

Appendix 2 to specific guidelines on compliance with the Wwft for the institutions referred to in Article 1a(4)(a) and (b) of the Wwft (accountants, tax advisors and administrative firms) and institutions referred to in Article 1a(4)(d) of the Wwft (civil-law notaries, junior civil-law notaries and assigned civil-law

## **Wwft Roadmap - September 2018**

To provide direction on compliance with obligations under the Money Laundering and Terrorist Financing (Prevention) Act (Wwft), we have previously drawn up a 10-step plan.<sup>1</sup> This roadmap was embraced by the Ministry of Finance at the time.

The original 10-step plan has now been divided into two parts: (A) Risk policy and (B) Wwft 10-step plan.

### **A Risk policy (Articles 2-2c, 3, and 8 of the Wwft)**

Pay attention to unusual transaction patterns and to transactions that (by their nature) involve a higher risk of money laundering or terrorist financing and tailor customer due diligence (CDD) to risk sensitivity for money laundering or terrorist financing (Article 2a and Article 3(5) and (6)). Take appropriate measures against this by using new technologies (Article 2a(2)).

Determine which customers are at risk and determine - based on risk - which measures to take in order to verify the identity of the Beneficial Owner (BO). Determine customer risk profiles (simplified, normal, enhanced) and draw up a Wwft risk policy. Take account of the type of customer, product, service, transaction and delivery channel as well as countries or geographical areas when profiling the risk, and refer to the specific Wwft Compliance Guide or Regulator's manual if necessary.

Once the risk policy has been identified, the institution establishes procedures and takes measures to limit the risks and manage them effectively (risk management).

Determine in which cases or in which way enhanced customer due diligence should take place on the basis of Article 8 of the Wwft. Take risk-based and effective measures to keep the risk policy up to date.

Record data in a retrievable form and keep it for five years (Article 33). This retention period also applies to data relating to a disclosure (Article 34 in conjunction with Article 16).

Provide periodic, preferably annual, training for employees and day-to-day policymakers regarding the obligations under the Wwft (Article 35).

Appoint a Wwft Compliance Officer and an auditor for the Wwft Compliance Officer (Article 2d of the Wwft) if this is proportionate to the nature and size of the institution (consult your supervisor for more information). It must be possible to perform the compliance and audit functions independently. The Wwft Compliance Officer is in charge of compliance with and implementation of the Wwft and is responsible for reporting to the FIU-the Netherlands. The Wwft auditor checks the Wwft Compliance Officer.

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<sup>1</sup> The "Wwft compliance roadmap" was included for the first time in "Nieuwe anti-witwaswetgeving van kracht! Veel nieuws onder de zon?", D. Kaya, D.S. Kolkman, B. Snijder-Kuipers and A.T.A. Tilleman, *TOP*, September 2008, p. 205-2011 and was developed further in, inter alia, "Strengere eisen door nieuwe witwaswetgeving per 1 januari 2013", B. Snijder-Kuipers, A.T.A. Tilleman and N. Roetert-Steenbruggen, *TOP* May 2013, p 98-103. B. Snijder-Kuipers and A.T.A. Tilleman published a subsequent version in "Aandachtspunten bij uitbesteding CDD", *Tijdschrift voor Compliance*, February 2015.

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Draw up internal regulations that allow anonymous internal reporting of unusual transactions (Article 20a of the Wwft) if you are required to appoint a Wwft Compliance Officer.

## **B Wwft 10-step plan**

### Step 1. Which institutions are obliged entities under the Wwft (Article 1a)

The performance of certain (professional) activities results in certain persons, companies or legal persons qualifying as 'institutions' for the Wwft, such as acting in the capacity of an accountant, administrative firm or tax advisor, and of a civil-law notary or lawyer (for certain activities).

If the day-to-day policymakers in the institution are two or more persons, appoint the day-to-day policymaker as the person responsible for compliance with the Wwft (Article 2d).

Step 2. Identify the customer (Articles 3 and 8); record data (Article 33) Have the customers identify themselves prior to the provision of services.

Step 3. Verify the identity of the customer (Articles 3 and 8); record data (Article 33) Verify the stated identity on the basis of an original proof of identity.

Step 4. BO (Article 3 and 8 and Article 3 of the 2018 Wwft Implementing Decree); record data (Article 33)

Who is/are the beneficial owners, being natural persons/persons who, in brief, hold more than 25% of the shares? The same applies to partnerships (professional partnerships, general partnerships, limited partnerships): is there an ownership interest of more than 25%? Each entity is required to have one or more Beneficial Owners (BOs). If an entity does not have a genuine BO on the basis of ownership or control interest, a so-called pseudo-BO must be designated. This is the senior executive; one or more directors under the articles of association or one or more partners (Article 3(6) of the 2018 Wwft Implementing Decree).

Step 5. PEP (Article 8 and Article 2 of the 2018 Wwft Implementing Decree); record data (Article 33)

Investigate whether the customer or the BO is a domestic or foreign politically exposed person (PEP), i.e., a person who holds (or has held in the past year) a senior position in public administration. If a partner, parent, (partner of a) child or relation associated with the customer or BO fulfils such a prominent position, the customer or BO will be regarded as a politically exposed person. Check the internet, national and international PEP lists, or other reliable sources.

Step 6. Formulate risk policy (see section A)

Form an opinion on the purpose and nature of the business relationship, as well as the nature of the transaction and the origin and destination of funds and the risk of money laundering or terrorist financing. This step forms the core of the Wwft.

Step 7. Monitoring and investigating the origin of funds (Article 3); record data (Article 33) Pay constant attention to the customer's risk profile. Monitoring may not be outsourced. Investigate the origin and destination of the funds used in the transaction.

Step 8. Introduction of customer (Articles 5 and 10); record data (Article 33)

The customer is introduced by another institution. The institution may copy the identification and verification data. The institution remains responsible; collect data.

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Step 9. Unusual transaction (Articles 15 and 16):

Does an objective or subjective indicator apply to the (intended) transaction? Does the CDD not lead to the desired result or has the customer relationship ended? Are there (or are there also) indications that the customer in question is involved in money laundering or terrorist financing (Article 16(4) of the Wwft)? Consult with your colleague, confidential advisor, or compliance department. Record and save the considerations. If the conclusion is that there is an unusual transaction, go to step 10.

Step 10. Report unusual transaction (Article 16); record data (Article 34 of the Wwft) The unusual transaction and all relevant data are submitted without delay to the FIU (Financial Intelligence Unit, i.e., FIU-the Netherlands). Keep a copy of the report and confirmation of receipt.

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