

Ordinance
of 11 January 2005
on the Due Diligence Act
(Due Diligence Ordinance, DDO)

Pursuant to article 38 of the Law of 26 November 2004 on Professional Due Diligence in Financial Transactions (Due Diligence Act, DDA), LGBl.¹ 2005 No. 5, the Government hereby decrees as follows:

I. General Provisions

Article 1

Definitions

The following expressions shall mean the following for the purposes of the Act and this Ordinance:

- a) "spot transaction": cash transaction, in particular money exchange, cash subscription of bonds and medium-term notes, the purchase or sale of bearer instruments for cash, and the cashing of checks, unless the transaction is made through an existing account or deposit;
- b) "remittance and transfer": the transfer of assets with the exception of physical transports, by acceptance of cash, checks, or other means of payment in Liechtenstein and payment of a corresponding amount in cash or in another form abroad by cashless transfer, communication, transmittal, or other use of a payment or accounting system, unless the transfer is made through an existing account or deposit;
- c) "politically exposed persons":
 - 1. persons holding prominent public positions abroad: heads of State and heads of government; high-level politicians; high-level officials in administrative bodies, the courts, the military, and political parties; the highest decision-makers in State-owned enterprises; and
 - 2. enterprises and persons who are recognizably close to the persons listed in point 1 for family, personal, or business reasons.

¹ Landesgesetzblatt = Liechtenstein Legal Gazette

Article 2

Designations

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

II. Due Diligence in Financial Transactions

A. Identification of the Contracting Party and of the Beneficial Owner

1. Identification of the Contracting Party

Article 3

Basic principle

1) When initiating a business relationship by personal contact, the persons subject to due diligence shall identify the contracting party by inspecting a document with probative value (original or certified copy) of 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 citizenship.
- b) for legal persons, companies, trusts, other associations and asset entities: name or firm name, address of domicile, domiciliary State, date of formation, and, if applicable, place and date of entry into the Public Register.

- 2) When initiating a business relationship by correspondence, the persons subject to due diligence shall identify the contracting party by obtaining the original or certified copy of the document with probative value and obtaining confirmation of the information specified in paragraph 1 by signature or by a secure electronic signature in accordance with article 2, paragraph 1, subparagraph d or article 24, paragraph 3, respectively, of the Signature Act (Signaturgesetz, SigG).

Documents with probative value

Article 4

a) for natural persons

1) For natural persons, a document with probative value for purposes of article 3, paragraph 1 shall be a valid official identity paper with a photograph (in particular passport, identity card, or driving license).

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.

Article 5

b) for legal persons, companies, trusts, other associations and asset entities

1) For legal persons, companies, trusts, other associations and asset entities entered in the Public Register, a document with probative value for the purposes of article 3, paragraph 1 shall be:

- 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 trustworthy, privately managed registers and databases.

2) For legal persons, companies, trusts, other associations and asset entities not entered in the Public Register, a document with probative value for the purposes of article 3, paragraph 1 shall be:

- a) an official certificate issued in Liechtenstein;
- b) the statutes, the formation documents, or the formation agreement;
- c) a certification of the information specified in article 3, paragraph 1, subparagraph b by the chosen auditor of the annual accounts;
- d) an official license to conduct its activities; or
- e) a written extract from a trustworthy, privately managed register or equivalent database.

3) The person subject to due diligence shall itself obtain extracts pursuant to paragraph 1, subparagraphs b and c and pursuant to paragraph 2, subparagraph e.

Article 6

Certificate of authenticity

The certificate on the authenticity of a copy of a document with probative value may be issued by:

- a) a branch or corporate affiliate of institutional persons subject to due diligence;
- b) another institutional person subject to due diligence, a lawyer, a professional trustee, an auditor, or an asset manager subject to Directive 91/308/EEC in the version of Directive 2001/97/EC or an equivalent regulation and subject to appropriate supervision; or
- c) a notary public or other public office that normally issues such certificates of authenticity.

Article 7

Form and treatment of documents

1) If a business relationship is initiated by correspondence, the persons subject to due diligence must include the original or a certified copy of the document with probative value with the due diligence files. If, to identify the contracting party, the person subject to due diligence has the original of a document with probative value in accordance with article 5, paragraph 1, subparagraph a or paragraph 2, subparagraphs a to d provided by a person who is authorized to issue certificates of authenticity as specified in article 6, the person subject to due diligence may also proceed in accordance with paragraph 2.

