



Guide
to the
Risk Profile –
Assessment of Business Relationships and Criteria for
Identifying Increased Risk Transactions

The Risk Profile (VQF doc. no. 902.4)¹ comprises two parts, namely information about the **business risk** and information about the **transaction risk**. This Guide provides a commentary on these two parts of the Risk Profile.

Should the member come to the conclusion that an increased risk business relationship or transaction exists, special clarifications must be carried out immediately (Article 33 in conjunction with Article 37 et seq. SRO regulations²).

¹ See www.vqf.ch, members' area: heading "SRO", sub-heading "AML standard forms".

² Regulations of 8 July 2009 of the VQF self-regulatory organisation pursuant to the AMLA (hereinafter "SRO regulations").
Guide to VQF doc. no. 902.4
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I. **Comment on business risk (see Section 2 of the Risk Profile, VQF doc. no. 902.4)**

1. **Preliminary observations concerning the minimum content of the business risk assessment:**

1.1 **VQF form:** According to the provision of Article 34 paragraph 3 of the VQF SRO regulations, in principle the member must determine and identify increased risk business relationships in accordance with Article 34 paragraphs 1 and 2 of the SRO regulations on the basis of the Risk Profile (VQF doc. no. 902.4).

1.2 **Own form:** If the member does not use the form provided by the VQF to document the risk assessment, he must ensure that his own proprietary form (for the purpose of electronic storage / documentation: see Article 39 et seq. SRO regulations) contains the minimum standards required by the VQF forms (Article 39, paragraph 5 SRO regulations).

1.3 **Under the provisions of Article 34 of the SRO regulations, the following minimum standard applies to proprietary forms:** For each of the member's AMLA-related business relationships (selected at random), the VQF auditor must be able to verify:

- whether the **PEP assessment** (see Section 2.1 of this Guide) was actually applied; and
- provided that more than 20 permanent AMLA-related business relationships exist - whether **at least two additional criteria** selected by the member (see Sections 2.2 to 2.4 of this Guide) were actually applied.

The member must also document a corresponding **overall assessment** for each business relationship (categorised as "increased risk" or "not increased risk") (see Sections 2.5 et seq. of this Guide). Increased risk business relationships must be **identified**, and their acceptance or continuation is subject to the approval of a member of the **VQF member's top management body** (documentation of the decision).

2. **Procedural steps for creating the business risk profile:** The individual steps which the member must take, as a minimum standard, when completing the VQF Risk Profile, or his own proprietary form, with respect to qualifying the business risk, are explained below (Article 34 SRO regulations).

2.1 **Mandatory criterion to be applied by the member in all cases:** For each AMLA-related business relationship (regardless of the total number of AMLA files), it is mandatory for the member to clarify and document whether his customer is a politically exposed person (PEP) (see Section 2.1 of the VQF Risk Profile; for the definition of PEP, see Article 3 letter e of the SRO regulations).

2.2 **Other additional criteria to be defined and applied by the member (selection of additional criteria):** If a member carries on more than 20 permanent AMLA-related business relationships, he must define and apply at least two additional criteria (see Sections 2.3 et seq. of this Guide). The member is free to decide whether to use two of the standard (additional) criteria defined by the VQF (see Sections 2.2 to 2.7 of the VQF Risk Profile) or two of his own, self-defined criteria (see Section 2.8 of the VQF Risk Profile).

2.3 Audit by the VQF of the appropriateness of the selected additional criteria (see Section 2.2 of this Guide): The member is not obliged to justify to the auditor or Supervisory Commission the reasons why he uses two of his own criteria (see Section 2.8 of the VQF Risk Profile) and not the standard (additional) criteria defined by the VQF (see Sections 2.2 to 2.7 of the VQF Risk Profile). It is the member's responsibility in each case to select suitable and proper criteria for each specific customer relationship. The auditor will review and assess the appropriateness of the selection criteria in the context of the AMLA audit on the random samples selected by the auditor. In the case of self-evident, easily identifiable inappropriateness³ of selection criteria, the auditor may find fault with the member. If the member selects all of the standard (additional) criteria recommended and defined by the VQF (see Sections 2.2 to 2.7 of the VQF Risk Profile), it may be assumed that the selection of criteria is appropriate and in this case it is not necessary for the auditor to specifically review the appropriateness of the selection criteria.

