



1 DGSD Implementation Initiative (D2I) – Treatment of special cases

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1 Fiduciary Accounts

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Fiduciary Account – a common definition

In general, a fiduciary account is an deposit account held in one's own name, but for the account of a third-party (owner or beneficiary of the funds). The individual or entity opening the account (fiduciaries) does not have an ownership interest in the deposit .

Fiduciaries are commonly

- *Trustees or trust companies*
- *Lawyers or law firms*
- *Any other agents (banks, real estate agents, auditors ...*

What says the DGSD?

Point 6 of Article 2(1): definition of the depositor

- *the holder of a deposit = account holder*
- *DGS covers the fiduciary?*

Article 7(3): handling of depositors which are not absolutely entitled

- *the person who is absolutely entitled shall be covered*
- *provided that that person has been identified or is identifiable before the date of decision of default*

Article 8(3): extension of repayment period

- *MS may decide that deposits referred to in Article 7(3) are subject to a longer repayment period, which does not exceed three months*

Liechtenstein's AML provisions (June 2018)

Disclosed fiduciary account (standard case)

- *Bank knows the owner's/beneficiaries identity at any time*
- *Look-through is mandatory*
- *Bank is in possession of AML records/documentation*

Undisclosed fiduciary account (exemptions)

- *Only used under special circumstances (fiduciary = lawyers only)*
- *Legal base for account opening is mandatory (documentation)*
- *Explicit AML exemptions for the bank (passthrough to the fiduciary)*
- *Only the fiduciary knows owner's/beneficiaries identity*

Liechtenstein's DGS act

Disclosed fiduciary account

- owner/beneficiary is the depositor
- ready for eligibility test by DGS
- owner's/beneficiaries funds are taken into account for covered deposits calculation
- if several persons are entitled, share of each shall be taken into account

Undisclosed fiduciary account

- fiduciary is the depositor
- owner's/beneficiaries funds are not taken into account for covered deposits calculation
- in default:
 - owner/beneficiary has to claim for compensation (identity information)
 - separate eligibility test by DGS
 - if several persons are entitled, share of each shall be taken into account

SCV file records

Disclosed fiduciary account

- *Standard record for each depositor (= owner/beneficiary of the funds)*
- *Additional relationship status key that deposit amount is affected by an fiduciary account relationship (code: TREUHAND)*
- *Payout: ready for straight through processing (stp)*

Undisclosed fiduciary account

- *Standard record for each depositor (= fiduciary = lawyers only)*
- *Additional relationship status key (code: ANWALT) that depositor has special AML fiduciary account relationship in his records*
- *Payout: STOP (not ready for stp)*
- *Eligibility test: Separate proof of evidence is needed*

At a glance

- *Structure and handling of fiduciary accounts are AML driven*
- *DGS provisions have to reflect this*
- *DGS' work is even more based on the bank's fine tuned core application, proper records of the clients relationship and high quality client data*
- *2-tier-system*
 - Disclosed fiduciary accounts (standard case)
 - Owner's/beneficiaries are identified by the bank before default date
 - Depositor = owner/beneficiary of the funds
 - Payout: fit for stp
 - Undisclosed fiduciary accounts (exemption)
 - Owner's/beneficiaries are not identified by the bank before default date
 - Depositor = fiduciary (lawyers only)
 - Payout: not ready for stp, separate eligibility check by manual claim handling

