

Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of ‘politically exposed person’ 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

### *Article 3*

#### **Simplified customer due diligence**

1 For the purposes of Article 11(2) of Directive 2005/60/EC, Member States may, subject to paragraph 4 of this Article, consider customers who are public authorities or public bodies and who fulfil all the following criteria as customers representing a low risk of money laundering or terrorist financing:

- a the customer has been entrusted with public functions pursuant to the Treaty on European Union, the Treaties on the Communities or Community secondary legislation;
- b the customer’s identity is publicly available, transparent and certain;
- c the activities of the customer, as well as its accounting practices, are transparent;
- d either the customer is accountable to a Community institution or to the authorities of a Member State, or appropriate check and balance procedures exist ensuring control of the customer’s activity.

2 For the purposes of Article 11(2) of Directive 2005/60/EC, Member States may, subject to paragraph 4 of this Article, consider customers who are legal entities which do not enjoy the status of public authority or public body but which fulfil all the following criteria as customers representing a low risk of money laundering or terrorist financing:

- a the customer is an entity that undertakes financial activities outside the scope of Article 2 of Directive 2005/60/EC but to which national legislation has extended the obligations of that Directive pursuant to Article 4 thereof;
- b the identity of the customer is publicly available, transparent and certain;
- c the customer is subject to a mandatory licensing requirement under national law for the undertaking of financial activities and licensing may be refused if the competent authorities are not satisfied that the persons who effectively direct or will direct the business of such an entity, or its beneficial owner, are fit and proper persons;
- d the customer is subject to supervision, within the meaning of Article 37(3) of Directive 2005/60/EC, by competent authorities as regards compliance with the national legislation transposing that Directive and, where applicable, additional obligations under national legislation;
- e failure by the customer to comply with the obligations referred to in point (a) is subject to effective, proportionate and dissuasive sanctions including the possibility of appropriate administrative measures or the imposition of administrative sanctions.

Entity, as referred to in point (a) of the first subparagraph, shall include subsidiaries only in so far as the obligations of Directive 2005/60/EC have been extended to them on their own account.

For the purposes of point (c) of the first subparagraph, the activity conducted by the customer shall be supervised by competent authorities. Supervision is to be understood in this context as meaning the type of supervisory activity with the highest supervisory

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IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

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powers, including the possibility of conducting on-site inspections. Such inspections shall include the review of policies, procedures, books and records, and shall extend to sample testing.

3 For the purposes of Article 11(5) of Directive 2005/60/EC, Member States may, subject to paragraph 4 of this Article, allow the institutions and persons covered by that Directive to consider products which fulfil all the following criteria, or transactions related to such products, as representing a low risk of money laundering or terrorist financing:

- a the product has a written contractual base;
- b the related transactions are carried out through an account of the customer with a credit institution covered by Directive 2005/60/EC or a credit institution situated in a third country which imposes requirements equivalent to those laid down in that Directive;
- c the product or related transactions are not anonymous and their nature is such that it allows for the timely application of Article 7(c) of Directive 2005/60/EC;
- d the product is subject to a predetermined maximum threshold;
- e the benefits of the product or related transactions cannot be realised for the benefit of third parties, except in the case of death, disablement, survival to a predetermined advanced age, or similar events;
- f in the case of products or related transactions allowing for the investment of funds in financial assets or claims, including insurance or other kind of contingent claims:
  - (i) the benefits of the product or related transactions are only realisable in the long term;
  - (ii) the product or related transactions cannot be used as collateral;
  - (iii) during the contractual relationship, no accelerated payments are made, no surrender clauses are used and no early termination takes place.

For the purposes of point (d) of the first subparagraph, the thresholds established in Article 11(5)(a) of Directive 2005/60/EC shall apply in the case of insurance policies or savings products of similar nature. Without prejudice to the third subparagraph, in the other cases the maximum threshold shall be EUR 15 000. Member States may derogate from that threshold in the case of products which are related to the financing of physical assets and where the legal and beneficial title of the assets is not transferred to the customer until termination of the contractual relationship, provided that the threshold established by the Member State for the transactions related to this type of product, whether the transaction is carried out in a single operation or in several operations which appear to be linked, does not exceed EUR 15 000 per year.

Member States may derogate from the criteria set out in points (e) and (f) of the first subparagraph in the case of products the characteristics of which are determined by their relevant domestic public authorities for purposes of general interest, which benefit from specific advantages from the State in the form of direct grants or tax rebates, and the use of which is subject to control by those authorities, provided that the benefits of the product are realisable only in the long term and that the threshold established for the purposes of point (d) of the first subparagraph is sufficiently low. Where appropriate, that threshold may be set as a maximum annual amount.

4 In assessing whether the customers or products and transactions referred to in paragraphs 1, 2 and 3 represent a low risk of money laundering or terrorist financing, Member States shall pay special attention to any activity of those customers or to any type of product or transaction which may be regarded as particularly likely, by its nature, to be used or abused for money laundering or terrorist financing purposes.

Member States shall not consider that customers or products and transactions referred to in paragraphs 1, 2 and 3 represent a low risk of money laundering or terrorist financing if there is information available to suggest that the risk of money laundering or terrorist financing may not be low.