2.4 Audit by the VQF of the specific assessment result for each of the additional criteria selected by the member: Regardless of whether the member uses the standard additional criteria defined by the VQF (Sections 2.2 - 2.7 of the VQF Risk Profile) or his own criteria (Section 2.8 of the VQF Risk Profile), the auditor in every case verifies the plausibility of the individual risk assessments specifically performed by the member for each of the additional criteria selected by the member (i.e. did the member correctly assess the additional criterion applied in a specific AMLA file as "increased risk" or "not increased risk"?).

2.5 Overall assessment (overall risk) of a business relationship by the member: After applying the individual criteria, the member performs an overall assessment (see Section 2.9 of the VQF Risk Profile) of the business relationship (classification of the business relationship as "increased risk" or "not increased risk").

In this overall assessment, the member is in principle free to decide, at his own discretion, whether overall an increased risk business relationship exists. An exception is when a business relationship exists with a politically exposed person (PEP), which is always considered increased risk (in this case there is no assessment of the member's discretionary judgement).

If at least one of the additional criteria applied in addition to the PEP issue is rated as increased risk (rating 2) but the member remains of the opinion that overall there is no increased risk business relationship, at the request of the auditor (or Supervisory Commission) the member must be able to adequately justify his differing overall assessment.

2.6 Audit by the VQF of the overall assessment: Subsequently, the auditor conducts a plausibility check of the overall assessment on the risk of the business relationship performed by the member (see Section 2.5 of this Guide).

3. Comment on Section 2.1 of the Risk Profile (VQF doc. no. 902.4): Politically Exposed Persons (PEP)

For the definition of PEP, see Article 3 letter e SRO regulations (reproduced verbatim in footnote 1 to the Risk Profile). Increased risk always exists in business relationships with PEPs (see Section 2.5 of this Guide).

³ e.g.: "Country risk" criterion not applied, even though the customer originates from, resides in or transacts business in an increased risk country, but the member has no specific, additional knowledge of this country (more than an ordinary financial intermediary, such as long term business experience in this country).

4. **Comment on Section 2.2 of the Risk Profile (VQF doc. no. 902.4): Country Risk Part 1**

The member can choose between domicile / residential address or nationality, on the one hand, and between customer or beneficial owner, on the other hand. The combination which yields the highest risk need not necessarily be used. If, for example, a Russian customer is domiciled in London, the customer's residence, rather than his nationality, may be taken as the determining factor if, for example, a more substantial relationship exists to his country of residence than to his home country. It is for the member under his own responsibility to take account of his direct knowledge of the customer and to make a proper and appropriate choice.

5. **Comment on Section 2.3 of the Risk Profile (VQF doc. no. 902.4): Country Risk Part 2**

If the customer and also the beneficial owner carry on no business activity (retired, person of independent means), the criterion can nevertheless be applied and in this case the risk can be rated 0.

6. **Comment on Section 2.4 of the Risk Profile (VQF doc. no. 902.4): Country Risk Part 3**

If on entering into the business relationship the customer is not in a position to provide information regarding the expected focal points (source and destination country) of future transactions, this criterion can not be used or assessed.

7. **Comment on Section 2.5 of the Risk Profile (VQF doc. no. 902.4): Industry Risk**

If more than one of the descriptions apply (0, 1 and 2), the respective description with the higher rating must be checked.

8. **Comment on Section 2.6 of the Risk Profile (VQF doc. no. 902.4): Contact Risk**

No comment.

