

REGULATORY INTELLIGENCE

COUNTRY UPDATE-Latvia: AML

Published 01-Apr-2020 by
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Member of the Financial Action Task Force? No (linked to FATF as an associate member of the European Commission and as a member of Moneyval).

On FATF blacklist? No.

Member of Egmont? Yes.

Anti-money laundering overview

As of June 1998, the anti-money laundering legislation became effective in Latvia which the Law on Prevention of Laundering of Proceeds Derived from Criminal Activity implemented. A number of legislative acts and guidelines have been adopted with respect to the AML law.

In August 2008, the new AML law, the Law on the Prevention of Money Laundering and of Terrorism and Proliferation Financing, was implemented, by which previous AML law was replaced with more comprehensive and detailed legislation in respect of anti-money laundering and the prevention of circulation of funds related to terrorism (or suspicions of terrorism).

The AML law stipulates:

References where proceeds are recognised as derived from criminal activity and would be attributable to the AML law.

Subjects of the AML law, i.e., persons to whom the obligations and measures established by the AML law are applicable.

Internal control and customers' due diligence requirements for AML law subjects.

Identification requirements with regard to persons with whom cooperation is established or services rendered, as well as conditions for reporting on their transactions.

Role and duties of supervisory and control authorities and operational principles thereof.

Based on the AML law, Cabinet of Ministers' Regulation have been adopted that stipulate indicators of transactions that shall be deemed to be unusual and a reporting procedure for financial institutions, professionals and legal persons to the financial intelligence unit, as well as the requirements for non-face-to-face identification of the customers. Furthermore, the Financial and Capital Markets commission (FCMC) has adopted series of regulations binding to the financial sector providing for more detailed requirements than the AML law.

Role of the FIU

The Latvian FIU, financial intelligence unit of Latvia, is a specially established state institution which operates under the supervision of the Cabinet of Ministers (the government). According to the procedure that the law establishes, it receives, systematises and analyses AML reports, and delivers this information to control, investigation and court authorities in cases that the law stipulates.

Another important duty of the FIU is to establish contacts and cooperate, communicate and coordinate with investigation authorities, law enforcement authorities and competent foreign agencies, which, in essence, perform similar duties to the FIU. An FIU advisory board has been established which involves appointed representatives from respective ministries, business and professional associations, the Central Bank, the Financial and Capital Market Commission, which is a regulatory body of the financial, and capital market, the prosecutor general, the Supreme Court along with other associate members.

The goals of this board are to coordinate cooperation of the government authorities, revise the requirements that regulate AML and facilitate improvement of the activities of the FIU.



Clients' identification requirements

The requirements of the AML law, obligations and rights therein, in respect of the prevention of the legalisation of the proceeds derived from criminal activity, shall apply to: credit and financial institutions (including credit institutions; insurers that provide life insurance and life insurance intermediaries, re-insurers; alternative investment fund managers; cash exchange bureaus; brokerage companies; investment companies; consumer lenders; electronic money institutions and payment services providers); virtual currency service providers; organisers and operators of draws and lotteries; persons who provide legal assistance in activities related to financial markets or real estate (attorneys, notaries and their employees); persons involved in trade or as intermediaries in respect of real estate; legal arrangement and company service providers and persons who provide money collection services.

The AML law also applies to persons if they are involved in/or acting as intermediaries in trading activities of real estate, transport vehicles, cultural items, precious metals, precious stones and articles thereof or other goods, where the payment is made in cash in the amount equivalent to or exceeding 10,000 euros.

According to the AML law, there are certain requirements for client identification:

1. About a natural person:
2. About a resident — name, surname, personal identity number.
About a non-resident — name, surname, number and date of issue of an ID document, photo, authority that has issued the document.
3. About a legal person — documents evidencing lawful basis for establishing and legal registration, address, name, surname of the representative(s) of the legal person, number and date of issue of an ID document, authority that has issued the document, as well as the authority and status of this legal person, and, if necessary, name and surname of the manager or senior official of the executive body of such legal person.

Identification of the client is compulsory before entering into a client-customer relationship.

Internal control requirements

There are requirements to develop appropriate policies and procedures for the prevention of money laundering and terrorist financing that are commensurate with its operations for legal persons which are subjects of AML law. Internal control systems should cover the customer due diligence, customer identification, monitoring procedures, risk assessment, control of transactions and due AML reporting. Training of personnel, periodic review and improvement of the internal control system is also required.

