

Notarial Acts and Notarial Codes of Ethics

KYC, due diligence and anti-money laundering

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**Undergraduate Certificate in Notarial Law
Fundamentals for Office Assistants**

Learning Outcomes

- What is KYC?
- The knowledge about the responsibilities emerging from “know your client”, due diligence and anti-money laundering regulations.
- The Compilation and organise documents related to KYC, due diligence, and anti-money laundering internal processes.
- How to Construct a comprehensive understanding of the responsibilities related to KYC
- What is due diligence?
- What is anti-money laundering?
- What consists of the internal processes?
- The meeting of deadlines? Any repercussions?
- The essential theoretical knowledge required for assistants in notarial offices.
- The role and responsibilities of notaries as impartial public officers.



What is KYC?

- In Malta, the **Know Your Client (KYC)** process is an essential part of due diligence before any transaction, particularly in property purchases, business setups, or financial transactions.
- Before going to a **notary**, several KYC procedures must be completed to comply with **anti-money laundering (AML) regulations**.
- **KYC Procedures Before the Notary in Malta**
 - Before a notary can proceed with signing a contract (e.g., property purchase, company formation, inheritance, etc.), the following steps must be completed:



1. Client Identification and Verification

- The notary or legal professional must collect a **valid identification document**:
 - Passport or Maltese ID card (for individuals)
 - Certificate of incorporation, Memorandum & Articles of Association (for companies)
- Proof of residential address (utility bill, bank statement, or government correspondence no older than 3 months)
- Verification of identity against government-issued records and databases



2. Source of Funds and Wealth Declaration

- Clients must provide evidence of their **source of funds** (where the money for the transaction is coming from). This could include:
 - Bank statements
 - Payslips or employment contracts
 - Loan agreements
 - Business profits or dividends
- In **large transactions**, a detailed **source of wealth** (how the client accumulated their assets) may be required.



3. Risk Assessment & Due Diligence

- The notary assesses the risk level of the client based on factors such as:
 - Country of residence (whether it is a high-risk jurisdiction)
 - Business activities
 - Politically exposed person (PEP) status
- If the client is deemed high-risk, the notary may conduct **Enhanced Due Diligence (EDD)**, requiring additional documentation



4. Screening Against Sanctions and Watchlists

- The notary may screen the client against **international sanctions lists**, such as:
 - EU Sanctions List
 - UN Sanctions List
 - Financial Action Task Force (FATF) watchlists



5. Compliance with Anti-Money Laundering (AML) and Counter-Terrorism Financing (CFT) Laws

- All transactions must comply with **Maltese AML laws**, particularly:
 - The Prevention of Money Laundering Act (Cap. 373 of the Laws of Malta)
 - The Financial Intelligence Analysis Unit (FIAU) guidelines
- If any suspicious transactions are identified, the notary must **report them to the FIAU**.

6. Signing of Preliminary Agreement (‘Konvenju’)

- In property transactions, after KYC is completed, the buyer and seller sign the **Preliminary Agreement (Konvenju)** before the notary.
- The buyer typically pays a **10% deposit** at this stage



7. Final Contract Signing ('Deed of Sale' or Business Transfer)

- Once all due diligence is cleared, the notary drafts and **signs the final contract**.
- For property transactions, the final deed is registered with the **Public Registry or Land Registry**.



The knowledge about the responsibilities emerging from “know your client”, due diligence and anti-money laundering regulations

- The responsibilities arising from **Know Your Client (KYC)**, **due diligence**, and **anti-money laundering (AML)** regulations in Malta are critical for ensuring transparency, preventing illicit activities, and maintaining compliance with legal frameworks.
- Professionals such as **notaries, lawyers, real estate agents, financial institutions, and corporate service providers** are legally obliged to verify the identity of their clients, assess the legitimacy of their financial activities, and ensure that their transactions do not facilitate money laundering, tax evasion, or terrorist financing.

The KYC process

- The **KYC process** involves obtaining official identification documents, proof of address, and verifying the source of funds and wealth, particularly in high-value transactions such as **property purchases, company formations, and investment transfers**.
- KYC is a fundamental process required by **financial institutions, notaries, lawyers, real estate agents, corporate service providers, and other regulated entities** in Malta to verify the identity of their clients and assess their legitimacy before engaging in business transactions. This process is essential to **prevent identity fraud, money laundering, and terrorist financing**.
- These professionals must conduct a **risk assessment** of each client, identifying whether they are **politically exposed persons (PEPs), linked to high-risk jurisdictions, or involved in suspicious activities**. In cases where a client is deemed high-risk, **Enhanced Due Diligence (EDD)** measures are required, including additional documentation and closer monitoring.



