

Belgian Audit Oversight Board AML Recommendation of 7 September 2023

Scope:

Natural persons or legal entities that carry on activities in Belgium and that are registered or enrolled in the public register kept by the Institute of Registered Auditors (Instituut van de Bedrijfsrevisoren/Institut des réviseurs d'entreprises) and trainee auditors who are natural persons.

Summary/Objective:

This recommendation specifies and clarifies the AML obligations that apply to natural person trainee auditors, and the way in which their traineeship supervisor or the audit firm where the traineeship supervisor works has handled these obligations.

- **Belgian Audit Oversight Board (BAOB) as supervisor of compliance with AML obligations**

Article 85, § 1, 6° of the AML Law¹ designates the BAOB as supervisor of compliance with the AML Law, including by auditors and trainee auditors. In this capacity, the BAOB may, pursuant to Article 86, § 2, first paragraph, 1° of the AML Law, draw up recommendations to clarify the scope of their AML obligations.

- **Trainee auditors and their AML obligations in terms of organization and internal control**

Because trainee auditors are subject to the AML Law, they are as a matter of principle required to put in place a structure and internal control that fulfils all their AML obligations. These obligations are summed up in Articles 8 through 11 of the AML Law. They include developing and implementing effective rules of conduct, procedures and internal control measures (hereafter the 'AML/FT procedures').

For the purposes of this provision, a distinction is to be made among three categories of trainee auditors:

- those who are bound by an employment agreement with a legal entity;
- those who are bound by an employment agreement with a non-legal entity;
- Those who are bound by a self-employed service provider contract;

Trainee auditors who are bound by an employment agreement with a legal entity

These trainee auditors, who carry out their professional activity as an employee of a legal entity, are exempted by Article 12 of the AML Law from the above-mentioned obligations under the AML Law. In such cases, the AML obligations regarding the organization and internal control are incumbent on the legal entity and not the trainee.

¹ Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash.

Trainee auditors who are bound by an employment agreement with a non-legal entity

These trainees must fulfil the above-mentioned obligations under the AML Law. Trainee auditors who are employees of a non-legal entity cannot invoke the provisions of Article 12 of the AML Law.

The BAOB recommends for the latter category of trainee auditors that they include a clause regarding the above-mentioned obligations under the AML Law in the employment agreement they sign with their traineeship supervisor or with the audit firm where that supervisor works.

The clause should specify that it is the AML/FT procedures of the traineeship supervisor, or of the audit firm where the traineeship supervisor works, that apply for purposes of the trainee's activities during his or her traineeship.

Trainee auditors who are bound by a self-employed service provider employment agreement

These trainees must fulfil the above-mentioned obligations under the AML Law. Trainee auditors who are self-employed service providers to a legal entity or a non-legal entity cannot invoke the provisions of Article 12 of the AML Law.

The BAOB recommends, for this category of trainee auditor, to include a clause regarding the above-mentioned obligations under the AML Law in the self-employed service provider contract they enter into with their traineeship supervisor or with the audit firm where that supervisor works.

The clause should specify that it is the AML/FT procedures of the traineeship supervisor, or of the audit firm where the supervisor works, that apply for purposes of the trainee's activities during his or her traineeship.

The BAOB emphasizes that every trainee auditor, regardless of his or her status under employment law, who wishes to start their own activities outside the confines of their traineeship, must fulfil all AML obligations regarding organization and internal control as regards his or her regulated professional activities.

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