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Instruction concerning the Register of Beneficial Owners of Legal Entities (VwbP)

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1. Introduction

Art. 30 of Directive (EU) 2015/849, amended by Directive (EU) 2018/843 (hereinafter: the Anti-Money Laundering Directive, AMLD) demands that a **central register be installed** by member states that collects information on incorporated companies and other legal entities incorporated within their territory and thus holds "**adequate, accurate, and current information on their beneficial ownership, including the details of the beneficial interests**". A similar requirement applies to trusts and similar legal arrangements in terms of Art. 31 of the AMLD.

To implement the mandatory requirements, the **Register of Beneficial Owners of Legal Entities (VwbP, Verzeichnis der wirtschaftlich berechtigten Personen von Rechtsträgern)** was created in Liechtenstein, the legal basis of which is the Act on the Register of the Beneficial Owners of Legal Entities (**VwbPG**) and the related Ordinance on the Register of the Beneficial Owners of Legal Entities (**VwbPV**).

The **authorities supervising and enforcing** the VwbPG are

- the **Office of Justice, Foundation Supervision and Anti-Money Laundering (AJU, STIFA/GWP)**,
- the **Liechtenstein Financial Market Authority (FMA)**, and
- the **VwbP Commission**.

2. Analogous application of publications and decisions in the context of due diligence legislation

The term "**beneficial owner**" is used in the Law on Professional Due Diligence for the Prevention of Money Laundering, Organised Crime and Financing of Terrorism (*Sorgfaltspflichtgesetz (SPG), Due Diligence Act*) as well as the related Ordinance on Professional Due Diligence for the Prevention of Money Laundering, Organised Crime and Financing of Terrorism (*Sorgfaltspflichtverordnung (SPV), Due Diligence Ordinance*); it is also used in the **VwbPG** and in the **VwbPV**. By doing so, the legislator intended to **standardise** the definition of the term in both areas of law; for technical reasons, however, this is not possible in all cases (for details see Items 3 and 5.3.1 of this Instruction).

For the purposes of the VwbP, it is generally the **provisions of the VwbPG and the VwbPV** that are relevant for identifying the beneficial owners of legal entities, together with the **publications** issued in this context **by the AJU, STIFA/GWP**. Where interpretation issues arise in individual cases in connection with identifying the beneficial owner, such as where the relevant shareholdings must be calculated in the case of indirect participation (multi-layer structures) or in other specific situations, the **Guidances, Instructions and Communications issued by the FMA on due diligence legislation** as well as the **decisions issued in this context** must be **applied analogous**. Special reference is made in this context to the "FMA Communication 2015/7 concerning the identification of beneficial owners

under the Due Diligence Act". In addition, the "FMA Instruction 2018/7 – General and sector-specific interpretation of due diligence law" is applicable analogous with regard to the identification of beneficial owners for undertakings for collective investment (UCI). The same applies to the determination of such third states that have due diligence and record-keeping duties as well as supervision standards that are in accordance with the requirements laid down in the AMLD.

However, the analogous applicability of the publications and decisions on due diligence legislation applies only as far as **nothing to the contrary** has been laid down in the VwbPG, the VwbPV, and the publications issued by the AJU, STIFA/GWP concerning the VwbP.

3. Relationship between SPG and VwbPG

The following overview is to assist **domestic persons subject to due diligence** in particular to identify similarities and differences in the context of identifying beneficial owners pursuant to the SPG and SPV on the one hand and the VwbPG and VwbPV on the other.

At the law level:

SPG	Subject	VwbPG
Art. 2 (1) (e)	Definition of "beneficial owner"	Art. 2 (1) (a)
Art. 2 (1) (f)	Definition of "legal entity"	Art. 2 (1) (c) ¹
---	Definition of "unattached legal entities pursuant to Schedule 1"	Art. 2 (1) (d) ²

¹ This shows one of the pivotal differences between the two laws: The SPG is about persons subject to due diligence having to meet due diligence obligations in the scope of application of the SPG with regard to all domestic and foreign legal entities. The definition of "legal entity" in the VwbPG, however, only includes those legal entities (predominantly, domestic ones) that are required to enter their beneficial owners in the VwbP (for details see Item 4 of this Instruction).

² This term is unknown to the SPG. Ultimately, however, this term is used in the VwbPG to differentiate between the applicability of the rules to corporations and similar legal entities pursuant to Schedule 1 VwbPG as opposed to foundations/trusts and similar legal entities pursuant to Schedule 2. Legal entities pursuant to Schedule 1 VwbPG that are not ultimately held or controlled by legal entities pursuant to Schedule 2 VwbPG or by equivalent foreign legal entities are "unattached legal entities pursuant to Schedule 1"; but where shares or voting rights of a legal entity pursuant to Schedule 1 VwbPG are ultimately held or controlled by a legal entity pursuant to Schedule 2 VwbPG or by an equivalent foreign legal entity, or where a legal entity pursuant to Schedule 1 is controlled in any other way by a legal entity pursuant to Schedule 2 VwbPG or by an equivalent foreign legal entity, this is called a "non-unattached legal entity pursuant to Schedule 1". Note in this connection that in the VwbPG and in the VwbPV, legal entities pursuant to Schedule 2 VwbPG are treated identically to "non-unattached legal entities pursuant to Schedule 1".