2) If a business relationship is initiated by personal contact, it shall be sufficient if the persons subject to due diligence make a copy of the original document or the certified copy, confirm on that copy that they have inspected the original or certified copy, put the date and their signature on the copy, and include it with the due diligence files.

3) The documents necessary for identification must reflect the current circumstances. Certificates of authenticity, extracts from registers, and certificates by the chosen auditor of the annual account may not be older than twelve months.

Article 8

Recipient of payments

1) Insurance undertakings shall collect and document the relevant information pursuant to article 3, paragraph 1 with respect to the recipient of

payments if the payment of the insurance benefit is made to a bank or a postal institution that is subject to Directive 91/308/EEC in the version of Directive 2001/97/EC or an equivalent regulation and subject to appropriate supervision.

2) When paying an insurance benefit, insurance undertakings must identify the recipient of payments in accordance with article 5 of the Act if the payment is not made to an account as specified in paragraph 1.

2. Identification of the Beneficial Owner

Article 9

Doubts concerning corresponding identity

Doubts concerning the assumption that the contracting party and the beneficial owner are identical as indicated in article 7, paragraph 1 of the Act are reasonable in particular if:

- a) a person who does not have a sufficiently close relation to the contracting party possesses power of attorney;
- b) the financial situation of the contracting party is known and the assets presented or the insurance applied for are recognizably beyond the financial reach of the contracting party; or
- c) contact with the contracting party results in other unusual findings.

Article 10

Written statement by the contracting party

1) The written statement by the contracting party concerning the beneficial owner must include in particular the information contained in article 3, paragraph 1.

2) The persons subject to due diligence must obtain confirmation of the correctness of the information from the contracting party or a person authorized by the contracting party by way of signature or use of a secure electronic signature in accordance with article 2, paragraph 1, subparagraph d or article 24, paragraph 3, respectively, of the Signature Act.

3) In the case of collective accounts, deposits, safe deposit boxes or policies, the persons subject to due diligence need not require a written statement as specified in paragraph 1 from the contracting party. However, they must keep a complete list of the beneficial owners and have every change immediately notified to them. The list must include the information specified in article 3, paragraph 1 for each beneficial owner.

4) In the case of legal persons, companies, trusts, or other associations and asset entities for which there is no specific beneficial owner, such as in the case of discretionary trusts or discretionary foundations, the contracting party must provide a written statement confirming this fact. In addition, the statement must include information on:

- a) the effective, not the fiduciary founder;
- b) if determinable, the persons who are authorized to instruct the contracting party or its organs;
- c) if determinable, the persons or circle of persons eligible as beneficiaries;
- d) any curators, protectors, or other appointed persons.

Article 11

Beneficial owner

1) Beneficial owners are those persons who ultimately hold the economic rights to the assets in question.

2) A legal entity that does not operate commercially in the domiciliary State can only be a beneficial owner to the extent that:

- a) its purpose is the safeguarding of the interests of its members in joint and mutual assistance or it is statutorily and actually pursuing political, religious, scientific, artistic, charitable, entertainment, or similar purposes; or
- b) it is a holding company that serves as an instrument to form an operative group.

3) In the case of revocable structures such as the revocable trust, the effective founder is considered to be the beneficial owner.

4) In the case of insurance contracts, the person effectively paying for the insurance premiums is considered to be the beneficial owner.

Article 12

Lawyers

1) If a bank or postal institution refrains from identifying the beneficial owner in accordance with article 8, paragraph 1, subparagraph b of the Act, the lawyer must provide a written statement that the accounts or deposits exclusively serve one of the following purposes, and the bank or postal institution shall designate the accounts or deposits accordingly:

- a) the handling and – if applicable – related short-term investment of advances on court fees, bails, public charges and the like, and of payments from or to parties, third parties, or public authorities (designation: "Handling account/deposit for client funds");
- b) the depositing and – if applicable – related investment of assets from a pending division of an estate or implementation of a will (designation: e.g., "Estate" or "Division of Estate");
- c) the depositing/investment of assets from a pending separation of property in the course of the separation or divorce of a marriage (designation: e.g., "Separation of Marital Property");
- d) the depositing for security/investment of assets in matters of civil law 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 and – if applicable – the related investment of assets in matters of civil law or public law before courts of law or before courts of arbitration, and in proceedings under judicial foreclosure law (designation: e.g., "Advances", "Court Security Deposit", "Bankruptcy Estate", "Arbitration Proceedings").

