



GOVERNMENT OF THE REPUBLIC OF LITHUANIA

RESOLUTION No 942

of 24 September 2008

ON THE LIST OF CRITERIA FOR CONSIDERING A CUSTOMER TO POSE A SMALL THREAT OF MONEY LAUNDERING AND/OR TERRORIST FINANCING AND CRITERIA BASED ON WHICH A THREAT OF MONEY LAUNDERING AND/OR TERRORIST FINANCING IS CONSIDERED TO BE GREAT, ON THE APPROVAL OF THE RULES OF CUSTOMER AND BENEFICIAL OWNER IDENTIFICATION AS WELL AS DETECTION OF SEVERAL INTERCONNECTED MONETARY OPERATIONS, AND ON THE ESTABLISHMENT OF THE PROCEDURE OF PRESENTING INFORMATION ON THE NOTICED INDICATIONS OF POSSIBLE MONEY LAUNDERING AND/OR TERRORIST FINANCING AND VIOLATIONS OF THE LAW OF THE REPUBLIC OF LITHUANIA ON PREVENTION OF MONEY LAUNDERING AND TERRORIST FINANCING AS WELL AS THE MEASURES TAKEN AGAINST THE VIOLATORS

Vilnius

Pursuant to Article 8, Article 9(14), Article 10(3) and Article 11(8) of the Law of the Republic of Lithuania on Prevention of Money Laundering and Terrorist Financing (*Valstybės žinios* (Official Gazette) No 64-1502, 1997; No 10-335, 2008) and implementing Article 3(1) and Article 4(1) of Directive 2006/70/EC of the Commission of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of politically exposed person and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of the financial activity conducted on an occasional or very limited basis (OJ 2006 L 214, p. 29), the Government has resolved:

1. To approve the following (as appended):

1.1. the List of Criteria on the Basis for Considering a Customer to Pose a Small Threat of Money Laundering and/or Terrorist Financing and Criteria Based on Which a Threat of Money Laundering and/or Terrorist financing is Considered to Be Great;

1.2. the Rules of Customer and Beneficial Owner Identification as well as Detection of Several Interconnected Monetary Operations.

2. Law enforcement agencies and other public authorities, having noticed indications of possible money laundering and/or terrorist financing, violations of the Law on Prevention of Money Laundering and/or Terrorist Financing, must, as soon as possible but no later than within 3 working days from the moment when such data or information becomes known, notify the Financial Crime Investigation Service under the Ministry of the Interior in writing, specifying the following:

2.1. the data referred to in paragraphs 3 and 4 of the Rules of Customer and Beneficial Owner Identification as well as Detection of Several Interconnected Monetary Operations, approved by this Resolution;

2.2. the available data on a customer's monetary operation or transaction (the date when the operation or transaction was carried out, the amount of money, the currency of the monetary operation, the method of the transaction, and other available data);

2.3. information on the specific provisions of the Republic of Lithuania Law on Prevention of Money Laundering and/or Terrorist Financing that were violated, the noticed indications of possible money laundering and/or terrorist financing, and the measures taken against the violators.

3. To repeal the following:

3.1. Resolution No 1331 of 3 December 1997 of the Government of the Republic of Lithuania on Customer Identification and on the Procedure of Presenting Information on Monetary Operations (*Valstybės žinios* (Official Gazette) No 112-2840, 1997);

3.2. Resolution No 1478 of 22 December 1998 of the Government of the Republic of Lithuania Amending Resolution No 1331 of 3 December 1997 of the Government of the Republic of Lithuania on Customer Identification and on the Procedure of Presenting Information on Monetary Operations (*Valstybės žinios* (Official Gazette) No 113-3157, 1998);

3.3. Resolution No 1410 of 22 December 1998 of the Government of the Republic of Lithuania Amending Resolution No 1331 of 3 December 1997 of the Government of the Republic of Lithuania on Customer Identification and on the Procedure of Presenting Information on Monetary Operations (*Valstybės žinios* (Official Gazette) No 89-3801, 2002);

