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**Finnish Banks' Principles on the
Investigation and Prevention of
Money Laundering and
Terrorist Financing**

Federation of Finnish Financial Services



FINNISH BANKS' PRINCIPLES ON THE INVESTIGATION AND PREVENTION OF MONEY LAUNDERING AND TERRORIST FINANCING

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Finland is a member State of the European Union (EU) and a member of the Financial Action Task Force on Money Laundering (FATF). Finnish legislation implements the EU directive on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (2005/60/EC, a.k.a. the Third Money Laundering Directive), and adheres to the FATF's 40 Recommendations.

Most of the banks operating in Finland are members of the Federation of Finnish Financial Services. List of the Federation's member banks is available at www.fkl.fi.

1. Introduction

Money laundering has been a punishable offence in Finland since the year 1994. In 2008, an overall reform of the money laundering act was made by laying down a new Act on Preventing and Investigating Money Laundering and Terrorist Financing (503/2008). Banks are legally obliged to prevent the use of the financial system for the purpose of money laundering and terrorist financing, to advance the investigation of such activities and to aid in the tracing and recovery of the proceeds of crime

The Finnish Financial Supervisory Authority (FIN-FSA) supervises banks. Its main focus of operations is the prevention of money laundering and terrorist financing. FIN-FSA oversees that supervised entities consistently operate according to the policies required by law, and performs inspections on the supervised entities to deter money laundering.

FIN-FSA also supervises the foreign branches of Finnish banks. The supervision of Finnish banks' subsidiaries is primarily the responsibility of supervisory authorities in the country of operation.

On the basis of money laundering legislation, FIN-FSA provides the supervised entities with regulations, guidelines and recommendations related to customer due diligence and the prevention of money laundering and terrorist financing.

FIN-FSA has an obligation to report to the Financial Intelligence Unit of the National Bureau of Investigation if there is reason to suspect the legality of the source of funds involved in the operations of a supervised entity. Information of FIN-FSA, its guidelines and statements, and a list of supervised entities are available on the FIN-FSA website at www.fin-fsa.fi <http://www.rata.bof.fi/>.

2. Obligations of banks

2.1 Existing provisions

The Act on Preventing and Investigating Money Laundering and Terrorist Financing (503/2008) applies to a wide range of operations, such as the financial, investment and insurance sectors, real estate businesses, gaming and casino activities, and payments and currency exchange services.

The Act prescribes the parties under its scope of application with three important obligations: customer due diligence, obligation to obtain information and reporting obligation. The Act also lays down provisions on enhanced customer due diligence, which applies if the customer, service or transaction represents a higher risk of money laundering or terrorist financing, a non-ETA party is involved via a correspondent banking relationship, or the customer is a politically exposed person.

Negligence of these legal obligations is a punishable offence in the Criminal Code of Finland.

2.2 Customer due diligence

Banks must always identify customers, and verify their identities with a document from a reliable and unbiased source. A bank should have no unidentified customers, and must refuse to enter into a customer relationship with parties who will not give information on themselves or their operations. Beneficiary owners must also be identified and their identities verified if required.

Banks must have knowledge of their customers and the extent of the customers' operations. They should obtain sufficient information on the background, extent of business and payments of customers, in order to assess what the normal line of operations is for each customer and what can be considered deviant activity.

The assessment and detection of deviations is based on the competency, experience and customer knowledge of the bank personnel. Customers and the use of services must be monitored continuously (ongoing due diligence). Banks are responsible for training their personnel on all levels of the organisation to detect deviant activities and transactions.

Banks which operate in Finland have no anonymous numbered bank accounts or bearer accounts. Neither are there any shell banks, i.e. banks without a permanent establishment or personnel. Finnish banks will not transact business with shell banks.

2.3 Obligation to obtain information

Banks must monitor their customers' transactions and use of services. They need to investigate the grounds for the use of services if they notice that a customer's activities deviate from their ordinary line of operations in size or structure, or that the activities serve no obvious financial purpose, or that they do not match the customer's financial position or businesses.

Banks must refuse a transaction or customer if they do not receive all the information required for the establishment of a customer relationship or the execution of a transaction. A transaction must also be refused if there is reason to suspect the purpose of the transaction or the legality of the source of funds.

2.4 Reporting obligation

If a bank has reason to suspect the legality of the funds or other assets involved in a transaction after they have fulfilled the obligation to obtain information, or for some other reason, it must report to the Financial Intelligence Unit without delay, and on request yield all necessary information and documents that could be significant in investigating the case.

2.5 Enhanced obligations

If a customer's transaction is connected with a state whose system of preventing and investigating money laundering and terrorist financing does not meet the international standards, legislation requires that enhanced customer due diligence, duty of care and reporting obligation are employed.

Enhanced obligations mean more detailed and careful customer identification. Enhanced duty of care requires more careful acquaintance with the customer's business transactions.

3. International financial sanctions

3.1 Financial sanctions of the United Nations and the European Union

The international financial sanctions which also oblige Finland are based on the decisions of the United Nations Security Council and the EU Council. They are implemented with EU regulations, which are directly applicable legislation in all EU member states. Names of the persons, associations, groups and other parties subject to the sanctions are published as appendices to the regulations.

Finland adheres to the EU sanctions in compliance with the enforcement act¹. Financial sanctions require banks to freeze the funds of persons, associations and communities referred to in the regulations, without specific administrative decision. The violation of regulations is a punishable regulation offence under Chapter 46 of the Criminal Code.

Banks must watch for changes in financial sanctions and check their own customer registers regularly. Banks must also monitor transactions and other business operations to ensure that they do not offer services to or make transactions for parties who are subject to financial sanctions. The sanctions must be taken into account when dealing with country risk control, correspondent banking relationships, product related processes, or the financing of import and export industries. Banks should also see to the internal supervision, guidelines and communications related to financial sanctions.

If a customer whose details match with the information of a sanctioned party is found in a bank's register, the bank must freeze the funds and report to the Financial Intelligence Unit and the Ministry of Foreign Affairs. If the register contains a customer whose information partially matches with a sanctioned party, it is not necessary to freeze their funds, but the bank must report to the Financial Intelligence Unit and act according to its orders (the sanctioned party list may have insufficient information, for instance, in which case the bank does not have the resources to confirm whether the customer and the party on the financial sanctions list are the same).

3.2 OFAC

The application guidelines of FIN-FSA state that in the context of risk management, it would be justifiable for banks to use the sanctions set by the Office of Foreign Assets Control (the OFAC List) as well. Banks should be certain that their customers are not sanctioned parties listed by the OFAC and that they do not make any payments to such parties.

¹ Act on the Enforcement of Certain Obligations of Finland as a Member of the United Nations and the European Union (659/1967)



Federation of Finnish Financial Services

Bulevardi 28

FI-00120 Helsinki, Finland

Telephone 020 7934 200

Telefax 020 7934 202

<http://www.fkl.fi>