2) If a bank or postal institution finds that a statement pursuant to paragraph 1 has been issued wrongly, it must demand from the contracting party a written statement on the beneficial owner. If the statement is not furnished, the business relationship must be discontinued, with sufficient documentation of the outflow of assets, unless the preconditions for the reporting obligation pursuant to article 16, paragraph 1 of the Act are met.

3. Joint Provisions

Article 13

Repetition of identification

1) If, in an existing insurance contract, the insurance holder is replaced by another insurance holder, the contracting party shall be identified anew and, if applicable, the beneficial owner shall be identified anew.

2) When a business relationship is discontinued in accordance with article 9, paragraph 2 of the Act, the persons subject to due diligence must sufficiently document the outflow of assets.

Article 14

Correspondent banking relationships

Banks and postal institutions that carry out correspondent banking services for foreign banks and postal institutions must:

- a) obtain sufficient information on its respondent institutions to obtain complete clarity about their business activities. This includes information from public sources on the most important business areas of the respondent institution, its locations, and the status of regulation and supervision to which the respondent institution is subject;
- b) satisfy themselves that the respondent institution has taken adequate and efficient measures to guard against money laundering, organized crime, and the financing of terrorism;
- c) pay special attention to the risk that a correspondent account might, under certain circumstances, be used directly by a third party for its own transactions; and
- d) document in the due diligence files the information obtained pursuant to subparagraphs a to c and the arrangements made. Any documents and records obtained shall also be included in the due diligence files.

Article 15

Statement of originators for electronic payment orders

- 1) For all electronic payment orders to a foreign country, banks and postal institutions shall state the name, the account number, and the domicile of the contracting party originating the order or the name and an identification number.
- 2) If there are legitimate reasons, such as in the case of standing orders, they may refrain from stating that information. They must clarify and document the reasons.

Article 16

Initiating the business relationship

- 1) All information and documents necessary to identify the contracting party and the beneficial owner must be available in full and in due form when the business relationship is initiated. If the person subject to due diligence ensures that no outflow of assets will occur in the meantime, it shall suffice – on an exceptional basis – if the necessary information and documents are available after 30 days at the latest.

2) If the necessary information and documents are still not available 30 days after the business relationship has been initiated, the persons subject to due diligence must discontinue the business relationship, sufficiently documenting the outflow of assets, unless the preconditions for the reporting obligation pursuant to article 16, paragraph 1 of the Act are met.

Article 17

Entities with limited legal capacity

The provisions on the identification of the contracting party and of the beneficial owner shall be applied mutatis mutandis to entities with limited legal capacity if such entities are eligible under the applicable law as contracting parties or beneficial owners.

Article 18

Use of secure electronic signatures by legal persons

Confirmations pursuant to article 3, paragraph 2 and article 10, paragraph 2 may also be made by legal persons using secure electronic signatures to the extent that:

- a) the signatory's power to represent the legal person has been entered as an attribute in a qualified certificate pursuant to article 5, paragraph 1, subparagraph d SigG or in a separate qualified attribute certificate pursuant to article 5, paragraph 2 SigG; and
- b) the certificate is not older than twelve months.

B. Monitoring

Article 19

Computerized systems

1) Where computerized systems can be used in a sensible manner for the effective monitoring of business relationships as an aid in the determination of facts or transactions for the purposes of article 15 of the Act, they shall be used to the extent that the costs are in suitable proportion to the anticipated benefit.

2) Banks and postal institutions shall use such systems, unless the manner and/or number of business relationships allows monitoring by hand. As a rule, an appropriate system shall be used that best attains the state of what is technically possible, to the extent that the costs are in suitable proportion to the anticipated benefit.

3) If the persons subject to due diligence do not use computerized systems as an aid in the assessment of business relationships with politically exposed persons, they shall ensure this assessment by another appropriate risk management system.

Article 20

Global monitoring of money laundering risks

1) For the purpose of the global monitoring of money laundering risks in accordance with article 13, paragraph 3 of the Act, banks shall ensure in particular that:

- a) the internal auditing department and the group's external auditing office are granted, whenever required, access to information on individual business relationships in all group companies. It is not necessary to maintain a central database at the group level of the contracting parties and the beneficial owners, nor is it necessary that the internal supervisory bodies of the group have access to local databases; and
- b) the group companies provide the responsible organs of the group with the information that is essential for the global monitoring of money laundering risks.