Obligation of AML reporting

Pursuant to the AML law, a threshold declaration should be filed once a week in case if transactions match at least one of the thresholds specified in the Cabinet of Ministers Regulation (No. 407, dated 27.08.2019). This regulation lists a number of thresholds for various financial activities (financial transactions, gaming business, insurance, investment, gambling and audit services, cash transactions and private pensions fund transactions) and specifies the amounts of these transactions.

Suspicious transactions are those which create suspicions that the funds involved therein are directly or indirectly obtained as a result of criminal offence or are related with terrorism and proliferation financing or attempt to carry out such actions .

The AML law imposes an obligation on the abovementioned reporting institutions to prepare threshold reports to the FIU with regard to each financial transaction, the characteristics of which match at least one of the thresholds included in the Cabinet of Ministers Regulation. Reporting institutions also have an obligation to notify the FIU regarding other transactions which do not match these indicators of threshold report transactions but which cause suspicion regarding money laundering or terrorist financing (a suspicious transaction).

If necessary, the FIU is entitled to request additional information with regard to the financial transaction of a client and with consent of the prosecutor general or a specially authorised prosecutor, to perform monitoring of the same client.

Supervisory authorities

There is a wide number of supervisory and control institutions which are obliged to supervise and control particular areas of responsibility stated by the AML law. The consolidated regulator of the banking, financial and capital markets and insurance sectors is the FCMC. The FCMC as an autonomous public institution is responsible for the stability and development of the financial market.

According to the AML law, the FCMC has an obligation to monitor the compliance of financial and capital market participants with the requirements of the AML law to ensure that market participants are implementing a comprehensive internal control system that covers all aspects of the AML framework. Activities of the FCMC include such activities as preparation of recommendations, guidelines and binding regulations for market participants and performance of on-site audits of market participants.

The Lotteries and Gambling Supervisory Inspection (LGSi) is an administrative institution which was established to supervise the organisation of lotteries and gaming, and lotteries of goods and services. The scope of LGSi administration involves licensing, determination of guidelines and regulations for this range of activities. As a licensing body of cash exchange bureaus, the Central Bank establishes recommendations for them for the prevention of money laundering.

Other supervisory and control institutions are:



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The Latvian Council of Sworn Advocates in respect of sworn advocates

The Latvian Council of Sworn Notaries in respect of sworn notaries.

The Latvian Association of Certified Auditors in respect of sworn auditors and commercial companies of sworn auditors.

Ministry of Transport in respect of the state joint-stock company "Latvijas Pasts" (National postal service).

The State Inspection for Heritage Protection in respect of persons that make transactions with the items included in the list of state protected cultural heritage monuments.

The Consumer Rights Protection Centre in respect of licensed consumer lending merchants and licensed debt collection merchants.

The State Revenue Service is engaged to supervise all subjects of the AML law.

The Finance Latvia Association (former Association of Latvian Commercial Banks) has also been actively involved in the development of a comprehensive money laundering prevention system in the Latvian financial industry.

This includes cooperation with government institutions in drafting legislation, as well as disseminating information to bank employees and the public at large. As a result, the banks in Latvia should have implemented internal policies and procedures for client identification and transaction monitoring in compliance with FATF recommendations.

Penalties

Administrative penalties established in Latvia can be imposed on persons the subjects of the AML law who do not report unusual or suspicious transactions comply with the obligations imposed by the AML law (fine of up to 1,000,000 euros for a private person and/or up to 5% of turnover for AML law subjects). With regards to credit institutions, breach of the requirements of the AML law might result in administrative penalties up to 5,000,000 euros or of up to 10% of the consolidated turnover of the previous financial year. If the 10% of the consolidated turnover is lower than 5,000,000.00 euros the latter fine may be imposed. The managers of the credit and financial institutions may also be individually subject to a fine of up to 5,000,000 euros.

In the case of criminal punishment for money laundering, this may reach up to 12 years' imprisonment and confiscation of property. If the amount of concealed the laundered assets is lower than 50 minimum salaries (21,500 euros), the punishment may be up to four years' imprisonment or a fine with the possibility of confiscation of property. A criminal punishment may also be imposed for provision of knowingly false data with regard to the ownership of assets, while the punishment if provision of false data caused substantial harm is up to two years' imprisonment or a fine.

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Produced by Thomson Reuters Accelus Regulatory Intelligence

01-Apr-2020



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