Global sanctions

- Furthermore, professionals must **screen clients against global sanctions lists** issued by entities like the **EU, UN, and Financial Action Task Force (FATF)** to prevent dealings with individuals or entities involved in financial crimes. If any suspicious activity is detected, they are legally obliged to **report it to the Financial Intelligence Analysis Unit (FIAU)**, which oversees AML compliance in Malta.
- Failure to comply with these regulations can result in **severe penalties, reputational damage, and legal consequences**, making it imperative for professionals to stay updated with evolving AML laws and due diligence procedures.
- Additionally, proper **record-keeping of client verification documents and transaction histories** is essential, as authorities may request audits to ensure compliance. These obligations help maintain the integrity of Malta's financial and legal system while mitigating the risks associated with money laundering and other financial crimes.



The Compilation and organise documents related to KYC, due diligence, and anti-money laundering internal processes

- The compilation and organization of **Know Your Client (KYC), due diligence, and Anti-Money Laundering (AML) documents** are essential for ensuring compliance with Maltese and international financial regulations. These documents serve as proof that a business or institution has conducted the necessary checks to verify its clients and assess the legitimacy of financial transactions.
- The first step in this process involves collecting and **categorizing essential client information**, including identification documents, proof of address, corporate records (for business entities), and details regarding the client's source of funds and wealth. Each document must be stored securely and classified according to the level of due diligence applied—whether it is **Standard Due Diligence (SDD), Enhanced Due Diligence (EDD), or Simplified Due Diligence (SDD)**. Proper organization ensures that these documents can be retrieved efficiently for internal audits, regulatory inspections, and ongoing compliance monitoring.



Document management system

- A structured **document management system** must be established to track and store KYC and due diligence records efficiently. This involves setting up **physical filing systems for paper-based documents** and **secure digital databases for electronic records**, ensuring that all data is protected under data privacy regulations such as the **General Data Protection Regulation (GDPR)**. Each client should have an individual file, including identification records, corporate documentation (if applicable), risk assessment reports, transaction history, and compliance approvals.
- A **document tracking mechanism** should be implemented to ensure that records are regularly updated, particularly in cases where clients' financial profiles change over time. This is particularly important for **high-risk clients**, as ongoing monitoring is required to detect any suspicious activities. Implementing **automated KYC solutions** that integrate with government databases and international sanctions lists can further streamline document verification and record-keeping.



Maintaining compliance with AML regulations

- To maintain compliance with AML regulations, businesses must also **compile and document their internal AML policies and procedures**. This includes written policies outlining the company's approach to risk assessment, customer due diligence, transaction monitoring, and reporting of suspicious transactions.
- These policies should be reviewed and updated regularly to reflect changes in Maltese AML laws and international best practices. Additionally, firms must document their **internal audit procedures**, which help ensure that employees are following compliance protocols effectively.
- Compliance officers should maintain **logs of training sessions** for staff, which serve as proof that employees have received proper education on identifying financial crime risks. These documents are crucial in case of regulatory inspections by authorities such as the **Malta Financial Services Authority (MFSA)** and the **Financial Intelligence Analysis Unit (FIAU)**.



Financial transactions and client interactions

- Another key aspect of document compilation involves maintaining **records of all financial transactions and client interactions**. This includes detailed logs of deposits, withdrawals, fund transfers, and any unusual or high-value transactions that may require further investigation.
- **Transaction monitoring reports** must be systematically organized and reviewed to identify potential red flags that could indicate money laundering or fraudulent activities.
- If any suspicious transactions arise, they must be documented thoroughly and reported to the FIAU through a **Suspicious Transaction Report (STR)**. Keeping comprehensive and well-organized records of these reports ensures transparency and demonstrates due diligence in case of future investigations.
- Additionally, businesses must document all communications related to client inquiries, compliance requests, and risk assessment discussions to provide a clear audit trail.



