

The Anti-Money Laundering Act of 1997

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The Anti-Money Laundering Act, adopted in 1997 and in force since 1 April 1998, established the administrative law framework for the prevention of money laundering. It applies to financial intermediaries, a term that covers banks, insurers, securities firms, fund management companies and portfolio managers. It also covers persons who, on a professional basis, accept or hold on deposit assets belonging to others or assist in the investment or transfer of such assets. This latter category, the so-called para-banking sector, includes trustees, independent asset managers who were not licensed until 2020, money transmitters, currency exchange offices and lending businesses, together with lawyers and notaries who act as financial intermediaries outside their legal practice.¹

The Act imposes a series of duties on financial intermediaries. They must verify the identity of their contracting parties on the basis of a document with evidentiary value. They must establish the identity of the beneficial owner of the assets, that is, the natural person who ultimately controls or benefits from them, with the diligence that the circumstances require. They must clarify the economic background and the purpose of a transaction or business relationship if it appears unusual or if there are indications of money laundering or terrorist financing. They must document their clarifications and keep the records for ten years. Finally, they must take the organisational measures necessary to prevent money laundering, including training and internal controls.²

A financial intermediary may know or have reasonable grounds to suspect that assets involved in a business relationship are connected with money laundering, a predicate offence, a criminal organisation or terrorist financing. In that case it must report immediately to the Money Laundering Reporting Office Switzerland, MROS, which is part of the Federal Office of Police. After the report, the intermediary must continue to execute client orders for a limited period, during which MROS analyses

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the report and decides whether to forward it to a prosecution authority. If the prosecution authority orders a freeze, the assets are blocked. The intermediary must not inform the client or third parties of the report.³

The number of reports to MROS has grown enormously since the Act came into force. In the early years, a few hundred reports were filed each year, whereas in the 2020s the number exceeded ten thousand per year, the majority from banks.⁴ The growth reflects the expansion of the duties, the increasing sensitivity of the financial intermediaries and the pressure of the supervisory authorities. It also raises questions about the capacity of MROS and the prosecution authorities to process the reports and about the usefulness of defensive reporting by intermediaries who report to protect themselves.

1 Notes

1. Federal Act of 10 October 1997 on Combating Money Laundering and Terrorist Financing (Anti-Money Laundering Act, AMLA, SR 955.0), in force since 1 April 1998; scope (Art. 2), financial intermediaries in the para-banking sector (Art. 2 para. 3). To be verified. ↩
2. On the due diligence duties under the AMLA (verification of the identity of the contracting party, Art. 3; establishment of the beneficial owner, Art. 4; special duty of clarification, Art. 6; documentation, Art. 7; organisational measures, Art. 8), see SR 955.0. To be verified. ↩
3. On the duty to report to MROS (Art. 9 AMLA), the execution of client orders and the asset freeze (Art. 9a and 10 AMLA, as revised in 2023) and the prohibition of information (Art. 10a AMLA), see SR 955.0. To be verified. ↩
4. On the number of suspicious activity reports received by MROS (more than 10,000 per year in the 2020s), see the annual reports of MROS. Figures to be verified. ↩

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