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Ordinance
of 17 February 2009
on Professional Due Diligence
in the Combating of Money Laundering, Organised
Crime and Terrorist Financing
(Due Diligence Ordinance; DDO)

Pursuant to Art. 38 of the Law of 11 December 2008 on Professional Due Diligence in the Combating of Money Laundering, Organised Crime and Terrorist Financing (Due Diligence Act; DDA), LLG 2009 No. 47, the Government hereby decrees as follows:

I. General provisions

Art. 1

Subject matter and purpose

- 1) This Ordinance governs in particular:
- a) establishing and verifying the identity of the contracting party and the beneficial owner;
 - b) the content of the business profile;
 - c) monitoring of business relationships commensurate with the risks involved;
 - d) enhanced duties of due diligence, delegation of duties of due diligence and global monitoring;
 - e) the procedure to be adopted when filing a report with the Financial Intelligence Unit (FIU);
 - f) documentation requirements and internal organisation;
 - g) conduct of checks;
 - h) requirements for the appointment of auditors, auditing firms and auditing offices subject to special legislation.
- 2) It serves to:
- a) implement Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (EWR-Rechtssammlung [EEA Law Directory]: Appendix IX – 23b.01);
 - b) implement Directive 2006/70/EC of the Commission of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and the Council as regards the definition of “politically exposed persons” and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis (EWR-Rechtssammlung [EEA Law Directory]: Appendix. IX – 23ba.01);
 - c) lay down the measures necessary to implement Ordinance (EC) No. 1781/2006 of the European Council and of the Parliament of 15 November 2006 concerning information on the payer accompanying transfers of funds (EWR-Rechtssammlung [EEA Law Directory]: Appendix. IX – 23d.01).

Art. 2

Politically exposed persons

- 1) The term “prominent public functions” within the meaning of Art. 2 (1) (h) of the Act shall include the following functions (except where mid-ranking or junior):
- a) heads of state, heads of government, ministers and deputy or assistant ministers;
 - b) members of parliaments;
 - c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;
 - d) members of courts of auditors or of the boards of central banks;
 - e) ambassadors, *chargés d'affaires* and high-ranking officers in the armed forces;
 - f) members of the administrative, management or supervisory bodies of state-owned enterprises.
- 2) The term “immediate family members” within the meaning of Art. 2 (1) (h) of the Act shall include:
- a) the spouse;

- b) any partners considered by national law as equivalent to the spouse;
 - c) the children and their spouses or partners;
 - d) the parents.
- 3) The term “persons known to be close associates” within the meaning of Art. 2 (1) (h) of the Act shall include:
- a) any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a holder of a prominent public office;
 - b) any natural person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the holder of a prominent public office.

Art. 3
Beneficial owners

- 1) The term “beneficial owner” shall include:
- a) in the case of corporations, including institutions structured as corporations, as well as companies without a legal personality: those natural persons who directly or indirectly:
 - 1. hold or control a share or voting rights amounting to 25% or more of such legal entities;
 - 2. receive 25% or more of the profits of such legal entities; or
 - 3. exercise control over the management of such legal entities in another way;
 - b) in the case of foundations, fiduciary entities and institutions structured in a similar way to foundations:
 - 1. where the beneficiaries have been named, those natural persons who are the beneficiaries of 25% or more of the assets of such a legal entity;
 - 2. where no individual persons have been named as beneficiaries, those natural persons or the group of persons in whose interest such a legal entity was mainly established;
 - 3. in addition, those natural persons who ultimately exercise direct or indirect control over the assets of such a legal entity;
 - c) in the case of insurance policies: those natural persons who are economically responsible for payment of the insurance premiums.
- 2) Control within the meaning of para. 1 shall in particular include the ability:
- a) to dispose of the assets of the legal entity;
 - b) to amend the provisions governing the essential nature of the legal entity;
 - c) to amend the beneficiaries; or
 - d) to influence the exercise of the control powers under (a) to (c) above.

Art. 4
Threshold values for occasional activity

Activities shall be deemed to be occasional within the meaning of Art. 4 (c) (5) of the Act if the individual activity does not exceed the value of CHF 1,000 and no more than 100 transactions per year are carried out.

Art. 5
Designations

The designations used in this Ordinance to denote persons, functions and professions include persons of male and female gender alike.

