RISK-BASED INDUSTRY BASELINE

Client data actualisation

Dutch Banking Association

CONTEXT

Introduction

Client data [1] is an important foundation for a bank's effective financial crime control framework as it allows banks to adequately assess client integrity risks. Banks are obliged to obtain data on (amongst others) their clients, representatives and UBO's. Actualisation of client data can be performed risk-based. In order to do so, banks have a data management process in place covering the moment and method of actualising client data.

This NVB Industry Baseline describes the risk-based Dutch banking practice to identify the client data banks are obliged by law to obtain and clarifies how to actualise in a risk-based manner — including moments, methods and sources [2].

This NVB Industry Baseline outlines the following important principles:

- **Completeness of data**
  Banks always strive for completeness regarding all client data that is needed to assess ML/TF risks, including client data that is obliged by law to record.
- **Correctness of data**
  If a bank has no indication that existing client data is incorrect, client data does not need to be actualised (conditional on the bank having effective detection systems and processes in place).

- **Risk-based approach**
  Different data points can have different risk relevance, amongst others based on client portfolio risks, risk model and linked data model. Banks can adjust the moment and method (including the sources) of data actualisation accordingly. This demonstrates the risk-based approach towards actualising client data and can also encompass accepting the (residual) risk that specific client data is potentially incorrect or outdated.
- **Sources**
  Client data can be derived by internal data analysis (e.g. purpose & nature, ETP and country of residence can be derived from transaction data, product use or specific relevant client group data). Access to public registers to (automatically) update client data contributes to increased efficiency and effectiveness and is a desired state for banks.

Positioning within the Financial Crime Framework

Data actualisation is part of ongoing due diligence (hereafter: ODD) where banks have risk-based processes in place to strive for complete and correct client data.
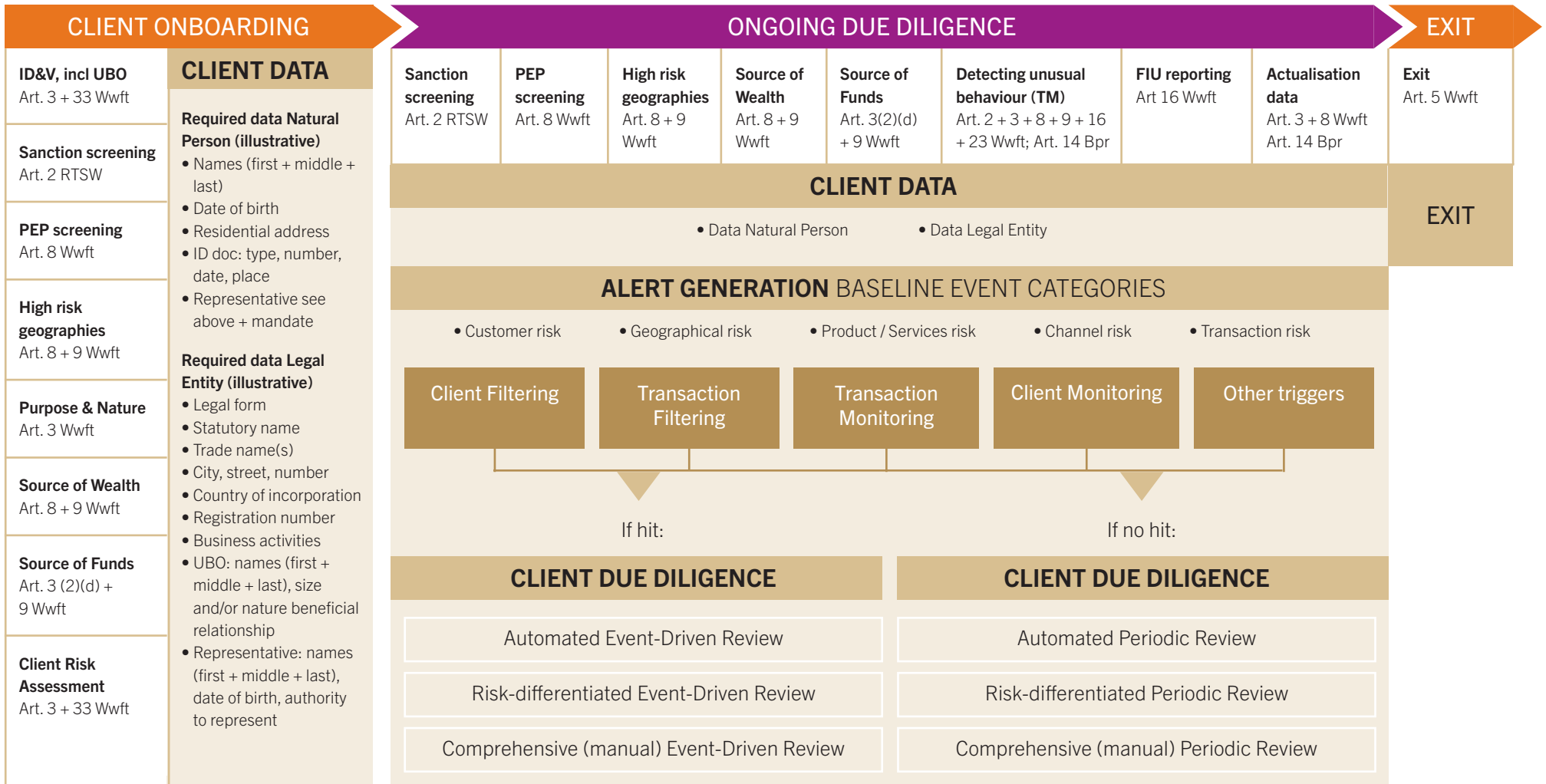
In scope [3] of this NVB Industry Baseline is the client data that banks are obliged by law to obtain and retrieve (Wwft, RTSw) and the activities a bank performs to actualise client data during the relationship with their client. The Industry Baseline commences with the client data in scope, followed by details on moments, methods and sources of data actualisation and demonstrating effective implementation of risk-based client data actualisation. Additionally it provides more practical examples on client data actualisation in various scenarios.

