

Money laundering and due diligence

Several explanatory points on requirements vis-à-vis intermediaries in connection with money laundering and due diligence

1. The intermediary shall conduct a due diligence analysis that reveals the beneficial owner and the origins of the funds used to participate in the Central Bank auction. The due diligence analysis shall be carried out in accordance with Act no. 64/2006. For further information on the execution of the due diligence analysis and the definition of a beneficial owner, reference is also made to the recommendations of the Financial Action Task Force (FATF).
2. Instead of conducting the due diligence analysis itself, the intermediary may rely on information from a third party. If it relies on information from a third party, the intermediary shall:
 - a. Obtain necessary and reliable information on how that party carries out due diligence vis-à-vis its customers.
 - b. Adopt satisfactory measures to assure itself that copies of the applicable documents that prove the identity of the customer and other documents related to the due diligence analysis are provided without delay if requested.
 - c. Assure itself that the third party satisfactorily fulfils requirements comparable to those provided for in Act no. 64/2006, is subject to supervision comparable to that applying to Icelandic financial institutions, and maintains policies and procedures consistent with the FATF recommendations.
 - d. Ensure that the third party fulfils its obligations and conclude a written agreement further outlining the execution of the information disclosure.
3. The documents that the intermediary must submit no later than 15:00 hrs. on 20 June 2016 are:
 - a. A statement that it is in possession of information concerning the beneficial owner and origins of the funds.
 - b. A statement that the beneficial owner of the funds is not subject to sanctions pursuant to the Act on Implementation of International Sanctions.
 - c. A list of the names of beneficial owners and, if applicable, the names of the legal entities to which they are connected.
4. The documents that the intermediary must be able and willing to provide to the Central Bank upon request are:
 - a. A detailed description of the execution of the due diligence analysis – if it relies on information from a third party, information on how that party conducts its due diligence analysis shall be included.
 - b. Copies of the relevant documents (the intermediary's own or those of the third party) confirming the identity of the beneficial owner and the method used to conduct the due diligence analysis.

Questions and answers

Q: In Article 9 of the Terms of Auction, it is stated that intermediaries shall acquire and collect information on the beneficial owner and the origins of the funds on which offer is made, in accordance with Chapters II and III of Act no. 64/2006. The Article also states that the intermediary shall deliver to the Central Bank, without delay, copies of relevant documents that verify the

identity of the customer, together with other documents for the due diligence analysis, if requested.

Does it fulfil the requirements set forth in Article 9 of the Central Bank Terms of Auction if the intermediary directly acquires and collects information on the beneficial owner and the origins of the funds behind each offer but relies in other respects on documents provided to it by foreign financial institutions that acquired the documents when carrying out their own due diligence analysis on the beneficial owners?

A: This satisfies the requirements made by the Central Bank, provided that the intermediary can provide documents from the foreign financial institutions that show how the due diligence analysis was conducted in each instance, including how the identity of the beneficial owner and origins of the funds were confirmed.

Q: It is stated that the intermediary shall conduct a due diligence analysis that reveals the beneficial owner and the origins of the funds used to participate in the Central Bank auction. Does this refer to the beneficial owner pursuant to Article 5, Item 2 of Act no. 64/2006; cf. the definition provided for in Article 3, Paragraph 1, Item 4 of Act no. 64/2006? Or is the purpose to gather information on whether the trade is actually taking place on behalf of a third party; cf. Article 5, Item 5 of the Act.

A: Information must be provided on the beneficial owner; i.e., the party that owns the funds in question, no matter whether the owner is trading on his own account or through a third party. See, for instance, FATF Recommendation no. 10:

http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf

Q: What requirements are made concerning the information on the origins of the funds used for participation in the auction? Is it sufficient to obtain participants' answers, or is it required that these answers be verified?

A: In general, it should be sufficient to obtain clear, credible answers from the parties concerned. If there is any suspicion concerning the accuracy of the answers, it is necessary to gather data that show satisfactorily the origins of the funds.

Q: If the answer to the question above is YES: what data and/or information would be considered satisfactory verification of the answers provided concerning the origins of the funds?

A: The data that the intermediary considers satisfactory when it carries out the due diligence analysis; i.e., the data that the intermediary considers to verify the accuracy of the information. Such data could vary, but they must show an uninterrupted chain from the origins of the funds. They could include transfers, contractual agreements, and the like.

Q: According to Article 15 of Act no. 64/2006, those parties that are listed in Paragraph 1, Items (a)-(c) are subject to simplified due diligence. According to Paragraph 2, the provisions of Articles 5 and 6 do not apply to simplified due diligence; therefore, it is not necessary to compile information on the beneficial owner or to have the customer prove its identity.

Are intermediaries authorised to subject participants concerning whom they have gathered satisfactory information and that fall under Article 15, Paragraph 1, Items 1, 2, or 3, to simplified due diligence?

A: Yes; if there is satisfactory information showing that the parties listed in Article 15, Paragraph 1, Items 1, 2, and 3 are the beneficial owners and not intermediaries or parties in some way undertaking the transactions on behalf of a third party, it is permissible to perform simplified due diligence. In cases involving a rule on exceptions, the rule must be interpreted strictly. Information on the name of the individual or legal entity, its national ID number, and its address must always be

available.

Helpful links:

- Act no. 64/2006: Special reference to Chapters II and III and Article 16
 - <https://eng.atvinnuvegaraduneyti.is/laws-and-regulations/nr/nr/7389>
- FATF Recommendations: Special reference to Recommendations 4, 10, 17, 24, and 25
 - http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf
- FATF Guidance on transparency and beneficial ownership: Special reference to Articles 32, 33, and 36.
 - <http://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-transparency-beneficial-ownership.pdf>