Document retention policies

- It is vital to establish **document retention policies** in line with Maltese AML regulations, which require that KYC and due diligence records be kept for a **minimum of five years** after the business relationship has ended.
- Companies must implement **secure storage solutions** that prevent unauthorized access, data tampering, or loss of critical records.
- Backup systems should be in place for digital files, while physical documents should be stored in secure, access-controlled locations.
- A **systematic record disposal procedure** should also be in place to ensure that outdated documents are securely destroyed when they are no longer required, preventing potential data breaches.
- Overall, a well-structured approach to compiling and organizing KYC, due diligence, and AML documents is essential for maintaining compliance, protecting the business from financial crime risks, and ensuring regulatory readiness at all times.



How to Construct a comprehensive understanding of the responsibilities related to KYC

- Constructing a comprehensive understanding of **Know Your Client (KYC) responsibilities** requires a thorough grasp of the legal, ethical, and procedural obligations imposed on businesses and professionals across various industries, particularly in **finance, real estate, law, and corporate services**. KYC is a fundamental component of **Anti-Money Laundering (AML) regulations** and serves as the first line of defense against **fraud, financial crimes, and terrorism financing**.
- Organizations that deal with financial transactions, property transfers, and business formations are legally required to implement robust KYC procedures to verify their clients' identities, assess the legitimacy of their financial activities, and ensure that they are not engaging in illegal practices. Understanding these responsibilities involves recognizing the need for **detailed client verification, risk assessment, due diligence measures, and compliance reporting**. Failure to comply with KYC obligations can result in severe penalties, reputational damage, and legal consequences.



Identification and verification of clients

- One of the most critical KYC responsibilities is the **identification and verification of clients**. Businesses must collect and authenticate official documents such as **passports, national identity cards, residence permits, and corporate registration records** in the case of legal entities.
- Additionally, proof of residential or business addresses must be obtained through recent **utility bills, bank statements, or government-issued correspondence**. These documents help confirm that the client is a legitimate individual or entity and not using false identities for illicit purposes.
- Beyond simple identity verification, organizations must investigate the client's **source of funds and wealth** to ensure that their financial resources are legally obtained.
- This process involves obtaining **bank statements, employment records, tax returns, and business financial statements** to establish a clear link between a client's financial activity and their declared income. The extent of documentation required depends on whether the client is classified as **low-risk, standard-risk, or high-risk**, a determination made through **risk assessment protocols**.



Risk assessment and due diligence

- A key aspect of KYC responsibilities is **risk assessment and due diligence**, which require businesses to evaluate the potential risks associated with each client before proceeding with transactions.
- Risk assessments involve screening clients against **international watchlists, politically exposed persons (PEP) databases, and sanctions lists issued by regulatory bodies such as the European Union (EU), the United Nations (UN), and the Financial Action Task Force (FATF)**.
- If a client is flagged as a high-risk individual or entity—due to political exposure, involvement in high-risk industries, or transactions originating from countries with weak AML regulations—**Enhanced Due Diligence (EDD)** measures must be applied. EDD requires **more extensive documentation, deeper investigations, and ongoing monitoring of financial transactions** to detect unusual patterns or potential money laundering schemes.
- Conversely, **Simplified Due Diligence (SDD)** may be applied in low-risk scenarios, where clients are government agencies, regulated financial institutions, or well-established businesses with transparent financial histories.



Ongoing monitoring and compliance reporting

- Beyond verifying identities and assessing risks, KYC responsibilities extend to **ongoing monitoring and compliance reporting**.
- Businesses must **continuously review and update** client records to ensure they remain accurate and reflect any changes in financial behavior or risk exposure.
- Monitoring financial transactions is essential for detecting suspicious activities such as **large unexplained cash deposits, rapid fund transfers between unrelated entities, or unusually complex financial structures designed to obscure ownership**.



Strong internal compliance framework

- constructing a comprehensive understanding of KYC responsibilities requires a **strong internal compliance framework, staff training programs, and the integration of advanced technological solutions.**
- Notaries must establish **clear internal policies and procedures** for handling client verification, risk assessment, and transaction monitoring.
- Employees should be trained regularly on **AML laws, KYC protocols, and how to detect financial crime risks.**
- Furthermore, leveraging **automated KYC solutions, AI-driven risk assessment tools, and blockchain-based identity verification systems** can enhance the efficiency and accuracy of compliance efforts.
- By embedding KYC principles into everyday operations and staying up to date with evolving AML regulations, businesses can protect themselves from financial crime risks while fostering trust and transparency within the financial ecosystem.