II. Duties of due diligence

A. Establishing and verifying the identity of the contracting party and the beneficial owner

1. Establishing and verifying the identity of the contracting party

Art. 6
Basic principle

- 1) When initiating a business relationship or processing an occasional transaction by personal contact, the person or entity subject to due diligence shall establish and verify the identity of the contracting party by inspecting a document with probative value (original or certified copy) relating to the contracting party, and by collecting and documenting the following information:

- a) for natural persons: last name, first name, date of birth, address of residence, state of residence and nationality;
- b) for legal entities: name or company name, legal form, address of domicile, state of domicile, date of formation, place and date of entry in the public register (where applicable), and the names of the bodies or trustees formally acting on behalf of the legal entity in dealings with the person or entity subject to due diligence.
- 2) If the contracting party is a legal entity, the persons or entities subject to due diligence shall ensure that the person purporting to act on its behalf is authorised to do so. The persons or entities subject to due diligence shall verify the identity of such persons by inspecting a document with probative value (original or certified copy) or by confirming the authenticity of the signature (Art. 9).
- 3) When initiating a business relationship by correspondence, the persons or entities subject to due diligence shall establish and verify the identity of the contracting party by obtaining the original or a certified copy of a document with probative value and obtaining from the contracting party a confirmation of the information under para. 1 by means of a signature or by the use of a secure electronic signature in accordance with Art. 2 (1) (d) or Art. 24 (3) of the Signature Act (Signaturgesetz, SigG).

Documents with probative value

Art. 7

a) Natural persons

- 1) For natural persons, documents with probative value shall include a valid official identification document with a photograph (in particular a passport, identity card or driving licence). An identification document shall be deemed to be valid if it entitles the contracting party to enter the Principality of Liechtenstein at the time when the contracting party's identity is established and verified.
- 2) If the contracting party cannot provide such a document from his home country, he shall provide a confirmation of identity from the authority responsible in his domicile.

Art. 8

b) Legal entities

- 1) For legal entities entered in the public register, documents with probative value shall include:
- a) an extract from the public register issued by the public register authority;
 - b) a written extract from a database maintained by the public register authority; or
 - c) a written extract from a trustworthy privately maintained directory or equivalent database.
- 2) For legal entities not entered in the public register, documents with probative value shall include:
- a) an official certificate issued in Liechtenstein;
 - b) the statutes, formation documents or formation agreement;
 - c) a certification of the information specified under Art. 6 (1) (b) by the appointed auditor of the annual accounts;
 - d) an official licence to conduct its activities; or
 - e) a written extract from a trustworthy privately maintained directory or equivalent database.

Art. 9

Certificate of authenticity

Certificates of the authenticity of a copy of a document with probative value or of the authenticity of a signature may be issued by:

- a) a branch or corporate affiliate of the person or entity subject to due diligence;
- b) another person or entity subject to due diligence pursuant to Art. 3 (1) (a) to (i) of the Act, an attorney, a professional trustee, an auditor or an asset manager that is subject to Directive 2005/60/EC or an equivalent regulation and supervision; or
- c) a notary public or other public office that normally issues such certificates of authenticity.

Art. 10

Form and treatment of documents

- 1) If a business relationship is initiated by correspondence, the persons or entities subject to due diligence shall include the original or a certified copy of the document with probative value in the due diligence files. If, for the purposes of establishing and verifying the identity of the contracting party, the persons or entities subject to due diligence obtain the original of a document with probative value pursuant to Art. 8 from a person authorised to issue certificates of authenticity pursuant to Art. 9, they may then proceed as set out under para. 2.

- 2) If a business relationship is initiated or an occasional transaction is processed by personal contact, it shall be sufficient for the persons or entities subject to due diligence to make a copy of the original or a certified copy thereof, confirm on that copy that they have inspected the original or certified copy, sign and date the copy, and include it with the due diligence files.
- 3) The documents necessary for identity verification shall reflect the current circumstances. Certificates of authenticity, register extracts and confirmations by the appointed annual auditor may not be older than 12 months.