2) Banks that form part of a domestic or foreign financial group must, whenever required, provide the internal auditing department and the group's external auditing office with access to information on specific business relationships to the extent necessary for the global monitoring of money laundering risks.

3) If banks find that access to information on contracting parties and beneficial owners in certain countries is excluded or obstructed for legal or practical reasons, they shall inform the FMA immediately.

Article 21

Profile

1) The profile of the business relationship pursuant to article 14 of the Act shall contain the following information:

- a) the contracting party and the beneficial owner;
- b) authorized parties;
- c) the economic background and origin of the assets presented;
- d) the profession and business activities of the beneficial owner or, if acting as an organ of a legal entity that does not operate commercially in the domiciliary

State or if the contracting party is a legal entity that does operate commercially in the domiciliary State, that of the effective founder; and

e) the intended use of the assets.

2) The degree of detail of the information pursuant to paragraph 1, subparagraphs c, d, and e shall take into account the risk involved in the business relationship.

Article 22

Inquiries

1) Simple inquiries pursuant to article 15, paragraph 1 of the Act serve to assess the plausibility of circumstances or transactions. In this context, the person subject to due diligence should obtain, evaluate, and document the information that is suited to make the background of circumstances or transactions pursuant to article 15, paragraph 1 of the Act plausible and understandable.

2) In the framework of special inquiries pursuant to article 15, paragraph 2 of the Act, the person subject to due diligence shall obtain, evaluate, and document the information that is suited to dispel or corroborate any suspicion arising in accordance with article 16, paragraph 1 of the Act.

C. Reporting obligation

Article 23

Report to the FIU

1) The report pursuant to article 16, paragraph 1 of the Act shall contain all information necessary for the FIU to evaluate the matter. After receipt of the report, the FIU may demand immediate submission of additional information.

2) The FIU may issue a standardized report form.

3) Following consultation with the FIU, the FMA shall issue a guideline concerning indicators for money laundering.

D. Joint Provisions

Article 24

Delegation

1) If the person subject to due diligence has a delegate carry out the identification of the contracting party and of the beneficial owner, or the compilation of the data for the profile of the business relationship, it is required that:

- a) the person subject to due diligence ensures that the delegate obtains and prepares the documents and information in accordance with the provisions of the Act and this Ordinance and transfers them immediately to the person subject to due diligence in Liechtenstein, including information on the identity of the person carrying out identification; and
- b) the delegate confirms with his signature that the copies made in the course of identification match their originals, and that any written statement to be obtained in the course of identifying the beneficial owner originated with the contracting party or one of the persons authorized pursuant to article 10, paragraph 2.

2) If the person subject to due diligence has a delegate carry out the monitoring of the business relationship, the person shall:

- a) ensure that the delegate undertakes the inquiries pursuant to article 15 of the Act and at least once a year transmits the documentation on special inquiries as well as all documents, records, and receipts used in that context to the person subject to due diligence in Liechtenstein;
- b) ensure that the documentation on simple inquiries is provided on request within a useful period of time; and
- c) at least once a year have records describing the transactions and, if applicable, the asset balance during the period of time in question sent to the person subject to due diligence, unless it is the person subject to due diligence itself that maintains the accounts or deposits of the business relationship concerned.

3) The transmission of documents, records, and receipts pursuant to paragraph 2, subparagraph a may be dispensed with if the delegate maintains his residence or business domicile in Liechtenstein and keeps the documents, records, and receipts there, so that access to them is guaranteed at all times. The FMA may lay down further exceptions in a directive.

- 4) The act of delegation shall be documented.
- 5) Subdelegation by the delegates shall be prohibited.

III. Documentation and Internal Organization

Article 25

Due diligence files

1) The due diligence files shall in particular contain the records and receipts prepared and used for compliance with the Act and this Ordinance. They shall in particular include:

- a) the documents and records used originally and, if applicable, in the case of repetition, for identifying the contracting party and the beneficial owner;
- b) the profile of the business relationship pursuant to article 14 of the Act;
- c) the records on any inquiries pursuant to article 15 of the Act as well as all documents, records, and receipts used in that context. This provision is without prejudice to article 24, paragraphs 2 and 3;
- d) records describing transactions and, if applicable, the asset balance; and
- e) any reports to the FIU pursuant to article 16, paragraph 1 of the Act.