What is due diligence?

- In a notarial setup in Malta, due diligence is a fundamental requirement to ensure compliance with Anti-Money Laundering (AML) regulations, Know Your Client (KYC) obligations, and legal standards governing property transfers, contract execution, and business transactions. Maltese notaries play a crucial role in verifying the identity of parties involved in legal agreements, particularly in real estate transactions, wills, company formations, and financial dealings.
- Under the Notarial Profession and Notarial Archives Act (Cap. 55 of the Laws of Malta) and the Prevention of Money Laundering Act (PMLA) (Cap. 373), notaries are legally obliged to conduct Customer Due Diligence (CDD) before authenticating or registering any transaction. This includes verifying the identities of all parties, assessing the legitimacy of their financial resources, and ensuring that the transaction does not facilitate money laundering, fraud, or other financial crimes. Notaries must collect and maintain official documentation such as valid identification (passport or Maltese ID card), proof of residential address (utility bills or bank statements), tax declarations, and financial records demonstrating the source of funds and wealth.
- If a party involved in the transaction is a Politically Exposed Person (PEP), from a high-risk jurisdiction, or involved in unusually complex financial arrangements, notaries must conduct Enhanced Due Diligence (EDD), which involves obtaining additional supporting documents and monitoring the transaction more closely.



Due Diligence Responsibilities

- Due diligence is the process of gathering and assessing information about a client to ensure that they are **legitimate and that their financial transactions are legal**. This process is classified into three levels:
- **a) Standard Due Diligence (SDD)**
 - This applies to **low-risk clients** and includes:
 - **Identity verification** using government-issued documents.
 - **Basic checks** on the client's business activities and source of funds.
 - **Verification of legitimacy** through public records and corporate registries.
- **b) Enhanced Due Diligence (EDD)**
 - EDD is required for **high-risk clients or transactions**, particularly when:
 - The client is a **Politically Exposed Person (PEP)**.
 - The client is from or transacting with a **high-risk country** identified by the **Financial Action Task Force (FATF)**.
 - The transaction is unusually large or complex, with no clear economic rationale.



Due Diligence Responsibilities ... cont'd

- EDD measures include:
 - **Additional documentation** to prove the source of funds and wealth (e.g., tax returns, business records, employment contracts).
 - **More frequent transaction monitoring** to detect unusual behavior.
 - **Approval from senior management** before proceeding with the transaction.
- **c) Simplified Due Diligence (SDD)**
 - This applies to **low-risk transactions**, such as payments to government institutions or dealings with reputable financial entities already subject to AML compliance.



Beyond client verification

- Beyond client verification, Maltese notaries are also responsible for conducting risk assessments and reporting suspicious activities.
- They must evaluate whether a transaction aligns with the client's declared financial status and economic profile. If any irregularities arise, such as large cash payments with no clear source, involvement of offshore entities with unclear ownership structures, or sudden changes in the transaction's nature, the notary is legally required to submit a Suspicious Transaction Report (STR) to the Financial Intelligence Analysis Unit (FIAU).
- Additionally, notarial records and transaction documents must be preserved for a minimum of five years, ensuring that regulatory authorities can access them for audits or investigations. Notaries are also expected to provide guidance to clients on compliance obligations and to refuse to authenticate documents or transactions that do not meet legal and due diligence requirements.
- Failing to adhere to due diligence responsibilities can result in severe legal penalties, professional misconduct charges, and reputational damage. Therefore, due diligence in a notarial setup in Malta is not merely an administrative task but a legal and ethical duty that upholds the integrity of the country's legal and financial system.



What is anti-money laundering?

- **Anti-Money Laundering (AML)** refers to a set of laws, regulations, and procedures designed to **prevent criminals from disguising illegally obtained money as legitimate income**. Money laundering is the process through which individuals or organizations involved in criminal activities—such as drug trafficking, fraud, corruption, tax evasion, or terrorist financing—attempt to integrate illicit funds into the legal financial system. AML regulations require financial institutions, notaries, corporate service providers, and other regulated entities to **identify, monitor, and report suspicious financial activities** to prevent financial crimes.
- These measures are enforced by regulatory bodies such as the **Financial Intelligence Analysis Unit (FIAU) in Malta**, the **Financial Action Task Force (FATF) globally**, and the **European Union (EU) AML Directives**. Key AML obligations include conducting **Customer Due Diligence (CDD)**, maintaining transaction records, monitoring financial activity for irregular patterns, and reporting any suspicious transactions to authorities.