9. Comment on Section 2.7 of the Risk Profile (VQF doc. no. 902.4): Product Risk

If more than one of the descriptions apply (0, 1 and 2), the respective description with the higher rating must be checked. This also applies if the main focus is on offshore business but the member considers the services requested by the customer to be easy to understand and transparent, i.e. the member is cognizant of the lawful basis of the offshore structures and the reasons are easy for the member to understand and verify. In such a situation, however, the member is free to assess the overall risk (see Section 2.9 of the VQF Risk Profile), i.e. not the product risk (Section 2.7 of the VQF Risk Profile), as low, but must be able to justify the fact that his overall assessment differs from the increased partial risk (in this case the product risk) (see the box for the justification in Section 2.9 of the VQF Risk Profile and Section 2.5 of this Guide).

10. Comment on Section 2.8 of the Risk Profile (VQF Doc. No. 902.4): Member's self-defined criteria

If a member who has more than 20 permanent, AMLA-related business relationships does not wish to use the standard (additional) criteria defined by the VQF (see Sections 2.2 to 2.7 of the VQF Risk Profile), he must use at least two of his own criteria (see Section 2.8 of the VQF Risk Profile) (regarding self-defined criteria in general: see Sections 2.2 - 2.4 of this Guide). In doing so, the member must describe the criterion and the various risk categories (0, 1 and 2) in each case. These self-defined criteria may be, for example:

- Amount of managed assets; or
- Verifiability and plausibility of the financial origin of the assets (contamination risk); or
- In the case of business relationships with financial intermediaries with domicile or registered office abroad: Foreign legislation on money laundering and terrorist financing to which the foreign financial intermediary is subordinated.

11. Comment on Section 2.9 of the Risk Profile (VQF doc. no. 902.4): Overall assessment of business risk for a particular business relationship

See also Sections 2.5 and 2.6 of this Guide. Justification of the overall assessment is not necessary if:

- None of the selected and applied sub-risks (Sections 2.1 - 2.8 of the Risk Profile) was considered increased risk (i.e. rated 0 or 1); or
- A selected and applied sub-risk (Sections 2.1 - 2.8 of the Risk Profile) was assessed as increased risk and the business relationship in question was also overall assessed as increased risk.

II. Comments on the transaction risk

12. Introductory remarks

- 12.1 **VQF form:** According to the provision of Article 35 paragraph 1 of the SRO regulations, the member must establish criteria for identifying and suitably documenting increased risk transactions. The VQF has produced the Risk Profile form (VQF doc. no. 902.4) for this purpose, Section 3 of which provides for documentation of the criteria defined for increased risk transactions on entering into a specific business relationship.
- 12.2 **Own form:** If the member does not use the form provided by the VQF to document the risk assessment, he must ensure that his own proprietary form (for the purpose of electronic storage / documentation: see Article 39 et seq. SRO regulations) contains the minimum standards required by the VQF forms (Article 39, paragraph 5 SRO regulations).
- 12.3 **The following minimum standard applies to proprietary forms:** It must be possible for the VQF auditor to determine, for the audited business relationship, whether at least one other, member-defined criterion was applied in addition to the VQF's mandatory standard criteria (see Sections 13.1 and 13.2 of this Guide).

13. Creation of the risk profile (procedural steps):

The individual steps which the member must take, as a minimum standard, when completing the VQF Risk Profile, or his own proprietary form, with respect to qualifying the transaction risk, are explained below (Article 35 SRO regulations).

- 13.1 **Mandatory standard criteria** (specified by the VQF, see Section 3.1 of the VQF Risk Profile): The transactions referred to in Article 35 paragraph 3 of the SRO regulations are to be considered increased risk in all cases (physical introduction or withdrawal of cash / bearer securities / precious metals to a value of at least CHF 100,000.00 in a single transaction or several related transactions; "money transfer"⁴ of at least CHF 5,000.00 in a single transaction or several related transactions).
- 13.2 **Additional criterion to be defined by the member** (see Section 3.2 of the VQF Risk Profile; Article 35 paragraphs 1 and 2 of the VQF SRO regulations): In addition to the above mentioned mandatory criteria, on entering into the business relationship the member must define at least one additional criterion for identifying an increased risk transaction.

