

# WHAT DOES THE MONEY LAUNDERING ACT REQUIRE OF YOU?

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## 1.0 Introduction

## 2.0 What is money laundering and financing of terrorism?

## 3.0 Who has to be registered on [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg)?

### 3.1 Money remittance offices

### 3.2 Currency-exchange offices

### 3.3 Suppliers of specifically defined services for undertakings

- Company formation companies
- Office hotels
- People who act as members of management for third parties
- People who act as shareholders
- Administrators/trustees

## 4.0 How do I get registered?

## 5.0 What information must be registered on [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg)?

### 5.1 What places of business must be registered?

### 5.2 What if I move or open more places of business?

### 5.3 Beneficial owners of companies

## 6.0 What do you have to know about your customers?

### 6.1 Regular customers

### 6.2 Occasional customers

**7.0 You must report money laundering and terrorist financing**

**8.0 Internal rules and training**

**9.0 Can you lose the right to operate an undertaking under the Money Laundering Act?**

**9.1 Sole traders**

**9.2 Companies**

**10.0 Express guide for money transmission or remittance offices and currency exchange offices**

**[www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg)**

## 1.0 Introduction

This booklet is about the Consolidated Act on measures to prevent money laundering and financing of terrorism (the Money Laundering Act), the main objective of which is to prevent profits being laundered, including money, and financing of terrorism.

The Act entered into force on 1 March 2006, and it means that persons and undertakings covered by the Act must report their customers to the Public Prosecutor for Serious Economic Crime, if they suspect that a customer is trying to launder money or finance terrorism.

The Money Laundering Act requires that undertakings which provide money-transmission services, currency-exchange services or other services must be listed in a special register, [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg), which is administered by the Danish Commerce and Companies Agency.

The Commerce and Companies Agency also supervises these undertakings and checks that they are complying with the law. Non-compliance with the law can be penalised.

The Commerce and Companies Agency also supervises estate agents, auditors and others who carry out similar activities, but these undertakings do not have to be registered at [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg).

This booklet is primarily about money remittance offices, currency exchange offices and suppliers of services.

If you have any queries, please ring (+45) 3330 7700 or mail us at [hvidvask@eogs.dk](mailto:hvidvask@eogs.dk).

## 2.0 What is money laundering and financing of terrorism?

Briefly, money laundering is:

- Accepting or acquiring for oneself or others a share in profits, which are obtained by a punishable violation of the law.
- Concealing, keeping, transporting, assisting in disposal, or in another manner serving to secure, for the benefit of another person, the profits of a punishable violation of the law.

Financing of terrorism is:

- Directly or indirectly providing financial support to, procuring or collecting means for, or placing funds at the disposal of persons, groups or associations, which commit or intend to commit acts of terrorism.

The Ministry of Foreign Affairs' website has a list of people and organisations on the UN and EU terrorist lists: [www.um.dk/da/menu/Udenrigspolitik/FredSikkerhedOgInternationalRetsorden/Sanktioner/](http://www.um.dk/da/menu/Udenrigspolitik/FredSikkerhedOgInternationalRetsorden/Sanktioner/)

## 3.0 Who has to be registered on [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg)?

In order legally to operate an undertaking, the following persons and undertakings must be registered in [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg).

- Money remittance offices
- Currency-exchange offices
- Suppliers of specifically defined services for undertakings (see below under 3.3)

### 3.1 Money remittance offices

A money remittance office is an undertaking such as FOREX or FEXCO which transmits money from one place to another.

All transmissions in Denmark and transmissions to and from other countries are covered by the Money Laundering Act, irrespective of how the transmissions take place. Therefore you are covered, even if you do not use, e.g. Western Union's or Moneygram's transmission systems.

Banks supervised by the Danish Financial Supervision Authority do not have to register via [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg).

### **3.2 Currency-exchange offices**

A currency-exchange office is an undertaking or a person who exchanges foreign currency commercially.

Premises which primarily sell other goods such as newsagents or grocers could also be subject to the Act, if they exchange currency for tourists, for example.

