



Frankfurt am Main,
20 January 2016

BVI Position on Joint Guidelines under Article 17 and 18(4) of Directive (EU) 2015/849 on simplified and enhanced customer due diligence and the factors credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions

BVI¹ fully supports the process of EU integration in the area of prevention of the use of the financial system for the purposes of money laundering or terrorist financing and the implementation of regulatory technical standards in financial services to ensure consistent harmonization.

For all of ESAs' regulatory actions should be ensured that they have a basis in the EU-legislative framework. This seems not to be the case for all approaches. Some aspects require further analysis in light of Directive (EU) 2015/849. We refer to those specific cases in our comments below.

19.5. Does the customer have political connections, for example, are they a Politically Exposed Person (PEP), or is their beneficial owner a PEP? Does the customer or beneficial owner have any other relevant links to a PEP, for example, are any of the customer's directors PEPs and if so, do these PEPs exercise significant control over the customer or beneficial owner? Where a customer or their beneficial owner is a PEP, firms must always apply enhanced due diligence measures in line with Article 20 of Directive (EU) 2015/849.

The initial Customer Due Dilligence must adhere to the legal requirements. Within the scope of initial CDD the verification of the customer's director PEPs is not required by the Directive (EU) 2015/849. Such an obligation leads to an enlargement of the group of persons which should be examined on their PEP-characteristic. According to Article 20 of Directive (EU) 2015/849 the PEP-characteristic must be verified only relating to the customers themselves or their beneficial owner.

19.6. Does the customer or beneficial owner hold another public position that might enable them to abuse public office for private gain?

These circumstances are regularly unknown. Requiring this kind of information would establish a corresponding obligation to check, because this information does not belong to the regular dataset of the customer. The criterion would be acceptable if common understanding is that this fact leads to a higher risk situation in case it has been discovered by chance.

¹ BVI represents the interests of the German investment fund and asset management industry. Its 92 members manage assets of some EUR 2.6 trillion in UCITS, AIFs and assets outside investment funds. As such, BVI is committed to promoting a level playing field for all investors. BVI members manage, directly or indirectly, the assets of 50 million private clients over 21 million households. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.



22. When identifying the risk associated with countries and geographic areas, firms should consider the risk related to: a) the jurisdiction in which the customer or beneficial owner is based; b) the jurisdictions which are the customer's or beneficial owner's main place of business; c) the jurisdiction to which the customer or beneficial owner has relevant personal links.

The term "should" should be replaced by "may". Firms usually don't know the address of the beneficial owner, because so far no requirement to ascertain this information exists. Therefore, this cannot be made as a mandatory requirement. The same applies for letter b) and c). Legally, customer's or beneficial owner's main place of business need not be obtained. Normally, the main place of business is not known. This information should not be made as a mandatory requirement. Also Firms don't know regularly the jurisdiction to which the customer or beneficial owner has relevant personal links, because there is no legal requirement for this. Neither does the information belong to the regular dataset of the customer.

106. Where the risk associated with a business relationship or occasional transaction is increased, banks must apply EDD measures which may include:

- **verifying the customer's and the beneficial owner's identity on the basis of more than one reliable and independent source;**

In some cases it is difficult in practice to obtain even one reliable data source to verify the beneficial owner's identity. Requiring two reliable sources is only acceptable if one source is the central register referred to in article 30 (3) of Directive (EU) 2015/849.