SPG	Subject	VwbPG
---	Definition of "non-unattached legal entities pursuant to Schedule 1"	Art. 2 (1) (d) ²
Art. 7 (1-3)	Identification and verification of the identity of the beneficial owner	Art. 3 (1-3)

At the ordinance level:

SPV	Subject	VwbPV
Art. 3 (1) (a)	Beneficial owners in corporations and similar legal entities or in unattached legal entities pursuant to Schedule 1 VwbPG	Art. 2 (1) (a) ³
Art. 3 (1) (b)	Beneficial owners in foundations/trusts and similar legal entities or in non-unattached legal entities pursuant to Schedule 1 VwbPG	Art. 2 (1) (b)
Art. 3 (1) (d)	Local or public authorities in EEA Member States or in Switzerland or in institutions of the EU and the EEA	Art. 2 (1) (c) ⁴
Art. 3 (1) (e)	<i>Liechtensteinische Post Aktiengesellschaft</i>	Art. 2 (1) (d) ⁴
Art. 3 (1) (f)	Domestic banks, investment firms, fund trading platforms, central depositaries, and insurance companies	Art. 2 (1) (e) ⁴
Art. 3 (1) (g)	Foreign banks, investment firms, fund trading platforms, central depositaries, and insurance companies that meet the requirements of Art. 14 (1) (b) SPG	Art. 2 (1) (f) ⁴
Art. 3 (1) (h)	Beneficiaries in terms of para. (1) (b) (4) that demonstrably are legal entities in terms of Art. 2 (1) (b) SPG	Art. 2 (1) (h)
Art. 3 (1) (i)	Tax-exempt institutions for occupational retirement provision domiciled in the EEA or in Switzerland	Art. 2 (1) (g) ⁴

³ In the VwbPV, the passage "and provided there are no grounds for suspicion" (see Art. 3 (1) (a) (2) SPV) was not adopted.

⁴ Pursuant to the SPV, it is the legal entity itself that is considered to be the beneficial owner in these cases, while pursuant to the VwbPV, it is the members of the executive body of the legal entity subject to registration who are considered to be the beneficial owners.

SPV	Subject	VwbPV
Art. 3 (3)	Associations subject to registration in the Commercial Register, general partnerships, and limited partnerships that have common-benefit or charitable objects pursuant to Art. 2 (1) (b) SPG	Art. 2 (1) (i)
Art. 3 (4)	Legal entities whose shares or voting rights are directly or indirectly held by legal entities whose participation securities are traded on a regulated market that is subject to disclosure obligations equivalent to EEA law or equivalent international standards ensuring adequate transparency of the information on ownership	Art. 2 (1) (k) ⁵
Art. 22b (3)	Legal entities in the form of an undertaking for collective investment in transferable securities (UCITS) pursuant to the Law concerning specific undertakings for collective investment in transferable securities (UCITSG) or in the form of an alternative investment fund pursuant to the Law concerning the Managers of Alternative Investment Funds (AIFMG), as far as Art. 22b (3) SPV applies	Art. 2 (1) (l) ⁶
Art. 3 (2)	Control	Art. 2 (2)
Art. 2 (1) (r) SPG	Members of the executive or management body	Art. 2 (3)
Annex 1	Form C (SPV) resp. Form C-VwbP (VwbPV)	Schedule 1
Annex 1	Form T (SPV) resp. Form T-VwbP (VwbPV)	Schedule 2

4. Obligated legal entities

Legal entities pursuant to Art. 2 (1) (c) (1)-(3) VwbPG are obliged to obtain the information concerning their beneficial owners pursuant to Art. 4 (1) and (2) VwbPG and to forward this information to the AJU, STIFA/GWP through the **online portal** at <https://vwb.llv.li>.

The legal entities that are subject to registration in the VwbP are evident from Schedule 1 and Schedule 2 of the VwbPG as follows:

⁵ Pursuant to the SPV, the identification of the beneficial owners can be refrained from in these cases, while pursuant to the VwbPV, it is the members of the executive body of the legal entity listed on the regulated market who are considered to be the beneficial owners.

⁶ If the requirements of Art. 22b (3) SPV are met, the obligation pursuant to Art. 6 (1) and Art. 7 (1) and (2) SPG can be fulfilled by the person subject to due diligence establishing the identity of the subscribing institution on the basis of a share register or a subscription certificate. Pursuant to the VwbPV, it is the members of the executive body who are in this case considered to be the beneficial owners.

4.1 Domestic legal entities pursuant to Schedule 1 VwbPG

1. Associations (*Vereine*, Art. 246 et sqq. PGR [*Personen- und Gesellschaftsrecht*, Persons and Companies Act]), as far as they are subject to registration in the Commercial Register;⁷
2. Public limited companies (*Aktiengesellschaften*, Art. 261 et sqq. PGR);
3. Partnerships limited by shares (*Kommanditaktiengesellschaften*, Art. 386 et sqq. PGR);
4. Companies limited by units (*Anteilsgesellschaften*, Art. 375 et sqq. PGR);
5. Limited liability companies (*Gesellschaften mit beschränkter Haftung*, Art. 389 et sqq. PGR);
6. Co-operative societies (*Genossenschaften*, Art. 428 et sqq. PGR);
7. Mutual insurance companies (*Versicherungsvereine auf Gegenseitigkeit*) and auxiliary funds (*Hilfskassen*, Art. 496 et sqq. PGR);
8. Establishments (*Anstalten*, Art. 534 et sqq. PGR), as far as they are not covered by Schedule 2 VwbPG;
9. Public service undertakings (*gemeinwirtschaftliche Unternehmungen*, Art. 571 et sqq. PGR);
10. General partnerships (*Kollektivgesellschaften*, Art. 689 et sqq. PGR);
11. Limited partnerships (*Kommanditgesellschaften*, Art. 733 et sqq. PGR);
12. Trust enterprises (Trust reg, *Treuunternehmen*; Art. 932a PGR), as far as they are not covered by Schedule 2 VwbPG;
13. European Economic Interest Groupings (EEIG);
14. Societas Europaea (SE);
15. European Cooperative Societies (Societas Cooperativa Europaea, SCE).

If a legal entity has one of the domestic company forms listed above, it is classified as an **unattached legal entity pursuant to Schedule 1 VwbPG** if ultimately **no** legal entity pursuant to Schedule 2 VwbPG and **no** equivalent foreign legal entity:

1. holds or controls an ownership interest or voting rights of 25 % or more;
2. participates with 25 % or more in the profits; or
3. exercises control in any other way.

