

Poortwachtersfunctie for civil-law notaries

As civil-law notaries, we are obliged to report unusual transactions that may be related to money laundering or the financing of terrorism to the Unusual Transactions Disclosure Office (meldpunt ongebruikelijke transacties), officially named FIU-Nederland. This is based on the Money Laundering and Terrorist Financing (Prevention) Act (Wwft).

This also applies to transactions that have been planned but have not (yet) been carried out.

The Act stipulates that the civil-law notary must first conduct and complete a client investigation before he can enter into a business relationship and definitively accept the assignment.

Client investigation

First of all, the civil-law notary must investigate the client, the background and the objective of an intended transaction or business relationship. It is important in this respect that the notary establishes the client's identity, which must be verified by means of a valid identity card. Furthermore, the civil-law notary takes a look at the insolvency register and curatorship register.

In the case of a legal entity, this means, for example, that the civil-law notary must gain a picture of the Ultimate Decision-Makers (UBO), the shareholders and the person who has control of the company.

It is also intended that unusual transactions will be flagged up in good time. For example, the civil-law notary may not receive more than € 2,500 in cash, money may only be transferred by the civil-law notary to accounts held in the name of the person who is party to the deed, and money deposited in the civil-law notary's third-party funds account may only come from a bank account held in the name of the person who is party to the deed.

If the identity of the client cannot be established, or if more than €2,500 in cash is received, the notary may have a reporting obligation.

Origin of own resources

Pursuant to the WWFT it must be clear where the funds come from. Therefore, the civil-law notary needs to investigate the source or origin of the funds and the underlying documents used in the relationship or transaction. The staff member of the notary's office may therefore ask you for additional information. This might include bank statements, (private) money loan agreements, donation agreements, annual documents (profit and loss account and balance sheet), tax returns and/or other evidence. The documents must be known to the notary before the deed is signed. We are aware that you may find the questions we have to ask annoying. However, these rules have been imposed on us and we are nevertheless obliged to ask you for certain documents. We therefore trust in your understanding.

Notary obligation to report

As soon as a notary receives a definite commission, he or she is obliged to report to the Fiscal Intelligence Unit (FIU-Nederland). The notary's duty of confidentiality is then breached. Should, for example, an unusual transaction (or intention to make such a transaction) occur at this stage, or should any other information come to light which results in an obligation for the civil-law notary to report, then the civil-law notary will have to report this to the FIU.

Even if the client does not cooperate in an investigation into the origin of the capital and the underlying documents, the civil-law notary must end the business relationship and report this to the FIU. The civil-law notary is not allowed to disclose this report to the client.