NB! Premises which receive payments in euro, for example, and give change in DKK, are not currency-exchange offices.

### **3.3 Suppliers of specifically defined services for undertakings**

**Typical suppliers of services are:**

- **Company formation companies**  
A company formation companies sets up and registers companies for others than itself, sometimes as 'off-the-shelf companies' to be sold later.
- **Office hotels**  
An office hotel provides addresses and/or office services such as reception and telephone facilities for undertakings.
- **People who act as members of management for third parties**  
These are only people whose job is to act as members of senior management on behalf of third parties. Members of boards of management and boards of directors will not normally be covered by the Act. On the other hand, people who, as part of their job offer e.g. foreign undertakings to represent the management of the foreign company's subsidiaries in Denmark, for example during the start-up phase of the subsidiary, will usually be covered by the Act.
- **People who act as shareholders**  
These are people who operate commercial undertakings as shareholders (nominees). They are people who register shares in their own name in the register of shareholders, but where the shares are actually owned by another person.
- **Administrators/trustees**  
Administrators for registration in the system are people or undertakings, except for lawyers, banks and auditors, whose job is to administrate the assets of funds.

Trustees are people appointed by a person setting up a trust to administrate the assets of the trust.

## **4.0 How do I get registered?**

You can register with [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg) in two ways.

- Register yourself in the Internet, or
- Send a registration form on paper to the Danish Commerce and Companies Agency.

You will be registered immediately if you use the Internet, while it may take a couple of weeks, if you use the paper form.

### **The Internet solution**

Registration via the Internet only takes a few minutes and can be done using a digital signature at [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg). Click on the field "Start her" under "Virksomhed, tilmeld, rediger eller frameld" (Undertaking, register, edit or deregister).

If you are in doubt, you can click on "Guide til HVL-reg". You have to use a digital signature to ensure that the Commerce and Companies Agency can see who has registered data on your shop. Others can also use a digital signature and register on your behalf. For example, this may be your accountant or lawyer.

### **Digital signature:**

A digital signature can be ordered from TDC's website at [www.tdc.dk](http://www.tdc.dk).

Using a digital signature, you can change your data yourself at [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg).

### **The paper form**

You can register your undertaking on [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg) by completing and submitting a registration form on paper to the Commerce and Companies Agency.

You can download the form from [www.virk.dk](http://www.virk.dk), or from [www.eogs.dk](http://www.eogs.dk) or you can obtain a form from the Commerce and Companies Agency by phoning (+45) 3330 7000.

## **5.0 What information must be registered on [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg)?**

For personally owned undertakings, the name, address and owner of the undertaking must be registered.

If the undertaking is operated as a company, all members of the management as well as all beneficial owners must also be registered (see under point 5.3 re. beneficial owners).

The undertaking's place of business should be registered as the address of the undertaking.

A place of business is the place from which the business is operated, i.e. the place where you serve your customers. It should be registered in the Central Business Register (CVR). At [www.cvr.dk](http://www.cvr.dk) you can see whether you are registered with the correct place of business, known as a "*p-nummer*".

If your undertaking is not registered in the Central Business Register with a "*p-nummer*", you cannot register your premises at [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg). In this event, you will have to set up a "*p-nummer*" at [www.webreg.dk](http://www.webreg.dk).

NB! If you cannot find the address of your premises, even though you have entered your undertaking's CVR no., this may be because the Central Business Register has not received the address of your shop.

You can check your data with the Central Business Register at [www.cvr.dk](http://www.cvr.dk). The address of your premises should be included as a "*p-nummer*".

### **5.1 What places of business must be registered?**

Some undertakings operate both money remittance offices and currency-exchange offices from the same place of business. In this situation, the undertaking must register both as a money transmission or remittance office and as a currency-exchange office at this address.

If you have several places of business, all these must register be registered, see the examples below:

**Example 1.** An undertaking owns two premises, both of which offer money transmission services. The undertaking must be reregistered with two places of business at [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg).

