

Money Laundering Prevention - Display appointment of a (Group-) Money Laundering

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Money Laundering Prevention - Display appointment of a (Group-) Money Laundering Officer

As an obligated party under the Money Laundering Act (GwG), you may be required to appoint a money laundering officer at management level and a deputy.

The **Money Laundering Officer** is responsible for compliance with money laundering regulations. He is directly subordinate to the management.

The most important tasks of an anti-money laundering officer include the following:

- You are the point of contact for the law enforcement authorities, the Central Financial Transaction Investigation Unit (FIU) and for the supervisory authority, who check compliance with the due diligence obligations.
- You are responsible for conducting and updating the risk analysis, designing internal safeguards and monitoring compliance with due diligence obligations within the company.
- You submit suspicious activity reports to the Central Financial Transaction Investigation Unit (FIU) or respond to requests for information from these bodies.

As a **mother company of a group of companies**, you are also obliged under the Money Laundering Act (GwG) to appoint a **group money laundering officer** and his deputy. This applies to all obligated parties according to § 2 section 1 GwG. The group money laundering officer is responsible for compliance with money laundering regulations within the group. The **group money laundering officer does not replace the** money laundering officers that may be required at the group member companies, but performs additional functions.

The key responsibilities of a group or group money laundering officer include, but are not limited to:

- They ensure the creation of a uniform group-wide strategy for the prevention of money laundering and terrorist financing, as well as its coordination, monitoring and enforcement within the group or group of companies.
- You are responsible for the creation and implementation of binding cross-company procedures for the implementation of money laundering obligations in the group's branches, subsidiaries and affiliated companies at home and abroad. In doing so, they develop their own security measures to be applied within the entire group for the respective obligor groups in the group and adapt them individually to the respective different obligor characteristics (e.g. one strategy for financial companies, another for motor vehicle dealers, etc.).
- keep them informed about compliance with money laundering obligations in the branches, subsidiaries and group companies at home and abroad. At regular intervals - also by means of on-site visits - monitor compliance with the obligations under money laundering law or take the necessary measures

to ensure that these are effectively implemented.

The competent authority must be notified in advance of the appointment of the (group) money laundering officer and his deputy.

Procedure:

1. As an obliged person, you notify the competent authority in advance of the appointment of a (group) money laundering officer and his deputy for your company.
2. Your notification will be examined by the competent authority.
3. You will receive a final notification.

If the person does not have the required qualification or reliability, the appointment of the (group) money laundering officer or the deputy must be revoked and a new person must be appointed at the request of the supervisory authority.

Prerequisites

- **Obligated parties according to the Money Laundering Act**

(https://www.gesetze-im-internet.de/gwg_2017/_2.html)

Natural or legal entities are legally obliged to notify a **Money Laundering Reporting Officer** if they act as

- 1. financial enterprises
- 2. bookmakers
- 3. casinos
- 4. operator of a betting agency

are active.

Only legal entities that act as a group or group mother company as a

- 1. financial enterprises
- 2. insurance intermediaries domiciled abroad, insofar as they maintain branches in Germany
- 3. service providers for companies and for trust assets or trustees, if they provide the services specified in § 2 section 1 no. 13 GwG to third parties
- 4. real estate agents
- 5. bookmakers
- 6. casinos
- 7. operator of a betting agency
- 8. commodity dealers, art brokers and art warehouse keepers, insofar as the warehousing takes place in duty-free zones

are active.

- **Power of representation**

The person making the notification must be a member of the management or an internal/external (group) money laundering officer of the company.

The legal counsel of the obliged person may also make the report upon presentation of the original power of attorney and designation of the subject matter.

- **Company based in Germany**

(https://www.gesetze-im-internet.de/gwg_2017/_7.html)

The (group) money laundering officer and if applicable his deputy must practice their activities in Germany.

- **Personal reliability and qualification**

(https://www.gesetze-im-internet.de/gwg_2017/_7.html)

The (group) money laundering officer and his deputy must prove the required personal reliability and professional qualification.

Documents required

- **Notification of the appointment of a (group) money laundering officer and his deputy**

The notification is possible in text form, please use the offered online procedure as a preferred option.

- **Evidence of authorisation to notify**

- Proof of appointment as (group) money laundering officer or
- Contract on the outsourcing of internal security measures or
- Evidence that the person making the report is a member of the management level of the company (e.g. extract from the commercial register or shareholders' agreement) or
- If applicable, an original mandate of the representing legal counsel related to the individual case.

- **Evidence of qualification**

The future (group) money laundering officers and deputies are each required to provide:

- a curriculum vitae in tabular form of their professional career and
- if applicable, certificates of attendance or certificates of attended further training or comparable qualification measures.

- **Certificate of good conduct for presentation to an authority**

(<https://service.berlin.de/dienstleistung/120926/>)

In order to verify personal reliability, information from the Federal Central Register (certificate of good conduct) is required for submission to an authority (document type O).

- The information must not be older than three months.
- When applying, please state "Bestellung als Geldwäschebeauftragter nach GwG" as the purpose of use. The receiving authority for the certificate is the supervisory authority named under "Competent authorities"; you will find the current addresses there.

- **Excerpt from the central business register for presentation to an authority**

(<https://service.berlin.de/dienstleistung/327835/>)

In order to verify personal reliability, information from the Central Commercial Register is required for submission to an authority (document type 9).

- The information must not be older than three months.
- When applying, please state "Bestellung Geldwäschebeauftragter nach GwG" as the purpose of use. The receiving authority for the certificate is the supervisory authority named under "Competent authorities"; you will find the current addresses there.

- **Up to date excerpt from the Trade Register, if applicable**

(<https://www.handelsregister.de/>)

Registered companies please submit a current excerpt from the commercial register. Legal entities in the process of formation (GmbH, AG) please submit the company agreement or articles of association.

Fees

none

Legal basis

- **Money Laundering Act (Geldwäschegesetz - GwG) § 7 section 1 sentence 1 & section 4 sentence 1**
(https://www.gesetze-im-internet.de/gwg_2017/__7.html)
- **Money Laundering Act (Geldwäschegesetz - GwG) § 9 section 1 sentence 2 No. 2**
(https://www.gesetze-im-internet.de/gwg_2017/__9.html)

More information

- **Information about prevention of money laundering by the Senate Department for Economics**
(<https://www.berlin.de/sen/wirtschaft/wirtschaftsrecht/geldwaesche/artikel.1112998.en.php>)
- **Casinos: Gambling Supervision at the Senate Department of the Interior**
(<https://www.berlin.de/sen/inneres/buerger-und-staat/weitere-themen/gluecksspielaufsicht/artikel.103276.php>)
- **Basic Information Money Laundering Act for Obligated Persons in the Gambling Sector of the LABO**
(https://www.berlin.de/labo/_assets/buergerdienste/20190311-basisinformati-on-gwg-gluecksspielsektor.pdf)
- **Notes on the interpretation and application of the Money Laundering Act (AMLA)**
(https://www.berlin.de/labo/_assets/buergerdienste/20190204_aua-gwg-gluecksspiel-stand-1-2-2019.pdf)
- **First National Risk Analysis**
(https://www.bundesfinanzministerium.de/Content/DE/Downloads/Broschuere_n_Bestellservice/2019-10-19-erste-nationale-risikoanalyse_2018-2019.html)
- **Central Office for Financial Transaction Investigations (FIU)**
(https://www.zoll.de/DE/FIU/fiu_node.html)

Average time to process request

<https://www.ea.berlin.de/intelliform/forms/eu-dlr-ng/gewerbe/Geldwaeschepraevention/index>