3.4. Resolution No 930 of 22 July 2004 of the Government of the Republic of Lithuania Amending Resolution No 1331 of 3 December 1997 of the Government of the Republic of Lithuania on Customer Identification and on the Procedure of Presenting Information on Monetary Operations (*Valstybės žinios* (Official Gazette) No 115-4303, 2004)

3.5. Resolution No 1493 of 25 November 2004 of the Government of the Republic of Lithuania Amending Resolution No 1331 of 3 December 1997 of the Government of the Republic of Lithuania on Customer Identification and Detection of Several Interconnected Monetary Operations as well as on the Procedure of Presenting Information on Monetary Operations or Transactions (*Valstybės žinios* (Official Gazette) No 171-6337, 2004);

3.6. Resolution No 557 of 13 June 2007 of the Government of the Republic of Lithuania Amending Resolution No 1331 of 3 December 1997 of the Government of the

Republic of Lithuania on Customer Identification and Detection of Several Interconnected Monetary Operations, on the Procedure of Presenting Information on Monetary Operations or Transactions, and on the Procedure of Controls of Cash Entering or Leaving the Republic of Lithuania (*Valstybės žinios* (Official Gazette) No 67-2607, 2007).

Prime Minister

Gediminas Kirkilas

Minister of the Interior

Regimantas Čiupaila

**THE LIST OF CRITERIA FOR CONSIDERING A CUSTOMER TO POSE A SMALL
THREAT OF MONEY LAUNDERING AND/OR TERRORIST FINANCING AND
CRITERIA BASED ON WHICH A THREAT OF MONEY LAUNDERING AND/OR
TERRORIST FINANCING IS CONSIDERED TO BE GREAT**

1. The criteria based on which a customer whose country of permanent residence or business is a member state of the European Union (the actual address of a private customer's residence or the place (country) from which a legal person is managed (controlled) is located in a member state of the European Union; the place of the management bodies of a legal person, as declared by the person, is located in a member state of the European Union) shall be considered to pose a small threat of money laundering and/or terrorist financing:

1.1. A customer is a public institution established in accordance with the Law of the Republic of Lithuania on Public Institutions (*Valstybės žinios* (Official Gazette) No 68-1633, 1996; No 25-752, 2004) or in accordance with the procedure laid down by EU member states and it complies with all of the following criteria:

1.1.1. A customer's functions have been established in accordance with the Treaty on European Union, Community treaties or Community secondary legislation.

1.1.2. Information on a customer's identity is publicly accessible, and the financial institution or another entity has no reservations as regards its transparency.

1.1.3. A customer's activities and its accounting methods are clear and comprehensible to a financial institution or another entity.

1.1.4. A customer is accountable to a Community institution or to the public authorities of a member state of the European Union.

1.2. The activities or monetary operations of a customer that is a natural or legal person are rare or very limited (to be determined during regular customer relations monitoring by a financial institution or another entity) and the likelihood of them being used for money laundering and/or terrorist financing is small, and the customer meets all (for legal persons) or at least one (for natural persons) of the following criteria:

1.2.1. A customer declares provision of financial services or performance of monetary operations, yet this type of activity is only subsidiary and accounts for less than 5 per cent of its total operations turnover.

1.2.2. The activities are limited to transactions with a limited number of customers, and the value of such transactions does not exceed EUR 1,000 or an equivalent in another currency.

1.2.3. A customer declares its turnover from financial activities over a calendar year at up to EUR 30,000 or an equivalent in another currency.

1.2.4. A customer's main activities are other than the activities carried out by the financial institution or another entity, except for those specified in Article 2(8)(7) of the Law of the Republic of Lithuania on Prevention of Money Laundering and Terrorist Financing (*Valstybės žinios (Official Gazette)* No 64-1502, 1997; No 10-335, 2008).