However, if any of the requirements listed above is met, the legal entity is what is called a **non-unattached legal entity pursuant to Schedule 1 VwbPG**. The differentiation between unattached and non-unattached legal entities pursuant to Schedule 1 VwbPG has effects in particular on the beneficial owners to be registered and on the procedure concerning

⁷ Associations must register their beneficial owners in the VwbP if they are subject to registration in the Commercial Register pursuant to Art. 247 (2) PGR. Such duty to register exists for associations which (i) carry on a commercial business for their purpose, and/or (ii) are subject to audits and/or (iii) have charitable purposes, unless an exception from the obligation to register applies (Art. 247 (4) PGR). More detailed comments can be found in the document "Infoblatt – Eintragungspflicht eines Vereins", available on the homepage of the AJU, STIFA/GWP: <https://www.llv.li/en/national-administration/office-of-justice/foundation-supervision-and-anti-money-laundering-stifa-gwp/register-of-beneficial-owners-vwbp>.

applications for the disclosure of data (see on this the comments under Item 8 of this Instruction).

4.2 Domestic legal entities pursuant to Schedule 2 VwbPG

1. Establishments (*Anstalten*) organised similarly to foundations (Art. 543 (1) (2) PGR) and establishments whose beneficiaries are third parties⁸ (Art. 545 (1bis) PGR);
2. Foundations (*Stiftungen*) (Art. 552 § 1 PGR);
3. Trusts (*Treuhänderschaften*; Art. 897 et sqq. PGR);
4. Trust enterprises (*Treuunternehmen, Trust reg.*) organised similarly to foundations⁹ (Art. 932a PGR).

There is no duty to record the beneficial owners of **domestic trusts** pursuant to Schedule 2 VwbPG which are managed by a **person subject to due diligence pursuant to Art. 3 (1) (k) SPG** and for which it has been **demonstrated** that the beneficial owners have been entered in a register in another EEA member state pursuant to Art. 31 AMLD. In this context, the term "manage" must be understood to mean that a person subject to due diligence carries out the function of **trustee or co-trustee as a profession as laid down in Art. 3 (1) (k) (4) SPG**.

4.3 Foreign legal entities

Foreign legal entities are generally not subject to registration in the VwbP. Only **foreign trusts or similar legal arrangements** may be subject to registration in the VwbP under the requirements stated below:

4.3.1 Trusts or similar legal arrangements formed abroad that are managed in Liechtenstein

Trusts or similar legal arrangements formed in EEA member states or third states must record their beneficial owners in the VwbP if they are **managed in Liechtenstein** (Art. 2 (1) (c) (2) VwbPG).

⁸ An establishment (*Anstalt*) is considered to be organised similarly to a foundation if there are no founder's rights. If there are founder's rights in addition to existing beneficial interest regulations, the establishment is considered to be an "establishment whose beneficiaries are third parties". In this case, the (economic) founder of the establishment (the holder of the founder's rights) must also be recorded as a beneficial owner pursuant to Art. 2 (1) (b) (6) VwbPG. Concerning the identification of the beneficial owners of establishments organised similarly to a foundation and of establishments whose beneficiaries are third parties, see also FMA Communication 2015/07, item 3.5.

⁹ What has been said in footnote 8 is applicable analogous to trust enterprises organised similarly to foundations.

4.3.2 Trusts or similar legal arrangements managed in a third state

Trusts or similar legal arrangements which are managed in a third state and for which a **business relationship with a person subject to due diligence** has been started in Liechtenstein or **real estate** has been acquired in Liechtenstein are obliged to record their beneficial owners in the VwbP (Art. 2 (1) (c) (3) VwbPG).

4.3.3 No duty of registration

There is no duty for the trusts and similar legal arrangements listed in Items 4.3.1 and 4.3.2 of this Instruction to record their beneficial owners if it is demonstrated that the beneficial owners **have been registered in a register of another EEA member state pursuant to Art. 31 of the AMLD**. The trust or similar legal arrangement must provide proof of entry in the register of another EEA member state by **demonstrating** the corresponding entry **through documentation** (extract from such register, official confirmation of entry in such register, or comparable proof; see Art. 3 VwbPV).

If there is no duty of registration, the VwbP will display neither the name of the foreign trust or trust from the third state nor the EEA member state in which the registration took place. However, the proof of the registration in another EEA member state may be verified in the course of **controls** by the FMA or by the AJU, STIFA/GWP or by independent third parties mandated by the latter pursuant to Art. 24 (1) VwbPG.

5. Beneficial owners and their recording

In the following, the **principles** and some **special cases** in the identification and recording of beneficial owners in the VwbP will be shown. Additional **examples** on the identification of beneficial owners can be found in the document "Examples concerning the implementation of the Act on the Register of Beneficial Owners of Legal Entities (VwbPG)", available on the homepage¹⁰ of the AJU, STIFA/GWP.

Instructions and assistance concerning the **technical recording** of data in the VwbP can be found in the document "Instructions for the electronic recording of data in the Register of Beneficial Owners (BO-Register)", also available on the homepage¹⁰ of the AJU, STIFA/GWP.

¹⁰ See: <https://www.llv.li/en/national-administration/office-of-justice/foundation-supervision-and-anti-money-laundering-stifa-gwp/register-of-beneficial-owners-vwbp>.

5.1 Unattached legal entities pursuant to Schedule 1 VwbPG

With **unattached legal entities pursuant to Schedule 1 VwbPG**, the beneficial owners are considered to be those persons who ultimately (directly or indirectly)

1. hold or control a **share or voting right** of 25 % or more in the legal entity concerned, or **have a share of 25 % or more in the profits of such legal entity**; or
2. exercise **control** of the legal entity **in any other way**;¹¹
3. are **members of the executive body**, if none of the above persons have been identified after all alternatives have been exhausted.¹²

Accordingly, first of all it is the persons who **participate** in the legal entity in the way described in Item 1 above who must be recorded as beneficial owners. Regardless of whether it has been possible to identify such persons, it must also be checked whether there are persons who **exercise control** of the legal entity **in any other way** (Item 2 above), and if so, these must also be recorded as beneficial owners.

