.
- For cross-border correspondent relationship with parties outside of the EEA.
- When risk assessment indicates heightened risk.

Parties in a position to influence operations and activities include authorised signatories of legal entities and those who hold special authority to represent a customer, including managing directors and Board members.

A **beneficial owner** is always a natural person and is the individual who ultimately holds real power to take decisions on the use of proceeds, governance and who benefits from the assets in question. A distinction is made between the legal owner and the beneficial owner. The beneficial owner could be, for instance:

- a. In the case of a legal entity:
 - i) The natural person (or persons) who ultimately owns or controls a legal entity through direct or indirect ownership of a holding of more than 25% in the legal entity, controls over 25% of its voting rights or is deemed by other means to exercise control over a legal entity. The provision shall not apply to legal entities registered on a regulated market. ▶
 - ii) If the beneficial owner cannot be deter-

¹ Please refer to SFF Information Sheet on the new Act for individuals for further information on due diligence on individuals.



mined or if there is doubt as to ownership, the natural person or persons in charge of the legal entity's operations, shall be considered the beneficial owner.

- b.** *In the case of trusts and comparable entities, all the following parties:*
- i)** trustee;
 - ii)** founder;
 - iii)** guarantor, if appropriate;
 - iv)** beneficiary, one or more. If no beneficiary is identified, the beneficiary shall be any individual or group of individuals who benefit from the establishment of a trust fund or comparable entity; and,
 - v)** other individuals who control, directly or indirectly, a trust fund or comparable entity.
- c.** *For self-governing foundations or comparable entities: The natural person or persons who holds a position similar to those set out in to point b).*

If due diligence indicates that a customer contravenes the company's risk policy, the company can refuse or terminate the business relationship.

