

A blurred photograph of an office interior. In the foreground, a metal bookshelf is visible with several books. One book spine is clearly labeled 'D41 Arbeitsrecht Einzelthemen'. In the background, a person in a dark suit is walking from left to right, and another person in a blue shirt is walking from right to left. The background is out of focus, showing office lights and a bright area.

KYC and AML for ICOs – a Practical Overview

SFTI Blockchain Event

Dr. Alexander Vogel und Dr. Reto Luthiger

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What is KYC?

- **Know your customer procedures (KYC) respectively customer due diligence (CDD):** Taking steps to identify your customers and checking who they are and what they say they are.
- **Different Levels of KYC/CDD** for different purposes:

Basic KYC

AML KYC

Suitability
KYC

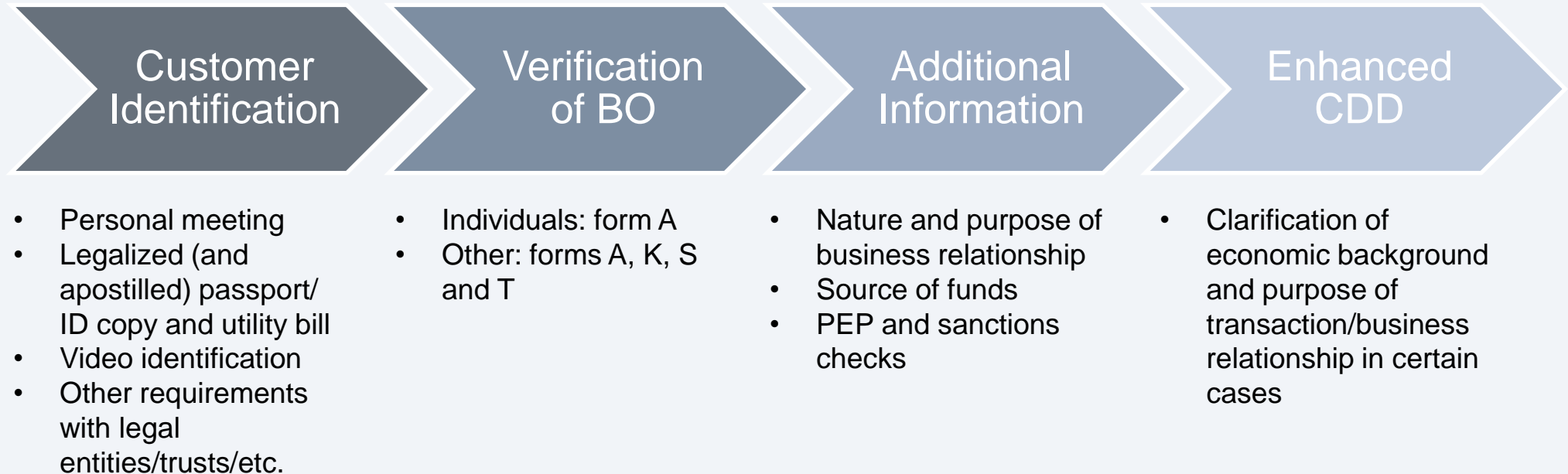
Special
Status KYC

AML-Regulation KYC/CDD-Level

- **Use case:** AML-regulations apply
- **Standard:** **defined** by applicable AML-regulations (per jurisdiction)
- **Applicability of Swiss AML-regulations:**
 - **Issuance of tokens:**
 - **Yes: virtual currencies**
 - Usually not: debt tokens, equity tokens, utility tokens
 - **Examples of other AML-regulated activities in connection with tokens:**
 - Money exchange (Fiat-Fiat/Fiat-crypto/crypto-crypto?)
 - Money transmitting/remitting (fiat/crypto)
 - Operation of payment systems (fiat/crypto)
 - Escrow agent (fiat/crypto/securities/etc.)
 - Carrying out credit transactions

