



Finanšu izlūkošanas dienests

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MONEY LAUNDERING, TERRORISM AND PROLIFERATION FINANCING AND SANCTIONS EVASION RISKS IN THE PUBLIC SECTOR

RISK ASSESSMENT

2022



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1. Introduction

- 1.1. The AML Law establishes the FIU as the lead authority to prevent the use of the Latvian financial system for ML/TF/TF purposes.¹ According to Article 51(1)(14) of the AML Law, FIU is obliged to carry out an assessment of the ML/TF/TF risks and to prepare a national risk assessment report, as well as to develop proposals to mitigate the level of such risks.
- 1.2. Regarding evasion or attempted evasion of international and national sanctions in the enforcement of financial restrictions, FIU is the competent authority in accordance with the procedure laid down in the AML Law.² Persons under the supervision of the competent authorities are obliged to report to the FIU if they suspect that international and national sanctions are being evaded or attempted to be evaded in the implementation of financial restrictions.³
- 1.3. In October 2021, the SAO approved an Audit Report, within the framework of which the public sector's preparedness to identify and prevent the risks of ML and sanctions evasion was assessed. It concluded that in order to ensure timely detection of suspicious transactions and avoid cooperation with sanctioned persons, the public sector should promote awareness of ML/TF/PF and sanctions risks, improve methodological support and access to information resources, as well as improve the ICS, using a risk-based approach.
- 1.4. In line with the statutory competences of the FIU and following the SAO's suggestion expressed in the Audit Report,⁴ the FIU has developed a risk assessment, identifying and analysing ML/TF/PF and sanctions evasion risks inherent to the public administration.
- 1.5. As a part of this risk assessment, FIU has summarized the most significant ML/TF/PF and sanctions evasion risks in the public sector. The identification and assessment of the risks is carried out with an aim to raise awareness on ML/TF/PF and sanctions evasion risks among the public sector entities. By identifying and assessing these risks, public sector bodies can manage and address them in a timely manner. In order to provide the necessary methodological support, the risk assessment also includes recommendations to address the risks, including guidance for public entities on compliance and enforcement of sanctions.

¹ Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing, Article 50(2). Latvijas Vēstnesis, 116, 30.07.2008. Available: <https://likumi.lv/ta/en/en/id/178987-law-on-the-prevention-of-money-laundering-and-terrorism-and-proliferation-financing>

² Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 13(4¹). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

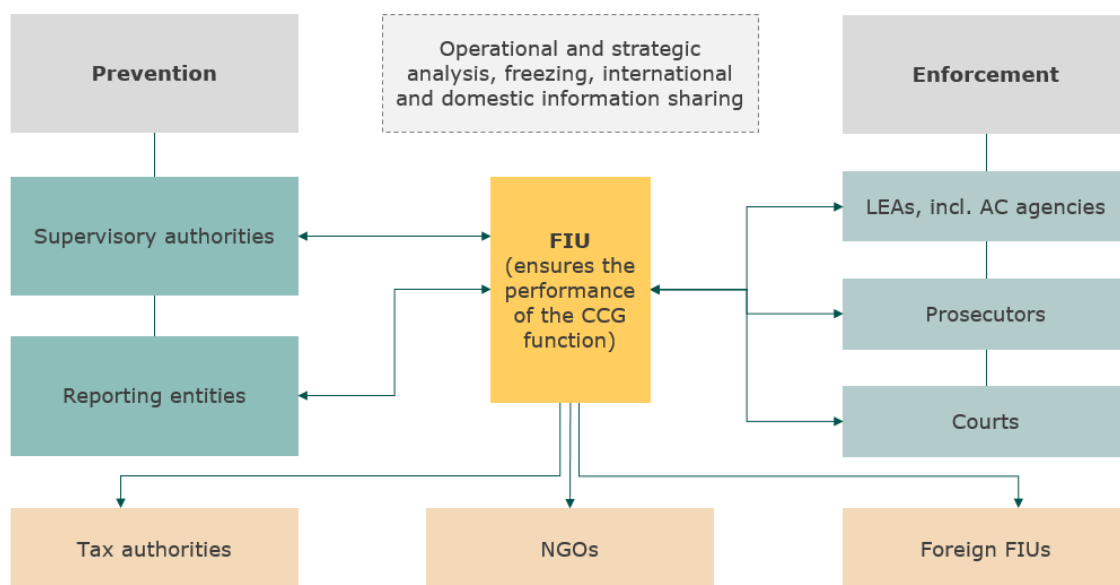
³ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 17(2). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁴ The audit report made proposals to FIU for public sector education and capacity building to address these risks, including the organisation of training in cooperation with the Ministry of Foreign Affairs and the State Chancellery (the first training took place in January 2022), as well as the need for assessment and analysis of public sector risks of ML, TF, PF and sanctions violations.

2. The role of the public sector in AML/CFT/CFP and countering the evasion of sanctions

2.1. The AML/CFT/CFP system in Latvia is designed to prevent the possibility of using the financial and non-financial sectors for ML/TF/PF purposes, providing a risk-based approach, which ensures implementation of prevention, monitoring and control measures in accordance with the national risk level.

Figure 1 – AML/CFT/CFP framework




2.2. At EU level, the range of entities subject to AML/CFT/CFP requirements has gradually expanded since the adoption of the Council Directive (10 June 1991) on prevention of the use of the financial system for the purpose of ML⁵ from credit institutions and financial institutions to an ever-wider range of entities, including the non-financial sector, such as providers of lotteries and gambling services, persons operating in trade of art and antiquities and others. In the course of transposition of the EU legal norms into the Latvian legal framework, the obliged entities under the AML Law were gradually extended to include additional obliged entities under the AML Law.

2.3. In accordance with EU and Latvian legislation, various service providers whose services are at risk of being used for ML/TF/PF, as well as service providers whose available information allows them to identify ML/TF/PF activities and who function as financial systems "gatekeepers" (e.g., sworn auditors whose services is not with an increased ML risk by default, however they have access to information that allows detection of ML activities) are defined as obliged entities under the AML Law. At the same time, it should be stressed that EU law does not require public sector bodies to be included among the obliged entities under the AML Law. Consequently, public sector bodies are not covered by the AML Law. Among the obliged entities under the AML Law there are in some cases, (where their scope of activity overlaps with sectors subject to the AML Law) institutions under the control of the public sector, e.g., SJSC "Latvian Lotto" as an organiser of lotteries and gambling or SJSC "State Real Estate" as intermediaries in real estate transactions.

2.4. Accordingly, public sector bodies are not directly subject to a number of the obligations and rights under the AML Law that the AML Law imposes on its subjects. Obligated entities


⁵ Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering. Available: <https://eur-lex.europa.eu/legal-content/LV/TXT/?uri=CELEX%3A31991L0308>



under the AML Law are required to carry out risk assessments, establish ICS, train staff, appoint a compliance officer, organise customer surveys in accordance with the requirements of the AML Law and take other preventive measures. The implementation of these measures is monitored by the supervisory and control authorities. As public sector bodies are not among the obliged entities under the AML Law, they do not have a designated supervisory and control body.

- 2.5. At the same time, Article 3(1) of the AML Law provides for the obligation of other persons (outside the scope of the subjects of the AML Law) to notify the FIU of any suspicious transaction, as well as to provide the information and documents in their possession necessary for the FIU to perform its duties. It should be noted that Article 3¹ of the AML Law clearly and unambiguously obliges public authorities, public derivative persons and their bodies to provide the FIU with the information on suspicious transactions at their disposal.
- 2.6. The need to report suspicious transactions and activities possibly related to ML, TF, and PF to the FIU stems first and foremost from the objective of preventing ML, TF and PF or an attempt thereof. However, it is also important for the public sector to consider the significant reputational risks arising from possible direct or indirect involvement in activities related to ML, TF, PF. In the case of the public sector, these are national risks which may result in consequences such as loss of trust in the public administration by both citizens and international partners. Against this background, public sector bodies need to assess and act accordingly where their activities are exposed to risks of ML, TF, PF. The public sector also needs to consider the risks of breaches of the sanctions framework.
- 2.7. FIU receives a very limited number of suspicious transaction reports from public sector bodies and their subordinates, both in absolute terms and in comparison with reports received from the obliged entities under the AML Law. At the same time, it should be noted that in potential cases of ML, TF, PF or sanctions evasion, the public sector will in most cases have much more limited information than, for example, credit institutions, outsourced accountants, or other obliged entities under the AML Law. In 2021, the CPCB received 223 reports from state and local authorities.⁶
- 2.8. As a risk mitigating factor, in many transactions involving the public sector, ML, TF, PF and sanctions evasion checks will be carried out in parallel by several obliged entities under the AML Law or their foreign counterparts, such as local and foreign credit institutions, sworn notaries, etc. At the same time, this should not be considered as a circumstance that would exempt public sector authorities from the obligation to assess the information at their disposal and the potential ML, TF, PF risks in such transactions.
- 2.9. Certain public sector bodies and subordinate authorities have increased risks of ML arising from specific services they provide (e.g., the so-called "golden visa" or temporary residence permit programme, risks related to special economic zones, etc). This risk assessment assesses horizontal public sector risks that are shared by several public sector bodies. ML risks of specific individual public sector bodies and bodies under their authority will be assessed in more depth in the framework of the NRA.
- 2.10. When assessing the ML risks in the public sector, it is important to consider that the public administration is financed from the state budget, so there is no reason to suspect criminal origin of these funds in the context of their use. In theory, there are ML risks in outgoing public sector payments where public funds are used to purchase criminally acquired property or to purchase a service the performance of which is financed with criminally acquired funds. The risks of ML are higher where the public sector engages in civil transactions or commercial activities, such as real estate disposals.

