29 May 2018 Regulation No. 87

Riga (Para. 8 of Minutes No. 26 of the Council’s meeting of the

Financial and Capital Market Commission)

**Amendments to “Normative Regulations of Enhanced Customer Due Diligence"**

Issued pursuant to Section 7, Paragraph two, Section 21.1, Paragraph two, Section 22, Paragraph four of the Law on the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorist Financing

To make the following amendments to Regulation No. 2 of the Finance and Capital Market Commission “Normative Regulations of Enhanced Customer Due Diligence” of 9 January 2018 (hereinafter referred to as - Regulation):

1. To supplement the reference to the legal basis of the issue of Regulation with a reference to Section 21.1, Paragraph two of the Law on the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorist Financing.

2. To supplement the Regulation with Clause 32.1, 32.2, 32.3 and 32.4 formulated as follows:

"32.1 In order to establish that the prohibition determined in Section 21.1 of the Law on the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorist Financing should be applied, considering the indications set forth in Section 1, Paragraph 15.1, sub-clause (a), and acquire documentary information, proving the existence of commercial activity or economic value, a financial institution shall acquire, inter alia, the information and documents referred to in one or several sub-clauses of this Paragraph to the extent it is sufficient in order to ascertain that the legal person is not a shell arrangement according to the above mentioned indication. On the basis of risk assessment of legal persons that could correspond with indications on the shell arrangements in accordance with risk assessment, a financial institution shall acquire and evaluate, inter alia, the following information and documents:

32.1 1. sufficiently explaining the business activity model of the legal person;

32.1 2. annual financial report, audited by an external auditor, being independent from the legal person, from which the sufficient understanding may be obtained regarding transactions performed by a legal person, and to establish whether the profit corresponds with commercial activity and turnover of the legal person;

32.1 3. confirming the actual movement of products and services within the framework of commercial activity implemented by the legal person. If the activity of a legal person, considering the purpose of foundation thereof, is not related to the movement of products and services, information and documents should be obtained, confirming and describing the compliance of the activity of the legal person with the purpose of foundation thereof (for example, only holding of an asset in accordance with the business activity model);

32.1 4. about key cooperation partners of the legal person, confirming the actual commercial activity of cooperation partners;

32.1 5. confirming that the legal person performs tax payments (tax declaration), if the regulatory enactments determine the obligation to pay taxes in the particular situation;

32.1 6. confirming that the legal person has attracted other persons on the basis of contract (such as employees, outsourcing providers), who actually organise and perform the duties that refer to the commercial activity of the legal person, making sure of the compliance of duties with the commercial activity and turnover of the legal person.

32.2 A financial institution shall determine the scope, nature and assessment principles of information and documents to be obtained in accordance with Clause 32.1 of this Regulation, depending on the area of activity of the legal person, duration of activity (for example, a start-up) and legal status (for example, a union), as well as shall take into account other risk factors, related to the legal person’s risk (such as legal form, structure of owners), state and geographical risk, the risk of used services and products and the risk of delivery channels of services and products.

32.3 A financial institution shall maintain updated information about shell arrangements in the financial institution, specifying the following information:

32.3 1. name of the legal person that has been recognised as a shell arrangement;

32.32. Indication or indications referred to in Section 1, Paragraph 15.1 of the Law on the Prevention of Money Laundering and Terrorism Financing, the shell arrangement is corresponding with;

32.3 3. the date as of which the legal person has been recognised as a shell arrangement;

32.3 4. the date, when cooperation with the legal person that has been recognised as a shell arrangement has been commenced;

32.3 5. country of residence of the legal person that has been recognised as a shell arrangement;

32.3 6. name and surname of the beneficial owner of the legal person that has been recognised as a shell arrangement;

32.3 7. country of residence of the beneficial owner of the legal person that has been recognised as a shell arrangement.

32.4 On the basis of a risk assessment, a financial institution shall acquire information about the key cooperation partners of legal persons, who have increased risk, - shell arrangements, corresponding with the indications referred to in Section 1, Paragraph 15.1, sub-clause (a) and (b) of the Law on the Prevention of Money Laundering and Terrorism Financing. If a financial institution has such cooperation partners, it shall perform an additional study of the legal person having increased risk, in order to eliminate the risk as much as possible that the legal person, having increased risk, operates in the interests of such shell arrangements, the servicing of which is prohibited in accordance with Section 21.1, Paragraph one of the Law on the Prevention of Money Laundering and Terrorism Financing."

3. To supplement the Regulation with Paragraph 40 formulated as follows:

"40. Financial institutions, when performing activities in order to identify the indication set forth in Section 1, Paragraph 15.1, sub-clause (a) of the Law on the Prevention of Money Laundering and Terrorism Financing and apply the prohibition set forth in Section 21.1, shall ensure the improvement of policies and procedures in accordance with Clause 32.1, 32.2, 32.3 and 32.4 of the Regulation within a time period of one month from the day of amendments, supplementing the Regulation with the above mentioned paragraphs coming into force, but improvement of information technology systems - within a time period of three months from the day of coming into force thereof."

P. Putniņš

Chairman Financial and Capital Market Commission

**THIS DOCUMENT IS SIGNED IN ELECTRONIC FORM**

**WITH A SECURE ELECTRONIC SIGNATURE AND CONTAINS A TIME-STAMP**