AML-Regulation KYC/CDD-Level

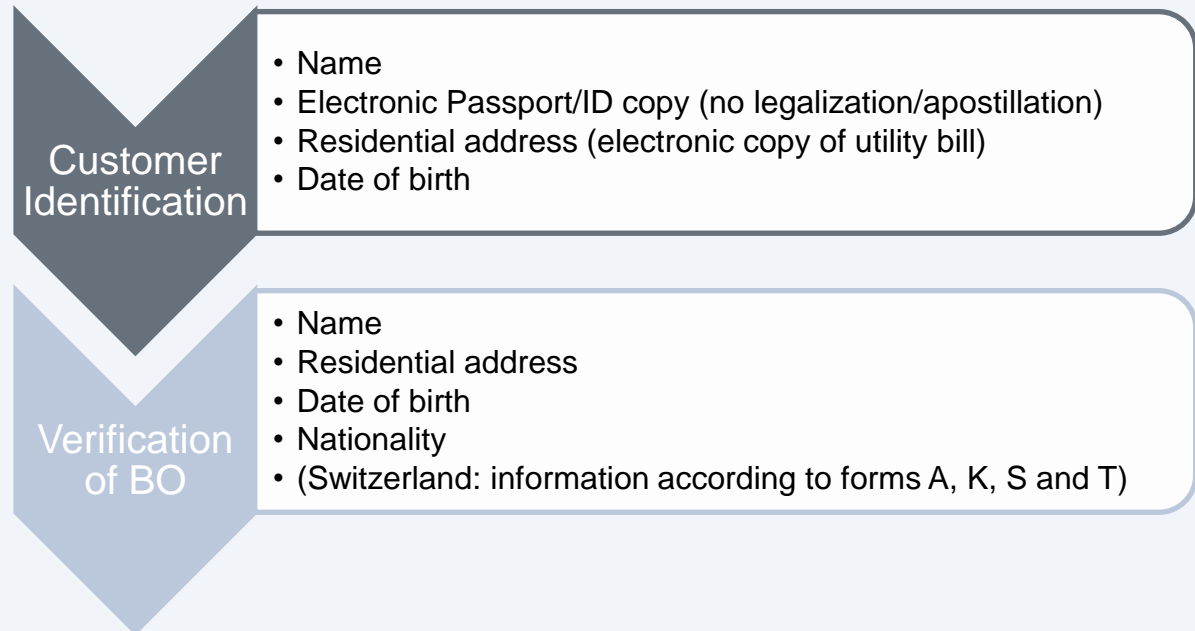
▪ **Duties of care** according to Swiss AML-regulations:



Basic KYC

- **Use case:** AML-regulations not applicable, but basic KYC required for banking relationship of ICO entity → **utility tokens, equity tokens, debt tokens**
- **Standard:** **not defined**; depends on specific bank and investment amount

- **Best practice approach:**



- **Examples of often required additional information:** Selfie with ID, PEP and sanctions checks, proof of source of funds

Suitability KYC

- **Use case:** Several regulations (e.g. MiFID II/FIDLEG) require **appropriateness and suitability checks** if investment advisory/management services are being provided to a customer
- **Typical documentation/information:**
 - documentation of customer's knowledge and experience with regard to financial sector/specific financial products;
 - customer's financial situation;
 - risk profile of the customer;
 - investment strategy agreed with the customer;
 - proof of compliance with risk disclosure duties.

Special Status KYC

- **Use case:** Special documentation is required to **ensure/document a special status** under specific regulations in specific jurisdictions.
- **Examples:**
 - Qualified investor according to Swiss Collective Investment Schemes Act (**CISA**);
 - Accredited investor under Regulation D of the U.S. Securities Act of 1933;
 - Professional client according to EU-Directive on Markets in Financial Instruments (**MiFID II**) and/or EU-Prospectus Directive.

Dr. Alexander Vogel, Attorney at Law, LL.M.
Partner, Head Corporate & Finance Department



Meyerlustenberger Lachenal AG

Grabenstrasse 25
6340 Baar/Zug
Switzerland

Phone: +41 44 396 91 91

E-Mail: alexander.vogel@mll-legal.com

Website: www.mll-legal.com

Dr. Reto Luthiger, Attorney at Law
Senior Associate, Corporate & Finance/Regulatory



Meyerlustenberger Lachenal AG

Grabenstrasse 25
6340 Baar/Zug
Switzerland

Phone: +41 44 396 91 91

E-Mail: reto.luthiger@mll-legal.com

Website: www.mll-legal.com