Key stages of money laundering

- AML laws are structured around **three key stages of money laundering: Placement, Layering, and Integration.**
- **Placement** is when illicit funds enter the financial system, often through cash deposits, real estate purchases, or investments.
- **Layering** involves complex financial transactions, such as multiple bank transfers, offshore accounts, or shell companies, to obscure the origin of funds.
- **Integration** is the final stage, where laundered money is reinvested into the economy as "clean" funds, often through business ventures or luxury asset purchases. To combat money laundering, financial institutions and professionals must implement **Know Your Client (KYC) procedures**, perform **risk assessments**, and apply
- **Enhanced Due Diligence (EDD)** for high-risk clients. Failure to comply with AML regulations can lead to **severe penalties, criminal prosecution, financial losses, and reputational damage**. As financial crime becomes more sophisticated, governments worldwide continue to strengthen AML laws, utilizing **advanced technology, AI-driven transaction monitoring, and international cooperation** to detect and prevent illicit financial activities.



AML and the Notarial practice

- Money laundering poses a significant risk to the **notarial profession in Malta**, given that notaries are often involved in high-value transactions, particularly in **real estate, corporate structuring, and financial agreements**.
- Criminals frequently attempt to use property purchases, company formations, and trust arrangements to integrate illicit funds into the legitimate economy, making notaries potential gatekeepers in the fight against money laundering.
- Under **Maltese law**, notaries are considered **subject persons** under the **Prevention of Money Laundering Act (PMLA) (Cap. 373)** and are required to implement **stringent due diligence measures** before authenticating or executing transactions.
- This includes verifying the **identities of parties involved, assessing the legitimacy of their financial resources, and ensuring that the transaction does not facilitate illicit financial activity**. Notaries must also screen individuals and entities against **international sanctions lists and politically exposed persons (PEP) databases**, as high-risk individuals are more likely to use legal services to launder money.
- Additionally, transactions involving **offshore accounts, shell companies, or high-risk jurisdictions** require enhanced scrutiny, with notaries obligated to request detailed documentation on the source of funds and wealth.

Red flags

- Beyond **client verification and risk assessment**, Maltese notaries must actively monitor transactions for **red flags** that could indicate potential money laundering. These warning signs may include **disproportionately high cash payments, rapid resales of property, or transactions structured to avoid regulatory scrutiny (such as splitting large payments into smaller amounts to bypass reporting thresholds)**.
- If a notary identifies a suspicious transaction, they are **legally required to submit a Suspicious Transaction Report (STR) to the Financial Intelligence Analysis Unit (FIAU)** without informing the client, a principle known as **tipping-off prohibition**. Furthermore, notaries must maintain detailed records of all due diligence measures taken, transaction details, and risk assessments for a **minimum of five years** to ensure compliance with regulatory audits. Failure to adhere to AML obligations can result in **disciplinary action, legal liability, and severe financial penalties**.
- By enforcing **robust AML controls**, notaries in Malta play a crucial role in **protecting the integrity of the financial system** and ensuring that legal services are not exploited for illicit financial activities.

What consists of the internal processes?

- A **notarial office in Malta** follows a structured set of internal processes to ensure compliance with legal obligations, maintain professional integrity, and provide efficient services to clients.
- These internal procedures cover various aspects, including **client due diligence (CDD), document verification, risk assessment, transaction execution, compliance with anti-money laundering (AML) laws, and record-keeping.**
- The notary's role extends beyond merely witnessing and authenticating documents; they must also **verify the legitimacy of transactions, assess legal risks, and ensure that their practice adheres to the Notarial Profession and Notarial Archives Act (Cap. 55 of the Laws of Malta).**
- From the moment a client engages the notary's services, the office must conduct **Know Your Client (KYC) procedures**, collecting identification documents, proof of address, and, where applicable, corporate records.
- Clients must also provide **declarations on the source of funds and wealth**, especially in high-value transactions such as property sales or company formations. These internal processes ensure that the notarial office upholds the **legal and ethical standards** required by Maltese law.