**Example 2.** A company operates a chain of currency-exchange offices. The company must be registered at [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg) with data on the place of business for each currency-exchange office.

## **5.2 What if I move or open more places of business?**

If you move to new premises or open more places of business, you must notify the Commerce and Companies Agency. This is easily done at [www.letnok.dk](http://www.letnok.dk) or [www.eogs.dk](http://www.eogs.dk), or phone us on (+45) 3330 7700.

NB! It is important to notify the Central Business Register, [cvr@eogs.dk](mailto:cvr@eogs.dk), if your undertaking was originally registered with another address than the address of your money remittance office or your currency-exchange office, so that the correct address can be registered.

## **5.3 Beneficial owners of companies**

When you register a company via [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg), you have to give details on the beneficial owners of the company.

A person is a beneficial owner if he or she directly or indirectly owns more than 25 per cent of the ownership interests or voting rights in a company. Beneficial owners are always natural persons.

More than 25 per cent indirect ownership is, for example the situation in which a person and a person close to that person (e.g. spouse, children or parents) own more than 25 per cent of the ownership interests or voting rights in a company. See the examples below.

If you own 10 per cent of the shares in company B and 100 per cent of the shares in company A, which owns more than 15 per cent of the shares in company B, you are the beneficial owner of both Company A and Company B.

You may also be a beneficial owner, even though you do not own more than 25 per cent of the ownership interests or voting rights in a company, if a specific assessment determines that you have a controlling interest in the company. For example, this may be through voting rights, the company's articles of association and other agreements such as shareholder agreements and the division into classes of shares etc.

## **6.0 What do you have to know about your customers?**

You have a duty to demand information about your customers. The type of information depends on whether they are regular customers or occasional customers.

You must have more information on regular customers. Therefore it is important that you know whether your customers are one or the other.

### **6.1 Regular customers**

Regular customers are customers with whom, once you have established contact, you expect to have a more long-term relationship.

If the customer, for example, opens an account with you or is given a customer number, or if you enter into a written contract on business terms and conditions, the customer will be a regular customer.

Customers of undertakings which supply specifically defined services (see 3.3) will therefore almost always be regular customers in practice.

If the customer is a regular customer, you should have the following information on the customer:

- 1) Name
- 2) Address
- 3) CPR no (civil registration no.) and/or. Central Business Register (CVR) no.
- 4) The customer's objectives with the business contact

You should check that the information is correct and that the customer is the person he says he is, for example on the basis of a passport or other form of pictorial identification. You should keep a copy of the proof of identification or note what has been presented (e.g. for a passport: passport no., date and place of birth).

In addition, you should regularly update the information on the customer relationship.

If you do not have information concerning customers who have been customers since before 1 March 2006, you must obtain the information at an appropriate time. For example when you send an invoice or statement, confirmation of an order, or similar.

All identity information must be kept for at least five years after cessation of the customer relationship. Information about the customer's transactions should also be kept for at least five years after the transaction, and all the customer's transactions should be kept together.

## **6.2 Occasional customers**

An occasional customer is a customer with whom you do not have a contractual relationship and with whom you do not expect to have a long-term business relationship.

Customers of money remittance offices and currency-exchange offices will often be occasional customers.

According to the Money Laundering Act, it is not usually necessary to obtain information about occasional customers, if the transaction is less than DKK 100,000.

If there is a suspicion of money laundering or terrorist financing, or if the transaction is DKK 100,000 or more, you must, however, obtain the same information about the customer as if the customer was a regular customer (see 6.1). Similarly, you should subsequently check the information.

If the transaction is money transmission of more than EUR 1,000, you must demand the name, address and CPR no. (civil registration no.) of your customer, and check that the information is correct.

A customer, who you first consider an occasional customer, may become a regular customer, for example if the same customer regularly sends or exchanges money at your premises.

## **7.0 You must report money laundering and terrorist financing**

If you suspect that a customer intends to launder profits or finance terrorism, you must notify the Money Laundering Secretariat at the Public Prosecutor for Serious Economic Crime on phone no. (+45) 35259500 ext. 6816 or by fax (+45) 3343 0016.

