

Regulation No. 141 of Latvijas Banka
Riga, 15 September 2014

Requirements for the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorism Financing in Buying and Selling Cash Foreign Currencies

Issued pursuant to Paragraph 3 of Article 47
of the Law on the Prevention of Laundering the Proceeds from Criminal Activity (Money
Laundering) and of Terrorism Financing

I. General Provisions

1. The Regulation establishes the requirements for capital companies that have received a licence issued by Latvijas Banka for buying and selling cash foreign currencies (hereinafter, the capital company) to be met when complying with their duties under the Law on the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorism Financing relating to developing an internal control system, identifying beneficial owners and ascertaining that the person indicated as beneficial owner is the customer's beneficial owner, as well as relating to monitoring customer transactions and having a good knowledge of customers' business activity.

II. Developing internal control system

2. In order to comply with the requirements of the Law on the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorism Financing and to reduce the possibility for the capital company to get involved in money laundering and terrorism financing and to provide services to customers that could be involved in transactions of money laundering and terrorism financing, the capital company shall engage in the assessment of risks to buying and selling cash foreign currency and of money laundering and terrorism financing by their customers, and, based on the conducted risk analysis, develop an internal control system and the related documentation (policies and procedures), which is to be approved by its administrative body.

3. The documents of internal control system shall specify:

- 3.1 the procedure for money laundering and terrorism financing risk assessment as to a customer;
- 3.2 the procedure for detecting unusual and suspicious transactions as to a customer;
- 3.3 the customer and beneficial owner identification procedure;
- 3.4 the customer due diligence procedure;
- 3.5 the procedure for refraining from executing suspicious transactions;

3.6 the procedure for reporting unusual and suspicious transactions and storing the relevant documents;

3.7 the procedure for monitoring customers' transactions;

3.8 the procedure for storing data and documents obtained during the customer identification and due diligence as well as during monitoring the customer transactions;

3.9 the rights, duties and liability of capital company's employees in observing the requirements of internal control system.

III. Procedure for assessing risks of money laundering and terrorism financing as to a customer

4. In the internal control system document, the capital company shall establish the procedure for assessing the risks of money laundering and terrorism financing as to a customer.

5. The capital company shall assess the following risks of money laundering and terrorism financing by evaluating the following risks:

5.1 the risk posed by the state of residence (registration) of the customer;

5.2 the risk associated with the customer's legal form;

5.3 the risk associated with the customer's economic or personal activity;

5.4 the risk associated with the services used by the customer.

6. The risk as to a customer shall be a risk of money laundering and terrorism financing inherent in the customer's state of residence (registration) or customer's legal form, ownership structure or customer's business or personal activities.

7. The following country or territory shall be deemed customer's high-risk state of residence (registration):

7.1 the one included in the list of low-tax and tax-free countries and territories approved by the Cabinet of Ministers of the Republic of Latvia;

7.2 the one being imposed financial or civil restrictions by the United Nations or the European Union;

7.3 the one included in the list of countries not participating in the Financial Action Task Force or which has been announced by the said organisation as a country or a territory lacking laws and regulations to prevent money laundering or terrorism financing, or in which these laws and regulations contain material deficiencies and thus do not comply with the international requirements.

8. The risk posed by the customer's legal form shall be deemed high where it is associated with the following legal persons:

8.1 a legal person whose structure of owners or participants makes it difficult to determine the beneficial owner;

8.2 an association, foundation or equivalent legal arrangement that does not gain profit.

9. The following shall be deemed the risks posed by customers' economic or personal activity:

9.1 customers' economic or private activity not related to the Republic of Latvia;

9.2 customers' economic activity related to:

9.2.1 organisation of gambling;

9.2.2 delivery of collection services;

9.2.3 intermediation in real estate transactions;

- 9.2.4 trade in precious metals and precious stones;
- 9.2.5 trade in weapons and ammunition;
- 9.2.6 delivery of cash services.

10. The risk posed by the services used by a customer shall be deemed a risk that the service provided by the capital company can be used for money laundering and terrorism financing.

IV. Detecting unusual and suspicious transactions

11. The capital company shall specify indications of an unusual or suspicious transaction in the internal control system document.