⁶ Corruption Prevention and Combating Bureau Annual Report 2021. Available: <https://www.knab.gov.lv/lv/media/2273/download>

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- 2.11. In the case of TF, PF and sanction violation risks, it is important to mention that both criminally obtained funds and legally obtained funds can be used to carry out these offences. Sanctions Law imposes a much wider range of obligations on public sector authorities than the AML Law (more in Chapter 5 of this risk assessment), and public sector authorities should set an example to the private sector in meeting these requirements.
- 2.12. As mentioned in the SAO Audit Report, the NRA 2020 and previous NRAs do not separately assess specific public sector threats and vulnerabilities. At the same time, public sector ML, TF, PF risks are derived from national ML threats and vulnerabilities, ML, TF, PF risks of different services and sectors, national TF and PF risks, ML and TF risks related to legal persons and NGOs, and other information included in both the NRA 2020 and previous NRAs. In order to enhance public sector understanding and facilitate the implementation of risk mitigation measures in practice, this risk assessment addresses the most relevant public sector risks of ML, TF, PF and sanctions violations, in line with the FIU analysis and the risk areas identified by the SAO. At the same time, given that the public sector is not among the obliged entities under the AML Law, this risk assessment focuses on summarising and making recommendations on the risks of ML, TF, PF and breach of sanctions, without an in-depth analysis of the vulnerability of public sector institutions, their capacity to address these risks and without including other elements of the risk assessment.

3. Risk areas of criminal offences

3.1. The audit report identifies a number of risk areas where public sector transactions may be involved in the generation of proceeds of crime. At the same time, further ML is not expected to be carried out through the public sector. It can be concluded from the above that the public sector is inherently confronted with predicate offences of ML, or offences that result in proceeds of crime but are not ML, TF, PF.

Public procurement

3.2. Public procurement is one of the five risk areas identified by the SAO in its Audit Report. The risk of ML in public procurement stems mainly from corruption risks and most often in these cases the public sector may be involved in the predicate offence but not in the subsequent ML. Corruption in public procurement is widespread throughout the world. In Latvia, as elsewhere in the world, there are high initial risks of corruption in public procurement.

3.3. FATF experts have pointed out that there are several factors that make the public procurement process particularly vulnerable to corruption:

- 3.3.1. the sheer scope of some of government acquisition projects can lead to the ability of some of the funds involved merely to “slip through the cracks.”
- 3.3.2. the specialised nature of the contracts prevents an analysis of whether: (1) the government is paying a fair price for its goods or (2) whether the price has been inflated as a result of corrupt activities.
- 3.3.3. in many countries, government procurement activities are not transparent and are highly competitive, which can lead to collusive activity.⁷

3.4. It is important to note that an increased risk of corruption in the field of public procurement was identified as a result of the conditions created by the COVID-19 pandemic, which FIU has previously analysed in the informative material “Money laundering and terrorism financing risks caused by COVID-19”.⁸

3.5. Given that similar circumstances may recur in the future, the factors that, in the context of the challenges posed by the COVID-19 pandemic, have created a more favourable environment for corruption in the field of public procurement and in the public sector in general are:

- 3.5.1. disruption of life routine in many areas, general confusion in regards to controls, deadlines, requirements for both individuals and public authorities, incl. in organising work, announcing procurements etc.
- 3.5.2. urgent need for masks, tests, vaccines (hence procurement with shorter deadlines, direct award of contracts, i.e., without prior tender procedure);
- 3.5.3. the means immediately available to the state to limit and eliminate the consequences of COVID-19 are significant;
- 3.5.4. possible trading of inside information, for example, the state administration at its disposal for a specific moment has publicly unavailable information regarding support and restrictive measures, which can distort competition and put a company that obtains this information earlier than other market participants in a better position;
- 3.5.5. regulations that came into force in the latter stages of the pandemic, such as the mandatory requirement for COVID-19 vaccination or a certificate of

⁷ FATF Report “Specific Risk Factors in Laundering the Proceeds of Corruption”. Available: <https://www.fatf-gafi.org/media/fatf/documents/reports/Specific%20Risk%20Factors%20in%20the%20Laundering%20of%20Proceeds%20of%20Corruption.pdf>

⁸ Informative material “Money laundering and terrorism financing risks caused by COVID-19”. Available: https://www.fid.gov.lv/uploads/files/English%20version/ML_TF_risks_Covid_small.pdf


contracting the disease in workplaces that pose a risk of bribery to circumvent them.

- 3.6. Corruption risks should be identified and mitigated through a corruption ICS for public sector bodies, which forms the basis for successful anti-corruption compliance program. However, it is important to note that when implementing measures and procedures to prevent corruption, the institution's AML requirements should also be assessed to ensure that they do not conflict and are consistent with each other.
- 3.7. It is important to include in both the corruption ICS and the AML ICS a mechanism to manage risks related to potential or emerging cooperation with foreign merchants as a result of public procurement. In Latvia, the Register of Companies provides comprehensive information on the local company structure, the UBOs, the members of the Management Board and Supervisory Board etc., which is necessary for the initial assessment of a cooperation partner, whereas publicly available information on companies registered abroad is often more limited.

Transactions with NGOs

- 3.8. Although both in the FATF standards⁹ and in an international context it is more often talked about TF risks that are inherent to NGOs, in Latvia cases of ML and predicate offences involving NGOs are identified in practice. NGOs in Latvia have the status of legal persons and, like other legal persons, can be used in various ML and predicate offence schemes, which indicates their inherent vulnerability and potential to be used to conceal the true origin of the proceeds of crime, to disguise UBO and to evade the supervision of the relevant authorities.
- 3.9. The ML risk profile of NGOs could be divided into three parts. First, reports of suspicious transactions that the FIU receives show that NGOs are in some cases used for tax evasion. In particular, NGOs that have obtained public benefit status are at increased risk of being used in tax avoidance and other tax schemes, as both NGOs and individuals making donations are eligible for tax benefits. The SRS carries out inspections of NGOs that have been identified as potentially being at risk of tax avoidance or other risks related to the organisation's activities.
- 3.10. Second ML typology that may be linked to various (more often foreign) criminal offences are donations to NGOs from donors with (1) questionable reputation, (2) questionable origin of funds (incl. criminal) (especially from high-risk countries) or (3) disguised origin of funds. However, neither tax evasion and subsequent ML, nor the risks of ML through NGOs mentioned in this paragraph, are usually directly linked to transactions with public sector bodies.
- 3.11. Third group of NGO related ML risks stem from the proceeds of corruption. NGOs whose largest share of annual revenues is from funding disbursed by local governments or public institutions, (i.e. their ability to achieve their defined objectives is directly dependent on the local governments or public institutions concerned) are at increased risk of ML. The CPCB's analysis has identified cases where the largest amount of the municipal budget allocated for funding NGOs is received by NGOs that are directly or indirectly linked to the political majority of the municipality in question, and where the board members of the NGO are often current or former public officials.
- 3.12. Similar to public procurement, corruption risks also are the key factor in dealing with NGOs and, more often than not, the laundering of the proceeds of corruption would have already taken place without the involvement of the public sector. In December 2021, FIU, together with CPCB, the Prosecutor's Office of the Republic of Latvia and four credit institutions, published the material "Indicators and case analysis of corrupt

⁹ International standards on combating money laundering and the financing of terrorism and proliferation financing. The FATF Recommendations. IO8. Available: <https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>



offences"¹⁰, intended for use, inter alia, by public sector institutions to identify and mitigate corruption risks in the country.

