

## **ANTI-MONEY LAUNDERING: SUBSTANTIVE AND PRACTICAL QUESTIONS**

### ***Substantive questions***

1. What is money laundering and what is the anti-money laundering law?
  - If you launder money, **you are hiding the illegal origin of the money**. The illegal origin can, for example, be corruption or drug trade. A simple example of money laundering is depositing funds – originating from drug trade – into a bank account.
  - The anti-money laundering law is a **preventive law** that aimed at preventing and detecting money laundering. The anti-money laundering rules apply to many industries, such as the diamond industry, as well as to banks and the real estate industry. An important component of the anti-money laundering law is that the trader has to identify his client and make a risk assessment. Based on the identified risk, the trader should decide whether to accept or reject the client (and, if necessary, to notify the anti-money laundering unit).
  
2. To whom does the anti-money laundering legislation apply in the diamond industry?
  - To (synthetic) diamond traders, labs, cutters, polishers and brokers. They do **not apply to jewelers!** In case you are not sure whether the anti-money laundering legislation applies to you, please contact the FPS Economy, Diamond Department (diamond@economie.fgov.be).
  
3. When and from whom should I keep anti-money laundering data?
  - Every time you establish a **new client relationship**, you should request for your client's anti-money laundering information before making the first invoice.
  - There is an **exception** that you need not request for anti-money laundering information for the very first transaction with a client for an amount below 10.000 euros. However, if you would sell to this client a second time (regardless of the amount), this is considered as a business relationship and you do need to request for the anti-money laundering information. This exception does also not apply when the client as an elevated risk or when the first transaction is for an amount above 10.000 euros.
  - You only need to identify **suppliers** if you deem they have an elevated risk.
  
4. If I have obtained the anti-money laundering data from the client, should I remain vigilant afterwards?
  - **Even during the business relationship** you need to continue to monitor your client's risk. It is important that you continue to update your client's data (see next question).
  - For example, a client could **become high-risk whilst the business relationship has already been established**, for example when he insists on cash payments above the legal cash limit or when he can be linked to criminal acts reported in the media. In such a case you should perhaps end the business relationship and make a notification to the anti-money laundering unit.
  - **Remain vigilant** during the business relationship at all times!
  
5. When should I update the anti-money laundering data?
  - There is **no legally fixed term**: this entirely depends on how risky you deem the client to be. We recommend to update the data of high-risk clients annually. For other clients this could be done every 2 to 3 years – better not much later than that.
  - Tip: for a client with whom you already have a business relationship, simply share the client's file and ask for written confirmation that everything is still up to date, so you don't have to request all the data again.
  - In your **anti-money laundering policy** you need to indicate the updating policy of your company. (AWDC provides a template for such a policy: <https://www.awdc.be/en/compliance-documents>.)
  
6. How long should I retain the anti-money laundering data?
  - Until **ten years** after the termination of the business relationship.
  - You should also retain the anti-money laundering data of your client that is no longer up-to-date as you need to be able to demonstrate that you have been collecting this data since the start of your business relationship.
  
7. Does it not suffice that my client's identity has already been checked by a bank? Or if my client is a bourse member?
  - No. You need to **identify your own clients yourself**, conduct a risk analysis and take a decision on whether or not to accept the client. Your client should cooperate to this, because otherwise you cannot establish the business relationship. You can, for example, hire an auditor or a book keeper to help you to obtain your client's identity information. However,

do remember that you are personally accountable for any violations of the anti-money laundering law, so make sure that the information is correct and complete.

8. Which things do I need to do under the anti-money laundering legislation?

There are five pillars that you must meet as a diamond trader. To be sure you comply with this legislation entirely, it is advised to follow a seminar on this topic ([www.awdc.be/events](http://www.awdc.be/events)) or to watch a recorded seminar through the ZOOM link (more information below) and read about all your obligations in your anti-money laundering policy ([www.awdc.be/compliance-0](http://www.awdc.be/compliance-0)).

