

Money laundering prevention - application for exemption from the duty to prepare documentation of risk analysis activities 2

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Money laundering prevention - application for exemption from the duty to prepare documentation of risk analysis activities

As an obliged party according to the Money Laundering Act (GwG), you must determine and assess risks of money laundering and terrorist funding related to your business activities and properly document related internal safety measures in the form of a risk analysis. In certain circumstances, you can be exempted from the duty to document a risk analysis on application.

Exemption from the duty to document

- only applies to the future regular documentation duty
- does not apply to the duty to carry out an initial risk analysis
- you still need to determine and assess risks of money laundering and terrorism funding on an ongoing basis and take suitable internal prevention measures.

In the brochures and leaflets under "More information" you will find more detailed advice and practical examples on how to do a risk analysis.

Procedure:

1. As the obligated party, you apply to the relevant authority for exemption from the obligation to document a risk analysis. You can also complete this application online and submit it in electronic form.
2. The relevant authority checks your details and requests any missing evidence. You will receive information on the further procedure and will be informed about the processing status in the electronic mailbox in your BundID account.
3. You will first receive a fee notice and must pay the administrative fee.
4. Once payment has been made, you will receive the final decision from the competent authority. The decision can be communicated via your electronic mailbox in your BundID account.

Prerequisites

• Obligated parties according to the Money Laundering Act

(https://www.gesetze-im-internet.de/gwg_2017/_2.html)

Only natural or legal persons who are active as:

- 1. financial enterprises
- 2. insurance intermediaries domiciled abroad, insofar as they maintain branches in Germany
- 3. service providers for companies and for trust assets or trustees, if they provide the services specified in § 2 section 1 no. 13 GwG to third parties
- 4. real estate agents
- 5. bookmakers
- 6. casinos
- 7. operator of a betting agency

- 8. commodity dealers, art brokers and art warehouse keepers, insofar as the warehousing takes place in duty-free zones are authorised to apply

- **Power of representation**

The person making the notification must be a member of the management or an internal/external (group) money laundering officer of the company. The legal counsel of the obliged person may also make the report upon presentation of the original power of attorney and designation of the subject matter.

- **Clear visibility of risks**

E. g. by the account of the risks your company is exposed to and how vulnerable it is to abuse regarding money laundering or terrorism funding. Clear visibility of existing specific risks is given in particular, if your business activities

- involve no complex business operations,
- the transactions made are on a manageable scale,
- your customer structure is homogeneous, and if
- there are no other circumstances associated with increased risks.

- **Appropriate awareness of existing risks**

E. g. presentation of the security measures taken on the basis of the concrete risks (e. g. regular instruction of staff used and safety checks)

- **For online applications: registration/login via BundID**

(<https://service.berlin.de/nutzerkonten/bundid/>)

To submit your application online, log in with your BundID account. If you do not yet have a BundID account, please register with BundID. The basic registration with a user name and password is sufficient for this.

Documents required

- **Application for exemption from the duty to prepare documentation of risk analysis activities**

- The application is possible in text form, please use the online procedure as a preferred option.
- The application must demonstrate in a comprehensible and substantiated manner that the risks of money laundering and terrorist financing in your business sector are manageable and clearly identifiable.

- **Evidence of eligibility to submit an application**

- Proof of appointment as (group) money laundering officer or
- Contract on the outsourcing of internal security measures or
- Evidence that the person making the report is a member of the management level of the company (e.g. extract from the commercial register or shareholders' agreement) or
- If applicable, an original mandate of the representing legal counsel related to the individual case.

- **Up to date risk analysis**

A comprehensive account of the internal safety measures in place based on the specific determined and assessed risks related to money laundering and terrorism funding in your area of work.

- **Up to date excerpt from the Trade Register, if applicable**

(https://www.handelsregister.de/rp_web/normalesuche.xhtml)

Registered companies are required to submit an up to date excerpt from the Trade Register when applying. Legal entities that are in the process of being established (GmbH, AG) are required to submit their partnership agreement or statutes.

Fees

EUR 138.00 to EUR 1,380.00, depending on the administrative effort

Legal basis

- **Money Laundering Act (GwG) § 5 section 4**
(https://www.gesetze-im-internet.de/gwg_2017/_5.html)
- **Schedule of Administrative Fees (Verwaltungsgebührenordnung (VGebO))**
(https://gesetze.berlin.de/jportal/?quelle=jlink&query=VwGebO+BE&psml=b_sbeprod.psml&max=true&aiz=true)

Average time to process request

approx. up to 6 weeks

More information

- **Information about prevention of money laundering by the Senate Department for Economics**
(<https://www.berlin.de/sen/wirtschaft/wirtschaftsrecht/geldwaesche/artikel.1112998.en.php>)
- **Fact sheet: Risk-based organisational measures**
(https://www.berlin.de/sen/wirtschaft/wirtschaftsrecht/geldwaesche/2021_06_28_broschuere_risikomanagement_barrierefrei_final.pdf)
- **Short overview: Risk management for goods traders**
(https://www.berlin.de/sen/wirtschaft/wirtschaftsrecht/geldwaesche/kurz_risiko_gueter.pdf)
- **Short overview: Risk management for real estate agents**
(https://www.berlin.de/sen/wirtschaft/wirtschaftsrecht/geldwaesche/kurz_risiko_immo.pdf)
- **Casinos: Gambling Supervision at the Senate Department of the Interior**
(<https://www.berlin.de/sen/inneres/buerger-und-staat/weitere-themen/gluecksspielaufsicht/artikel.103276.php>)
- **Basic Information Money Laundering Act for Obligated Persons in the Gambling Sector of the LABO**
(https://www.berlin.de/labob/_assets/buergerdienste/20190311-basisinformation-gwg-gluecksspielsektor.pdf)
- **Notes on the interpretation and application of the Money Laundering Act (AMLA)**
(https://www.berlin.de/labob/_assets/buergerdienste/20190204_aua-gwg-gluecksspiel-stand-1-2-2019.pdf)
- **First National Risk Analysis**
(https://www.bundesfinanzministerium.de/Content/DE/Downloads/Broschuere_n_Bestellservice/2019-10-19-erste-nationale-risikoanalyse_2018-2019.html)

Average time to process request

https://www.ea.berlin.de/intelliform/forms/eu-dlr-ng/gewerbe/Geldwaeschepraevention_Risikoanalyse/index