8 August 2019 Regulation No. 125

Riga (Minutes No. 38, para. 3 of the meeting of the Council of the

Financial and Capital Market Commission)

Regulations on Conducting an Independent Assessment of an Internal Control System for the Prevention of Money Laundering and Terrorism and Proliferation Financing

Issued pursuant to Section 47, Paragraph two, Clause 2 of the
Law on the Prevention of Money Laundering and
Terrorism and Proliferation Financing

**I. General provisions**

1. “The regulations on Conducting an Independent Assessment of the Internal Control System for the Prevention of Money Laundering and Terrorism and Proliferation Financing” (hereinafter – the Regulations) is binding to credit institutions, licensed payment and electronic money institutions and credit institutions, licensed payment and electronic money institutions of branches of Member States and third countries in the Republic of Latvia (hereinafter all together – the institution).
2. The Regulations prescribe the minimum requirements for conducting the institution’s independent evaluation (hereinafter – the audit) of the internal control system for the prevention of money laundering and terrorism and proliferation financing (hereinafter – the ICS PMLTPF).
3. The Regulation prescribes the following requirements:

3.1. for the regularity of conducting the audit of the ICS PMLTPF;

3.2. for the scope of conducting the audit of the ICS PMLTPF;

3.3. for the procedure of conducting the audit of the ICS PMLTPF.

### II. The regularity and scope of conducting the audit of an ICS PMLTPF

### The institution shall ensure the audit of its ICS PMLTPF, including the information technology system, for compliance with the requirements of regulatory enactments, and the audit of its efficiency at least once every 18 months.

### The institution shall ensure that the audit is conducted by an independent external auditor having at least five years of proven professional experience in conducting the money laundering and terrorism and proliferation financing (hereinafter – MLTPF) risk (including also the information technology system) management audit.

### The institution shall ensure that the audit is conducted by an independent external auditor having no conflict of interest with the institution, including the following:

* 1. he or she is not a person related to the institution;
	2. conditions of pay do not depend on the audit result;
	3. during the last three years he or she has not provided services to the institution concerning the improvement of the internal control framework, not including the conducting of an audit.

### The audit shall be conducted regarding the compliance of the ICS PMLTPF with the requirements of the regulatory enactments and its efficiency, by carrying out an in-depth assessment of those elements of the internal control system that ensure management of the main MLTPF risks.

### The institution shall ensure that the audit includes at least the following:

###  evaluation of the compliance of the MILT risk assessment conducted by the institution of the MLTPF risk inherent to the institution;

###  evaluation of the compliance of the ICS PMLTPF with the requirements of the regulatory enactments and its efficiency, which shall include at least the following:

### evaluation of the institution’s policies and procedures, as well as their introduction and implementation;

### evaluation of the compliance of the MLTPF risk management strategy and the set thresholds with the business model of the institution;

### evaluation of the institution’s customer risk numerical assessment system (the *scoring* system), including the compliance of the customer base, classification with the requirements prescribed by the regulatory enactments that regulate enhanced customer due diligence;

### evaluation of the extent and quality of the customer due diligence and enhanced customer due diligence, including the information and documents to be evaluated;

* + 1. evaluation of the identification and documentation requirements of interrelated groups of customers;
		2. evaluation of the procedures for transaction supervision, reporting on suspicious transactions and other reporting and refraining from the processing of a transaction laid down in the regulatory enactments of the MLTPF prevention field;
		3. evaluation of cooperation with third persons that perform customer identification or customer due diligence on behalf of the institution;

### evaluation of the procedures for keeping the information obtained during customer due diligence;

### evaluation of the specialised information technology system and its functionality for management of the MLTPF risk;

### evaluation of the rights, duties and responsibilities of employees;

* + 1. evaluation of the supervision of compliance of staff training and qualifications;
	1. sample testing of customers’ cases and customers’ transactions in order to test the efficiency of the institution’s ICS PMLTPF in practice;
	2. evaluation of the results of the carried out inspections by the institution’s internal audit and compliance structural units relating to the management of the MLTPF risk within the period to be audited;
	3. evaluation of the elimination of deficiencies (introduction of improvements) resulting from the previous audits.
1. In addition to the mandatory requirements prescribed in these Regulations, the institution may include other elements in its audit, including evaluation of the requirement observation of the industry guidelines in accordance with the MLTPF risk inherent to the institution.
2. In the sample testing of customer cases and their transactions the number of customers to be inspected shall be determined commensurately and proportionately to the total number of the institution’s customers in the respective customer risk group, covering the risks inherent to the institution and its customers identified in the MLTPF risk assessment.
3. The institution shall ensure that the audit report includes:
	1. the methodology of the ICF PMLTPF evaluation;
	2. evaluation of the compliance of the ICS PMLTPF with the requirements of the regulatory enactments on MLTPF prevention and its efficiency;
	3. observations and shortcomings (deficiencies), indicating the assessment of the impact of the identified deficiencies;
	4. measures or recommendations to be carried out for the improvement of the ICS PMLTPF according to each element of the scope of the audit.

**III. The procedure for conducting the audit of the ICF PMLTPF**

1. If the institution ensures the audit concerning individual elements (in part), it ensures that within 18 months the audit is conducted in full.
2. The reference point of the audit period is considered the last date when the report on audit results is submitted to the institution.
3. If the audit is conducted by several independent external auditors, the institution defines the audit scope for each independent external auditor, ensuring that overall the audit is conducted in full.
4. The institution shall inform the Financial and Capital Market Commission (hereinafter – the Commission) indicating the planned independent external auditor and the scope. The audit shall be commenced after the receipt of consent by the Commission.
5. The institution shall submit the Commission the report on the conducted audit no later than within five days after its receipt.
6. Within a reasonable period of time, not exceeding three months from the date when the audit report has been submitted to the institution, the institution shall develop a plan for the deficiency and shortcoming elimination measures and recommendation introduction, approved by the board of the institution. Within one month from the approval of the plan by the board, the institution submits the plan and coordinates it with the Commission. The institution shall inform the Commission about the fulfilment of the plan at least once per quarter.

Chairperson of the Financial and Capital

Market Commission K. Černaja-Mežmale

**THIS DOCUMENT IS SIGNED IN ELECTRONIC FORM**

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