1. Firstly, you should have an **internal policy** on anti-money laundering in your company (you can find a template *anti-money laundering policy* here: <https://www.awdc.be/en/compliance-documents>).
2. Secondly, you should collect the **identity documents and information** from your client (the so-called *KYC* or '*Know Your Customer*' documents). To this purpose, you can use the template client letters of AWDC which are available in several languages: <https://www.awdc.be/en/compliance-documents>.
3. Thirdly, you should make a **risk assessment** of your client (the *risk assessment*).
4. Fourth, you should state in a **written conclusion** whether or not you wish to establish a business relationship with your client, based on the KYC information you have collected and the risk assessment that you've made (the *conclusion*). You can use the AWDC risk assessment template for this purpose: <https://www.awdc.be/en/compliance-documents>.
5. Fifth, you should do a **notification** if you know or suspect that your client is laundering funds or goods.

9. What do the KYC documents consist of?

- This depends on the type of client with whom you wish to establish a business relationship. Below you can find a brief schematic overview of what the KYC documents are. You will see that basically we have incorporated all necessary questions in the AWDC client letter template. However, we recommend you to re-read everything in detail in AWDC's anti-money laundering policy template which you can find here: <https://www.awdc.be/en/compliance-documents>. **Do not forget** that for every type of client mentioned below, you should also still conduct a risk assessment and add a written conclusion (see previous question).

- ***My client is a natural person:***

- You need the following information:
  - i. Surname and name
  - ii. Date and place of birth
  - iii. Address if possible.

These details (i and ii) you can easily obtain through a copy of the identity card!

- ***My client is a Belgian diamond trading company:***

- Go to the website [www.registereddiamondcompanies.be](http://www.registereddiamondcompanies.be) and search the company there. Print out this page or take a screenshot. It is important that you do this before establishing the business relationship because there is a date mentioned on the print, so during an AML inspection one can check whether you have done this! You do not have to get this document signed by the company.
- Remember that a jeweler does not fall under this category! A jeweler is a Belgian company that is not part of the diamond industry.

- ***My client is a Belgian company that is not part of the diamond industry:***

- On <https://www.awdc.be/en/compliance-documents> you can find a client letter (in many different languages) which you can provide to your client and which your client should fill in. All necessary questions have been incorporated in this document. Do note that additional questions or searches may be required as part of your risk assessment.

- ***My client is a foreign company or a foreign person:***

- On <https://www.awdc.be/en/compliance-documents> you can find a client letter (in many different languages) which you can provide to your client and which your client should fill in. All necessary questions have been incorporated in this document. Do note that additional questions or searches may be required as part of your risk assessment.

