

# External accountant's obligation to report suspicious transactions (3/32/17)

The Financial Action Task Force (on Money Laundering) has prepared recommendations for measures to stop money laundering and the funding of terrorism. At EU level these requirements are part of Directive (EU) 2015/849 of 20 May 2015. The recommendations have been passed into Latvian legislation, and the requirements of the directive are to be adopted in the near future. The Council of Europe's Moneyval Committee is to visit Latvia this autumn in order to assess the efficiency of Latvia's anti-money laundering and counter-terrorist financing system.

Since tax consultants and external accounting service providers are required to report suspicious transactions, this article explores certain statutory requirements and aspects to consider when dealing with customers.

## Know your customer (KYC)

A qualifying person planning to enter into a one-off transaction with a customer is required under the Anti-Money Laundering and Counter-Terrorism Financing Act to carry out a detailed KYC procedure before entering into that transaction if –

- the transaction or two or more apparently linked transactions amount to €15,000 or more at the Bank of Latvia exchange rate on the transaction date;
- the transaction matches one or more of the listed characteristics of an unusual transaction or there is suspicion of money laundering or terrorist financing or of attempted money laundering or terrorist financing; or
- there is doubt as to whether information obtained at the initial identification stage is true.

If a long-term relationship is envisaged with a customer, the tax consultant or external accounting service provider should undertake a customer due diligence review before providing any services. This review includes finding out the purpose and substance of the business relationship, the origin of finance, the legal form of the transaction, the potential customer base, the number of expected transactions, the ownership structure, beneficial owners (individuals), and other circumstances that may influence the risk of money laundering and terrorist financing. Ensuring compliance with these requirements largely depends on the effectiveness and transparency of the qualifying person's system of internal controls.

In practice the amount of information available for customer identification may be limited, and for risk mitigation purposes it is important for the contract to lay down disclosure procedures and to apportion disclosure responsibilities between the customer and the tax consultant or external accounting service provider. For example, the customer would be required to notify the service provider should the customer's beneficial owner or legal status change.

Compliance places an extra administrative burden on companies being required to set up an efficient system of internal controls, in particular considering statutory penalties.

## Characteristics of an unusual transaction

If a customer conducts unusually large, complex, mutually linked transactions without a common purpose, this may indicate a money laundering risk. The characteristics of an unusual transaction are defined in –

- Cabinet Regulation No. 1071, *The list of characteristics of an unusual transaction and procedures for reporting unusual or suspicious transactions*;
- section 22.2 of the Taxes and Duties Act.

## Penalties

The Administrative Offences Code lays down penalties for failure to comply with statutory requirements. According to amendments effective from 1 January 2017, the State Revenue Service has the power to impose a fine of up to €5,000 for failure to report a suspicious transaction. If a qualifying person's net operating revenue exceeded €1m in the last financial year, the individual or entity is liable to a fine of up to 5% of their net operating revenue in the last financial year.