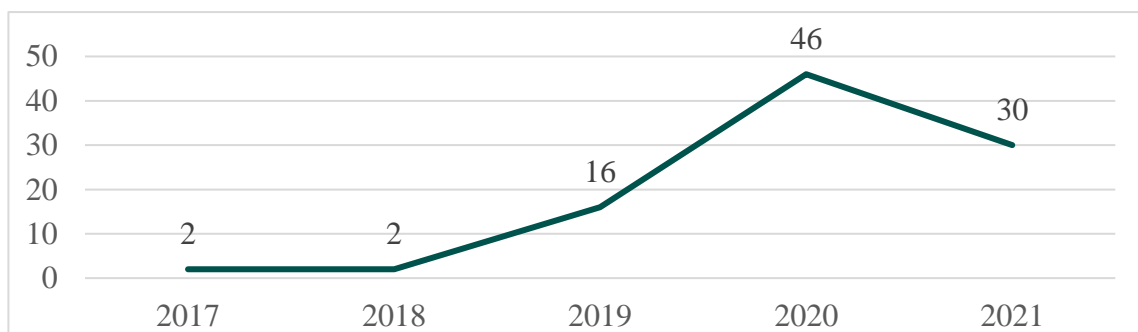
¹⁰ Material "Indicators of corruption and case analysis". Available: <https://fid.gov.lv/uploads/files/2021/korupcijas%20mater%C4%81s/INDICATORS%20OF%20CORRUPTION%20AND%20CASE%20ANALYSIS.pdf>

4. ML risks in the public sector

Real estate disposal transactions

- 4.1. Real estate transactions are a widely identified method of ML in international practice.¹¹ Real estate is attractive to money launderers for the same reasons as to any investor: the real estate has a stable value and is likely to increase in value over time.¹²
- 4.2. Real estate transactions can be used in both the layering and integration phases of ML.¹³ In the layering phase, the purchase and resale of real estate can be used to move funds away from their criminal source. However, from the FIU experience in Latvia real estate has so far been used most frequently in the integration phase, where already laundered funds are used by criminals for everyday spending, the purchase of vehicles, investments in financial instruments and purchase of real estate.
- 4.3. Since 2017, there has been a significant increase in the number of properties for which the FIU has recorded a reasonable suspicion of their use for ML and issued an order to the relevant Land Registry Office to prevent the re-registration of the property (Figure 2). While in the period until 2018 such cases were only episodic, in the three-year period from 2019 to 2021, FIU has recorded reasonable suspicion of involvement in ML schemes for more than 90 Latvian real estate properties.

Figure 2 – Temporarily frozen real estate number of properties in FIU's opinions of ML



- 4.4. The most frequent orders are issued in respect of apartments and private houses, meanwhile when assessing the geographical distribution of such real estate, the predominant cities are Riga and the regions around the Baltic Sea, in particular Jūrmala City.
- 4.5. In Latvia, a foreigner is entitled to apply for a temporary residence permit in accordance with the procedure laid down in the Immigration Law if he/she has purchased real estate worth EUR 250 000 and the transaction meets the criteria laid down in the Immigration Law.¹⁴ Temporary residence permits or "golden visas" are a well-known typology of ML and are also included as one of the risk sectors for the region in the European Supranational ML, TF Risk Report.¹⁵ While the issue of temporary residence permits will

¹¹ Understanding money laundering through real estate transactions. Available: https://www.europarl.europa.eu/cmsdata/161094/7%202001%20EPRS_Understanding%20money%20laundering%20through%20real%20estate%20transactions.pdf

¹² Ibid.

¹³ Methodical material "Typologies and indicators of money laundering (2nd revised edition)". Available: https://fid.gov.lv/uploads/files/2021/FIU_Typologies%20and%20indicators%20of%20ML_2nd%20revised%20edition.pdf

¹⁴ Immigration Law, Article 23(29). Latvijas Vēstnesis, 169, 20.11.2002. Available: <https://likumi.lv/ta/id/68522-immigracijas-likums>

¹⁵ Report from the commission to the European parliament and the council on the assessment of the risk of money laundering and terrorist financing affecting the internal market and relating to cross-border activities. Available:

be further discussed in the NRA, the public sector already needs to take into account the heightened risks of ML in real estate disposals.

- 4.6. The FIU's methodological material "Typologies and indicators of money laundering"¹⁶ contains a number of typologies of ML involving real estate that have been recorded in Latvia and elsewhere (for each of the typologies listed, the material also provides a list of the corresponding characteristics),
- 4.6.1. Funds, while simulating seemingly legitimate transactions, are transferred to accounts of legal persons with foreign payment institutions (or electronic money institutions), which are later used to purchase various goods, services and real estate.
 - 4.6.2. Funds are transferred and structured with the aim of moving them further away from their origin by simulating seemingly legal transactions, and part or all of the funds are then invested, for example, in financial instruments, precious metals, real estate and other property, or used for personal needs, including by payment card.
 - 4.6.3. A person receives funds through a fictitious loan agreement and subsequently uses them for self-consumption, for the purchase of property (e.g. real estate, vehicles), loan is not repaid.
 - 4.6.4. The proceeds from crime in cash are imported across the border of Latvia and placed in the Latvian financial system or used for the purchase of goods, services, regardless of whether or not the funds are declared at the border.
 - 4.6.5. Unexplained wealth or income of a person.
- 4.7. In the case of integration of proceeds of crime, the most likely evidence of ML will be activities prior to the acquisition of real estate, some of which are unlikely to be known to the public sector. However, in assessing the counterparty (the buyer of the real estate), the public authority may take into account information that is available to it and can be ascertained. For example, publicly available information on the counterparty and related parties, whether the legal entities involved in the transaction or their UBOs are registered/connected with high-risk jurisdictions¹⁷ or their neighbouring countries, whether the counterparty (legal entity) is a shell entity¹⁸, as well as other characteristics mentioned in the FID's "Typologies and indicators of money laundering" and other compilations.
- 4.8. If a public authority has made an assessment, identified the signs and suspicions of a possible ML or already has sufficient facts to reasonably believe that an ML or attempted ML has occurred or is occurring, a Suspicious Transaction Report needs to be submitted to the FIU. The Guidelines on "Reporting suspicious transactions and refraining from transactions"¹⁹ describe the threshold of suspicion at which a report should be made and the information that should be included in the report, while the "E-reporting"²⁰ section of the FIU website provides the necessary technical information for making a report.

https://ec.europa.eu/info/sites/default/files/supranational_risk_assessment_of_the_money_laundering_and_terrorist_financing_risks_affecting_the_union.pdf

¹⁶ Methodical material "Typologies and indicators of money laundering (2nd revised edition)". Available: https://fid.gov.lv/uploads/files/2021/FIU_Typologies%20and%20indicators%20of%20ML_2nd%20revised%20edition.pdf

¹⁷ High risk countries. Available: <https://fid.gov.lv/lv/darbibas-jomas/starptautiska-sadarbiba/augsta-riska-valstis>.

¹⁸ Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing, Article 1(15¹). Latvijas Vēstnesis 116, 30.07.2008. Available: <https://likumi.lv/ta/en/en/id/178987-law-on-the-prevention-of-money-laundering-and-terrorism-and-proliferation-financing>

¹⁹ Guidelines "Reporting suspicious transactions and refraining from transactions". Available (in Latvian): https://fid.gov.lv/uploads/files/2021/FID_Zi%C5%86o%C5%A1anas%20vadi%C4%ABnijas_30092021.pdf

²⁰ Reporting to the FIU. Available: <https://fid.gov.lv/lv/zinosana-fid>

Other ML risks in the public sector

- 4.9. Similarly to real estate disposals, where a public authority engages in civil law transactions (e.g. other property disposals) and receives funds from the private sector, there is a risk that the funds received are criminally derived. Accordingly, the above typologies and indicators of ML may also apply to these cases and here again the investigation may result in a report to the FIU.
- 4.10. In cases where the public sector is the sender of the funds, it is important to note that the public administration is financed by the State, so there is no reason to suspect that the funds are of criminal origin. However, in theory, there are ML risks for outgoing payments from the public sector in the case of the purchase with public funds of criminally acquired property or the purchase of a service the performance of which is financed with criminally acquired funds. Such risks may have materialised in the case described below.

Case analysis No.1

In 2020, FIU received a suspicious transaction report from a credit institution regarding transactions carried out by a municipal deputy, which raised suspicions of tax evasion, payment of enveloped salaries and abuse of official position in tendering procedures.

The fact that the construction company of which the member of the municipality is the UBO regularly wins tenders for public works carried out by the municipality, other municipalities and public authorities, including tenders related to projects financed by EU funds, raises suspicions.

It has been established that regular cash payments are made to the accounts of the employees of the construction company. It was also identified that suspicious transfers to foreign companies with the appearance of shell companies, possibly for transactions that did not actually take place, were found in the accounts of the construction company.

In February 2021, the Tax and Customs Police Directorate of the SRS initiated criminal proceedings against the construction company for tax evasion and large-scale ML.

- 4.11. In this case, the public sector body - the municipality - should first assess the risks of corruption related to public procurement and the possible abuse of office from the viewpoint of both the member of the municipality and the construction company's UBO. At the same time, it cannot be excluded that, in theory, in addition to corruption risks, there are also ML risks if a municipality provides payment for services that are partly or fully financed by proceeds of crime
- 4.12. This case and other cases where information about a business partner's possible involvement in ML and other financial crimes emerges after the transaction has taken place may serve as an opportunity for the municipality and other public sector bodies to better understand the risks and strengthen controls to mitigate these risks. In such cases, a historical analysis of past cooperation (or examples from other public sector bodies) can be used to assess whether and what information the public sector body had that could indicate that the cooperation partner may have used proceeds of crime in the transaction.
- 4.13. Not every public sector body will have the capacity to implement the AML/CFT risk prevention measures outlined in Chapter 4, i.e. to have a separate ICS, to employ one or more AML/CFT/FTF specialists or to undertake other obligations under the AML Law for its subjects. In FIU's view, it is possible to provide for the control of ML (as well as TF, PF, as appropriate) and sanctions risks in the overall ICS of a public sector body. As public sector bodies are not subject to the AML Law and are not subject to its requirements regarding the assessment of ML, TF, PF and sanction breach risks for the development of an ICS, this can be done and documented by bodies in a free form.