2. Establishing and verifying the identity of the beneficial owner

Art. 11

Written statement by the contracting party

- 1) In order to establish and verify the identity of the beneficial owner, the persons or entities subject to due diligence shall collect and document the information set out in Art. 6 (1) (a).
- 2) The persons or entities subject to due diligence shall obtain confirmation of the accuracy of the information from the contracting party or a person authorised by the latter, by means of a signature or using a secure electronic signature pursuant to Art. 2 (1) (d) or Art. 24 (3) SigG.
- 3) In the case of collective accounts, deposits or policies, the persons or entities subject to due diligence shall not be required to obtain a confirmation pursuant to para. 2 from the contracting party. However, they shall maintain a complete list of beneficial owners and ensure that they are notified without delay of any changes. The list shall contain the relevant information pursuant to para. 1 for each beneficial owner.

Art. 12

Legal entities where there is no specific beneficial owner

- 1) In the case of legal entities where there is no specific beneficial owner, such as discretionary trusts or discretionary foundations, the contracting party shall provide a written statement confirming this situation. The statement shall also contain information regarding:
 - a) the effective, not the fiduciary depositor;
 - b) if determinable, the persons who are authorised to issue instructions to the contracting party or its bodies;
 - c) if determinable, the persons or group of persons eligible as beneficiaries; and
 - d) any curators, protectors or other appointed persons.
- 2) In the case of legal entities whose purpose is to safeguard the interests of their members by way of joint and mutual assistance or that, pursuant to their statutes and actually, pursue political, religious, scientific, artistic, charitable, entertainment or similar purposes, para. 1 shall apply, mutatis mutandis.

Art. 13

Insurance policies

Before paying out insurance benefits or before the point at which the beneficiary intends to claim his entitlements arising out of the policy, the insurance company shall identify the beneficiary of the insurance policy and verify the same using appropriate risk-based measures.

Art. 14

Notaries public, attorneys and legal agents

- 1) If a person or entity subject to due diligence pursuant to Art. 3 (1) (a) to (h) of the Act waives the requirement to establish and verify the identity of the beneficial owner pursuant to Art. 10 (2) of the Act, the notary public, attorney or legal agent shall supply a written statement that the accounts or deposits exclusively serve one of the following purposes:
 - a) the handling and, if applicable, related short-term investment of advances on court fees, bails, public charges and the like, as well as payments to or from parties, third parties or public authorities (designation: e.g. “client funds settlement account/custody account”);
 - b) the depositing and, if applicable, related investment of assets from a pending division of an estate or execution of a will (designation: e.g. “estate” or “division of estate”);
 - c) the depositing/investment of assets from a pending separation of property in connection with a divorce or separation (designation: e.g. “separation of marital property”);
 - d) the depositing for security/investment of assets in matters of civil or public law (designation: e.g. “escrow account/deposit”, “share purchase blocked deposit”, “entrepreneur security deposit”, “real estate gains tax security deposit”);

e) the depositing/investment of assets in matters of civil or public law before ordinary courts or courts of arbitration and in proceedings under judicial foreclosure law (designation: e.g. “advances”, “court security deposit”, “bankruptcy estate”, “arbitration proceedings”).

2) The person or entity subject to due diligence pursuant to Art. 3 (1) (a) to (h) of the Act shall label the accounts or custody accounts accordingly.

3) If a person or entity subject to due diligence pursuant to Art. 3 (1) (a) to (h) of the Act becomes aware that a statement pursuant to para. 1 has been issued wrongly, that person or entity shall obtain from the contracting party a written statement as to the beneficial owner. If no statement is supplied, the business relationship shall be discontinued and the outflow of assets adequately documented, unless the criteria for the reporting obligation pursuant to Art. 17 (1) of the Act have been fulfilled.

3. Joint provisions

Art. 15

Repeating the process of establishing and verifying identity

1) If, despite repeating the process of establishing and verifying the identity of the contracting party or beneficial owner, doubts remain as to the information provided by them, the persons or entities subject to due diligence shall discontinue the business relationship and adequately document the outflow of assets.

2) Persons or entities subject to due diligence may not discontinue the business relationship if the criteria for the reporting obligation pursuant to Art. 17 (1) of the Act have been fulfilled.

3) In the event that the policyholder of an existing insurance policy is replaced by another policyholder, the identity of the contracting party and the beneficial owner shall be established and verified once again.

Art. 16

Correspondent banking relationships

Where clearing accounts are concerned, persons or entities subject to due diligence pursuant to Art. 3 (1) (a) to (i) of the Act that provide correspondent bank services for correspondent institutions in third countries shall satisfy themselves that the correspondent institution:

- a) has verified the identity of the persons that have direct access to the correspondent institution’s accounts;
- b) has subjected those persons to continuous monitoring; and
- c) is in position to submit the relevant data concerning these duties of due diligence to the person or entity subject to due diligence on request.