It is only where **no** beneficial owners could be ascertained during the steps described above in Items 1 and 2 that **subsidiarily**, the **members of the legal entity's executive body** are to be recorded as the beneficial owners.

Forms to be used for recording:

The beneficial owners of **unattached legal entities pursuant to Schedule 1 VwbPG** must be recorded in the VwbP using **Form C-VwbP**.

5.2 Non-unattached legal entities pursuant to Schedule 1 VwbPG and legal entities pursuant to Schedule 2 VwbPG

The following are considered to be the beneficial owners of **non-unattached legal entities pursuant to Schedule 1** – unless one or more of the beneficial owners listed in Item 5.1 of this Instruction exist in addition – and of **legal entities pursuant to Schedule 2 VwbPG**:

1. natural persons, who are effective, non-fiduciary sponsors, **founders or settlors**;¹³
2. natural or legal persons, who are **members of the foundation council or the board of directors or the trustee**;

¹¹ In this, control in particular means the ability (i) to dispose of the legal entity's assets; (ii) to modify the provisions that characterise the legal entity; (iii) to modify benefits; or (iv) to direct the exercise of these options for control (Art. 2 (2) VwbPV).

¹² The members of the executive body in terms of Art. 2 (3) VwbPV are the members of the body charged with the operative management and representation of the legal entity. Typically, all members of the executive body must be recorded here. If there is no executive body, all members of the board of directors, the supervisory board, the executive board, or persons in a comparable position must be entered in the VwbP.

¹³ If the founder or settlor has deceased, a reference to the fact of death in the VwbP suffices.

3. natural persons, who are **protectors** or **persons in similar or equivalent functions**;
4. natural persons, who are **beneficiaries** (beneficiaries with a legal entitlement);
5. legal entities which are **beneficiaries** and meet the requirements of Art. 2 (1) (b) SPG;¹⁴
6. if no beneficiaries have yet been appointed, the **group of persons** in whose **interest** the legal entity is primarily formed or operated (discretionary beneficiaries);¹⁵
7. natural persons, who ultimately control the legal entity **through direct or indirect ownership rights** or **in another way**.

Forms to be used for recording:

Generally, **Form T-VwbP** must be used to record the beneficial owners of a **non-unattached legal entity pursuant to Schedule 1 VwbPG**. If there are additional beneficial owners pursuant to Art. 2 (1) (a) VwbPV, **Form C-VwbP** must be used respectively. This would for example be the case where 25 % or more of the shares of a corporation are ultimately held by a foundation and 25 % or more are ultimately held by a natural person (or by another corporation).

With **legal entities pursuant to Schedule 2 VwbPG**, it is **Form T-VwbP** that must be used to record the beneficial owners. Using Form C-VwbP is not permissible for legal entities pursuant to Schedule 2 VwbPG.

5.3 Exceptions and special cases in the recording of beneficial owners

There are exceptions to the general principles for the recording of beneficial owners listed in Items 5.1 and 5.2 of this Instruction; these **exceptions** concern the recording of the beneficial owners of e.g. banks, insurance companies, etc. as listed in Art. (2) (c)-(m) VwbPV.

Below you will find observations on the exceptions pursuant to Art. 2 (1) (l) and (m) VwbPV and on additional **special cases** concerning the recording of beneficial owners:¹⁶

¹⁴ The beneficiary must be a legal entity with exclusively common-benefit or charitable purpose – the performance of which serves to benefit the general public – and which is demonstrably exempt from income tax in its country of domicile.

¹⁵ Pursuant to the VwbPG, an abstract description of the discretionary beneficiaries suffices (e.g. with the wording "descendants, relatives, and friends of the Founder and (if applicable) charitable institutions").

¹⁶ Additional information on exceptions and special cases can be found in the document "Fragen und Antworten" (in German only), available at the homepage of the AJU, STIFA/GWP at: <https://www.llv.li/en/national-administration/office-of-justice/foundation-supervision-and-anti-money-laundering-stifa-gwp/register-of-beneficial-owners-vwbp/assistance>.

5.3.1 Undertakings for collective investment

Pursuant to Art. 3 (1) (c) SPG, **undertakings for collective investment (UCI)**, i.e. undertakings for collective investment in transferable securities (UCITS), alternative investment funds (AIF), and investment undertakings (IU) marketing their unit certificates or units are subject to due diligence law. In this context, the due diligence duties must be fulfilled by the self-managed UCI, and in the case of externally managed UCIs, by the management company pursuant to the UCITSG or the *Investmentunternehmensgesetz* (IUG, Investment Undertakings Act) or the manager of alternative investment funds (AIFM) pursuant to the AIFMG. If the requirements of Art. 22b (3) SPV (**simplified due diligence**) are met, it is merely necessary for UCITS and AIF to record not the beneficial owner but the **identity of the subscribing institution** (e.g. a bank) on the basis of a unit register or a subscription certificate.

With regard to the identification of beneficial owners and their recoding in the VwbP, some provisions differ from the rules applicable in due diligence legislation; these are discussed below:

First of all, one should point out the **general principle** that a UCI is only required to be recorded in the VwbP if it is a **legal entity pursuant to Schedule 1 or Schedule 2 to the VwbPG**. A **contractual UCI is not a legal entity in terms of the VwbPG**, which is why there is no duty of registration in the VwbP in these cases.

If the UCI is subject to registration, and if **simplified due diligence obligations** pursuant to Art. 22b (3) SPV **apply**, it is provided in Art. 2 (1) (I) VwbPV that the members of the executive body be registered as the beneficial owners. The following distinction must be made:

- Self-managed investment undertakings (investment company, investment limited partnership, or investment partnership of limited partners): the **executive body of the investment company** must be recorded using **Form C-VwbP**.
- Externally managed investment undertakings: the **executive body of the management company or of the AIFM** must be recorded using **Form C-VwbP**.
- Collective trusteeships: the **executive body of the management company or of the AIFM** must be recorded using **Form T-VwbP**.