- 4.14. Risk assessment and control design should follow the generally accepted principles in the field of AML, such as KYC ("know your customer" - or rather "know your business partner" in the case of the public sector) and a risk-based approach.
- 4.15. In Latvia, since 2019,²¹ the Enterprise Register has made available free of charge comprehensive information on the local company structure, UBOs, members of the Management Board and Supervisory Board, etc., as well as the initial information needed to assess the business partner.²² Publicly available information on companies registered abroad is often much more limited and should therefore be taken into account as a risk factor in cooperation with foreign companies. At the same time, the "know your customer" principle of AML essentially overlaps with the obligations imposed on public authorities by the Sanctions Law in each transaction.
- 4.16. The risk-based approach is based on the need to deal effectively with the risks of ML, TF and PF, but its main principle is to devote resources to preventing or mitigating risks where there is an increased risk.²³ It is also the risk-based approach that underpins the range of subjects of the AML Laws, which is enshrined in the international and national framework and which excludes public sector bodies. At the same time, while recognising these objectives and risks, a risk-based approach should not be used as a justification for not introducing ML controls where a public sector body is at increased risk of being involved in ML activities.
- 4.17. The risk-based approach is also enshrined in the AML Law. Article 11 of the AML Law sets out the cases in which the subjects of the AML Law must carry out customer due diligence, with different thresholds for different types of transactions and services. For example, for occasional transactions, only in the case of a transaction involving virtual currency, customer due diligence must always be carried out. On the other hand, if the transaction does not qualify for the other situations referred to in the second paragraph of Article 11, customer due diligence must be carried out for occasional transactions where the amount of the transaction or related transactions exceeds EUR 15 000.²⁴
- 4.18. Public sector authorities may also provide for a similar approach by assessing and setting different thresholds for different ML exposures. Given the identified risks of ML, it is possible that the threshold may be well above the EUR 15 000 mentioned above. It should be noted that for really significant transactions, amounting to tens or even hundreds of millions of euro, the threshold may be higher. Even a relatively low risk materialisation can lead to huge losses which are not commensurate with the resources that would have to be devoted to avoiding the risk and the consequent losses. In such cases, public authorities would need to control both corruption and sanctions risks as well as ML risks.

²¹ Information on Latvian companies was publicly available before 2019, but between 2018 and 2019 the range and quality of information available from the Enterprise Register has been significantly expanded, gaining recognition by international institutions as one of the most modern business registers in Europe.

²² Transparency International urges EU to act on patchy beneficial ownership registers. Available: <https://transparency.eu/eu-must-act-beneficial-ownership-registers/>

²³ International standards on combating money laundering and the financing of terrorism and proliferation financing. The FATF Recommendations. Available: <https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>.

²⁴ Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing, Article 11(2a). Latvijas Vēstnesis 116, 30.07.2008. Available: <https://likumi.lv/ta/en/en/id/178987-law-on-the-prevention-of-money-laundering-and-terrorism-and-proliferation-financing>

5. Sanctions risk management in the public sector

Overview of the legal framework

- 5.1. Sanctions are restrictive measures imposed by certain States or international organisations (such as the UN) on identifiable entities (e.g. specific persons or States) in order to influence, modify or bring to an end conduct by the sanctioned entity that threatens international peace, security and justice. In the case of country-specific sanctions, the objectives of the sanctions may also go beyond ensuring international peace, security and justice.
- 5.2. The imposition, observance, enforcement and other issues related to sanctions in Latvia are regulated by the Sanctions Law and the regulatory enactments issued on its basis.
- 5.3. The Sanctions Law applies to all persons and obliges them to comply with and enforce international and national sanctions.²⁵
- 5.4. The purpose of this law is to ensure peace, security and rule of law in accordance with the international obligations and national interests of Latvia, when
- 5.4.1. introducing international sanctions,
 - 5.4.2. imposing national sanctions
 - 5.4.3. or in the cases specified in this Law when the sanctions imposed by the European Union or North Atlantic Treaty Organisation are being imposed.²⁶

Types of sanctions by form

International sanctions

- 5.5. International sanctions are restrictions imposed in accordance with the international law in relation to subjects of sanctions, which have been adopted by:
- 5.5.1. the United Nations Organization or
 - 5.5.2. the European Union, or
 - 5.5.3. another international organisation, to which the Republic of Latvia is a member state, and which are directly applicable or introduced in Latvia in accordance with the procedures laid down in Sanctions Law.²⁷
- 5.6. The financial and civil legal sanctions imposed by the United Nations Security Council resolutions and the sanctions imposed by the European Union regulations are binding and directly applicable to the Republic of Latvia.²⁸ With the exception of UN and EU sanctions, there are no sanctions imposed by other international organisations that are applicable to Latvia. Therefore, when the term "international sanctions" is used in the Latvian regulatory framework, it is understood to mean sanctions imposed by the UN and the EU.
- 5.7. By far the majority of sanctions binding on Latvia are international sanctions imposed by the UN Security Council and the EU. The EU has more than forty different sanctions

²⁵ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 2(2). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/id/280278-starptautisko-un-latvijas-republikas-nacionalo-sankciju-likums>

²⁶ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 2(1). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/id/280278-starptautisko-un-latvijas-republikas-nacionalo-sankciju-likums>

²⁷ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 1(1). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/id/280278-starptautisko-un-latvijas-republikas-nacionalo-sankciju-likums>

²⁸ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 11(1). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/id/280278-starptautisko-un-latvijas-republikas-nacionalo-sankciju-likums>

regimes in force.²⁹ Some of the EU sanctions regimes are based on the UN Security Council sanctions regimes, while others are determined autonomously by the EU.³⁰

National sanctions

5.8. National sanctions are restrictions imposed in accordance with the laws and regulations of Latvia and international law in relation to subjects of sanctions, which have been stipulated by the Cabinet in accordance with the procedures laid down in this Law.³¹ The Cabinet may impose national sanctions upon its own initiative, as well as upon a proposal of the Minister for Foreign Affairs or the National Security Council.³²

5.9. The Cabinet of Ministers has so far imposed national sanctions only in rare cases.³³ This is partly because sanctions are an essential instrument of the EU's Common Foreign and Security Policy. In particular, as an EU Member State, Latvia has not often had to unilaterally impose national sanctions in the framework of the Common Foreign and Security Policy. At the same time, it is important to be aware that the Cabinet of Ministers has the power to impose national sanctions.

Sanctions imposed by an EU or NATO member state

5.10. Sanctions imposed by an EU or NATO member state are sanctions imposed unilaterally by certain EU or NATO member states in accordance with their respective laws and regulations. Despite the fact that compliance with sanctions imposed by other States has a legally extraterritorial scope in Latvia, sanctions imposed by other EU or NATO Member States are also applicable in Latvia in certain cases to the activities of public law entities.

5.11. It should be noted that all articles of the Sanctions Law that provide for compliance with sanctions imposed by EU or NATO member states mention that they apply only to sanctions imposed by EU or NATO member states that have a significant impact on financial and capital market interests.³⁴ According to the Ministry of Foreign Affairs, only the US sanctions are currently considered as such in Latvia, as they are significant sanctions affecting the financial and capital market interests of a NATO member state. Sanctions of other NATO member states are not applied in Latvia and are not binding.³⁵

5.12. OFAC is the US authority that administers and enforces US sanctions.³⁶

5.13. Sanctions other than international sanctions, national sanctions or sanctions imposed by EU or NATO member states (the USA) (which are applied only in cases specifically provided for in the Sanctions Law) have no legal force in Latvia and are not binding.