12. A transaction shall be considered suspicious if it conforms to at least one of the following indications:

12.1 regarding the customer:

12.1.1 there are customer identification problems (the customer does not want to provide identification information or provides it to an insufficient extent, provides fictitious information, provides information that is difficult to verify, or there is substantiated suspicion that the identification document is counterfeit);

12.1.2 the customer is nervous without an obvious reason;

12.1.3 the customer is accompanied by persons watching him/her;

12.1.4 the customer brings money he has not counted;

12.1.5 the customer conducts several similar small-volume transactions, thus causing suspicion that he/she deliberately avoids a transaction that pursuant to law would be considered an unusual transaction;

12.1.6 several customers sequentially execute similar transactions, thus causing suspicion that they deliberately avoid a transaction that pursuant to law would be considered an unusual transaction;

12.1.7 the customer conducts a complex transaction (the transaction lacks a clearly understandable economic or legal purpose);

12.1.8 information from the Office for the Prevention of Laundering the Proceeds Derived from Criminal Activity or any other law enforcement institution regarding suspicions against the customer or beneficial owner has been received or published on the website of the Office for the Prevention of Laundering the Proceeds Derived from Criminal Activity;

12.1.9 there is substantiated suspicion that the customer or beneficial owner is related to terrorism, although he/she is not included in the list of terrorists maintained by the Office for the Prevention of Laundering the Proceeds Derived from Criminal Activity, and he/she has not been reported before to the Office for the Prevention of Laundering the Proceeds Derived from Criminal Activity;

12.2 regarding the transaction:

12.2.1 the customer executes a transaction not typical to him/her (large volume of the transaction not typical to the customer);

12.2.2 there is substantiated suspicion that a transaction involves money laundering (the origin of financial resources used in the transaction is not clear);

12.2.3 the customer executes a transaction which is not commensurate with his/her financial position;

12.2.4 the transaction is linked with another suspicious transaction that has already been reported to the Office for the Prevention of Laundering the Proceeds Derived from Criminal Activity;

12.2.5 there is substantiated suspicion that a counterfeit document has been used in the transaction;

12.3 regarding the banknotes used in transaction:

12.3.1 the face value of banknotes is not typical to the customer;

12.3.2 the packaging of banknotes is not typical to the customer;

12.3.3 in a transaction whose amount is equivalent to or exceeds 2 000 euro, coins or banknotes with small face value are exchanged for banknotes with larger face value (or vice versa) or for other banknotes with the same face value;

12.4 there are other features inherent in the transaction or the customer that give rise to suspicions about money laundering or financing of terrorism.

13. A financial transaction is unusual if it conforms to at least one of the following indications:

13.1 the customer buys or sells currency in the amount equalling or exceeding 8 000 euro;

13.2 the customer or beneficial owner is suspected of committing an act of terror or participating in such an act, is included in the list of terrorists maintained by the Office for the Prevention of Laundering the Proceeds Derived from Criminal Activity, and the latter has given notice to his/her capital company about it.

V. Identifying customer and beneficial owner

14. The capital company shall establish the customer and beneficial owner identification procedure.

15. The capital company shall identify a natural person on the basis of the following personal identification documents:

15.1 for a resident – a passport or identification card pursuant to the "Personal Identification Documents Law";

15.2 for a non-resident – a personal identification document valid for immigration into the Republic of Latvia.

16. The capital company shall identify a legal person on the basis of the documents referred to in the Law on the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorism Financing. The capital company can identify a legal person by obtaining information on it from a publicly available source that is reliable and independent.

17. Where the capital company uses other sources of information for the customer identification in addition to the documents submitted by the customer, it shall document the used source of information and the information provided by this source.

18. When entering into business relationship or if a transaction is unusual or suspicious, the capital company shall identify the customer or beneficial owner by way of the following procedure:

18.1 ascertaining whether the customer executes a transaction on his/her own behalf or on behalf of beneficial owner;

18.2 making copies of the customer and (if possible) beneficial owner's identification documents;

18.3 upon determining that the customer is a legal person, (if possible) clarifying and documenting those natural persons who actually own the majority of capital units or shares;

18.4 ascertaining the authenticity and validity of the customer and (if possible) the beneficial owner's identification documents as well as of other submitted documents;

18.5 immediately notifying a competent law enforcement authority when detecting counterfeit identification or other submitted documents;

18.6 checking the list of terrorists maintained by the Office for the Prevention of Laundering the Proceeds Derived from Criminal Activity and other information available to ascertain that the customer or beneficial owner is not related to terrorism or money laundering or he/she is not a politically exposed person.

19. If the transaction is not unusual or suspicious and business relationship is not established, while the transaction amount is equivalent to 2 000–7 999.99 euro, the capital company shall perform identification of the customer or beneficial owner by way of the following procedure:

19.1 make copies of the customer's identification documents;

19.2 ascertain the authenticity and validity of the customer's identification documents;

19.3 immediately notify a competent law enforcement authority if there is founded suspicion about a submitted counterfeit identification document.

20. If the sum total referred to under Paragraph 19 herein of transactions in one month by one and the same customer amounts to the sum total referred to under Sub-paragraph 13.1, the capital company shall identify the customer following the procedure stipulated in Paragraph 18 herein.

21. The capital company shall not engage in a transaction with a customer who is not fully identified in accordance with the requirements under the Law on the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorism Financing.