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1   Client data concerns both static data points (e.g. name or date of birth) and dynamic client information that can change over time (e.g. organisational structure).
2   Note that this NVB Industry Baseline is mainly oriented on clients of banks that are residing or based in the Netherlands. The approach described in the baseline might be less feasible in more complicated cases (e.g. natural persons who are not residing in the Netherlands, foreign legal persons). In these cases, banks should consider taking additional measures in order to keep the risk profile of the client actualised.
3   Out of scope is all specific data related to performing Simplified Due Diligence and Enhanced Due Diligence (e.g. Art 6, 8, 9 Wwft) and the documents used for the verification of data points during client acceptance (for verification of UBO information, please see the Industry Baseline 'UBO identification and verification of the UBO's identity').

FINANCIAL CRIME FRAMEWORK

CLIENT ONBOARDING

ID&V, incl UBO
Art. 3 + 33 Wwft

Sanction screening
Art. 2 RTSW

PEP screening
Art. 8 Wwft

High risk geographies
Art. 8 + 9 Wwft

Purpose & Nature
Art. 3 Wwft

Source of Wealth
Art. 8 + 9 Wwft

Source of Funds
Art. 3 (2)(d) + 9 Wwft

Client Risk Assessment
Art. 3 + 33 Wwft

CLIENT DATA

Required data Natural Person (illustrative)
• Names (first + middle + last)
• Date of birth
• Residential address
• ID doc: type, number, date, place
• Representative see above + mandate

Required data Legal Entity (illustrative)
• Legal form
• Statutory name
• Trade name(s)
• City, street, number
• Country of incorporation
• Registration number
• Business activities
• UBO: names (first + middle + last), size and/or nature beneficial relationship
• Representative: names (first + middle + last), date of birth, authority to represent