Suspicion > Duty to investigate > Reporting obligation

### **Suspicion**

There can be various reasons for becoming suspicious of a customer.

Perhaps you know the customer from the local area and know that he is involved in crime, e.g. drug dealing.

Perhaps you just suspect a customer because you think that he is behaving strangely, e.g. he seems secretive or there are abnormalities about the situation.

### **Duty to investigate**

If a person is behaving strangely, you should make inquiries about the things you find suspicious, if this is possible as a natural part of the transaction. Otherwise you should investigate the matters you find suspicious. You should note and keep the results of your investigations for at least five years.

### **Reporting obligation**

If, after you have asked, you still have a feeling that something is wrong - the customer will not answer or perhaps becomes uneasy - you must notify the Money Laundering Secretariat. If you are in doubt you can phone the Money Laundering Secretariat and discuss the matter with them.

If you suspect a customer, to help any later investigations it is important that as far as possible you get the identity of the customer before he leaves your shop.

## **8.0 Internal rules and training**

The Act requires that undertakings subject to the Act must prepare internal rules on adequate control and communication procedures, including rules that ensure that the customer's identity is ascertained, when and how employees are to investigate suspicious transactions and a procedure for notifying the Money Laundering Secretariat. The internal rules may also contain a description of customer types and/or products regarded as being low-risk or high-risk.

It is particularly important that employees are informed in writing about:

- The circumstances in which the customer's name, address and CPR no. (civil registration no.) should be demanded, and how to check that the customer is the person he says he is.
- How to manage information regarding the customer
- What may cause suspicion of a customer
- Who and when and to whom reports should be made if you suspect a customer of money laundering or financing terrorism.

The Act also requires undertakings to complete training programmes to ensure that personnel, including management, receive the necessary instruction in how employees should check customers and act if they suspect money laundering or financing terrorism.

## **9.0 Can you lose the right to operate an undertaking under the Money Laundering Act?**

There are circumstances whereby you can lose the right to operate money transmission or remittance offices, currency-exchange offices or supply specifically defined services for undertakings.

### **9.1 Sole traders**

If you are convicted of a criminal offence and at the same time banned from carrying out business covered by the Money Laundering Act, the Commerce and Companies Agency will delete you from [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg) immediately.

### **9.2 Companies**

A company will be deleted from [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg) if a member of the management or a beneficial owner is convicted of a criminal offence and at the same time banned from carrying out business covered by the Money Laundering Act.

The company may be registered in [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg) again if it replaces the convicted person with another.

## 10.0 Express guide for money transmission or remittance offices and currency exchange offices

- Registration

Using a digital signature you can register your currency-exchange office and money remittance office on [www.virk.dk/hvl-reg](http://www.virk.dk/hvl-reg) or via a form which can be downloaded under "Blanketter" (forms) from [www.eogs.dk](http://www.eogs.dk).

- Customer information and identification

You must demand the following information on regular customers:

- 1) Name
- 2) Address
- 3) CPR no (civil registration no.) and/or. Central Business Register (CVR) no.
- 4) The customer's objectives with the business contact

Check the information from pictorial ID. Keep a copy or note the detailed information regarding the identification presented.

According to the Act, you must only obtain and check the same information from occasional customers if the customer exchanges more than DKK 100,000 or transmits more than EUR 1,000, or if you are suspicious.

- Archiving

All information on identity and transactions must be kept for at least five years. Information on transactions should be kept together.

- Reporting

If you suspect money laundering or terrorist financing, contact the Money Laundering Secretariat at the Public Prosecutor for Serious Economic Crime on phone no. (+45) 35259500 ext. 6816 or by fax (+45) 3343 0016.

- Internal guidelines and employee training

Prepare internal rules and guidelines for all employees.

All employees must know the rules in the Money Laundering Act and how they should act if they suspect money laundering or terrorist financing.

## THE MONEY LAUNDERING ACT