Art. 17

Payer information in electronic payment transactions

1) For all money transfers, payment services providers shall supply the name, account number and address of the payer. If no account number for the payer is available, the payment services provider shall replace this with an identification number linked to the client that will enable the transaction to be traced back to the payer. The address may be replaced by the date and place of birth of the payer, his client number or his national identity number.

2) By way of derogation from para. 1, payment services providers may, when processing money transfers within the EEA member states or states deemed equivalent thereto on the basis of international treaties, supply only the account number of the payer or an identification number linked to the client that will enable the transaction to be traced back to the payer. On request from the payee’s payment services provider, the payer’s payment services provider shall supply the former with the complete payer data record pursuant to para. 1 within three working days.

3) The payee’s payment services provider shall establish whether the payer information stipulated in para. 1 or 2 is missing or incomplete, and, in the event that it is, shall either reject the money transfer or request the complete payer data record pursuant to para. 1.

4) Any payment services provider acting as intermediary in a money transfer shall ensure that all payer information supplied in connection with a money transfer is retained when it is forwarded.

Art. 18

Information and documents for initiating a business relationship

1) All information and documents required to establish and verify the identity of the contracting party and the beneficial owner shall be available, in full and in due form, at the time the business relationship is initiated.

2) If necessary to maintain normal business, it may exceptionally be deemed sufficient if the information and documents required are made available as soon as possible after the business relationship has been initiated.

In this event, the person or entity subject to due diligence shall ensure that no outflows of funds take place in the meantime.

3) If the required information and documents are incomplete and this cannot be justified on the grounds of maintaining normal business within the meaning of para. 2, the persons or entities subject to due diligence shall proceed in accordance with Art. 5 (3) (b) of the law.

Art. 19

Use of secure electronic signatures by legal entities

Confirmations pursuant to Art. 6 (3) and Art. 11 (2) may be provided by legal entities using secure electronic signatures provided that:

- a) the signing authority of the signatory representing the legal entity has been entered as an attribute in a qualified certificate pursuant to Art. 5 (1) (d) SigG or in a separate qualified attribute certificate pursuant to Art. 5 (2) SigG; and
- b) the certificate is no older than 12 months.

B. Business profile

Art. 20

Content of the business profile

- 1) The business profile pursuant to Art. 8 of the Act shall contain the following information:
 - a) contracting party and beneficial owner;
 - b) authorised agents and bodies acting in dealings with the persons or entities subject to due diligence;
 - c) economic background and origin of the assets deposited;
 - d) profession and business activity of the effective depositor of the assets; and
 - e) the intended use of the assets.
- 2) The degree of detail of the information pursuant to para. 1 (c) to (e) shall take account of the risk involved in the business relationship.

C. Monitoring of business relationships commensurate with the risks involved

Art. 21

Computerised systems

- 1) Monitoring of business relationships commensurate with the risks involved pursuant to Art. 9 of the Act shall be conducted using computerised systems, as far as this is possible and provided that the costs are in suitable proportion to the anticipated benefit. Normally, the use of a suitable, state-of-the-art system shall be required.
- 2) If the persons or entities subject to due diligence do not use a computerised system to identify business relationships with politically exposed persons, they shall use another appropriate risk management system to achieve this end.

Art. 22

Inquiries

- 1) Simple inquiries pursuant to Art. 9 (3) of the Act shall serve to assess the plausibility of circumstances or transactions that deviate from the business profile. In this connection, the person or entity subject to due diligence shall obtain, evaluate and document such information as is useful in rendering the background to such circumstances or transactions plausible and comprehensible.
- 2) As part of special inquiries pursuant to Art. 9 (4) of the Act, the person or entity subject to due diligence shall obtain, evaluate and document such information as is useful in dispelling or corroborating any suspicion arising pursuant to Art. 17 (1) of the Act.

