

CLIENT DUE DILIGENCE AND OBLIGATION TO REPORT

FOR CIVIL-LAW NOTARIES

Pursuant to the Netherlands *Wet ter voorkoming van witwassenpraktijken of financieren van terrorisme*, the Wwft or Prevention of Money Laundering and Terrorist Financing Act, civil-law notaries must report to the FIU – Nederland any unusual transactions possibly relating to money laundering or terrorist financing. This obligation also applies to intended, but not yet executed transactions. The Wwft Act applies almost to the full scope of civil-law notaries' activities, except family and inheritance law.

Client Due Diligence

Pursuant to the Netherlands *Notariswet* or the Notaries Act, civil-law notaries must establish and verify their clients' identity prior to executing a transaction, through valid original identity documents. The degree of risk attached to a particular client or transaction determines the scope of the due diligence a civil-law notary must perform pursuant to the Wwft Act. For instance, further due diligence must be carried out into politically exposed persons or PEP's, residents of third countries identified by the European Commission as high-risk countries in respect of money laundering and terrorist financing, or into transactions related to these countries.

Client Identity

EU/EEA and Swiss nationals can prove their identity with a valid national passport, a diplomatic passport or a service passport. Residents of the Netherlands can prove their identity with a valid Dutch ID card with a photograph or a valid Dutch driving licence with a photograph. Other individuals can prove their identity with a valid travel document or a valid aliens document. A client's identity can be verified by other professionals in consultation with the civil-law notary.

UBO's and Legal Entities

The identity of a legal entity such as a *BV* (a limited liability company), a *NV* (a public company), or a Foundation can be established by means of an extract from the Trade Register, either as a hard copy or as an electronic extract which can be applied for by the civil-law notary. All individuals having an interest of 25 % or more in a legal entity's capital or having effective control in a legal entity in any other way, have to be known to the civil law notary and, if required, must prove their identity. These individuals are also known as UBO's or ultimate beneficial owners. Pursuant to the Wwft the civil law notary may be under obligation to perform further due diligence.

Obligation to Report

In compliance with their Code of Ethics civil law notaries are not allowed to accept or make payments of 15,000 Euros or more in cash. Moreover, under the Wwft civil law notaries are under obligation to report all cash payments to the FIU – Nederland. As of 25 July 2018 any

cash payments of 10,000 Euros or more made to or by civil law notaries, must be reported, too. This obligation applies to cash funds deposited by a client into a civil law notary's bank account, or any payments of 10,000 Euros or more, made in cash or via a bank transfer by a civil law notary at a client's request. Any cash payments of 10,000 Euros or more a client may intend to make, but has not yet made, must be reported, too.

Civil law notaries do not have to report any (intended) unusual transactions that may be discussed in an exploratory conversation as clients are then free to discuss any subject. The statutory obligations apply from the moment a civil law notary actually sets to proceed with a transaction and it is clear that the requested transaction is subject to the statutory regulation. In that case, civil law notaries are under obligation to report any unusual transaction as specified by law to the FIU – Nederland. Under the statutory provisions a civil law notary is not allowed to inform a client about reporting a transaction.

For questions, contact the Notaristelefoon and speak to a (junior) civil-law notary, on workdays from 9.00 am till 2.00 pm at 0900-346 93 93, at 0,80 € per minute. Or visit www.notaris.nl for up-to-date fees and all publicly available information.

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