2) The due diligence files must be prepared and kept in a way ensuring that:

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

3) The due diligence files must be kept exclusively in Liechtenstein.

4) The documents and records pursuant to paragraph 1, subparagraphs a and b are client-related records and receipts and those pursuant to paragraphs 1 c to e are transaction-related records and receipts as defined in article 20, paragraph 1 of the Act.

Article 26

Internal annual report

- 1) The persons subject to due diligence shall prepare the internal annual report by the end of March of the following year. The annual report must in particular contain:
 - a) the report on the activities of the compliance officer and the investigating officer;
 - b) an overview of the repeated identifications pursuant to article 9, paragraph 1 of the Act and the special inquiries carried out pursuant to Article 15, paragraph 2 of the Act as well as the relevant conclusions drawn, in particular the reporting obligation pursuant to article 16, paragraph 1 of the Act;
 - c) the report on the basic and continuing training during the past calendar year of the staff involved in financial transactions;
 - d) the number of business relationships with financial transactions as well as numerical fluctuations (balance, new and discontinued) compared with the previous year; and
 - e) the number of employees involved in financial transactions and numerical fluctuations compared with the previous year.
- 2) On request, the annual report shall be transmitted to the FMA.

Article 27

Internal instructions

- 1) The persons subject to due diligence shall issue internal instructions on how the obligations from the Act and from this Ordinance shall be met concretely, and they shall make these instructions known to all employees who are involved in financial transactions.
- 2) In these instructions, they shall regulate in particular:
 - a) the duties, responsibility, powers, and supervision of the internal functions pursuant to article 22 of the Act;
 - b) the contents, the maintenance, and the safekeeping of the due diligence files;
 - c) the ensuring of the identification of contracting parties and of beneficial owners, and the monitoring of business relationships;

- d) how staff is to proceed with questionable transactions or contracting parties, in particular the notification of the compliance officer and the procedure when submitting reports to the FIU.
 - e) the criteria to be applied for determining higher risk pursuant to article 13, paragraph 2 of the Act;
 - f) how these higher risks are to be assessed, limited, and monitored;
 - g) the cases in which the compliance officer must be consulted and the management must be informed;
 - h) the fundamentals of training the staff involved in financial transactions; and
 - i) the business policy concerning politically exposed persons and the risk management system used to determine whether or not a client is a politically exposed person.
- 3) The instructions shall be issued by the board of directors or by the management.

Article 28

Basic and continuing training

The persons subject to due diligence shall ensure that the staff involved in financial transactions receive up-to-date and comprehensive basic and continuing training. The knowledge imparted must encompass the requirements to prevent and combat money laundering, predicate offenses of money laundering, organized crime, and the financing of terrorism, especially:

- a) the obligations arising from the Act and this Ordinance;
- b) the relevant provisions of the Criminal Code (Strafgesetzbuch, StGB), in particular §§165 and 278 to 278d StGB; and
- c) the internal instructions pursuant to article 27.

Article 29

Responsibilities of the contact person

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

Article 30

Responsibilities of the compliance officer

The compliance officer:

- a) shall support and advise the management in the implementation of due diligence legislation and in the design of the corresponding internal organization, without relieving the management of its responsibility therefor.
- b) shall prepare the internal instructions (article 27); and
- c) shall plan and monitor the internal basic and continuing training of the staff involved in financial transactions (article 28).

Article 31

Responsibilities of the investigating officer

1) The investigating officer shall ensure implementation of the Act, this Ordinance, and the internal instructions. For this purpose, he shall conduct internal inspections. In particular, he shall review whether:

- a) the necessary records are duly prepared and kept;
- b) the records pursuant to subparagraph a indicate that the due diligence obligations are undertaken regularly;
- c) any reporting obligation has been duly complied with; and
- d) any requests by responsible domestic authorities with respect to contracting parties, beneficial owners, and authorized parties can be completely fulfilled within an appropriate period of time;

2) The investigating officer shall prepare a report on his review and forward that report to the management and to the compliance officer.

Article 32

Functions of the compliance officer and the investigating officer

1) The responsibilities of the compliance officer and the investigating officer may also be transferred to appropriately qualified external persons or offices.