10. Does it suffice to identify my client's EU VAT number?

- It is always convenient and safe to do so, and as per the **fiscal legislation** this is mandatory to check, however only checking your client's VAT number does not suffice for anti-money laundering purposes. You should always request for all KYC documents and conduct a risk assessment (see above). You can check the EU VAT number on this website: [https://ec.europa.eu/taxation\\_customs/vies/#/vat-validation](https://ec.europa.eu/taxation_customs/vies/#/vat-validation).
11. What are the *ultimate beneficial owners* (UBOs) of a company?
    - On <https://www.awdc.be/en/compliance-documents> you can find a **client letter** which you can provide to your client and which your client should complete. The definition of a UBO is included within. The letter thus explains to your client which information exactly he needs to provide to this end.
    - In brief: it relates to the **natural person(s) who directly or indirectly own 25% of the shares or the voting rights within the company**. Put differently: this person/these persons operate(s) the company behind the scenes.
  12. Why should I identify the ultimate beneficiaries?
    - Because one can commit fraud by **hiding an identity**, by for example setting up a complex company structure in which it is not clear who the actual managers behind the scenes are. Thus, it is necessary to know who these people are to uncover potential money laundering structures or practices.
  13. Where can I find who the ultimate beneficiaries of the company are?
    - For Belgian clients who are also diamond traders, in principle you don't need the UBO information because a print-out from the website [www.registereddiamondcompanies.com](http://www.registereddiamondcompanies.com) suffices (see above). However, for all other Belgian clients (such as jewelers), you can find all UBO information in the **UBO register** ([UBO-register](#) | [Compliance](#) | [FOD Financiën \(belgium.be\)](#)). You can get access through Itsme if you are the director of a diamond trading company. You can also request your client to provide you of an extract of his information in the UBO register.
    - For all other companies abroad that you conduct business with, you should request your client to provide the names of the ultimate beneficiaries of the company. If you use the **AWDC client letter**, this question is included in the form. You can find the client letters in different languages here: <https://www.awdc.be/en/compliance-documents>.
    - Note that if you consider your client as a high-risk client, that the names alone of the ultimate beneficiaries do not suffice. In case of a high risk, these details should be verified against, for example, an organizational chart, shareholders register, extract of the UBO register, ... Verification of the UBOs of Belgian companies (that are not registered as a diamond trader) should, regardless of the risk, be done at least through an extract of the Belgian UBO register.
    - For **publicly listed companies** one is not required to ask for UBO information.
  14. What is a risk assessment?
    - Through a risk assessment, you assess **which risk you are taking** when you would establish a business relationship with a particular client. This assessment depends on two things: *how risky is it to do business with this client?* and *how much risk am I willing/able to take as a trader?*
    - You should conduct this analysis **for everyone, regardless of the type of client** (company, private person, sole proprietorship, ...).
  15. What does a risk assessment consist of?
    - The AWDC **client letter** which you can find here: <https://www.awdc.be/en/compliance-documents>, contains a number of questions which may already flag some important risks to you. That is why in any case we recommend to use the AWDC client letter.
    - For the risk assessment, you can also use the **Bureau Van Dijk compliance catalyst**. This tool screens for, amongst others, the presence of PEP (politically exposed persons), sanctions or negative media related to your client.
    - Finally, **ask your client some extra questions yourself** and search them on **Google**. **References** from other business partners about this client can also be useful.
    - If you use the AWDC **anti-money laundering policy**, you can find a list of examples in the annex which you can take into account. You can find this template on <https://www.awdc.be/en/compliance-documents>.
  16. Which risks should I take into account?
    - There does **not exist a fixed list**. Whether you decide to take on the risk to establish a business relationship, depends on your own assessment.
    - Below is a non-exhaustive list with risks which you could take into account:
      - **Is the client or a family member a politically exposed person (PEP)?**
      - **Has the client been sanctioned?**
      - **Does the client insist on cash payments above the legal cash limit?**

- Is the client active in a **different industry** in which the purchase or sale of diamonds does not logically fit in the company objectives?
- Does the client insist on using **atypical payment methods**?
- Is the client based in a **high-risk country**?
- Is the client linked to **negative media**?
- Is the client **not able or willing to explain why he wants to buy diamonds** or which kind of business relationship he is aiming for?
- Does the client want to buy diamonds through a **third party**?
- Are the **identification details** of the client not official, do they not look authentic or are they not up-to-date or incomplete?
- Does the company have a **complex company structure**?
- Does the client have a **history of bankruptcies**?
- Does the client wish to **execute a complex or unconventionally big transaction** which does not seem to have an economic or legitimate purpose?
- Is the client a Belgian diamond trading company that is **not registered with the FPS Economy**?
- ...

17. What is the *Bureau Van Dijk* compliance catalyst?

- Bureau Van Dijk is an **external data provider** that cooperates with AWDC. For Belgian registered diamond traders, access is for free. Through this database, diamond traders can easily search information about their clients, which is very convenient for KYC information. You can find information on about 250 million companies world-wide. Bureau Van Dijk can for example indicate whether a client has been listed on the FBI most wanted list, whether your client is a *politically exposed person* (PEP) or whether he is included on a sanction list.
- It is **strongly recommended** to conduct this search for each client, also for your Belgian clients! You can try to do this through Google as well, but that will cost you much more time.
- You can log in on [www.registereddiamondcompanies.be](http://www.registereddiamondcompanies.be) to get access to the database. Log in here with your username (this is your registration number) and your password. Once you are logged in, click on *KYC Database – Bureau Van Dijk*. If you forgot your password, click *forgot password* on the login page and a new password will automatically be sent to you.
- If you want to know how Bureau Van Dijk works, you can consult a recorded webinar with Bureau Van Dijk in which is explained how to use the database here: <https://www.awdc.be/en/webinars>.