2. The criteria on the basis of which (if at least one of them is met) a treat of money laundering and/or terrorist financing shall be considered to be great:

2.1. At the moment of identification, a customer is reluctant to perform the actions necessary for identification and to provide information on himself and his business.

2.2. A customer fails to provide the documents attesting the financial activities (as regards the customer's transactions entered or being entered into, the documents of incorporation and other documents on the present or past financial activities) as requested by the financial institution or another entity.

2.3. A customer performs non-cash transfer operations on a request of persons not related to its main activities.

2.4. A private customer constantly resides in a country that is not a member of the Financial Action Task Force (FATF) on Money Laundering or of an international organization with an observer status at FATF that participates in the efforts to combat money laundering and terrorist financing.

2.5. The identification data of a customer, customer representative (when a monetary operation is carried out through a representative) or beneficiary of the monetary operation matches the data of the persons associated with money laundering and/or terrorist activities specified in the lists drawn up by the Republic of Lithuania and international organizations (FATF, the United Nations, the European Union) or financial sanctions have been imposed on them in accordance with the Law of the Republic of Lithuania on the Implementation of Economic and Other International Sanctions (*Valstybės žinios (Official Gazette)* No 68-2369, 2004).

2.6. A customer which is a legal person or another organization is registered in a target territory, as specified in the Law of the Republic of Lithuania on Corporate Income Tax (*Valstybės žinios (Official Gazette)* No 110-3992, 2001).

2.7. A financial institution or another entity establishes elements that are not typical of a customer's activities (more frequent payments in cash, increasing sums involved in monetary operations, payment for products or services that are not related to the customer's main activities, etc).

2.8. A private customer's age, job position and financial standing (a customer's income is small compared to the scope of his financial activities) are objectively inconsistent with the financial activities performed by the customer.

2.9. A customer falls within a higher-risk category established at the financial institution in accordance with the procedures of risk assessment and management.

APPROVED by
Resolution No 942 of the Government of the
Republic of Lithuania of 24 September 2008

THE RULES OF CUSTOMER AND BENEFICIAL OWNER IDENTIFICATION AS WELL AS DETECTION OF SEVERAL INTERCONNECTED MONETARY OPERATIONS

I. GENERAL PROVISIONS

1. The Rules of Customer and Beneficial Owner Identification as well as Detection of Several Interconnected Monetary operations (hereinafter referred to as "the Rules") shall regulate collection and verification of personal information on customers and their representatives (authorized through power of attorney) by financial institutions and other entities on the basis of customer identification documents, keeping of the related documents or copies thereof, customer identification instruments, as well as detection of several interconnected operations.

2. The terms used in the Rules correspond to those defined in the Law of the Republic of Lithuania on Prevention of Money Laundering and Terrorist Financing (*Valstybės žinios* (Official Gazette) No 64-1502, 1997; No 10-335, 2008) (hereinafter referred to as "the Law").

II. CUSTOMER IDENTIFICATION

3. Financial institutions and other entities that are obliged to identify a customer in the cases specified by the Law shall require a private customer to produce personal documents containing the following identification data (hereinafter referred to as "identification documents"):

3.1. As regards citizens of the Republic of Lithuania:

3.1.1. name(s);

3.1.2. surname(s);

3.1.3. personal number;

3.1.4. photograph;

3.1.5. signature;

3.2. as regards foreign citizens;

3.2.1. name(s);

3.2.2. surname(s);

3.2.3. date of birth (if available – personal number or another unique combination of characters assigned to the person for identification purposes);

3.2.4. the number of an identification document or of an equivalent travel document, the place of its issue and the expiry date, or the number and the expiry date of a permit for

permanent residence in a foreign state as well as the place and date of its issue (applies to foreigners permanently residing in a foreign country);

3.2.5. photograph;

3.2.6. signature;

4. Financial institutions and other entities that are obliged to identify a customer in the cases specified by the Law shall require a business customer to produce its identification documents containing the following data:

4.1. name;

4.2. legal form, main office;

4.3. code (if any);

4.4. registration extract and date of its issue;

4.5. the data of the representatives acting under power of attorney on behalf of a legal person, as specified in paragraphs 3.1 and 3.2 of the Rules;

4.6. the activities of a legal person, the purposes and the object of a business relationship, as well as the type of economic activities.