⁴ **Please note:** The transfer of money and assets ("money transfer") is defined as transactions in accordance with Article 3 letter b of the SRO regulations, i.e.:

"The transfer of assets, excluding physical transportation, in exchange for cash, cheques or other payment instruments and the paying out of a corresponding sum in cash or other form by means of cashless transfer, communication, remittance or other use of a payment and accounting system."

Therefore, in the sense of the above definition, "money transfer" (money and asset transfer) is basically those transactions of "remittances and similar services" (such as Western Union, RIA, MoneyGram, etc.), which are **not carried out through an account held by the sender / recipient**, i.e. transactions in which the sender (customer) hands over cash at the counter of the service provider (financial intermediary) (for which the customer receives a password and provides the service provider with his personal data, among other information), whereby this money is transferred via an account held by the service provider in the recipient's country, and where the recipient receives the amount transferred by the sender against disclosure of a password (e.g. received from the sender by telephone) and the presentation of an identity document.

Payment mandates (mandates granted to a financial intermediary in relation to a bank account) therefore do not qualify as money and asset transfer ("money transfer") in accordance with Article 3 letter b of the SRO regulations.

14. **Audit of the member-defined criterion (appropriateness of selection):** It is the member's responsibility in each case to select at least one suitable and proper criterion in addition to the mandatory criteria (see Section 13 of this Guide). The auditor will review and assess the appropriateness of the selection criteria in the context of the AMLA audit on the random samples selected by the auditor.
15. **Any (optional) subsequent additions during the course of the business relationship:** When entering into the business relationship, in addition to the VQF's standard criteria the member must also define one of his own criteria (see Section 13.2 of this Guide). During the course of the business relationship, it may be useful to adjust or supplement the member-defined criterion for common (or uncommon) transactions (e.g. after signing the contract, during the subsequent course of the business relationship, the member may receive new information). In such cases of new, frequent transaction patterns (which were not foreseeable when the contract was signed and only occurred during the subsequent course of the business relationship) the member is recommended to proceed as follows:
- To record, in the ongoing business relationship documentation (VQF doc. no. 902.7), once only and on its first occurrence, the date and result of clarification of the new, frequent transaction pattern, for example:

"July 5, 2010: Special clarification carried out regarding an uncommon incoming payment to the customer's account no. 12345 with UBS Zurich, in the amount of CHF 200,000.00, on June 30, 2010. Customer enquiry and bank transfer details revealed that the incoming payment originated from insurance company ABC Ltd. in relation to the customer's insurance policy no. 1717 (regarding: [type of insurance]), and that the insurer in question will in future and until the customer's death make six-monthly payments of (up to) CHF 200,000.00 to the customer's account no. 12345 with UBS Zurich. A copy of the above mentioned policy, received from the customer, is archived in the AMLA file. The customer acquired insurance rights in association with his income from employment (premium payments made during professional employment with Architects XYZ, prior to retirement)."
 - Description of the new criterion (i.e. supplement to the criteria defined on entering into the business relationship) for frequent, common transactions (not requiring clarification) under Section 3.2 (second input box) of the VQF Risk Profile (VQF doc. no. 902.4), for example:

"Based on the customer's insurance policy no. (concerning: [type of insurance]), with effect from 30 June 2010 and until the customer's death, Insurance company X Ltd. will make six-monthly payments of (or up to) CHF 200,000.00 to the customer at the customer's account number 12345 with UBS in Zurich. See copy of the above mentioned policy, received from the customer, in the AMLA file and clarification of July 5, 2010 in ongoing business relationship documentation (VQF doc. no. 902.7)."