Should **simplified due diligence** obligations pursuant to Art. 22b (3) SPV **not be applicable** because

- the requirements of Art. 22b (3) SPV are not met;
- the entity in question is an investment undertaking pursuant to the IUG; or
- the entity in question is a UCI that serves the individual structuring of assets,

the **natural persons** who pursuant to **Art. 2 (1) (a) or (b) VwbPV** are the **beneficial owners** of the legal entity are considered to be the beneficial owners.

Specifically, where normal or enhanced due diligence obligations apply, the following must be recorded in the VwbP using **Form T-VwbP** with a UCI in the legal form of a **collective trusteeship**:

- **if present**: an **end-investor** with a share of 25 % or more in a single or sub-fund¹⁷, to be recorded in the position of "founder" AND in the position of "beneficiary", and
- **in each case**: the **members of the executive body of the management company or of the AIFM**, to be recorded in the position of "member of the foundation council or board of directors or trustee".

With a UCI in the legal form of an **investment company** which is subject to normal or enhanced due diligence obligations, the following persons must be recorded as beneficial owners in the VwbP using **Form C-VwbP**:

- **if present**: an **end-investor** with a share of 25 % or more in a single or sub-fund¹⁷ with the selection "shares/voting rights/ rights in the profit of at least 25 %"; or
- **alternatively**: the **executive body of the management company or of the AIFM** in the case of an externally managed investment company if no end-investor holds or controls an ownership interest, voting rights, or rights in the profits of 25 % or more in a single or sub-fund.

If the UCI is an umbrella fund with one or more sub-funds, the **sub-funds** in which a beneficial owner to be recorded in the VwbP holds or controls shares, voting rights and/or rights in the profits of 25 % or more may be recorded **by name** using an **annotation field on Forms C-VwbP und T-VwbP**.¹⁸ The sub-funds listed in the annotation field are evident on the extracts from the VwbP. Note that recording the sub-funds by name is not an obligation but can be made on an exclusively voluntary basis by the UCI in question.

5.3.2 Protected cell companies

With protected cell companies pursuant to Art. 243 et sqq. PGR, the beneficial owners of the **core** of the protected cell company as well as those of the **individual segments** pursuant to Art. 243 (2) PGR must each be recorded using **Form C-VwbP** if such beneficial owners hold or control shares/voting rights/rights in the profits of 25 % or more in the core and/or in the individual segment(s).

However, if the protected cell company is a **non-unattached legal entity pursuant to Schedule 1 VwbPG** or a **legal entity pursuant to Schedule 2 VwbPG**, the respective beneficial owners in the core and in the individual segment(s) must each be recorded using

¹⁷ The units in different sub-funds do not accumulate.

¹⁸ In order to activate or de-activate the annotation field, it is necessary to inform the AJU, STIFA/GWP by e-mail (info.vwb.aju@llv.li) of the name(s) of the UCI(s) concerning which activation or de-activation is requested.

Form T-VwbP. If there are **additional** beneficial owners pursuant to Art. 2 (1) (a) VwbPV, **Form C-VwbP** must be used for these.

5.3.3 Legal entities in insolvency proceedings

From the time a legal entity enters bankruptcy proceedings or reorganisation proceedings without self-administration, the **obligation to record any changes to the beneficial owners in the VwbP is suspended**. The beneficial owners already recorded in the VwbP remain registered in the VwbP, but the **responsibility** for the legal entity must be **transferred** to the AJU, STIFA/GWP.

If such **insolvency proceedings are terminated** pursuant to Art. 165 (1) *Insolvenzordnung* (IO, Insolvency Act), the obligation to record the beneficial owners in the VwbP revives, and any changes concerning the beneficial owners must be recorded in the VwbP within 30 days from knowledge. If, **however**, the **insolvency proceedings are discontinued** because the legal entity's assets are insufficient to cover the costs of the insolvency proceedings, and the legal entity is deleted as a result (Art. 165 (2) IO), the obligation to record changes does not revive, so that the data recorded in the VwbP concerning the beneficial owners will remain stored in the VwbP until the expiry of the legal time-limits for deletion.

If insolvency proceedings are not opened in the first place as a result of the **application to open insolvency proceedings being dismissed** on the grounds that there are insufficient assets to cover the costs, and the legal entity is deleted as a result, the data already recorded in the VwbP concerning the beneficial owners will also remain stored in the VwbP until the expiry of the legal time-limits for deletion.

5.3.4 Legal entities in liquidation

Legal entities that are in liquidation are also subject to registration in the VwbP. If a legal entity is in liquidation, changes as to the beneficial owners must be recorded in the VwbP in particular if the positions "member of the executive body" (Form C-VwbP) or "member of the foundation council or board of directors or trustee" (Form T-VwbP) were recorded for the legal entity in question. In these cases, it is mandatory that the liquidator be recorded in one of these positions. It is irrelevant in this whether the liquidator has been appointed by official procedure or in the regular way. The recording of additional changes occurring with regard to the beneficial owners during liquidation remains unaffected.

5.3.5 Legal entities in subsequent liquidation or legal entities for which a counsel has been appointed

Legal entities that are in subsequent liquidation **are not subject to registration** in the VwbP. The same applies to deleted legal entities for which a **counsel** has been appointed.

6. Time-limits

Legal entities pursuant to Schedule 1 VwbPG must enter the data on their beneficial owners in the VwbP within 30 days after the legal entity has been registered in the Commercial Register.

Legal entities pursuant to Schedule 2 VwbPG that are subject to registration, reporting, or deposition in the Commercial Register must enter the data concerning their beneficial owners in the VwbP within 30 days from the date of the legal entity's registration in the Commercial Register, or (with foundations not entered in the Commercial Register) from the date of submitting the notice of formation, or (with trusts not entered in the Commercial Register) from the date of submitting the trust deed.

Legal entities pursuant to Schedule 2 VwbPG that are not subject to registration, reporting, or deposition in the Commercial Register must enter the data concerning their beneficial owners in the VwbP within 30 days from their formation. This provision applies to Liechtenstein trusts formed for a period of less than twelve months (see Art. 900 (1) PGR).