VI. Transactions with politically exposed persons

22. In the internal control system document, the capital company shall establish the procedure whereby politically exposed persons are determined when performing the customer and beneficial owner identification.

23. Until the moment when the institution responsible for the preparation and issuance of the lists of such persons is established in the European Union countries, including Latvia, and such a list is issued, capital companies shall use such information on these persons that is at their disposal.

24. If, when identifying a customer in the case of an unusual or suspicious transaction, it is established that the customer or beneficial owner is a politically exposed person, the employee of capital company shall take the following measures prior to executing a transaction:

24.1 take and document the measures based on risk assessment to determine the origin of financial resources and welfare characterising the material position of the politically exposed person.

24.2 inform the Board of the capital company or its specifically authorised Board member about the execution of a transaction with the politically exposed person and receive the consent of the Board of capital company or of its specifically authorised Board member to execute the transaction.

VII. Procedure for customer due diligence

25. The internal control system document of capital company shall specify the procedure for customer due diligence.

26. Due diligence procedure shall be carried out by the capital company in the following cases:

26.1 commencing business relationship with a customer;

26.2 engaging into a transaction with a high-risk customer;

26.3 engaging into a transaction with a politically exposed person;

26.4 in the event of suspicions about laundering the proceeds derived from criminal activity or financing of terrorism.

27. In the pursuit of due diligence, the capital company shall request the submission of the following information and documents:

27.1 information about the origin of financial resources and welfare characterising the material position of the customer;

27.2 information on the purpose of using financial resources involved in the transaction;

27.3 information on customer's economic and personal activity;

27.4 information on customer's financial position;

27.5 any other information necessary.

28. To the extent possible, the capital company shall, by using publicly available information, clarify whether the customer, its authorised person and beneficial owner have been previously imposed a penalty or are suspected of fraudulent activities, laundering the proceeds from criminal activity, terrorism financing or an attempt thereof.

29. The capital company shall ensure regular updating of the information and documents obtained during customer due diligence conducted within the framework of business relationship.

VIII. Refraining from executing unusual and suspicious transactions

30. Where a transaction is related to or reasonably suspected of being associated with money laundering or terrorism financing or the funds are reasonably suspected to be derived, directly

or indirectly, from criminal activity or terrorism financing or are associated with an attempted criminal activity, the capital company shall take one of the following decisions:

30.1 not to execute a suspicious transaction;

30.2 to refrain from executing a suspicious transaction, retaining money resources in cases referred to in Subparagraphs 12.1.8, 12.1.9, 12.4 and 13.2;

30.3 to execute a suspicious transaction.

31. The capital company shall appoint a person entitled to take the decisions referred to in Paragraph 30 of this Regulation.

32. Where the capital company takes a decision to refrain from executing an unusual or suspicious transaction in compliance with the provisions of the Law on the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorism Financing, such refraining can be made only in good faith and only in the case if money laundering or terrorism financing is established or there is substantiated suspicion of it.

33. Capital company's decisions to refrain from executing an unusual or suspicious transaction by retaining money resources or to cease such refraining shall be motivated, drawn up in writing, and immediately, but not later than on the next business day, reported to the Office for the Prevention of Laundering the Proceeds Derived from Criminal Activity and to Latvijas Banka.

34. The capital company shall take a decision to execute a suspicious transaction where it is not possible to refrain from executing it or where the refraining from executing such transaction may serve as the information assisting persons involved in money laundering or terrorism financing to avoid liability.

IX. Procedure for transaction registration and reporting

35. In the internal control system document, the capital company shall establish the procedure whereby data on its customers, beneficial owners and financial transactions are to be provided, registered, stored and protected.

36. The capital company shall establish a special register for recording reports on unusual and suspicious transactions as well as transactions referred to under Paragraph 19 herein.

37. The capital company shall prepare a report to the Office for the Prevention of Laundering the Proceeds Derived from Criminal Activity on an unusual or suspicious transaction which (if possible) shall contain or to which the following shall be annexed:

37.1 identification data of the customer and beneficial owner;

37.2 a copy of the customer's identification document;

37.3 the description of the currency exchange transaction conducted or proposed, with the place and time of conducting it indicated;

37.4 the indications that give rise to considering this currency exchange transaction unusual or suspicious;

37.5 any other data and documents that could play a role in assessing a certain transaction.

38. The capital company shall submit in person the report prescribed in Paragraph 37 to the Office for the Prevention of Laundering the Proceeds Derived from Criminal Activity:
38.1 regarding an unusual or suspicious financial transaction – immediately;
38.2 regarding refraining from executing a transaction by retaining money resources – immediately, but not later than on the next business day.

39. The copies of customer identification and due diligence documents and the information on registered transactions referred to under Paragraph 36 herein, including a copy of the report sent to the Office for the Prevention of Laundering the Proceeds Derived from Criminal Activity, shall be kept for at least five years.