18. What if the Bureau Van Dijk database indicates a company as high-risk?

- Analyze the risk and first evaluate whether the search result does indeed relate to your client. Sometimes the system gives an alert, but it relates to a person with the same name as your client's, for example. If it does indeed relate to your client, assess whether you find it worth taking the risk to establish a business relationship. If you refuse the client because you deem the risk too high, you should potentially make a notification to the Belgian anti-money laundering unit. Please consult the question on reporting suspicious activities below.

19. What is a *politically exposed person* (PEP)?

- A PEP is a **natural person who holds a prominent public position**. Specifically, this would for example be the case for a minister or a member of parliament.
- In addition, **close family members** (spouse, parents, children) and close associates are also considered as PEP.
- You can find out whether your client is a PEP by consulting **Bureau Van Dijk**.
- Do note that one is still considered a PEP until **12 months after the termination of the position!**

20. What should I do when I want to establish a business relationship with a *politically exposed person* (PEP)?

- The most important thing to verify is where the financial means of the PEP originate from. That is because these persons are considered to be sensitive to corruption. It could thus be the case that the money which you are being paid with is corrupted money! There is a question on politically exposed persons (and the origin of the funds used) incorporated in the **AWDC client letter** (<https://www.awdc.be/en/compliance-documents>), so it is best to use this letter with your clients.
- In general, remain **extra vigilant** with these persons (for example, by conducting a few extra Google searches on them) and when necessary, ask extra questions to be able to make a decent risk assessment. If you are not the director of the company yourself, notify the board of directors and make sure you obtain their approval to establish the business relationship.

21. What is a *high-risk country*?

- On <https://financien.belgium.be/nl/landen-met-een-hoog-risico> you can find a current list of countries that are considered as high-risk countries. People and companies established in these countries are automatically considered as high-risk.
22. What should I do if I wish to engage in a business relationship with a client from a high-risk country?
- Again, there should be an **increased vigilance** as compared to a client that is not based in a high-risk country. Below are a few steps which you should undertake:
    - Ask for **additional information** about the client and the ultimate beneficiaries, for example by requesting for the identity documents of the ultimate beneficiaries.
    - Ask for the **nature of and the reason for the business relationship** which they wish to establish.
    - It is very important to find out the nature of the **client's financial resources** and UBOs!
    - Does your client use a **bank** that maintains a similar level of vigilance?
    - If applicable: ask **permission from the board** or the anti-money laundering responsible before establishing the business relationship.
  - There is a question on clients from high-risk countries in the **client letter** (<https://www.awdc.be/en/compliance-documents>), so use this with your clients to be sure that you ask your client the right questions.
23. How should I assess whether the financial resources of my client are reliable?
- **Use the AWDC client letter** (<https://www.awdc.be/en/compliance-documents>). In this letter you can let your client disclose the source of his financial resources and have him declare that these financial resources are not illegal.
  - You can always ask **additional questions** to obtain explicit proof of the financial resources.
  - Note that this is only required when your client is a PEP or when he is based in a high-risk country, or when you consider the client to be high-risk and wish to obtain additional information.
24. Should I identify my suppliers as well?
- Only if they are high-risk. Do you not consider them to be high-risk? Then you need not obtain KYC information from your supplier.
25. I have obtained the KYC information from my client and have conducted a risk assessment. Now what?
- You should **decide whether to accept or reject the client**. To help you with this assessment, AWDC offers another template: 'conclusion KYC and risk assessment' on <https://www.awdc.be/en/compliance-documents>.
  - In this template, you make a **short report** in which you state whether you agree to establish the business relationship. Also when you decide to refuse, you should mention this here.
  - Add the template to every client file.
26. Should I report suspicious activities and how can I do this?
- Yes! You are legally held to do so. You also enjoy immunity yourself, so you do not risk being prosecuted yourself.
  - Reporting can be done to us ([trst@awdc.be](mailto:trst@awdc.be)) and to the financial intelligence unit directly ([info@ctif-cfi.be](mailto:info@ctif-cfi.be)). They will then report this to the public prosecutor and possibly to the police.
27. What is an anti-money laundering policy and how do I make one?
- This is the policy which you as a company have implemented to combat money laundering. It is mandatory to have this within your company. You can use the document that AWDC provides to this end: <https://www.awdc.be/en/compliance-documents>. Read it, complete it and have it available in your office.
28. What is an anti-money laundering officer?
- You are required to appoint **one director** as anti-money laundering responsible. This director will verify whether the company's anti-money laundering policy is being complied with. He will also conduct the identification and risk assessment of the clients. He has a duty to remain vigilant: he should remain vigilant towards his clients, even after the first step of the business relationship has been made.
  - In addition to the anti-money laundering officer, **optionally one or more assistants** can be appointed who support the anti-money laundering responsible.
  - It is important that during an anti-money laundering inspection, you are able to provide a clear answer to the question who the anti-money laundering responsible(s) is/are within the organization and, if applicable, by whom they are supported.
29. What with GDPR? What if my client does not want to provide me information?