Types of sanctions by content

5.14. The following international or national sanctions may be introduced or imposed in Latvia:

5.14.1. financial restrictions;

²⁹ EU Sanctions Map. Available: <https://www.sanctionsmap.eu/#/main>

³⁰ Overview of sanctions and related tools. Available: https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/overview-sanctions-and-related-tools_en

³¹ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 1(2²). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

³² Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 3(1). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

³³ On EU restrictive measures. Available: <https://www2.mfa.gov.lv/arpolitika/par-eiropas-savienibas-ierobezojiem-pasakumiem/nacionalas-sankcijas>

³⁴ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 11¹(1) and 11²(1). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

³⁵ Application of international and national sanctions in Latvia. Frequently asked questions and answers. Question No. 34. Available: <https://www.mfa.gov.lv/lv/biezak-uzdotie-jautajumi-un-atbildes>

³⁶ Office of Foreign Assets Control - Sanctions Programs and Information. Available: <https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information>

- 5.14.2. civil legal restrictions;
- 5.14.3. restrictions on admission;
- 5.14.4. restrictions on circulation of goods of strategic significance and other goods;
- 5.14.5. restrictions on provision of tourism services.³⁷

Financial restrictions

- 5.15. If financial restrictions have been imposed on the subject of sanctions, all persons in accordance with their competence have the obligation to immediately and without a prior warning take the following actions:
- 5.15.1. to freeze all financial resources and financial instruments, which are directly or indirectly, completely or partially under the ownership, possession, holding or control of the subject of sanctions, including those financial resources and financial instruments that have been transferred to third persons;
 - 5.15.2. to deny access for the subject of sanctions to financial resources and financial instruments;
 - 5.15.3. not to provide the financial services specified in international or national sanctions to the subject of sanctions (including by means of an authorisation).³⁸
- 5.16. In practice, private law entities play a more important role than public law entities in enforcing financial restrictions. This is due to the fact that financial services are mainly provided by credit and financial institutions. In practice, the enforcement of financial restrictions may take the form, for example, of a credit institution freezing all funds in the account of a natural person against whom financial restrictions have been imposed.
- 5.17. For instance, in 2014, the Council of the European Union adopted a regulation No 269/2014 concerning restrictive measures (sanctions) in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.³⁹ The first paragraph of Article 2 shall require the freezing of all funds and economic resources belonging to, owned, held or controlled by any natural person or natural or legal persons, entities or bodies listed in Annex I or associated with them. The list of persons subject to these sanctions is updated regularly, including since the launch of the military aggression by Russia against Ukraine.
- 5.18. Consequently, the sanctions provided for in the regulation No 269/2014 qualify directly as financial restrictions. In view of the above, if a natural or legal person on the EU sanctions list, or entities owned or controlled by such persons, has used the services of EU financial institutions, all EU financial institutions are required to freeze the assets of such persons.
- 5.19. Against this background, the enforcement of financial restrictions on the activities of public law entities will more often take the form of denying the sanctioned entity access to financial resources and financial instruments. For example, Article 2(2) of the same Regulation 269/2014 prohibits making funds or economic resources available, directly or indirectly, to or for the benefit of natural persons or natural or legal persons, entities or bodies associated with them, listed in Annex I.
- 5.20. In effect, this means that civil transactions with persons subject to financial restrictions are not enforceable, even by public law entities. For this reason, the Sanctions Law prohibits a public law entity from entering into a public or private law contract if international or national sanctions or sanctions imposed by an EU or NATO member state affecting the interests of the financial and capital markets and having a significant

³⁷ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 4. Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

³⁸ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 5(1). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

³⁹ Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. Available: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0269>

impact on the performance of the contract have been imposed.⁴⁰ Similarly, this Article prohibits a public-law entity from making a payment if it is subject to international or national sanctions or to significant sanctions affecting the financial and capital market interests of an EU or NATO Member State affecting the payment.

Civil legal restrictions

5.21. Article 5(2) of the Sanctions Law states that a subject of sanctions on which civil legal restrictions have been imposed, based on these restrictions, is prohibited from acquiring and alienating tangible and intangible objects to which ownership rights or other property rights must be registered, corroborated, or published in public registers. In turn Article 5(3) of the Sanctions Law states that the acquisition and alienation of the ownership rights or other property rights referred to in Paragraph two of this Article is forbidden to be registered or corroborated in public registers.⁴¹

5.22. The authorities responsible for keeping the public registers referred to in Article 5, Paragraph three of the Law are:

- 5.22.1. the Court Administration as the manager of the State Unified Computerised Land Register;
- 5.22.2. the Enterprise Register;
- 5.22.3. the Patent Office;
- 5.22.4. the State stock company Road Traffic Safety Directorate;
- 5.22.5. the State joint-stock company Maritime Administration of Latvia as the maintainer of the Latvian Ship Register database;
- 5.22.6. the State Technical Supervision Agency as the manager of the State Information System for the Tractor-type Machinery and Drivers Thereof;
- 5.22.7. the Agricultural Data Centre as the manager of the Agricultural Data Centre Information System;
- 5.22.8. the State agency Civil Aviation Agency as the holder of the Civil Aviation Aircraft Register of the Republic of Latvia.⁴²

5.23. It should be noted that the list of responsible registries is not exhaustive. Consequently, other institutions responsible for keeping public registers are also prohibited from registering or recording the acquisition and alienation of property rights or other economic rights referred to in Article 5(2) of the Sanctions Law.

5.24. Civil legal restrictions are applied to prevent the use of economic resources as an analogue or substitute to money. Civil legal restrictions shall be applied so as to prevent the possibility for the subject of sanctions to acquire financial or economic benefit (financial resources, goods, services) using economic resources.⁴³

5.25. Given the nature of civil law restrictions, public law entities are prohibited from taking any action that would enable the subject of a civil law restriction to acquire and dispose of tangible or intangible property in respect of which a property right or other economic right is to be registered, consolidated or made public in the public registers.

⁴⁰ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 11³. Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁴¹ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 5(2) and 5(3). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁴² Cabinet of Ministers Regulation No 327 "Procedures for the Proposition and Enforcement of International and National Sanctions", para 2. Latvijas Vēstnesis, 142, 15.07.2019. Available: <https://likumi.lv/ta/en/en/id/308141-procedures-for-the-proposition-and-enforcement-of-international-and-national-sanctions>

⁴³ Cabinet of Ministers Regulation No 327 "Procedures for the Proposition and Enforcement of International and National Sanctions", para 3. Latvijas Vēstnesis, 142, 15.07.2019. Available: <https://likumi.lv/ta/en/en/id/308141-procedures-for-the-proposition-and-enforcement-of-international-and-national-sanctions>

Restrictions on admission

5.26. A subject of sanctions on which a restriction on admission has been imposed is prohibited from entering and residing in Latvia or crossing the territory of Latvia in transit.⁴⁴ The Office of Citizenship and Migration Affairs as the competent authority shall be responsible for the person on whom the restriction on admission has been imposed in accordance with Article 11 of this Law to be included in the list of such persons who are prohibited to enter Latvia.⁴⁵

Restrictions on circulation of goods of strategic significance and other goods

5.27. If in relation to a subject of sanctions an arms embargo or a prohibition of import, export, transit, or brokering services of other goods has been imposed, the subject governed by private or public law is prohibited from selling, supplying, transferring, or exporting goods of strategic significance of specific kind to the subject of sanctions, or otherwise alienating them or other goods specified in law, or allowing access to them.⁴⁶

5.28. These types of sanctions are also often referred to as economic or "sectoral" sanctions, as they can be applied to specific sectors of the economy of the sanctioned country. The EU has imposed sanctions against, inter alia, Russia's financial, trade, transport, technology and defence sectors.⁴⁷ For example, EU Regulation No 833/2014 prohibits imports, directly or indirectly, of iron and steel products listed in Annex XVII of the relevant EU Regulation if they originate in or are exported from Russia.⁴⁸ Public entities must also comply with restrictions on the movement of goods of strategic importance and other goods.

Restrictions on provision of tourism services

5.29. A subject governed by private law is prohibited from providing services, which are directly related to tourism activities in a territory specified in international or national sanctions or to a subject of sanctions on which restrictions for the provision of tourism services have been imposed.⁴⁹ The Ministry of Economics as the competent authority shall provide information and consult on the entry into effect, enforcement, or revocation of restrictions on the provision of tourism services introduced or specified in accordance with the procedures laid down in Article 11 of this Law.⁵⁰

Risks of sanctions violations

5.30. The risk of sanctions violation can be determined at national level by assessing the level of threat and vulnerability to sanctions violation, which interact to create the risk of sanctions violation.

⁴⁴ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 7. Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁴⁵ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 13. Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁴⁶ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 8. Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁴⁷ EU sanctions in response to Russia's invasion of Ukraine. Available: <https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/>

⁴⁸ Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, Article 3(2). Available: <https://eur-lex.europa.eu/legal-content/LV/TXT/PDF/?uri=CELEX:02014R0833-20220413&from=EN>

⁴⁹ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 9. Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁵⁰ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 13(2). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

Threat of sanctions violations

- 5.31. The threat of sanctions being breached may be posed by sanctioned persons who have an interest in circumventing the restrictions imposed by sanctions, as well as by non-sanctioned persons who, for profit or otherwise, may seek to assist sanctioned persons to carry out prohibited transactions or to continue their economic activities in sectors that are subject to sectoral sanctions.
- 5.32. National threats of sanctions violations arising from sanctions imposed in the context of terrorism or proliferation have already been assessed in the NRA 2020 and will be assessed in the next NRA.⁵¹ The report concludes that Latvia's national TF risk is low, while PF risk is medium-low.
- 5.33. As already mentioned, the EU has more than forty different sanctions regimes in place against various sanctioned entities.⁵² However, taking into account the current geopolitical situation and Latvia's geographic location, it is undoubtedly the EU sanctions imposed on Latvia's neighbours - Russia and Belarus - that pose the most significant threat of sanctions violations in Latvia.
- 5.34. The risk of sanctions being breached in Latvia is assessed as high. In 2021, Russia ranked 5th among the countries to which Latvia exported goods, while Belarus ranked 20th. The value of goods exported to Russia accounted for 7.3% of Latvia's total export value, and to Belarus - 1.1%. Similar figures can be seen in 2021 for imports of goods: in terms of value of goods, Russia ranks 4th (EUR 1.7 billion, 9.1% of total imports) behind Lithuania, Germany and Poland, while Belarus ranks 12th (EUR 0.46 billion, 2.4% of total imports) among the countries from which Latvia imports the most goods. In 2021, mineral products (€623 million, 35%) and iron and steel goods (€459 million, 26%) were the most frequently imported from Russia, while wood and wood products (€149 million, 60%) were the most frequently imported from Belarus.⁵³
- 5.35. The flow of payments from Latvian credit institutions to Russian credit institutions after the financial sector overhaul has a clear downward trend (Figure 3), but also in 2021 Russian credit institutions are among the most frequent recipients and senders of payments - in 2021 Russia ranked 4th after Lithuania, Estonia and Germany in both inbound and outbound payments. Incoming payments from Belarusian credit institutions totalled EUR 343 million in 2021. The outgoing payments to Belarus amounted to EUR 756 million in 2021. EUR.⁵⁴