ONGOING DUE DILIGENCE

Sanction screening
Art. 2 RTSW

PEP screening
Art. 8 Wwft

High risk geographies
Art. 8 + 9 Wwft

Source of Wealth
Art. 8 + 9 Wwft

Source of Funds
Art. 3(2)(d) + 9 Wwft

Detecting unusual behaviour (TM)
Art. 2 + 3 + 8 + 9 + 16 + 23 Wwft; Art. 14 Bpr

FIU reporting
Art 16 Wwft

Actualisation data
Art. 3 + 8 Wwft
Art. 14 Bpr

CLIENT DATA

• Data Natural Person   • Data Legal Entity

ALERT GENERATION BASELINE EVENT CATEGORIES

• Customer risk   • Geographical risk   • Product / Services risk   • Channel risk   • Transaction risk

| Client Filtering | Transaction Filtering | Transaction Monitoring | Client Monitoring | Other triggers |

If hit:

If no hit:

CLIENT DUE DILIGENCE

Automated Event-Driven Review

Risk-differentiated Event-Driven Review

Comprehensive (manual) Event-Driven Review

CLIENT DUE DILIGENCE

Automated Periodic Review

Risk-differentiated Periodic Review

Comprehensive (manual) Periodic Review

EXIT

Exit
Art. 5 Wwft

EXIT

☐ Regulatory requirement
☐ CDD & TM processes at Bank
☐ Risk trigger mechanism /Models at Bank

RISK-BASED INDUSTRY BASELINE

1 Industry Baseline

This Industry Baseline clarifies how banks can actualise their client data in a risk-based manner for natural persons and legal entities. The client data can be actualised in a time-based and/or trigger-based way. Furthermore, the underlying source to actualise the client data points can be retrieved from external sources and/or internal analysis and/or obtained through client contact and outreach. The method of data actualisation depends on the combination of the moment of actualisation and the source through which client data is obtained or retrieved.

1.1 Client data required by law to perform adequate CDD

The following overview provides the minimum set of client data legally required to perform adequate CDD. Out of scope is all specific data related to performing SDD and EDD and the documents used to verify client data.

Natural persons

Client and representative(s)
- name(s) (first + middle + last);
- date of birth;
- residential address;
- ID doc: type, number, date, place;
- purpose & nature;
- mandate representatives

Legal entities

Client
- legal form;
- statutory name;
- trade name(s);
- street, number and city of registration and country of incorporation;
- trade registry number;
- purpose & nature;
- ownership and control structure.

Representative(s)
- name(s) (first + middle + last);
- date of birth;
- authority to represent customer.

UBO(s)
- name(s) (first + middle + last);
- size and/or nature beneficial relationship.

Additional for trust or other legal constructions
- applicable law to trust or legal construction.

All client data and accompanying documentation need to be recorded and readily available in the client's CDD file.

1.2 Moment of client data actualisation

There are two types of moments for banks to actualise their client data:
- **Time-based**
  Periodic client data actualisation for a set of pre-determined datapoints, based on a predetermined frequency for actualisation.
- **Trigger-based**
  Data actualisation is performed upon signals the bank receives, such as changes in an external source, internal analysis (e.g. information retrieved from a client's transactional data is an indication of inaccuracy of the client's country of residence and hence, can be used as a trigger to update this client data), a client indicating data has changed (e.g. address, mandate of representatives).

Banks can risk-based incorporate (a combination of [4]) these two moments in their data management process. Banks may determine that data correctness does not expire until there are reasons to doubt the correctness of client data. To make client data actualisation risk relevant and to prevent unnecessary client outreach, the preferred moment of data actualisation is trigger-based.

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4   Note that for certain data points, a combination of the moments can be used for data actualisation purposes (e.g. ownership and control structure, UBO). Using one moment does not mean the other moment is excluded.