5. At the start of customer identification, a competent officer of a financial institution or another entity must:

5.1. verify whether a private customer entering into cooperation with the financial institution or another entity has produced valid identification documents or equivalent travel documents; to check if the photograph in the produced document is a photograph of that particular customer;

5.2. evaluate the condition of the document produced (with special attention to detect any possible changes, modifications etc. to the photograph, pages or entries);

5.3. find out whether a private or business customer will use the services of the financial institution by itself/himself or represent the interests of another person;

5.4. make sure that a natural or legal person is duly authorized to act on the customer's behalf;

5.5. make a copy of the photograph page of the identification document produced by a natural person that contains his photograph, or scan the document; a competent employee of pension funds management companies (when entering into pension accumulation contracts), insurance companies and insurance brokerage firms must make a copy of the photograph page of the identification document produced by a natural person that contains his photograph or scan the document or enter personal data (name and surname, personal number or another unique combination of characters assigned to the person for identification purposes) into an additional document (a pension accumulation contract or insurance policy);

5.6. when a foreign customer is to be identified, make a copy of the photograph page of the identification document or an equivalent travel document or scan the document; a competent employee of pension funds management companies (when entering into pension accumulation contracts), insurance companies and insurance brokerage firms must make a copy of the photograph page of the identification document produced by a natural person

containing his photograph or scan the document or enter personal data (name and surname, personal number or another unique combination of characters assigned to the person for identification purposes) into an additional document (a pension accumulation contract or insurance policy);

5.7. following the internal rules of procedure, take action justifying the necessity to apply simplified or enhanced identification;

6. In addition to the data referred to in paragraph 4 of the Rules, a business customer or another organization registered in a target territory, as specified in the Law on Corporate Income Tax of the Republic of Lithuania (*Valstybės žinios* (Official Gazette) No 110-3992, 2001), as well as the person representing this legal person or organization must also present written information about his current place of residence, postal address and contact information (valid telephone numbers, email addresses).

7. If a customer is a legal person represented by a natural person or a private customer is represented by another natural person, the financial institution or another entity must request a power of attorney from him and, if possible, check its validity (i.e. the right of the issuer to issue such a power of attorney) and term of duration and check what are the specific actions authorized by the power of attorney (a power of attorney must be in compliance with the requirements set by the Civil Code of the Republic of Lithuania (*Valstybės žinios* (Official Gazette) No 74-2262, 2000)).

8. Only document originals are acceptable for identification. Documents in foreign languages may be accepted if notarized with a certified authenticity of the translation of the document from one language to another.

9. Copies (if a paper copy of a document is made) of every customer identification document or an equivalent travel document whose original is not retained by the financial institution or another entity must be marked as authentic by a competent officer of the financial institution or another entity who has made the copy. The authenticity mark shall read "Kopija tikra" (True copy), also indicate the position of the responsible officer, his signature, name and surname, the date as well as the stamp of the financial institution or another entity. If having a stamp is optional under the legislation governing the activities of the financial institution or another entity, the authenticity of a copy of the customer identification document or an equivalent travel document (if a paper copy of the document is made) shall be certified by the signature of a competent officer of the financial institution or another entity, also indicating the position, name and surname of the competent officer as well as the date.

10. Customer identification requirements shall apply uniformly to all customers, including those that apply to a financial institution or another entity directly as well as those whose transactions or business relations are performed through a representative or a customer is not physically present during his identification.

III. IDENTIFICATION OF THE BENEFICIAL OWNER

11. In all customer identification cases, it is obligatory to identify the beneficial owner. In all cases, beneficial owner identification includes identification of a natural person or a group of natural persons.