Figure 3 – Cross-border payments by customers of Latvian credit institutions to Russian credit institutions, billion EUR



⁵¹ National ML/TF/PF Risk Assessment 2017–2019 (executive summary). Available: https://fid.gov.lv/uploads/files/2021/NRA_2017_2019_Executive_Summary%20%28002%29.pdf

⁵² EU Sanctions Map. Available: <https://www.sanctionsmap.eu/#/main>

⁵³ Exports and imports by country, country group and territory. Available: https://data.stat.gov.lv/pxweb/lv/OSP_PUB/START_TIR_AT_ATD/ATD020.

⁵⁴ Data provided by the Financial and Capital Market Commission.

5.36. As of 01.07.2021, 44361 foreigners had a valid temporary residence permit issued in Latvia. 22% of them (9795) were issued to Russian nationals and 5% (2353) to Belarusian nationals.⁵⁵ Russian and Belarusian nationals (both Latvian and foreign) also own shares in a number of Latvian companies. At the beginning of 2022, 3,139 companies registered in Latvia have a Russian national as the UBO, and 591 companies have a Belarusian national as the UBO.⁵⁶

5.37. In view of the above, the threat of sanctions violations in Latvia is high.

Vulnerability to sanctions evasion

5.38. The concept of vulnerability to sanctions violation can be understood as those things that can be exploited, supported or facilitated by elements that pose a threat of sanctions violation. Vulnerabilities may include particular sectors, financial products or types of services whose characteristics make them attractive to sanctions violators. Vulnerabilities may also include weaknesses in measures designed to prevent sanctions violations or features of the jurisdictional context that may affect the ability of sanctions violators to raise or move funds or other assets.

5.39. With regard to private law entities, account should be taken of the obligations of certain private law entities (e.g. financial and capital market operators, outsourced accountants, notaries, etc.) to conduct sanctions risk assessments and establish ICS to prevent, to the extent possible, their involvement in the breach or evasion of international and national sanctions requirements.⁵⁷

5.40. In meeting these requirements, private law entities are supervised by the relevant competent authority (e.g. financial and capital market participants are supervised by the FCMC),⁵⁸ and for breaches of international and national sanction requirements, which may result in the suspension of the private entity concerned or the imposition of a large fine.⁵⁹

5.41. As identified in NRA 2020, there are other vulnerabilities to national sanctions violations:

- 5.41.1. Financial sector actors use automated tools to ensure sanctions compliance (e.g. sanctions screening of clients, their UBOs and others), and financial sector actors' knowledge of sanctions compliance is rated as high;
- 5.41.2. 2018 amendments to the AML Law prohibits certain financial sector participants from establishing and maintaining business relationship or executing an occasional transaction with a shell arrangement⁶⁰ if it simultaneously meets two of the three characteristics of a shell arrangement set out in the AML Law.⁶¹

⁵⁵ Residence permits. Statistics: https://www.pmlp.gov.lv/lv/uzturesanas-atlaujas?utm_source=https%3A%2F%2Fwww.google.com%2F

⁵⁶ Current UBOs of legal entities registered in the Enterprise Register of the Republic of Latvia - natural persons. Available: <https://data.gov.lv/dati/lv/dataset/patiesie-labuma-guveji>

⁵⁷ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 13¹. Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁵⁸ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 13. Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁵⁹ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 13². Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁶⁰ Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing, Article 1(15¹). Latvijas Vēstnesis 116, 30.07.2008. Available: <https://likumi.lv/ta/en/en/id/178987-law-on-the-prevention-of-money-laundering-and-terrorism-and-proliferation-financing>

⁶¹ Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing, Article 21¹. Latvijas Vēstnesis 116, 30.07.2008. Available: <https://likumi.lv/ta/en/en/id/178987-law-on-the-prevention-of-money-laundering-and-terrorism-and-proliferation-financing>

- 5.41.3. The FIU regularly receives suspicious transaction reports related to sanctions evasion from subjects of the AML Law, which indicates a good sanctions compliance culture and low vulnerability to sanctions violations.⁶²
- 5.42. These elements mitigating the vulnerability of sanctions violations actually also affect public law entities, given that financial transactions by public law entities are also mainly serviced by Latvian financial and capital market participants or the State Treasury.
- 5.43. At the same time, the Law on Sanctions imposes specific obligations on public law entities in the area of compliance with and enforcement of sanctions (see chapter "Specific obligations of public law entities in the area of enforcement of sanctions"). In conclusion, the vulnerability to sanctions violations at the national level is low when the obligations under the Sanctions Law are correctly and properly enforced.
- 5.44. In addition, it should be noted that under Article 84 of the Criminal Law, the violation of international or national sanctions is a crime.⁶³ Apart from criminal liability, sanctions violations can pose a significant reputational risk to both private and public entities.

Risks of sanctions violations

- 5.45. Taking into account that the threat of sanctions violation in Latvia is high and the vulnerability to sanctions evasion in Latvia can be considered low, it can be concluded that Latvia's risk of sanctions violation is assessed as medium.
- 5.46. Public entities may also be involved in the sanctions violations, and the Sanctions Law imposes specific obligations on them to prevent such breaches. The next section of this risk assessment provides recommendations on how public law entities should act to enable effective compliance with and enforcement of applicable sanctions.

Guidance for public entities on compliance with and enforcement of sanctions

Specific obligations of public-law entities in the area of sanctions

- 5.47. Public entities also have specific obligations concerning sanctions compliance and enforcement.
- 5.48. First, in the area of compliance and enforcement, public entities have specific obligations in the area of public procurement and public-private partnerships under Article 11¹ of the Sanctions Law. Where the contracting authority has provided for a possibility to make direct payments to a subcontractor in accordance with the laws and regulations in the field of public procurements, the verification shall be made in respect of the subcontractor indicated by the tenderer, a member of its board or council, beneficial owner, or other persons related to the tenderer, as specifically identified in the Sanctions Law, are subject to international or national sanctions or sanctions affecting the financial and capital market interests of an EU or NATO Member State. Where the international or national sanctions or sanctions of a Member State of the European Union or North Atlantic Treaty Organisation affecting significant financial and capital market interests that have been imposed on the subcontractor or any of the aforementioned persons will delay the performance of the contract, the respective tenderer must be excluded from participation in the contract awarding procedure. The second paragraph of this Article lays down rules for cases where, in the field of public procurement, the possibility of making direct payments to a subcontractor is provided for.⁶⁴

⁶² National ML/TF/PF Risk Assessment 2017–2019 (executive summary). Available: https://fid.gov.lv/uploads/files/2021/NRA_2017_2019_Executive_Summary%20%28002%29.pdf

⁶³ Criminal Law, Article 84. Latvijas Vēstnesis, 199/200, 08.07.1998. Available: <https://likumi.lv/ta/en/en/id/88966-criminal-law>

⁶⁴ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 11¹(2). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

- 5.49. Similarly, an important obligation for the enforcement of sanctions is that a procurement contract, framework agreement, partnership procurement contract or concession contract shall provide for the right for the contracting authority, public service provider, public partner or its representative to unilaterally withdraw from the performance of the contract, if the contract cannot be performed due to the fact that international or national sanctions or sanctions determined by a Member State of the EU or NATO that affect significant financial and capital market interests have been imposed.⁶⁵
- 5.50. In fulfilling the obligations under Article 11¹ of the Sanctions Law, it is also very important to take into account the information material developed by the Procurement Monitoring Office on Sanctions Research and Risk Assessment in Public Procurement – <https://www.iub.gov.lv/lv/skaidrojums-sankciju-piemerosana-publiskajos-iejirkumos>.
- 5.51. Secondly, Article 11² of the Sanctions Law imposes substantially similar obligations regarding applicants in the field of EU funds and other foreign financial assistance on the liaison bodies, intermediary body or manager of the European Union funds or other foreign financial assistance, or another authority specified in the laws and regulations regarding the introduction of the European Union funds or granting of the foreign financial assistance.⁶⁶ Additionally, before making a payment, the responsible authority shall make the verification, and it shall not make the payment when as a result of the aforementioned verification it finds that international or national sanctions, or sanctions of a Member State of the EU or NATO that affect significant financial and capital market interests have been imposed on the beneficiary of the European Union funds or other foreign financial assistance, a member of its board or council, its UBO, a person having the right of representation or proctor, or a person who is authorised to represent the aforementioned beneficiary in activities related to a branch.⁶⁷ Also in contracts regarding the respective European Union fund or other foreign financial assistance, a right for the responsible authority to unilaterally withdraw from the performance of the contract or to revoke the decision on the approval of a project application shall be provided, if the contract cannot be performed or the project cannot be implemented due to the fact that international or national sanctions, or sanctions determined by a Member State of the EU or NATO that affect significant financial and capital market interests have been imposed.⁶⁸
- 5.52. In fulfilling the obligations under Article 11² of the Sanctions Law, it is also important to take into account the information prepared by the Central Finance and Contracting Agency on sanctions verification – <https://www.cfla.gov.lv/lv/sankciju-parbaudes-projektos>.
- 5.53. Finally, A subject governed by public law is prohibited from concluding a contract in the field of public or private law when international or national sanctions, or sanctions determined by a Member State of the EU or NATO that affect significant financial and capital market interests have been imposed and affect the performance of the contract.⁶⁹