1.3 Method and sources

There are three sources for client data actualisation.

- **External sources**
  Reliable external registers (e.g. CoC, international Chambers of Commerce, UBO-register, reliable data vendors [5], and in the future preferably BRP) can be used manual or automated. Continuous up-to-date client data becomes feasible once connections to several reliable external sources are available to banks (where changes in relevant circumstances of a client are automatically received by external data sources).

- **Internal analysis**
  A bank's internal sources, knowledge on product use, transactional data and information it derives from internal analysis to establish data points (e.g. purpose & nature, ETP, country of residence, etc.).

- **Client contact and outreach**
  Via digital channels or personal contact. Client contact and outreach in relation to client data will be conducted when appropriate and in a proportionate way.

Banks can risk-based incorporate (a combination of) these methods in their data management process. The preferred method to retrieve data for its actualisation is through automated connection to external sources and internal analysis. The table provides an indication of the preferred methods and sources to actualise data (**), other possible sources (*) and impossible sources (no *).

5   For example, Bureau van Dijk, Dun & Bradstreet, World-Check, Bankers Almanac, SWIFT KYC Registry, S&P Global Incorporated, LexisNexis and Company.info.

CLIENT DATA – **NATURAL PERSONS**

External sources	Internal analysis	Client outreach
Client & representative	**Client & representative**	**Client & representative**
• Name(s) (first + middle + last)**	• Name(s) (first + middle + last)	• Name(s) (first + middle + last)*
• Date of birth**	• Date of birth	• Date of birth*
• Residential address*	• Residential address (country)**	• Residential address*
• ID doc: type, number, date, place**	• ID doc: type, number, date, place	• ID doc: type, number, date, place*
Client	**Client**	**Client**
• Purpose & nature	• Purpose & nature**	• Purpose & nature*
Representative	**Representative**	**Representative**
• Mandate representatives**	• Mandate representatives	• Mandate representatives*

CLIENT DATA – **LEGAL ENTITIES**

External sources	Internal analysis	Client outreach
Client	**Client**	**Client**
• Legal form**	• Legal form	• Legal form*
• Statutory name**	• Statutory name	• Statutory name*
• Trade name(s)**	• Trade name(s)	• Trade name(s)*
• Street, number and city of registration + country of incorp.**	• Street, number and city of registration + country of incorp.	• Street, number and city of registration + country of incorp.*
• Registration number**	• Registration number	• Registration number
• Purpose & nature	• Purpose & nature**	• Purpose & nature*
• Ownership and control structure**	• Ownership and control structure	• Ownership and control structure*
Representatives	**Representatives**	**Representatives**
• Name(s) (first + middle + birth)**	• Name(s) (first + middle + last)	• Name(s) (first + middle + last)*
• Date of birth**	• Date of birth	• Date of birth*
• Authority to represent customer**	• Authority to represent customer	• Authority to represent customer*
UBO	**UBO**	**UBO**
• Name(s) (first + middle + last)**	• Name(s) (first + middle + last)	• Name(s) (first + middle + last)*
• Size and/or nature beneficial relationship**	• Size and/or nature beneficial relationship	• Size and/or nature beneficial relationship*
Additional for trust or other legal constructions	**Additional for trust or other legal constructions**	**Additional for trust or other legal constructions**
• Applicable law trust or other legal constructions ("het recht waardoor de trust of juridische constructive wordt beheerst")	• Applicable law trust or other legal constructions ("het recht waardoor de trust of juridische constructive wordt beheerst")	• Applicable law trust or other legal constructions** ("het recht waardoor de trust of juridische constructive wordt beheerst")

1.4 Risk relevancy

Banks decide what moment and what source will be used to obtain or retrieve certain client data. It is important to note that a bank's data actualisation approach depends on its specific risk profile and risk appetite. In addition, the data actualisation approach might be different for different client types and/or different client risk classifications.