40. The capital company shall not be entitled to disclose to a customer or a third party the fact that the information on him/her or his/her transaction has been reported to the Office for the Prevention of Laundering the Proceeds Derived from Criminal Activity.

41. The capital company shall ensure the availability of the documents referred to in Paragraph 37 of this Regulation and all the information related to its internal control system to the supervisory and control authorities.

42. The capital company shall register and keep record of the requests of the Office for the Prevention of Laundering the Proceeds Derived from Criminal Activity for information about the customers of capital company and transactions executed by them.

X. Supervising customer transactions

43. The capital company shall ensure constant supervision of the transactions executed by the customers.

44. Under the customer transaction supervisory framework, the capital company shall conduct regular analysis of customer transactions, and on the basis of obtained information and the information provided by the Office for the Prevention of Laundering the Proceeds Derived from Criminal Activity it shall establish:

44.1 that transactions with customers shall be executed only with the consent of the administrative body or the responsible employee of capital company;

44.2 the limits of customer transactions;

44.3 enhanced supervision of transactions executed by customers;

44.4 other measures or restrictions.

45. In the internal control system document, the capital company shall determine the procedure for supervising customer transactions, including periodicity of customer transaction supervision, activities to be conducted and consolidated under customer supervision, and the person responsible for the supervision.

XI. Rights, obligations and liability of capital company employees in observing requirements of internal control system

46. The executive body of capital company shall ensure effective implementation of the internal control system in everyday work.

47. The capital company shall designate a structural unit or appoint one or several employees authorised to take decisions and directly responsible for the compliance with the requirements of the Law on the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorism Financing as well as for the exchange of information with Latvijas Banka. The capital company shall inform Latvijas Banka about the designation of a responsible structural unit or appointment of an employee within a 30-day period from the enactment of the licence issued by Latvijas Banka to the respective capital company for buying and selling foreign currency or from the changes in the composition of the structural unit or employees.

48. The capital company shall be prohibited from disclosing to third parties the information on the appointed responsible structural unit or employee.

49. The responsible structural unit or employee of capital company shall:

49.1 have a good knowledge of the requirements of laws and regulations governing the prevention of money laundering and of terrorism financing and of the risks associated with money laundering and terrorism financing;

49.2 inform, on a regular basis, the administrative body of capital company about the operation of the internal control system in the capital company and, if necessary, put forward proposals to improve the operation of internal control system.

50. The responsible structural unit or employee of the capital company shall be responsible for:

50.1 the operation of the internal control system of the capital company;

50.2 instruction and training of employees of the capital company in internal control system related issues;

50.3 reporting unusual and suspicious transactions to the Office for the Prevention of Laundering the Proceeds Derived from Criminal Activity;

50.4 storage and protection of information obtained during the customer identification and due diligence processes;

50.5 registration, recording and protection of the requests for capital company's customer and transaction information submitted by the Office for the Prevention of Laundering the Proceeds Derived from Criminal Activity.

51. The employee of capital company conducting transactions with customers shall be responsible for:

51.1 customer identification and due diligence;

51.2 detection of unusual or suspicious transactions and reporting the detected unusual and suspicious transaction to the responsible person of capital company.

52. When documenting the procedures, the capital company shall assess the efficiency of the internal control system at least once a year and, if necessary, take measures to improve it.

53. The capital company shall ensure:

53.1 training of its new employees in internal control system related issues;

53.2 regular training of the employees and improvement of their professional skills in internal control system related issues.

54. The training referred to in Subparagraph 53.2 of this Regulation shall be carried out at least once a year and shall include the following themes:

54.1 laws and regulations governing the prevention of money laundering and of terrorism financing;

54.2 risks related to money laundering and terrorism financing;

54.3 core operational principles of the capital company's internal control system;

54.4 detection of unusual and suspicious transactions.

55. The capital company shall register data on the conducted training in relevant documents (training record books). The fact that an employee has been trained in internal control system related issues shall be certified by the employee's signature in the training record book.

XII. Final Provisions

56. The Bank of Latvia's Council Regulation No. 37 of 13 May 2009 "Recommendation to Capital Companies that Have Received Licence for Buying and Selling Cash Foreign Currencies issued by Latvijas Banka for Developing an Internal Control System for the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorism Financing" (Latvijas Vēstnesis, 2009, No. 77) shall be deemed invalid.

57. By 1 January 2015, capital companies shall have ensured the compliance of their internal control systems with the requirements of this Regulation and other laws and regulations governing the prevention of laundering the proceeds from criminal activity and of terrorism financing. Capital companies shall have submitted the approved internal control system documentation to Latvijas Bank by 1 January 2015.

58. The Regulation takes effect on 16 September 2014.

Governor of Latvijas Banka

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