⁶⁵ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 11¹(5). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁶⁶ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 11¹(1). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁶⁷ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 11²(2). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁶⁸ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 11²(3). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁶⁹ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 11³(1). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

5.54. A subject governed by public law is prohibited from making a payment when international or national sanctions have been imposed and affect the payment.⁷⁰

Sanctions risk assessment and ICS

5.55. As mentioned above, the Sanctions Law imposes an obligation on certain private entities to carry out a sanction risk assessment. This means that these entities, according to the nature of their business, must conduct and document an international and national sanctions risk assessment to identify, assess, understand and manage the risks of non-compliance with international and national sanctions imposed on their activities or clients.⁷¹

5.56. For instance, Financial and capital market participants should take into account factors relating to both their activities (e.g. services provided and region of operation) and their clients (e.g. geographical risk of clients) when assessing sanctions risks.⁷²

5.57. The SRS Guidelines on Sanctions Risk Assessment state that, when carrying out their sanctions risk assessment, private entities should primarily take into account the risk of the services they offer, i.e. the possibility of using them to circumvent the sanctions regime. Additional consideration should also be given to other factors that may contribute to the possibility of being used to circumvent the sanctions regime.⁷³

5.58. The SRS recommends that private entities under its supervision take into account certain characteristics that may indicate a risk of sanctions evasion, for example in relation to cooperating jurisdictions: clients from countries in or bordering sanctioned territories are theoretically more likely to be involved in sanctions evasion.⁷⁴

5.59. After completing a sanctions risk assessment of the private entity, an ICS for international and national sanctions risk management should be established based on this assessment, including the development and documentation of relevant policies and procedures. An internal control system is a set of measures including actions taken to ensure the fulfilment of the requirements of international and national sanctions, providing appropriate resources and training the employees for this purpose in order to prevent, as far as possible, the involvement of relevant persons in the violation or circumvention of the requirements of international and national sanctions, or avoidance of their enforcement.⁷⁵

5.60. In fact, what is said in this chapter reflects the basic principle of a risk-based approach. The higher the sanctions risk, the more robust and appropriate the risk level should be for ICS - measures aimed at preventing the persons concerned from being involved in violating or evading international and national sanction requirements.

5.61. The legislation does not require public entities to carry out their own sanctions risk assessment or to develop an ICS. But, as already identified in this risk assessment, public entities are also at risk of sanctions breaches. At the same time, it is not certain that the obligations of public entities under the Sanctions Law, as described in the chapter "Specific obligations of public entities in the field of sanctions enforcement", will always be sufficient to manage and mitigate this risk of breach of sanctions.

⁷⁰ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 11³ (2). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁷¹ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 13¹(1). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁷² Financial and Capital Market Commission Normative Regulation No 126 "Normative Regulations on Sanctions Risk Management", point 4. Available (in Latvian): <https://likumi.lv/ta/id/316774-sankciju-riska-parvaldisanas-normativie-noteikumi>

⁷³ Sanctions risk assessment. Available: https://www.vid.gov.lv/sites/default/files/8_1_sankciju_riska_novertejums_2021.pdf

⁷⁴ Ibid.

⁷⁵ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 13¹. Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

5.62. Consequently, FIU considers that public law entities should also consider the need to conduct their own sanction risk assessment and develop an appropriate ICS on a case-by-case basis. Such an ICS does not need to be highly detailed, but should contain at least a number of key elements that can significantly mitigate the risk of sanctions breaches in the activities of public entities. It should be noted that integrating these key elements into the activities of public entities can also contribute significantly to avoiding the use of public entities for AML purposes.

5.63. Key elements of an ICS may include sanctions screening, due diligence on business partners, regular training and up-skilling of responsible staff of the public entity, and other elements that reduce the vulnerability of public entities to being used to breach sanctions.

Sanctions screening and due diligence on business partners

5.64. As mentioned above, public entities have specific obligations to respect and enforce sanctions in the area of public procurement and public-private partnerships, EU funds and other foreign financial assistance, public or private law contracts and payments. In order to be able to exercise these obligations, the public entity must first ensure that the other party to the transaction is not the subject of international or national sanctions or sanctions of an EU or NATO Member State that have a significant impact on the financial and capital market interests. This can be done by means of so-called sanctions screening, i.e. checking individuals on sanctions lists, as well as by conducting counterparty due diligence.

Screening for international and national sanctions

5.65. The FIU maintains information on sanctioned persons subject to international and national sanctions at <https://sankcijas.fid.gov.lv/>. Public entities have the possibility to check, in accordance with Articles 11¹ – 11³ of the Sanctions Law, the relevant persons as well as other business partners against the lists of international and national sanctions in order to verify that the person concerned or another person related to him/her is a sanction subject.

5.66. In the Sanctions Finder, a person's entry will be exactly as it appears in the document imposing the sanctions (e.g. a UN resolution or EU regulation). This will usually be the original language (e.g. Arabic, Russian, and Belarusian) and transliterated into Latin characters. The Latvian version of the persons name is not included in the Sanctions Finder.

5.67. We recommend searching for people by first name or last name root, for example search for *Vladimirs Putins* using the criteria "Vlad" or "Putin". Alternatively, for additional searches, you can use the Advanced Search tool, where you can filter by sanctions list (e.g. EU list), programme (e.g. UKR or BLR), date (e.g. "2022" to filter for entities on the sanctions lists in 2022) and type of person.⁷⁶

5.68. It is also advisable to keep a record of the sanctions list checks that have been carried out in order to provide documentation that a sanctions list check has taken place at the start of the business relationship or with some regularity after the start of the business relationship. It should be noted that a transaction or activity becomes prohibited only when the relevant sanctions enter into force.

5.69. It is also advisable to make the screening of individuals on sanctions lists regular and automated, so that it is possible to identify if a counterparty is sanctioned after a business relationship has already started.

⁷⁶ The Sanctions Finder is refreshed every hour when the latest UN and EU data is downloaded. In some cases, data maintained by international institutions is updated late, in which case a notice of the delay in updating data and a link to the current information is manually posted on <https://sankcijas.fid.gov.lv/>.

The municipality wishes to conclude a lease agreement for the organisation of a public event and to enter into an agreement with the company that owns the property. The municipality's staff will use publicly available information to find out the details of the public officials and UBO.

After identifying the public officials and UBOs, the municipality's staff carries out a sanctions screening by checking on the website maintained by the FIU whether the persons concerned are subject to sanctions. By entering the name of the public UBO in the sanctions search engine, the municipality finds that the UBO is subject to EU sanctions.

In such a case, the municipality must refuse to enter into a lease agreement with the company, as this could otherwise be qualified as a breach of the sanctions.

- 5.70. It is not possible to reflect all companies and legal entities owned or associated with sanctioned entities, unless they are directly and indirectly sanctioned. It is also not possible to reflect sectoral sanctions in the Sanctions Finder. Consequently, public entities may often also have to conduct further research on their business partners (see chapter "Due diligence business partners").

USA sanctions screening

- 5.71. According to the Ministry of Foreign Affairs, of the sanctions imposed by EU or NATO member states, only the USA OFAC sanctions are binding in accordance with the FCMC's determination that they are sanctions of a NATO member state affecting significant financial and capital market interests. Sanctions of other NATO Member States are not applied in Latvia and are not binding.⁷⁷
- 5.72. According to MFA, compliance with USA OFAC sanctions is in the interest of financial institutions, businesses and public entities alike when tendering for contracts. Failure to comply with US OFAC sanctions may result in denial of access to transactions in US currency, suspension of transactions and stoppages of transactions, thereby preventing necessary payments, resulting in a reputational crisis for the company, the bank and the country, among other negative consequences.⁷⁸
- 5.73. USA OFAC sanctions screening can be done on <https://sanctionssearch.ofac.treas.gov/>. The USA OFAC database allows fields to be filled in with the type of sanctions, the name of the person, the sanctions regime (programme) or any other known criteria. The same recommendations should be taken into account for the screening of sanctions in the USA OFAC sanctions list as for the screening of international and national sanctions on the website maintained by FIU.
- 5.74. The recommendations on screening for international and national sanctions in the chapter "Screening for international and national sanctions" also apply to screening for USA sanctions.

