

# PlasBossinade

advocaten notarissen

## **Know-your-customer check and notification duty for lawyers – Wwft**

Lawyers (and many other service providers, such as (junior) civil-law notaries, accountants and banks) are required by law to conduct a know-your-customer check. Lawyers are furthermore required, under the Dutch Money Laundering and Terrorist Financing (Prevention) Act (*Wwft*), to report unusual transactions.

The Wwft (the “Act”) and its consequences are briefly discussed below.

### **Wwft - explanation**

The Dutch Money Laundering and Terrorist Financing (Prevention) Act (*Wwft*) imposes various duties aimed at timely identifying and countering money laundering and terrorism financing.

If PlasBossinade Advocaten accepts an engagement, it must assess whether the engagement falls under the scope of the Act. If that is the case, a know-your-customer check must be conducted and all completed or intended unusual transactions must be reported.

### **Know-your-customer**

By law, a lawyer is required to verify the identity of his or her client at all times (whether it concerns a natural person or a legal entity, including their representatives). If a file is subject to the Act, a lawyer is furthermore required to complete an additional check. The scope of this check depends on the nature of the services provided (whether providing the service involves a risk of money-laundering or terrorism financing) and the parties involved. Your lawyer will inform you if your file is subject to the Act, and will ask you to provide additional information. If you do not provide this additional information, your lawyer may not provide the services to you.

### **Client identification – natural persons**

In the Netherlands, a natural person’s identity may be verified with the help of his or her valid passport, a diplomatic passport, a valid Dutch identity card, or a valid photo driving licence the holder of which resides in the Netherlands. The identity of other people may be verified by way of a valid travel document or a valid alien’s document. If your file is subject to the Act, your lawyer is obliged to make a copy of your ID document and keep it in your file. In consultation with the lawyer, your identity may also be verified by another professional practitioner (e.g., a lawyer or civil-law notary in your place of residence).

Naturally, all data you provide to the lawyer will be treated confidentially. This data, for instance, will not be shared with and cannot be requested by the (junior) civil-law notaries of our firm without your consent.

### **PEP**

A PEP (a politically exposed person) is a person who holds a prominent public position. If a file is subject to the Act, the lawyer is required to verify whether the client and/or the UBO or pseudo-UBO is a PEP. If that is the case, an in-depth know-your-customer must take place and your lawyer will ask you to provide additional information.

The questions regarding PEP and UBO will be found under the identification link that will be sent to you by PlasBossinade upon intake of the file. For more information, please also refer to our website.

### **Client identification – legal entities**

The identity of a legal entity, e.g., a private or public company, may be established on the basis of an extract from the commercial register. This extract is requested from the commercial register by the lawyer.

If the extract states the name of our contact person at your company, this sufficiently establishes the identity of the contact person. If the extract does not state the name of our contact person at your company, the contact person will be asked to identify him/herself by means of a valid ID document.

# PlasBossinade

advocaten notarissen

## **UBOs of legal entities**

If a file is subject to the Act, the lawyer is required to establish – in case of a legal entity - who the ultimate beneficial owner is of the legal entity's assets or who ultimately controls the legal entity. The legislator has formulated for each type of legal entity a number of criteria, on the basis of which the "ultimate beneficial owner(s) (UBOs)" is/are identified.

The questions regarding UBO will be found under the identification link that will be sent to you by PlasBossinade upon intake of the file.

If it is not possible to identify a natural person as UBO, or if there are doubts about the UBO, the legal entity is obliged, under the Act, to designate a natural person who is part of the senior executive staff of the legal entity (e.g., one or more of its registered directors) as "pseudo-UBO".

## **Investigation of the source of wealth.**

If a file is subject to the Act, a lawyer is required by law to investigate the source of wealth involved in a transaction. In that case, your lawyer will ask you to make a statement about this during the intake procedure. If necessary, your lawyer will ask you to provide additional information further to this declaration.

## **Reporting cash payments**

Pursuant to the Act, a lawyer is required to report cash payments to FIU (Financial Intelligence Unit) Netherlands, the centre for reporting unusual transactions. This notification duty exists for all (cash) transactions in excess of the amount set within the context of the Act, paid to or with the intervention of the lawyer in cash, by bearer check, a prepaid payment method (prepaid card), or similar means of payment.

## **Reporting unusual transactions**

A lawyer is obliged to report all unusual transactions to FIU Netherlands. This refers to transactions that give rise to a suspicion that they may involve money-laundering or terrorism financing. Suspicion surrounding an unusual transaction may already constitute sufficient reason to report the transaction. Whether a transaction is suspicious depends on a number of indicators listed in guidelines and manuals adopted by professional bodies and/or regulators. It is not up to the lawyer him/herself to determine whether money-laundering or terrorism financing is involved. The notification duty also applies in respect of intended transactions, i.e., those that have not (yet) been carried out.

The notification duty does not apply in case of a preliminary interview with the lawyer, but only once the lawyer has accepted the engagement and it becomes clear that the requested transaction falls under the scope of the statutory regulations. In that case, the lawyer is obliged to report any unusual transactions to FIU Netherlands. By law, the lawyer may not inform the client that he/she is reporting, or intends to report, the transaction to FIU Netherlands.

## **In conclusion**

We are aware that complying with these statutory regulations requires an extra effort on your part. However, failure by your lawyer to comply with his/her statutory investigative and notification duties constitutes a criminal offence which leaves him/her open to criminal charges. PlasBossinade Advocaten hopes that you understand that and why the Dutch government requires strict compliance with these regulations and appreciates your cooperation in this respect.

Naturally, our staff are able to provide you with any additional information you may require on this subject. More information on this subject is also available on the website of FIU Netherlands: [www.fiu-nederland.nl](http://www.fiu-nederland.nl).

October 2023