- You should inform your client that **according to the anti-money laundering legislation**, you are entitled and required to collect his data. If he continues to refuse, you cannot establish a business relationship. Write this in the conclusion that you have not been able to conclude the transaction or relationship, considering the client does not want to provide any or all required documentation.
  - A client who does not want to provide information or for whom this is a big issue, could also indicate a high risk. If your client wishes to remain anonymous, it is recommended to report this to the financial intelligence unit.
30. What is the legal cash limit in Belgium?
- In Belgium, there is a cash limit of 3.000 EUR.
31. Can I receive cash in another country?
- If you receive cash in a different country, you should respect the prevailing cash limit of that country. A transaction in Hong Kong, for example, is conducted as per the cash limit in Hong Kong. Do note that if you bring more than 10.000 EUR cash into the European Union, you need to declare this at customs.
  - The European Union is currently working on the establishment of a uniform cash limit for all member states.
  - If your client insists on paying a big amount of money only with cash, this can indicate a high risk.
32. Why does cash money entail a higher risk?
- Because it is more difficult to trace the origin of cash money than it is for wire payments. For that reason many criminals prefer to use cash.
33. How do I prepare for an anti-money laundering inspection?
- It is important that the inspection knows where to find you. The FPS Economy should be able to contact you and find you at the **registered address of your company**.
  - Make sure that all **anti-money laundering documentation**, invoices and cash books can be found at this location.
  - Make sure you have appointed an **anti-money laundering officer** and, if necessary, an assistant. You should be able to state clearly which person(s) hold(s) this position within your company.
  - Make sure to have an **anti-money laundering certificate** by annually attending a seminar.
  - You should have an **anti-money laundering policy document**.
  - Ensure that your **anti-money laundering file per client is complete**.
  - Make sure you are able to explain what a **risk analysis** is and how you have applied this per client.
  - Ensure that you have used **Bureau Van Dijk** whilst conducting the risk assessment. You can prove this by adding the Bureau Van Dijk search results to your client's information.
  - It is very important that the information in the **KYC documents date from before the establishment of the business relationship**.
  - Make sure you respect the legal cash limit of 3.000 EUR in Belgium.
  - You should be able to provide the annual anti-money laundering activity report. This can be a print or an online copy.
  - **Make sure you understand the law!** The inspection could ask you theoretical questions to assess whether you understand the law (for example: what is the financial intelligence unit (*CFI*, or *Cel voor Financiële Informatieverwerking in Dutch*)? Or what if I want to do business with a high-risk client?).
34. What are the sanctions in case of non-compliance with the anti-money laundering legislation?
- The fines can be high, so make sure you comply with the anti-money laundering legislation correctly.
35. What is supply chain due diligence (SCDD)? Is this the same as anti-money laundering?
- No, this has nothing to do with anti-money laundering legislation. SCDD relates to investigating the origin of the diamonds which you trade (for example, whether there have been human rights violations at the mining stage or during the trade of the diamonds).
  - Currently in Belgium there is no legal obligation to apply these rules. It only relates to big firms. However, do expect that in the future diamond traders will have to apply these rules as well.
  - AWDC has an SCDD policy and handbook which you can consult at: [https://www.awdc.be/en/supplychainduediligence#:~:text=In%20the%20context%20of%20diamonds,\(child\)%20labor%2C%20](https://www.awdc.be/en/supplychainduediligence#:~:text=In%20the%20context%20of%20diamonds,(child)%20labor%2C%20)

