

The due diligence duties

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The due diligence duties of Articles 3 to 8 AMLA are the core of the preventive system. The intermediary must verify the identity of the contracting party, establish the identity of the beneficial owner, renew these steps in case of doubt and clarify the nature and purpose of the business relationship (Art. 3–6 AMLA). Since 1 January 2023 Article 6(1) AMLA provides expressly that the scope of the information to be obtained, the level of management that decides on the relationship and the frequency of checks depend on the risk the client represents. The intermediary must clarify the economic background and purpose of a transaction or relationship in four situations: if it appears unusual, if there are indications that the assets derive from a felony or an aggravated tax misdemeanour, if the relationship carries an increased risk, or if the client's data match data that the MROS has passed on under Article 22a AMLA (Art. 6(2) AMLA). Business relationships with foreign politically exposed persons are always considered to carry an increased risk. With domestic politically exposed persons this applies only in combination with further risk factors (Art. 6(3) and (4) AMLA).¹

Two duties introduced with the revision of 19 March 2021 are of particular practical weight in Lugano, where many relationships with Italian clients go back decades. Article 7(1bis) AMLA, in force since 1 January 2023, obliges intermediaries to check periodically whether the client documentation is up to date and to update it where necessary, with frequency and scope again depending on risk. The records must be kept for at least ten years after the end of the relationship or the completion of the transaction (Art. 7(3) AMLA).² Many client files in Lugano were opened in the era of the numbered account and the domiciliary company. For such institutions the periodic update has turned legacy relationships into an ongoing compliance task. Forms on beneficial ownership signed in the 1990s must be confirmed, explanations of the source of wealth must be

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documented, and relationships with Italian residents must be reconciled with the automatic exchange of information described in Chapter E.II.

1 Dealers and the cash threshold

The second group of persons subject to the Act, the dealers, are covered only when they accept large cash payments. Article 8a AMLA, in the version in force until 30 September 2026, applied to a dealer who accepted more than CHF 100,000 in cash in the course of a commercial transaction. Such a dealer had to verify the customer's identity, establish the beneficial owner and keep records. Payments made in several instalments that together exceeded the threshold were treated as one, and payments made through a financial intermediary were exempt. A dealer also had to clarify the background of a transaction that appeared unusual or showed indications of criminal origin.³ The rule is relevant in Ticino for car dealers, jewellers, art dealers and real estate transactions in which a buyer offers banknotes. The reform of 2025 lowered the threshold for trade in precious metals and precious stones to CHF 15,000. It also introduced a rule under which cash payments of more than CHF 100,000 in real estate transactions must be processed through a financial intermediary.⁴

2 Notes

1. Art. 6 AMLA, <https://www.droit-bilingue.ch/en-de/9/95/955.0-6-10.html> (amended by the Federal Acts of 12 December 2014, 25 September 2020 and 19 March 2021). ↩
2. Art. 7 AMLA, <https://www.droit-bilingue.ch/en-de/9/95/955.0-7-11.html> (para. 1bis inserted by the Federal Act of 19 March 2021, in force since 1 January 2023). ↩
3. Art. 8a AMLA, <https://www.droit-bilingue.ch/en-de/9/95/955.0-8a-14.html> (version amended with effect from 1 July 2021). ↩
4. WEKA Business Media, "GwG: Neue Pflichten nach TJPG und der GwG-Reform", <https://www.weka.ch/themen/management/unternehmensfuehrung/compliance/article/gwg-neue-pflichten-nach-tjpg-und-der-gwg-reform/>. ↩

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