D. Enhanced duties of due diligence, delegation of due diligence obligations and global monitoring

Art. 23

Criteria and measures for business relationships and transactions involving higher risks

- 1) Criteria for business relationships and transactions involving higher risks within the meaning of Art. 11 (1) of the Act shall include, in particular:

- a) the registered office or place of residence of the contracting party and beneficial owner or their nationality;
 - b) the nature and location of the contracting party's and beneficial owner's business activity;
 - c) the nature of the products or services requested;
 - d) the level and type of the assets deposited;
 - e) the level of inflows and outflows of assets;
 - f) the country of origin or destination of frequent payments.
- 2) Following consultation with the FIU, the FMA shall issue guidelines concerning indicators of money laundering, organised crime and terrorist financing.
- 3) Additional measures for transactions involving higher risks within the meaning of Art. 11 (2) of the Act shall include, in particular:
- a) verifying the identity of the contracting party using additional documents, data or information;
 - b) clarifying the origin of the assets deposited;
 - c) clarifying the intended use of assets withdrawn;
 - d) clarifying the professional and business activity of the contracting party and beneficial owner.

Art. 24

Delegation of due diligence obligations

- 1) If the person or entity subject to due diligence arranges for the tasks of establishing and verifying the identity of the contracting party or the beneficial owner or compiling the business profile to be carried out by a delegate within the meaning of Art. 14 (1) of the Act:
- a) the person or entity shall ensure that the delegate obtains or prepares the documents and information in accordance with the provisions of the Act and this Ordinance, and transfers them without delay to the person or entity subject to due diligence in the Principality of Liechtenstein, including a statement as to the identity of the person carrying out the identification and verification; and
 - b) the delegate shall confirm with his signature that the copies created as part of the identification and verification process match the originals or certified copies, and that the written statement required as part of establishing and verifying the identity of the beneficial owner has been obtained from the contracting party or a person authorised pursuant to Art. 11 (2).
- 2) The act of delegation shall be documented.
- 3) Sub-delegation by delegates shall be prohibited.

Art. 25

Global monitoring

- 1) For the purposes of global monitoring of the risks associated with money laundering, organised crime and terrorist financing pursuant to Art. 16 (3) of the Act, banks shall in particular ensure that:
- a) the internal auditing department and the group's external auditing office are granted access to information about individual business relationships in all group companies whenever required. No central database of contracting parties and beneficial owners shall be required at group level, nor shall there be any requirement for central access on the part of the group's internal supervisory bodies to local databases; and
 - b) group companies provide the group bodies responsible with the information that is essential for the global monitoring of the risks associated with money laundering, organised crime and terrorist financing.
- 2) Banks that form part of a domestic or foreign financial group shall grant the internal auditing department and the group's external auditing office access to information concerning specific business relationships whenever required, insofar as this is necessary for the global monitoring of the risks associated with money laundering, organised crime and terrorist financing.
- 3) If banks find that access to information regarding contracting parties and beneficial owners is prohibited or hindered for legal or practical reasons in certain countries, they shall inform the FMA of this fact without delay.

III. Reporting obligation

Art. 26

Report to the FIU

- 1) The report pursuant to Art. 17 (1) of the Act shall contain all information required for the FIU to evaluate the matter.
- 2) The FIU shall confirm in writing the date of receipt of the report. It may request further information after receiving the report. Such information shall be submitted without delay.
- 3) The FIU may issue a standardised report form.

IV. Documentation and internal organisation

Art. 27

Due diligence files

1) The due diligence files shall in particular contain the documents and records prepared and used in order to comply with the provisions of the Act and this Ordinance. They shall in particular include:

- a) the documents and records used to establish and verify the identity of the contracting party and the beneficial owner;
- b) the business profile pursuant to Art. 8 of the Act;
- c) the records of any inquiries carried out pursuant to Art. 9 of the Act as well as all documents and records used in this connection;
- d) records describing transactions and, if applicable, the asset balance; and
- e) any reports made to the FIU pursuant to Art. 17 (1) of the Act.

2) The documents and records referred to in para. 1 (a) and (b) are client-related documents and records; those referred to in para. 1 (c) to (e) are transaction-related documents and records within the meaning of Art. 20 (1) of the Act.

Art. 28

Preparation and safekeeping

1) The due diligence files shall be prepared and kept in such a manner that:

- a) the required due diligence obligations can be complied with at any time;
- b) they enable third parties with sufficient expertise to form a reliable judgment of compliance with the provisions of the Act and this Ordinance; and
- c) requests from the responsible domestic authorities and courts, auditors and auditing offices can be fully met within a reasonable period of time.

2) The due diligence files may be stored in written, electronic or similar form provided that:

- a) they match the documents on which they are based;
- b) they are available at all times; and
- c) they can be rendered readable at any time.