Foreign trusts or similar legal arrangements pursuant to Art. 2 (1) (c) (2) VwbPG and trusts or similar legal arrangements managed in a third state pursuant to Art. 2 (1) (c) (3) VwbPG must enter the data concerning their beneficial owners in the VwbP within 30 days from starting management in Liechtenstein or from starting a business relationship with a person subject to due diligence or from acquiring real estate.

All legal entities subject to registration in the VwbP must record **changes** to the data of their beneficial owners in the VwbP **within 30 days from knowledge**.

7. Documentation

The VwbPG requires the legal entities within its scope of application to obtain, verify, and communicate to the AJU, STIFA/GWP in electronic form the data concerning their beneficial owners.

Although the VwbPG does **not** stipulate an **express duty to retain records**, it is important to note in this context that the obliged legal entities must grant to the AJU, STIFA/GWP and the independent third parties mandated by it **unlimited access to all information** which is relevant in connection with the fulfilment of their duties under the VwbPG and which the AJU, STIFA/GWP and the mandated independent third parties consider to be necessary for carrying out the controls (Art. 24 (6) VwbPG).

8. Disclosure of data

It is possible to **apply in writing** to the AJU, STIFA/GWP for the disclosure of the data of legal entities recorded in the VwbP. The application is made using the **official forms** available for download for this purpose on the homepage of the AJU, STIFA/GWP.¹⁰

8.1 Disclosure of data to banks and financial institutions

On application, the data entered in the VwbP on legal entities will be disclosed by the AJU, STIFA/GWP to:

- a **bank** or a **financial institution** domiciled in **Liechtenstein** or in another **EEA member state**; or
- a **bank** domiciled in a **third state** if in addition to the requirements laid down in the AMLD, the data protection requirements pursuant to Art. 45 of Regulation (EU) 2016/679 are also met.

The bank or financial institution requires a **licence** in terms of Art. 3 AMLD as:

- a credit institution;
- an undertaking other than a credit institution, which carries out one or more of the activities listed in points (2) to (12), (14) and (15) of Annex I to Directive 2013/36/EU of the European Parliament and of the Council, including the activities of currency exchange offices (bureaux de change);
- an insurance undertaking carrying out life insurance activities;
- an investment firm;
- a collective investment undertaking marketing its units or shares;
- an insurance intermediary acting with respect to life insurance and other investment-related services.

Disclosure may only be made for the purpose of **fulfilling due diligence obligations** or to carry out **acts to combat money laundering, predicate offences to money laundering, and terrorist financing**. Disclosure requires a statement to such effect from the bank or financial institution on the application form provided by the AJU, STIFA/GWP on its homepage¹⁰.

The legal entity concerned is **not a party** in the proceedings to disclose data to banks and financial institutions; however, following disclosure, it is **informed of the fact** that the data has been disclosed.

8.2 Disclosure of data to domestic persons subject to due diligence

On application, the data entered in the VwbP on legal entities will be disclosed by the AJU, STIFA/GWP to **domestic persons subject to due diligence** pursuant to Art. 3 (1) SPG.

Disclosure may only be made for the **purpose of fulfilling due diligence obligations**. It requires a statement to such effect from the domestic person subject to due diligence on the application form provided by the AJU, STIFA/GWP on its homepage¹⁰.

If the request by the person subject to due diligence for the disclosure of data concerns **non-unattached legal entities pursuant to Schedule 1 VwbPG** or **legal entities pursuant to Schedule 2 VwbPG**, the legal entity concerned is directed by the AJU, STIFA/GWP to declare – with a time-limit of three days, and being provided with the form "Declaration of the exercise of control" – whether a founder or protector exercises **control** of the legal entity in question. If this is **not** the case, the **data of founders and protectors will not be disclosed**. However, if the time-limit to make the corresponding declaration expires without being used, the AJU, STIFA/GWP will **disclose** the data of the founders and protectors.

The legal entity concerned is **not a party** in the proceedings to disclose data to persons subject to due diligence; however, following disclosure, it is **informed of the fact** that the data has been disclosed.

8.3 Disclosure of data to third parties

The data entered on legal entities in the VwbP will be disclosed by the AJU, STIFA/GWP to **domestic and foreign persons and organisations** (third parties) on application and for a fee.

Disclosure may only be made for the purpose of **combating money laundering, predicate offences to money laundering, and terrorist financing**.

In the disclosure of data to third parties, there is a distinction between the disclosure of data of **unattached legal entities pursuant to Schedule 1 VwbPG** on the one hand and **non-unattached legal entities pursuant to Schedule 1 VwbPG or legal entities pursuant to Schedule 2 VwbPG** on the other:

8.3.1 Unattached legal entities pursuant to Schedule 1 VwbPG

With unattached legal entities pursuant to Schedule 1 VwbPG, the applicant must declare in a **plausible** way that the data from the VwbP is required to combat money laundering, predicate offences to money laundering, and terrorist financing. This corresponds with the **plausible demonstration of a legitimate interest** in disclosure with regard to non-unattached legal entities pursuant to Schedule 1 VwbPG and legal entities pursuant to

Schedule 2 VwbPG. The legitimate interest of the third party must be plausibly demonstrated using the application form provided by the AJU, STIFA/GWP on its homepage¹⁰.

The legal entity concerned is **not a party** in the proceedings to disclose data of unattached legal entities pursuant to Schedule 1 VwbPG; however, following disclosure, it is **informed of the fact** that the data has been disclosed.

The decision on disclosure is up to the **AJU, STIFA/GWP** in these cases.

8.3.2 Non-unattached legal entities pursuant to Schedule 1 VwbPG and legal entities pursuant to Schedule 2 VwbPG

With non-unattached legal entities pursuant to Schedule 1 VwbPG and legal entities pursuant to Schedule 2 VwbPG, the applicant must **plausibly demonstrate a legitimate interest** in the disclosure of the data (i.e. plausibly demonstrate that the data applied for is to be used in combating money laundering, predicate offences to money laundering, and terrorist financing). The legitimate interest of the third party must be plausibly demonstrated using the application form provided by the AJU, STIFA/GWP on its homepage¹⁰.