## ***Practical and administrative questions***

36. Where can I find templates for anti-money laundering related documents?
- You can find all templates at <https://www.awdc.be/en/compliance-documents>. We recommend you to use these documents!
37. What is my registration number and where can I find it?
- Consult the search engine at [www.registereddiamondcompanies.be](http://www.registereddiamondcompanies.be), where you can search based on your company name or VAT number.
38. How do I register for an anti-money laundering seminar?
- You can do this online at [www.awdc.be/events](http://www.awdc.be/events). Here you can also find when seminars are held.
  - Do you not wish to wait for a seminar and **do you immediately need a certificate of participation?** Mail [trst@awdc.be](mailto:trst@awdc.be). You will receive a zoom link for a recorded seminar which you can watch and afterwards, you get in touch again. You will then receive a certificate per mail after answering a few questions.
39. What types of anti-money laundering seminars are there? For which anti-money laundering seminar do I receive a certificate of participation?
- We organize 3 types of **anti-money laundering** seminars:
    - Complete A-to-Z seminars of 60 minutes (for beginners).
    - Short update seminars of 30 minutes (for advanced participants).
    - Seminars of one hour related to how to fill in an anti-money laundering report.
  - A certificate of participation is provided for each type of seminar. Do make sure that someone from your company participates to the 60 minutes seminar once a year, because this is the only seminar that fully explains the law!
  - **Keep the participation certificate** in your office. In case of an anti-money laundering inspection, you should be able to provide this.
40. How often should I attend an anti-money laundering seminar?
- At least once a year. Soon it will be possible to do this once every three years, if you pass a multiple choice exam of 20 questions.
  - Because the anti-money laundering legislation changes regularly, we recommend to follow a long course once every 2 to 3 years and to otherwise follow the short update course.
41. When should I obtain a certificate of participation for the first time?
- Diamond traders who have just registered, should send their proof of participation to the FPS Economy (Mr. Daniel Daeyaert -- [Diamonds@economie.fgov.be](mailto:Diamonds@economie.fgov.be)).
42. What is the annual anti-money laundering report?
- At the beginning of every year, every company should submit an anti-money laundering report to the FPS Economy. You do this by filling in the questionnaire.
  - [www.registereddiamondcompanies.be](http://www.registereddiamondcompanies.be): Log in here – usually mid-January – with your registration number as username and your password (if you have forgotten your password, click on *forgot password*). To submit it here, click on ‘AML report’, then on the year for which you want to submit the report (this is the previous year). Complete it and then click on *submit*. The report has now automatically been sent to the FPS Economy.
  - On this website you can also consult your previous reports and a manual on anti-money laundering reports.
  - The report always relates to the previous year. In the beginning of 2024 you will thus file the report for 2023. A newly registered company thus starts reporting in the year following on the registration.
43. What is MyAWDC? What is the difference with Registered Diamond Companies?
- These are two different platforms! MyAWDC is managed by AWDC and relates to all your interaction with AWDC (invoices, Diamond Office shipment tracking, declarations, trade fairs, ...). If you wish to make use of this, you should register on [www.awdc.be/login-to-myawdc](http://www.awdc.be/login-to-myawdc), where you can find further instructions.
  - Registered Diamond Companies is managed by the government, not by AWDC. It gives you an overview of all Belgian registered diamond companies and through it you can get access to Bureau Van Dijk and your anti-money laundering reports.
44. Do you have further questions?

- Get in touch with [trst@awdc.be](mailto:trst@awdc.be).