For their risk-based client data actualisation banks should consider the risk relevancy of client data for risk assessments. Example: to determine high risk jurisdictions, the country of residence is more relevant than the city or street name of the client. As a result, a bank may choose to have a lower risk appetite to incorrectness of the country of residence compared to other parts of the residential address. Therefore, the bank might continuously monitor for changes in country of residence but might not ask the client to periodically confirm the address.

In general, a bank may determine that the data correctness does not expire until there are reasons to doubt correctness of the data (conditional on effective detection systems and processes).

1.5 Criteria to demonstrate effective implementation

Banks are required to periodically demonstrate effective implementation of the bank's client data actualisation, which is bank specific as it is based on its client portfolio, preferred service channels, ML/TF risks and AML/CFT approach.

Criteria for demonstrating effective implementation of client data actualisation methods.
- Substantiate data actualisation method(s) in the data management process documentation showing how the bank actualises data in a risk-based manner.
- Demonstrate the set up and maintenance of the client data framework including moments, methods and sources used to actualise data.
- Demonstrate the risk appetite on data points required to perform ODD activities and actualise the data accordingly.
- Demonstrate adjustments and/or improvements in the data management process as a response to evaluations of the data management process, audit reports etc.

2 Impact

A risk-based execution of client data actualisation is crucial to avoid asking clients (frequently) to provide sensitive information if this can also be determined through internal analysis or retrieved through reliable external sources. In addition, overestimating risk(s) could lead to burdensome and disproportional requests towards clients.

A risk-based set-up of client data actualisation will enable banks to adequately allocate their resources and execute an effective AML/CFT control framework focusing on relevant risks and applying mitigating measures in a meaningful way.

By improving effectiveness of AML/CFT controls, society as a whole benefits from a safe and trustworthy financial system while limiting unnecessary burden for well-intended citizens.

3 Use cases

Please note that the use cases below are examples to illustrate a practical application of this Industry Baseline and not intended to be exhaustive.

UBO, OWNERSHIP & CONTROL STRUCTURE

Client contact

Example
A shoe-selling shop registered in the Netherlands has two UBOs, both resident in the Netherlands. No risk indicators have been identified on either the legal entity or the UBOs (e.g. no complex ownership structure, not cash intensive). The shop has been a business relation of the bank for ten years, without any changes in the structure or UBOs and is classified as low risk.

Industry Baseline
Data on the UBO might not always be sufficiently available in reliable sources and therefore client outreach may be necessary. In some circumstances, the process to periodically obtain information via client outreach is not proportional to the risks it is meant to mitigate. For example when typical risk indicators of obscuring beneficial ownership (such as a complex ownership and control structure) are absent.

For the data points related to the UBOs (first, middle and last names, size and/or nature of the beneficial relationship) and related to the ownership and control structure, trigger-based actualisation (based on CoC and the client indicating a change) can be executed for clients with the following characteristics:

- residential address of the legal entity is in the Netherlands and registered in the CoC; and
- the client's business activities/industry risk is not deemed high; and
- there is no indication of adverse media on the UBOs; and
- has a simple corporate structure (e.g. no bearer shares, no trusts, no more than two shareholders,); and
- the UBO(s)'s residential address is not in a high risk country.

COUNTRY OF RESIDENCE

Internal analysis

Example
A natural person performs transactions only from and in Argentina for a period of three consecutive months. Transaction data might indicate change in country of residence and an event 'potential change in country of residence' is triggered. Internal analysis might indicate the need for data actualisation.

Industry Baseline
1 **Situation without need for data actualisation**
Internal analysis indicates typical holiday behaviour, and the event can be identified as a false positive (i.e. transactional behaviour shows several hotel and travel expenses in different cities in Argentina). There are no indications that data actualisation is needed.

2 Situation where data actualisation is needed

Internal analysis indicates that the information on the client's country of residence might be outdated (i.e. lack of hotel expenses, recurring amounts credited by local entities, rent). Client confirmation on country of residence is needed.