3) The integrity and legibility of image and data storage media kept within the meaning of para. 2 shall be checked regularly.

4) It may not be more difficult or time-consuming to check the records than it is the underlying documents.

5) The due diligence files shall be stored at a location within Liechtenstein that is accessible at any time.

Art. 29

Record-making procedures

1) The following information shall be added to records:

- a) names of the persons entrusted with making the record;
- b) nature and scope of the documents recorded;
- c) place and date of recording;
- d) damage to the documents, image and data storage media identified during recording or storage.

2) Records shall be checked for errors immediately upon completion; if any such errors are identified, the recording shall be repeated.

Art. 30

Internal annual report

1) The persons or entities subject to due diligence shall prepare the internal annual report for each year by the end of March of the following year. The annual report shall in particular contain:

- a) a report of the activities of the compliance officer and the investigating officer;
- b) an overview of repeated identification and identity verification procedures concerning the contracting party and beneficial owner pursuant to Art. 6 (2) and Art. 7 (3) of the Act as well as special inquiries carried out pursuant to Art. 9 (4) of the Act and the conclusions drawn, and in particular the reporting obligation pursuant to Art. 17 (1) of the Act;
- c) a report on the basic and continuing training of employees involved with business relationships during the previous calendar year;
- d) the number of business relationships and the numerical fluctuations thereof (balance, new and discontinued) compared with the previous year; and
- e) the number of employees involved with business relationships and the numerical fluctuations thereof compared with the previous year.

2) The annual report shall be forwarded to the FMA on request.

Art. 31
Internal instructions

1) The persons or entities subject to due diligence shall issue internal instructions governing specifically how the obligations arising out of the Act and this Ordinance are to be complied with, and shall make these instructions known to all employees involved with business relationships.

2) The instructions shall in particular govern:

- a) the duties, responsibilities, powers and supervision of internal functions pursuant to Art. 22 of the Act;
 - b) the content, maintenance and safekeeping of the due diligence files; in respect of electronic recording and reproduction, rules governing organisation, responsibility and technical procedures shall in particular be required;
 - c) the methods used to establish and verify the identity of contracting parties and beneficial owners, and for the monitoring of business relationships;
 - d) the procedure to be adopted by employees in the event of circumstances or transactions pursuant to Art. 9 (2) to (4) of the Act; in particular notification to the compliance officer and the procedure for submitting reports to the FIU;
 - e) the criteria to be employed in identifying higher risks pursuant to Art. 11 (1) of the Act;
 - f) the additional measures pursuant to Art. 11 (2) of the Act they are to employ in order to identify, limit and monitor such higher risks;
 - g) the cases in which the compliance officer must be consulted and the management informed;
 - h) the fundamentals of the training provided to employees involved with business relationships; and
 - i) the business policy concerning politically exposed persons as well as the risk management system used to establish whether a politically exposed person is involved in a business relationship.
- 3) The instructions shall be issued by the board of directors or the management.

Art. 32
Basic and continuing training

The persons or entities subject to due diligence shall ensure that employees involved with business relationships receive up-to-date and comprehensive basic and continuing training. The knowledge imparted shall encompass to the regulations on preventing and combating money laundering, predicate offenses of money laundering, organised crime and terrorist financing, in particular:

- a) the obligations arising out of the Act and this Ordinance;
- b) the relevant provisions of the Criminal Code; and
- c) the internal instructions pursuant to Art. 31.

Art. 33
Responsibilities of the contact person

- 1) The contact person shall be responsible for contact between the person or entity subject to due diligence and the FMA.
- 2) The FMA shall be notified immediately of the appointment or replacement of the contact person.

Art. 34
Responsibilities of the compliance officer

The compliance officer shall:

- a) support and advise the management in the implementation of due diligence legislation and the design of the corresponding internal organisation, but without relieving the management of its responsibility in this connection;
- b) draw up internal instructions (Art. 31); and
- c) plan and monitor the internal basic and continuing training of employees involved with business relationships (Art. 32).

Art. 35
Responsibilities of the investigating officer

- 1) The investigating officer shall ensure compliance with the Act, this Ordinance and internal instructions. For this purpose, he shall conduct internal inspections. In particular, he shall check whether:
 - a) the necessary records are duly prepared and kept;
 - b) the records pursuant to (a) indicate that due diligence obligations are being complied with;

- c) any reporting obligation has been duly complied with; and
 - d) any requests from the responsible domestic authorities in respect of contracting parties, beneficial owners and authorised agents can be fully met within a reasonable period of time.
- 2) The investigating officer shall prepare a report of his inspection and forward it to the management and the compliance officer.