Completion of client verification

- Once client verification is complete, the notarial office proceeds with **document preparation, contract drafting, and transaction execution**. This includes reviewing **title deeds, financial agreements, wills, and public instruments** to confirm their legality and accuracy. The notary must ensure that all contracts are **legally binding, free from defects, and in accordance with Maltese legal requirements**.
- Before finalizing any transaction, a **risk assessment** is conducted to identify any potential legal, financial, or compliance issues. In cases involving real estate transactions, the notary carries out **title searches at the Public Registry, Land Registry, and other relevant authorities** to confirm the legal ownership of the property and ensure there are no encumbrances, debts, or restrictions.
- **Funds handling and escrow management** are also crucial components of notarial internal processes, as notaries may be entrusted with holding client funds before transactions are completed.
- After execution, all documents are meticulously **registered, archived, and stored securely**, with records maintained for at least five years as per Maltese legal requirements. Additionally, notarial offices must conduct **ongoing compliance audits** to ensure their internal procedures remain aligned with evolving legal and regulatory frameworks, ultimately safeguarding both the notary and their clients from legal risks.



The meeting of deadlines? Any repercussions?

- In Malta, the **meeting of deadlines** is a crucial legal obligation governed by various laws, including the **Notarial Profession and Notarial Archives Act (Cap. 55 of the Laws of Malta)**, the **Civil Code (Cap. 16)**, and the **Prevention of Money Laundering Act (Cap. 373)**. Notaries, lawyers, and other legal professionals are bound by strict timeframes when handling **property transactions, contract registrations, wills, and compliance reporting**.
- For instance, when a notary executes a deed of sale for immovable property, they must ensure that it is **registered with the Public Registry within 15 days** of signing.



Further examples

- Similarly, contracts involving **hypothecs or privileges** must be published and recorded within the prescribed period to ensure the legal protection of all parties involved.
- These deadlines are in place to **safeguard public interest, maintain legal certainty, and prevent financial misconduct.**
- In cases of due diligence and **anti-money laundering (AML) compliance**, deadlines are equally stringent—any delays in submitting **Know Your Client (KYC) documents, risk assessments, or Suspicious Transaction Reports (STRs) to the Financial Intelligence Analysis Unit (FIAU)** can lead to regulatory breaches.



The essential theoretical knowledge required for assistants in notarial offices.

- Assistants in notarial offices must possess a solid foundation of legal principles, particularly in the areas of contract law, property law, and inheritance law. Since notarial acts involve the authentication and certification of legal documents, a deep understanding of these legal domains ensures that assistants can accurately prepare and review documents. Knowledge of civil law principles, including obligations, rights, and responsibilities, is crucial for handling various legal transactions efficiently.
- Familiarity with notarial procedures and protocols is another essential requirement. Notarial assistants should understand the legal formalities involved in drafting, witnessing, and executing documents such as wills, deeds, and power of attorney. They must also be well-versed in legal terminology, document structure, and the specific legal requirements that must be met to ensure documents are legally binding. This knowledge helps prevent errors and ensures compliance with legal standards.



Knowledge of ethics and professional responsibility

- A thorough understanding of administrative and record-keeping practices is equally important. Notarial offices handle sensitive and legally significant documents, requiring precise documentation and archiving. Assistants must be familiar with the legal requirements for maintaining records, including confidentiality rules and data protection laws. They should also understand how to use specialized notarial software and filing systems to efficiently manage records.
- Knowledge of ethics and professional responsibility is vital for notarial assistants. Since notarial work involves the verification of legal documents and preventing fraud, assistants must be aware of ethical guidelines and legal obligations. They should understand the importance of impartiality, confidentiality, and diligence in their work. This ensures that they uphold the integrity of the notarial office and protect the interests of clients.



Basic understanding of international notarial practices and cross-border legal transactions

- Assistants should have a basic understanding of international notarial practices and cross-border legal transactions. In an increasingly globalized world, notarial offices often deal with foreign clients, international business transactions, and documents that must be authenticated for use in other countries. Familiarity with apostille procedures, legalization of documents, and relevant international treaties ensures that notarial assistants can handle international cases effectively.
- This combination of legal, procedural, administrative, ethical, and international knowledge forms the foundation for competent and efficient notarial assistants.