In the alternative, the applicant may assert a **controlling ownership interest**. In this case, the applicant must plausibly demonstrate that a trust or similar legal arrangement entered in the VwbP holds a direct or indirect ownership interest of 25 % or more in a company or legal entity domiciled in a third state.

In addition to plausibly demonstrating a legitimate interest or a controlling ownership interest, the applicant must also provide **information on the intended use** of the information applied for.

The legal entity concerned by the application for disclosure is directed by the AJU, STIFA/GWP to **declare** with a time-limit of five days:

- using the form "Declaration of the exercise of control", whether a founder or protector exercises **control** of the legal entity in question. If this is **not** the case, the **data of the founders and protectors will not be disclosed**. If the time-limit to make the corresponding declaration expires without being used, the AJU, STIFA/GWP will **disclose** the data of the founders and protectors;
- whether there is a legitimate interest with regard to the requested disclosure or whether there is a controlling ownership interest.

The AJU, STIFA/GWP will then forward the application together with the corresponding documentation (i.e. including the statement and declaration of the legal entity) to the **VwbP-Commission** appointed by the Government for decision on the requested disclosure.

The legal entity concerned is **not a party** in the proceedings to disclose data of non-attached legal entities pursuant to Schedule 1 VwbPG and legal entities pursuant to Schedule 2 VwbPG, with the exception of making the described statement concerning the application for disclosure and the declaration concerning control by the founders/protectors. Following disclosure, the legal entity is **informed of the fact** that the **data has been disclosed**.

8.4 Disclosure of data to domestic authorities by retrieval procedure

Domestic authorities, that is the FIU, the FMA, the National Police, the Tax Administration, the Office of the Public Prosecutor, the Princely Court of Justice, and the Liechtenstein Bar Association may by **retrieval procedure directly access the data recorded in the VwbP** for the purpose of combating money laundering, predicate offences to money laundering, and terrorist financing.

8.5 Disclosure of data to foreign authorities through international administrative assistance and mutual legal assistance

The domestic authorities authorised to retrieve data – i.e. the FIU, the FMA, the National Police, the Tax Administration, the Office of the Public Prosecutor, the Liechtenstein Bar Association, or the Princely Court of Justice. – decide on the admissibility of the disclosure of data in the context of administrative assistance to foreign public authorities or in the context of mutual legal assistance to foreign courts, doing so on the basis of the provisions of the special laws applicable in each case (Art. 14 VwbPG). Accordingly, requests for administrative assistance must be directed towards the domestic authorities designated above, and requests for mutual legal assistance must be directed towards the Princely Court of Justice (*Landgericht*).

Where requests for administrative assistance or mutual legal assistance are justified, the competent domestic authorities and the Princely Court of Justice will access the VwbP by retrieval procedure and forward the data to the requesting competent foreign public authority or the competent foreign court.

9. Limitation of the disclosure of data

A legal entity may apply to the AJU, STIFA/GWP for the limitation of disclosure and may thereby achieve that the **data entered** in the VwbP on a beneficial owner **will not be disclosed to domestic persons subject to due diligence and to third parties**. Such limitation is admissible in the following cases:

- The disclosure of data would expose the beneficial owner to a **disproportionate risk** of fraud, abduction, blackmail, racketeering, harassment, violence, or intimidation.

- The beneficial owner is a **minor** or **legally incapacitated in any other way**.

The corresponding application must be made using the **form** provided for this purpose on the homepage¹⁰ of the AJU, STIFA/GWP. Note that the legal entity must submit a separate application form for every single beneficial owner for whom limitation is to be effected.

When submitting the application, **suitable evidence to demonstrate the disproportionate risk** of fraud, abduction, blackmail, racketeering, harassment, violence, or intimidation must also be enclosed.

The limitation of the disclosure of data is granted for a **period of five years**, and in the case of limitation because the beneficial owner is a minor, **until the age of 18 years** has been reached (coming of age). If the requirements described above cease before the 5-year period has expired, the AJU, STIFA/GWP must be **informed accordingly in writing**.

The AJU, STIFA/GWP will inform the legal entity about the **imminent expiry** of the limitation of disclosure. Extension must be applied for early and may be granted if the legal entity **demonstrates** – once again providing suitable evidence – that **prevailing legitimate interests** of the beneficial owner continue to preclude the disclosure of data. If **proceedings to limit the disclosure of data are pending** or if such **proceedings are opened during proceedings to disclose data**, the proceedings to disclose data are interrupted until a final decision on the limitation of disclosure has been rendered.

10. Extracts and certificates from the VwbP

Legal entities may at any time generate and download an **overview of the recorded data** (a so-called **PDF-extract**) from the electronic system (VwbP). This document includes the note that the data was entered by the legal entity itself and that it was the legal entity itself which generated the extract/the overview.

Furthermore, the legal entity may at any time order **official extracts** for a fee, using an order form available on the homepage¹⁰ of the AJU, STIFA/GWP or in the online counter. The official extract will include the note that it shows the data entered in the VwbP by the legal entity itself, and that the extract does **not** have public reliance. This means that the accuracy of the data on the extract **has not been verified** by the AJU, STIFA/GWP.

Also, there is the option to order **official certificates** of registration in the VwbP for a fee, using the form provided on the homepage¹⁰ of the AJU, STIFA/GWP or in the online counter. Note in this connection that an official certificate will only certify that the legal entity concerned has indeed recorded data in the VwbP. The **data actually recorded** in the VwbP, i.e. the legal entity's beneficial owners, are **not shown** on the certificate.

Official extracts and certificates as well as the overview of the data recorded in the VwbP (PDF-extract) are only available/retrievable **in German**.