Art. 36

*Function of the compliance officer
and the investigating officer*

- 1) The compliance officer and the investigating officer shall have a sound knowledge in matters of the prevention and combating of money laundering, predicate offenses of money laundering, organised crime and terrorist financing, and be familiar with the current developments in these areas.
- 2) The responsibilities of the compliance officer and the investigating officer may be transferred to suitably qualified external persons or offices.

Art. 37

Responsibility of the management

Persons subject to due diligence that are involved in very extensive asset management activity and multiple hierarchies may transfer the responsibility for management pursuant to Art. 11 (4) (b) and (c) as well as (5) (c) of the Act to the management of a corporate unit.

V. Supervision

A. Inspections

Art. 38

Basis of the inspections

The inspections pursuant to Art. 24 and 25 of the Act shall in particular be based on:

- a) the due diligence files pursuant to Art. 20 of the Act; and
- b) the internal annual report pursuant to Art. 21 (3) of the Act.

Art. 39

Formal and material inspections

- 1) Formal inspections shall include an examination as to whether the legally prescribed data and records are fully available. They shall constitute a review of compliance with the documentation and safekeeping requirements pursuant to Art. 20 of the Act.
- 2) Material inspections shall comprise an evaluation of the content of the due diligence measures taken. They shall therefore constitute a plausibility and system review. In particular, an evaluation shall be made as to whether:
- a) appropriate organisational measures have been taken pursuant to Art. 21 of the Act;
 - b) the content of the due diligence obligations pursuant to the Act and this Ordinance has been complied with, and in particular whether the data and reports contained in the due diligence files can be derived in a plausible manner;
 - c) the reporting obligation pursuant to Art. 17 (1) of the Act has been complied with in the light of the outcome of the inquiries carried out; and
 - d) there are any circumstances that call into question the guarantee of proper conduct of business and impeccable management within the meaning of the Act.

Art. 40

Inspection report

- 1) The inspection report shall as a minimum contain:
- a) information on complaints;
 - b) any violations of the provisions of the Act and this Ordinance;
 - c) the measures ordered to restore a lawful state; and
 - d) an evaluation of whether, in view of the outcome of the inspections, proper conduct of business and impeccable management within the meaning of the Act appear to be assured.
- 2) The FMA shall specify in more detail the minimum content of the inspection reports.

Art. 41
Safekeeping

- 1) The working papers prepared during inspections, as well as all associated documents and data storage media, shall be kept at a location within Liechtenstein in such a way that requests from the responsible domestic authorities can be fully met within a reasonable period of time.
- 2) The working papers, documents and data storage media shall be kept for a period of ten years following completion of the inspections concerned.

B. Mandated auditors, auditing companies and auditing offices subject to special legislation

Art. 42
Preconditions

- 1) Proof of participation in external basic and continuing training courses pursuant to Art. 26 (1) (c) of the Act for at least half a day per calendar year shall be supplied. The knowledge imparted in such courses must be in accordance with Art. 32 (a) and (b).
- 2) The independence of the auditor, auditing companies and auditing offices subject to special legislation from the persons or entities subject to due diligence that are to be audited must be ensured with respect to legal, economic and personal aspects. In particular:
 - a) auditors may not be employees of the persons or entities subject to due diligence that are to be audited, or of an enterprise associated legally, economically or personally with such persons or entities;
 - b) auditors, auditing companies and auditing offices subject to special legislation may not participate, either directly or indirectly, in the profits of the persons or entities subject to due diligence that are to be audited, or of an enterprise associated legally, economically or personally with such persons or entities.

VI. Final clauses

Art. 43
Repeal of existing law

The following are hereby repealed:

- a) Ordinance of 11 January 2005 on the Due Diligence Act (Due Diligence Ordinance, DDO), LLG 2005 No. 6;
- b) announcement of 22 February 2005 on the correction of the Law Gazette 2005 No. 6, LLG 2005 No. 47.

Art. 44
Entry into force

This Ordinance shall enter into force simultaneously with the Due Diligence Act of 11 December 2008.

For and on behalf of the Princely Government:

signed *Otmar Hasler*

Prime Minister