The role and responsibilities of notaries as impartial public officers.

- Notaries play a crucial role as impartial public officers responsible for authenticating and certifying legal documents. Their primary duty is to act as neutral witnesses in various legal transactions, ensuring that the parties involved understand the documents they are signing and that these documents comply with the law.
- This impartiality is fundamental to the notarial profession, as it guarantees that all parties receive fair and equal treatment without bias or personal interest. By verifying the authenticity of signatures, the identity of signatories, and the legality of the transaction, notaries help prevent fraud and disputes, thereby contributing to the stability and reliability of legal and commercial affairs.



Impartiality

- One of the key responsibilities of a notary is document authentication. Notaries verify the identity of signatories by checking official identification documents such as passports or national identity cards. This process helps prevent forgery and identity fraud, ensuring that only authorized individuals execute legal agreements. Additionally, notaries confirm that signatories are acting of their own free will, without coercion or undue influence. This is particularly important in cases involving sensitive legal matters such as wills, contracts, and property transfers.
- Notaries are also responsible for certifying copies of original documents. In many legal and administrative procedures, individuals and businesses are required to submit certified copies of important documents, such as birth certificates, academic diplomas, or business licenses. A notary confirms that the copy is a true and accurate reproduction of the original, ensuring its validity for official purposes. This service is widely used in legal proceedings, immigration applications, and business transactions where original documents cannot be provided.



Impartiality ... cont'd

- Another crucial duty of notaries is the drafting and execution of legal instruments. In many jurisdictions, notaries are authorized to draft important legal documents such as contracts, wills, powers of attorney, and property deeds. Their role is not just to prepare these documents but also to ensure they are legally sound, clear, and enforceable. Notaries advise clients on the legal implications of the documents they sign, ensuring that they fully understand their rights and obligations. This function enhances legal certainty and reduces the risk of future disputes.
- Notaries also play a significant role in real estate transactions. They verify property ownership, confirm the legality of property sales, and ensure that all necessary documentation is properly executed and recorded. By overseeing the signing of real estate contracts and deeds, notaries help prevent fraudulent property sales and title disputes. In many countries, notarial authentication is a mandatory step in property transactions to guarantee the security of ownership rights.



Impartiality ... cont'd

- Beyond their legal duties, notaries serve as trusted public officials who uphold ethical and professional standards. They must act with integrity, impartiality, and diligence in all their responsibilities. Their impartiality means that they do not advocate for any party but instead ensure that all legal procedures are followed correctly. This trustworthiness is what allows them to serve as reliable witnesses in legal matters. Any breach of impartiality, such as favoring one party over another, can lead to serious legal consequences and loss of public trust.
- In international legal affairs, notaries facilitate cross-border transactions by authenticating documents for use in foreign countries. Many legal documents, such as contracts, business agreements, and personal affidavits, require notarization before they can be recognized internationally. Notaries may also provide apostille services, which certify that a document has been properly notarized and is valid under international conventions such as the Hague Apostille Convention. This function is essential in international business, immigration, and legal cases involving multiple jurisdictions.



Impartiality ... cont'd

- A notary's responsibility also extends to ensuring compliance with anti-money laundering (AML) and anti-fraud regulations. Because they handle significant legal and financial transactions, notaries must verify the legitimacy of transactions and report any suspicious activities to relevant authorities. This role helps prevent illicit financial activities such as money laundering, fraud, and corruption. Notaries are often required to maintain detailed records of transactions and client information to ensure transparency and legal compliance.
- In addition to their formal duties, notaries also provide legal education and guidance to the public. While they do not act as legal representatives or advisors in contentious matters, they do educate clients about the legal implications of the documents they sign. This ensures that individuals and businesses make informed decisions when entering into legal agreements. By fostering legal awareness, notaries contribute to a more legally literate society and help prevent costly legal disputes.



Impartiality ... cont'd

- Finally, the responsibilities of a notary include maintaining accurate and secure records of all transactions they notarize. These records serve as legal proof in case of future disputes or litigation. Proper documentation ensures that transactions can be traced back to their original signatories and that the integrity of legal documents is preserved.
- Many jurisdictions require notaries to keep records for several years to provide legal protection to the parties involved. Failure to maintain proper records can lead to legal liability and undermine the credibility of the notarial office.





Questions ???



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