11. Transfer of responsibility for a legal entity

The legal entity is **responsible** for being able to **access** the VwbP at all times and for being able to fulfil its duties concerning the entry and reporting of **changes** to the data in time.

If there is to be a **change** to the **person responsible** for recording the data, i.e. to the user recorded in the VwbP, the existing user must **release** the responsibility in the VwbP for the legal entity concerned. The legal entity must then be electronically **requested** by the new user in the VwbP. Furthermore, a signed form for the transfer of responsibility for a legal entity to a user account ("*Antragsformular auf Übernahme eines Rechtsträgers in ein Benutzerkonto ('Rechtsträger anfordern')*", available on the homepage¹⁰ of the AJU, STIFA/GWP or in the online counter, must be submitted to the AJU, STIFA/GWP electronically or as an original.

Additional information on the transfer of responsibility for a legal entity can be found in the Instruction "*Anleitung - Übernahme eines Rechtsträgers in ein Benutzerkonto*", available (in German only) on the homepage¹⁰ of the AJU, STIFA/GWP.

12. Ensuring the accuracy and up-to-dateness of the VwbP data

12.1 Plausibility checks

The AJU, STIFA/GWP will regularly check the data entered by the legal entities themselves for **plausibility** on a **sample basis**. If discrepancies are found during such checks, the legal entity will be requested to correct the data or make a declaration concerning the accuracy of the data recorded. Non-compliance with such requests is subject to **punishment**.

12.2 Controls pursuant to Art. 24 VwbPG

Pursuant to Art. 24 (1) VwbPG, the AJU, STIFA/GWP may carry out controls if there is reason to assume that a legal entity has violated provisions of the VwbPG. Emphasis in this context lies on **verifying the identity of the beneficial owners** of the legal entity subject to control and/or **verifying the beneficial ownership** itself.

Controls are carried out by the **AJU, STIFA/GWP** or by **independent third parties mandated** by it (i.e. auditors, auditing companies, and audit offices subject to special legislation as laid down in Art. 26 (1) SPG).

12.3 Reporting of discrepancies

Pursuant to Art. 9 VwbPG, **persons subject to due diligence** must report to the AJU, STIFA/GWP any discrepancies which they notice between the data recorded in the VwbP

and the information available to them. This also applies to the **domestic authorities** listed in Art. 13 VwbPG that are authorised to retrieve data, as far as doing so does not unnecessarily inhibit their legal mandate.

Discrepancies must be reported **no later than 30 days from knowledge**, using an official form available on the homepage¹⁰ of the AJU, STIFA/GWP. The reporting form must be submitted to the AJU, STIFA/GWP in original and signed form including the corresponding attachment. This **time-limit** is **suspended** if the incorrect or incomplete entry has been pointed out in advance to the legal entity by the person subject to due diligence.

No discrepancy report needs to be submitted by the person subject to due diligence if:

- a) the incorrect or incomplete entry has already been **pointed out** to the legal entity by the person subject to due diligence and the latter has effected a **correction within 30 days from knowledge**; or
- b) the person subject to due diligence has submitted a **report pursuant to Art. 17 SPG** to the FIU.

The fact that a discrepancy report pursuant to Art. 9 VwbPG has been received will be **annotated** by the AJU, STIFA/GWP in the Register and will therefore be evident for the legal entity concerned as well as for the domestic authorities that are authorised to retrieve data.

In the **disclosure** of data from the VwbP, the fact that a discrepancy report has been submitted is **evident** only if the disclosure of data has been applied for by the following:

- **banks** domiciled in Liechtenstein, in another EEA member state, or in an equivalent third state;
- **financial institutions** domiciled in Liechtenstein or in another EEA member state.

The AJU, STIFA/GWP will then take the **measures necessary** to mend the discrepancy. As a first step, the legal entity concerned will be requested to **correct** the discrepancy or **submit a declaration** concerning the accuracy of the data. In this context, the legal entity will merely be provided with the **attachment to the discrepancy report**.

In connection with possible discrepancies that might occur concerning the **group of beneficiaries in discretionary structures** (foundations, trusts, and establishments or trust enterprises organised similarly to foundations), the following case is pointed out in particular:

If in Form T pursuant to Annex 1 to the SPV – which is used to identify the beneficial owner as laid down in the SPG and SPV – the group of discretionary beneficiaries is **specifically described by stating names**, while in Form T pursuant to Schedule 2 to the VwbPV the discretionary beneficiaries are described in abstract terms (such as by stating "descendants, relatives, and friends of the Founder or (if applicable) charitable

institutions"), this **does not constitute a discrepancy** in the terms of Art. 9 VwbPG. Therefore, **no discrepancy report** to the AJU, STIFA/GWP is required in these cases.

12.4 Sanctions

Pursuant to Art. 31 (2) VwbPG, the **AJU, STIFA/GWP** shall, if the act does not constitute an offence that is subject to the jurisdiction of the courts,¹⁹ impose a **fine of up to CHF 200,000** for contravention on anyone who:

- a) does not or not in time comply with his duties concerning
 - the identification and verification of the identity of the beneficial owners pursuant to Art. 3 VwbPG;
 - the obtainment and communication of the data of the beneficial owners pursuant to Art. 4 VwbPG;
 - the reporting of discrepancies pursuant to Art. 9 VwbPG
 or does not comply with these duties completely or correctly in terms of content;
- b) inhibits or renders impossible the proper conduct of a control pursuant to Art. 24 VwbPG; or
- c) does not comply with a request from the Office of Justice to complete or correct the data, or with a decree of the Office of Justice to mend a discrepancy pursuant to Art. 9 VwbPG, or with any other request.

If the violations are committed by a **legal entity**, the penal provisions apply to the **members of the managerial level and other natural persons** who acted or should have acted for the legal entity, the **legal entity being jointly and severally liable** for fines and costs (Art. 32 VwbPG).

¹⁹ The offences pursuant to Art. 31 (1) VwbPG are punished by the Princely Court of Justice (*Landgericht*) as the court of jurisdiction.