COUNTRY OF RESIDENCE

Internal analysis and client outreach

Example

A natural person with a residential address in Belgium performs transactions only from and in Germany for six consecutive months. Transaction data might indicate change in country of residence and an event 'potential change in country of residence' is triggered. Internal analysis might indicate the need for data actualisation.

Industry Baseline

Situation where data actualisation is needed and no ML/TF risk indication

Internal analysis indicates that the customer has moved from Belgium to Germany. Since this contains a move from one low risk country to another low risk country, the country of residence needs to be actualised but will not be seen as an event that needs further assessment as it has no ML/TF risk relevance for this particular client. However, it might trigger the actualisation of the address of the client in order to meet the banks reporting obligations (e.g. CRS).

TRADE NAME(S)

External source

Example

An organization adjusts its trade name in the Dutch CoC, since the owner divorced her former husband and now uses her birth name. Her birth name will be reflected in the updated trade name. Data on the entity's trade name is available in the Dutch CoC. The bank uses a real time feed to this reliable source, which is directly connected to the case management system.

Industry Baseline

Data is automatically actualised upon changes in Dutch CoC. From the direct connection to the reliable CoC source, client data will be trigged-based actualised. As client data is up-to-date and changes are reflected, it is immediately used effectively in related ODD processes, such as the risk profile and screening processes. If there is no consecutive trigger following the change (e.g. as a result from the screening process), no further action is necessary.

FOREIGN TRADE REGISTRY

External source and client outreach

Example

A corporate client is registered in a foreign Chamber of Commerce. Since the bank does not have a real time feed to this source nor another external source for this client, no data can be retrieved from external sources. The bank cannot ascertain the client data is up-to-date.

Industry Baseline

Client data cannot be actualised trigger-based from relying on external sources. The bank will update the data time-based (periodically) by reaching out to the client; asking for confirmation of the data.

CONTEXT

Regulatory framework

The regulatory context for this topic is described in relevant parts of applicable laws, regulations and guidelines from various authorities, such as: Ministry of Finance and DNB. Relevant legal provisions are part of Wwft and Regeling Toezicht Sanctiewet 1977 (RTSw).

The Wwft does not oblige financial institutions to periodically actualise all data points. It does not define when and how data must be actualised. It does specify the client data in scope for banks to actualise, which needs to be done in case of relevant changes in circumstances of a client. Below an overview of the current regulatory framework with reference to client data actualisation.

- **Wwft Article 3(2-4)**
  2 "Customer due diligence enables the institution to:
  a. identify the customer and verify the customer's identity;
  b. identify the customer's beneficial owner and take reasonable measures to verify its identity, if the customer is a legal entity, take reasonable measures to understand the ownership and control structure of the customer, and if the beneficial owner is a member of senior manage-ment, take necessary reasonable measures to verify the identity of the natural person who is a member of senior management, recording the measures taken and the difficulties encountered during the verification process;
  c. establish the purpose and intended nature of the business relationship;
  d. conduct ongoing monitoring of the business relationship and the transactions carried out during that relationship to ensure that these are consistent with the institution's knowledge of the customer and its risk profile, and where necessary an investigation into the source of funds used in the business relationship or transaction;
  e. determine whether the natural person representing the customer is authorised to do so and, where applicable, identify the natural person and verify his or her identity;
  f. take reasonable measures to verify whether the customer is acting on behalf of itself or on behalf of a third party."

  3 "If a client acts as trustee of a trust or for the benefit of another legal arrangement, customer due diligence referred to in the first paragraph shall also extend to the trust or legal arrange-ment, with corresponding application of the measures referred to in the second paragraph. The customer due diligence will then also enable the institution to determine whether the client is authorised to act as trustee of a trust or for the benefit of another legal arrangement. (....)"