2) The compliance officers and the investigating officers must have sound knowledge in matters of combating money laundering, predicate offenses of money

laundering, organized crime, and the financing of terrorism, and be familiar with the current developments in these areas.

Article 33

Responsibility of the management

- 1) At least one member of the management shall decide on:
 - a) the initiation of business relationships with politically exposed persons and, annually, on the continuation of such business relationships; and
 - b) the initiation of correspondent banking relationships.
- 2) Persons subject to due diligence with a very extensive asset management business and a multi-stage hierarchic structure may transfer this responsibility to the managing body of a business unit.

IV. Supervision

A. Inspections

Article 34

Basis of the inspections

Inspections pursuant to articles 24 and 25 of the Act shall be based in particular on:

- a) the due diligence files pursuant to article 20, paragraph 1 of the Act;
and
- b) the annual report pursuant to article 21, paragraph 3 of the Act.

Article 35

Formal and material inspections

1) Formal inspections shall include verification whether the legally prescribed data and records are fully available. These inspections constitute a compliance review in which the documentation and safekeeping obligations pursuant to article 20 of the Act are verified.

2) Material inspections shall include an evaluation of the content of the due diligence measures taken. They therefore constitute a plausibility and system review. In particular, it shall be evaluated whether:

- a) appropriate organizational measures have been taken pursuant to article 21 of the Act;
- b) the content complies with the due diligence obligations pursuant to the Act and this Ordinance, 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 article 16, paragraph 1 of the Act has been complied with in light of the outcome of the inquiries carried out; and
- d) any circumstances exist that call into question the guarantee of proper conduct of business and impeccable management required by the Act.

Article 36

Inspection report

- 1) The inspection report shall at a minimum contain:
 - a) information on complaints;
 - b) any violations of the provisions of the Act and this Ordinance;
 - c) any 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 required by the Act appear to be assured.
- 2) The FMA shall specify in more detail the minimum contents of the inspection reports.

Article 37

Safekeeping

- 1) The working papers prepared in the context of inspections and all related documents and data carriers shall be kept in Liechtenstein in a way ensuring that any requests from the responsible domestic authorities can be complied with within an appropriate period of time.
- 2) The working papers, documents, and data carriers shall be kept for a period of ten years after the completion of the corresponding inspections.

B. Mandated Auditors, Auditing Companies, and Auditing Offices subject to Special Legislation

Article 38

Preconditions

1) Proof of participation in external basic and continuing training courses pursuant to article 26, subparagraph 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 article 28, subparagraphs a and b.

2) The independence of the auditor, the auditing companies, and the auditing offices subject to special legislation from the persons 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 subject to due diligence to be audited or of an enterprise associated legally, economically, or personally with such persons;
- b) auditors, auditing companies, and auditing offices subject to special legislation may not participate directly or indirectly in the profit of the persons subject to due diligence to be audited or of an enterprise associated legally, economically, or personally with such persons.

V. Transitional Provisions and Final Clauses

Article 39

Repeal of existing ordinances

The following ordinances are hereby repealed:

- a) Ordinance of 5 December 2000 on the Due Diligence Act (Due Diligence Ordinance), LGBI. 2000 No. 236;
- b) Ordinance of 18 December 2001 on Amendment of the Due Diligence Ordinance, LGBI. 2001 No. 193;
- c) Ordinance of 21 May 2002 on Amendment of the Due Diligence Ordinance, LGBI. 2002 No. 62;
- d) Ordinance of 21 December 2004 on Amendment of the Due Diligence Ordinance, LGBI. 2004 No. 301.

Article 40

Transitional provisions

1) To the extent that banks and postal institutions have to employ a computerized system pursuant to article 19, paragraph 2, such system must be introduced by 1 January 2006 at the latest.

2) The persons subject to due diligence must meet the requirements of article 19, paragraph 3 starting 1 January 2006.

3) If, following the entry into force of this Ordinance, changes arise concerning the beneficial owners of collective accounts, deposits, safe deposit boxes, or policies, the list pursuant to article 10, paragraph 3 shall include the information stipulated in article 3, paragraph 1 for the changed data. Existing law shall apply to the unchanged data.

Article 41

Entry into force

This Ordinance shall enter into force on 1 February 2005.

Government:

signed, *Otmar Hasler*

Prime Minister