12. When performing beneficial owner identification, financial institutions and other entities:

12.1. shall demand that a customer submit the following data on the beneficial owner identity (hereinafter referred to as "identity data"):

12.1.1. name(s);

12.1.2. surname(s);

12.1.3. personal number or another unique combination of characters intended for the identification of a person;

12.2. shall check the documents produced by the customer as well as information on the beneficial owner on the basis of the documents, data or information received from a reliable and independent source.

Such actions by a financial institution or another entity also include a request to the customer to specify public sources that could confirm the information about the beneficial owner.

13. The authenticity of the provided data shall be confirmed by a customer in writing and/or by stamp (if it must have a stamp in accordance with the legislation governing its activities) in its file or questionnaire.

14. A financial institution or another entity must collect and, when requested by the Financial Crime Investigation Service under the Ministry of the Interior, provide the following data on a beneficial owner:

14.1. the identity data of a beneficial owner;

14.2. evidence of verifying the information supplied by a customer in reliable and independent sources;

14.3. data on the management structure of a customer (legal person, company);

14.4. records of the movement of customer funds.

15. In order to ascertain whether a customer is acting on his own behalf or is controlled, a financial institution or another entity must:

15.1. verify whether the right to perform a monetary operation on behalf of the customer has been granted to a person with which the customer has definite business, professional or commercial relations;

15.2. to verify the existence of elements that are not typical of the customer's activities (more frequent payments in cash, increasing sums involved in monetary operations, payment for products or services that are not related to the customer's main activities, etc);

15.3. to observe whether a customer presents the information in good faith and whether or not he avoids answering the questions given.

IV. SIMPLIFIED CUSTOMER IDENTIFICATION

16. Simplified customer identification may be applied in the cases specified in Article 10 of the Law.

17. Before the procedure of customer identification, a competent officer of a financial institution or another entity shall verify the existence of circumstances that allow simplified customer identification.

18. Having decided to apply simplified customer identification, the financial institution or another entity shall, at its own discretion, select the customer identification instruments specified in paragraph 5 of the Rules as well as their scope.

19. A financial institution or another entity must not perform simplified customer identification if a separate decision of the European Commission has been passed on the issue. In such an event, the financial institution or another entity must apply the provisions of chapters II or V of the Rules.

V. ENHANCED CUSTOMER IDENTIFICATION

20. Enhanced customer identification shall be applied in the cases specified in Article 11 of the Law.

21. Before the procedure of customer identification, a competent officer of a financial institution or another entity shall verify the existence of circumstances necessitating enhanced customer identification.

22. Having decided to apply enhanced customer identification, the financial institution or another entity shall, in the cases specified in paragraphs 2-4 of Article 11 of the Law, apply the enhanced customer identification instruments envisaged in the Law.

VI. DETECTION OF SEVERAL INTERCONNECTED MONETARY OPERATIONS

23. In performing regular monitoring of the business relations of a customer, a financial institution or another entity must detect the cases when several interconnected monetary operations are conducted.

24. Several monetary operations shall be deemed to be interconnected when a customer:

24.1. within one working day, performs several operations of cash depositing in accounts that exceed EUR 15,000 or an equivalent in a foreign currency;

24.2. within one working day, performs several operations of cash withdrawal from accounts that exceed EUR 15,000 or an equivalent in a foreign currency;

24.3. within a working day, performs other cash operations that, based on the data at the disposal of the financial institution or another entity, are interconnected and that exceed EUR 15,000 or an equivalent in a foreign currency.

VII. FINAL PROVISIONS

25. A financial institution or another entity shall immediately once again verify customer identity by means of enhanced customer identification in the following cases: when a customer knowingly provides wrongful information for the purposes of identifying the customer or beneficial owner; when a customer withholds information; when there exist the circumstances for the application of enhanced identification in the cases specified in Article 11(1).