  4 "If a client acts as a partner in a partnership, customer due diligence referred to in the first paragraph shall also extend to the partnership, with corresponding application of the measures referred to in the second paragraph. In that case, customer due diligence shall also enable the institution to establish whether the natural person representing the partners in the partner-ship is authorized to do so and, where appli-cable, to identify and verify that person's identity."

- **Wwft Article 3(11)**
  "An institution shall take reasonable measures to ensure that the data collected pursuant to paragraphs 2 to 4 concerning persons referred to therein are kept up to date. The data shall in any case be updated if relevant circumstances of the customer change, an institution is required under this Act to contact the customer to evaluate information relating to the beneficial owner or the institution is required to do so under Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/79/EEC (OJ 2011, L 64)."

- **Wwft Article 33(1-2)**
  1 "An institution that has conducted customer due diligence under this Act, or to which a customer has been introduced in accordance with the procedure of Article 5, shall record, in a retrievable way, the documents and data

used for compliance with the provisions of Article 3, paragraphs 2 through 4, Article 3a, paragraph 1, Article 6, paragraphs 1 and 2, Article 7, paragraph 2, and Article 8, paragraphs 3 through 6 and 8.

2 The documents and data referred to in the first paragraph shall at least include:

a. of natural persons, not being beneficial owners as referred to in article 1, first paragraph:

1°. the surname, first names, date of birth, address and place of residence, or place of establishment of the client as well as of the person acting on behalf of that natural person, or a copy of the document containing a person identification number and on the basis of which the verification of the identity has taken place;

2°. the nature, number and date and place of issue of the document by means of which the identity has been verified;

b. of natural persons, being beneficial owners as referred to in Article 1, first paragraph:

1°. the identity, including at least the surname and first names of the beneficial owner; and

2°. the data and documents gathered on the basis of the reasonable measures taken to verify the identity of the beneficial owner;

c. of companies or other legal entities:

1°. the legal form, statutory name, trade name, address with house number, postal code, place of business and country of registered office;

2°. if the company or other legal entity is registered with the Chamber of Commerce, the registration number with the Chamber of Commerce and the manner in which the identity has been verified;

3°. of those acting for the company or legal entity at the institution: the surname, first names and date of birth;

d. of trusts or other legal arrangements:

1°. the purpose and nature of the trust or other legal arrangement;

2°. the law by which the trust or other legal arrangement is governed."

- **RTSw Article 1-2**

1 "The institution shall ensure that, in the areas of administrative organisation and internal control, it has taken measures to comply with the Sanctions Regulations.

2 The measures as referred to in subsection (1) shall at least provide for an adequate check of the records kept by the institution in order to establish any correspondence between the identity of a relation and that of a natural or legal person or entity referred to in the Sanctions Regulations, in order to permit that relation's assets to be frozen or to prevent financial resources from being made available, or services from being rendered, to that relation."

- **Guidance on Financial Sanctions Regulations Section 1.5**

"The AO/IC measures, as included in Article 2 of the Regulations on the Supervision of the Sanctions Act 1977, should at least include adequate check of the administration to identify relations that correspond to (legal) persons and entities as referred to in the sanctions regulations with a view to freezing financial resources of that relation and preventing the provision of financial resources or services to that relation. In establishing the AO/IC measures, four aspects deserve particular attention:

(a) the objective of sanctions regulation,
(b) the 'principle based' approach,
(c) the relation and
(d) the direct action and retention obligation."
These are explained below.

Relationship between 'DNB Good Practices' and 'NVB Industry Baseline'

DNB aims to illustrate its supervisory practices to the benefit of supervised entities by, for example, providing an interpretation of regulatory requirements (Q&As) and examples on how regulatory requirements can be met (Good Practices). It is important to note that neither the DNB Q&As nor Good Practices are legally binding.

The NVB Industry Baseline describes the application and execution of the risk-based approach in more detail. Additionally it provides more practical examples on the use of ETP in different scenarios.

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