Due diligence on business partners

- 5.75. In the case of public law entities, the ownership structure of the business partner may be too complex to identify the UBO or the person exercising control over the legal entity. In such cases, public law entities should also investigate the persons concerned, in particular where there is a suspected link to a sanctioned jurisdiction. On the other hand, in cases where it is not possible to find out information about any of the owners of the legal person, the UBO or the persons exercising control over the legal person and there is no good reason for not being able to do so (e.g. the UBO is a shareholder in a public limited company whose shares are listed on a regulated market and the

⁷⁷ Application of international and national sanctions in Latvia. Frequently asked questions and answers. Question 34. Available: <https://www.mfa.gov.lv/lv/biezak-uzdotie-jautajumi-un-atbildes>

⁷⁸ Ibid.

type of the manner in which control over the legal person is exercised is based solely on the shareholder status), the public entity should consider not entering into or terminating a business relationship of this nature, as in such cases the public entity cannot be certain that the business relationship does not in fact violate the restrictions imposed by the sanctions.

- 5.76. If a public entity carries out transactions in sectors subject to sectoral sanctions, the public entity should make sure that its transactions comply with the restrictions or sectoral sanctions. For example, if a public entity has a business relationship with a Russian company (which is not subject to financial or civil law restrictions), it should ascertain how this business relationship is not prohibited from the perspective of sectoral sanctions.
- 5.77. Such screening can be done through the European Commission's "Sanctions Map" tool - <https://www.sanctionsmap.eu/#/main>. It is possible to find international sanctions regimes against specific countries - both financial restrictions against specific individuals (in fact, it is also possible to screen EU sanctions on this site) and sectoral sanctions.
- 5.78. For example, when Belarus is selected on the website, you see that it is subject to embargoes on dual-use goods, sanctions on the financial sector, the transport sector, etc. Consequently, public entities should also ensure that their transactions with sanctioned countries do not violate the restrictions imposed by the sanctions.
- 5.79. Due diligence on business partners can be done in various ways, including:
 - 5.79.1. Checking information on the partners on public registers, including public registers of EU Member States and third countries;
 - 5.79.2. Checking publicly available information on the partners;
 - 5.79.3. Requesting the submission of documents from the cooperation partners certifying that the cooperation partner is not subject to sanctions or is not carrying out activities which may qualify as a breach of sanctions.

Reporting suspicious transactions

- 5.80. Under Article 17 of the Sanctions Law, certain private entities are obliged to:
 - 5.80.1. immediately, but no later than on the next working day, report to the State Security Service on the violation of the international or national sanctions or an attempt to violate them, and the funds frozen due to such actions, and to inform the respective competent authority thereof;
 - 5.80.2. if suspicions of the circumvention of international or national sanctions or circumvention attempt in the enforcement of financial restrictions have arisen, report thereon to the FIU in accordance with the procedures laid down in the AML Law.⁷⁹
- 5.81. In order to prevent activities related to ML and TF/PF, also the State authorities, derived public entities and their authorities have an obligation to provide to the FIU information on each suspicious transaction, and also the information and documents at their disposal which the FIU needs for the fulfilment of its duties in accordance with the requirements of this Law.⁸⁰
- 5.82. In view of the above, public entities should report to the State Security Service when they identify cases of sanctions violations. On the other hand, public entities should report to the FIU if they suspect that sanctions are being circumvented in the

⁷⁹ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 17. Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁸⁰ Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing, Article 3¹. Latvijas Vēstnesis, 116, 30.07.2008. Available: <https://likumi.lv/ta/en/en/id/178987-law-on-the-prevention-of-money-laundering-and-terrorism-and-proliferation-financing>

implementation of financial restrictions. More information on how to report to the FIU can be found on the following website – <https://goaml.fid.gov.lv/Home>.

Additional information

5.83. This paper examines the obligations of public law entities in cases where the public law entity itself is responsible for compliance with and enforcement of sanctions. This risk assessment does not address the obligations of public entities when they monitor compliance with sanctions by private entities (e.g. supervision of financial and capital market participants by the FCMC).

5.84. Article 13 of the Sanctions Law defines the competent authorities in the field of sanctions and their spheres of responsibility. In the light of the above, public entities have the right to address the competent authorities with questions falling within the competence of the relevant authorities. For example, the competence of the FIU in the matter of sanctions is narrow – FIU is the competent authority in combating the circumvention of international or national sanctions or a circumvention attempt in the enforcement of financial restrictions in accordance with the procedures laid down in the AML Law.⁸¹

Ministry of Foreign Affairs

5.85. The Ministry of Foreign Affairs is the coordinating authority for sanctions in Latvia. The Ministry of Foreign Affairs' website has a section on "Sanctions" – <https://www.mfa.gov.lv/lv/sankcijas>. This website contains information on the competent authorities in the field of sanctions,⁸² on sanctions imposed by the EU and UN,⁸³ on national sanctions of EU and NATO Member States,⁸⁴ on national sanctions of the Republic of Latvia,⁸⁵ as well as special sections on EU sanctions against Russia⁸⁶ and Belarus.⁸⁷

5.86. MFA website also has a dedicated section with frequently asked questions on sanctions regarding the clarification of the UBO, US OFAC sanctions, sanctions checks on individuals, sanctions checks and the GDPR,⁸⁸ the ICS and other issues. A list of frequently asked questions and answers is available on this website – <https://www.mfa.gov.lv/lv/biezak-uzdotie-jautajumi-un-atbildes>. Although the answers prepared by the MFA are mostly focused on compliance and enforcement of sanctions by private entities, they can also help to ensure compliance and enforcement of sanctions by public entities.

5.87. MFA website also contains information materials on the Sanctions Law,⁸⁹ monthly sanctions bulletins prepared by the MFA,⁹⁰ information on regulations and

⁸¹ Law on International Sanctions and National Sanctions of the Republic of Latvia, Article 13(4¹). Latvijas Vēstnesis, 31, 15.02.2016. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁸² Competent authorities for national and international sanctions. Available: <https://www.mfa.gov.lv/lv/kompetentas-iestades-jautajumos-par-nacionalajam-un-starptautiskajam-sankcijam>

⁸³ EU sanctions. Available: <https://www.mfa.gov.lv/lv/eiropas-savienibas-un-ano-sankcijas>

⁸⁴ National sanctions of EU and NATO Member States. Available: <https://www.mfa.gov.lv/lv/es-un-nato-dalibvalstu-nacionalas-sankcijas>

⁸⁵ National sanctions of the Republic of Latvia. Available: <https://www.mfa.gov.lv/lv/latvijas-republikas-nacionalas-sankcijas>

⁸⁶ On the application of European Union sanctions against the Russian Federation in Latvia. Available: <https://www.mfa.gov.lv/lv/par-eiropas-savienibas-sankciju-pret-krievijas-federaciju-piemerosanu-latvija>

⁸⁷ On the application of European Union sanctions against Belarus in Latvia. Available: <https://www.mfa.gov.lv/lv/par-eiropas-savienibas-sankciju-pret-baltkrieviju-piemerosanu-latvija>

⁸⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) Available: <https://eur-lex.europa.eu/legal-content/LV/TXT/PDF/?uri=CELEX:32016R0679&from=LV>

⁸⁹ Law on International Sanctions and National Sanctions of the Republic of Latvia. Available: <https://likumi.lv/ta/en/en/id/280278-law-on-international-sanctions-and-national-sanctions-of-the-republic-of-latvia>

⁹⁰ Sanctions bulletin. Available: <https://www.mfa.gov.lv/lv/sankciju-biletens>

recommendations for financial and capital market participants prepared by the FCMC,⁹¹ as well as information on the Sanctions Coordination Council.⁹² Particular highlights are the information on new developments in the sanctions field (in particular regarding EU sanctions against Russia) prepared by the MFA in cooperation with other institutions, which is a document that is regularly revised.⁹³

5.88. Lastly, MFA website also provides guidelines for the effective implementation of sanctions in Latvia.⁹⁴ Of particular relevance for public law entities are Chapter X "Information materials, good practices" and Chapter XI "Need for an internal control system" of these guidelines which, inter alia, refer to the information material on sanctions research and risk assessment in public procurement developed by the Procurement Monitoring Office – <https://www.iub.gov.lv/lv/skaidrojums-sankciju-piemerosana-publiskajos-iepirkumos>.

Ministry of Justice

5.89. On the basis of the Sanctions Law, Cabinet of Ministers Regulation No 327 of 9 July 2019 "Procedure for Initiating and Implementing International and National Sanctions" and Prime Minister's Resolution No 2022-1.1.1 of 14 March 2022. /16-16, which establishes the coordinating role of the Ministry of Justice in the application of sanctions in relation to the state-maintained registers maintained by the Judicial Administration, the Register of Enterprises, the Patent Board, the State Joint Stock Company "Road Traffic Safety Directorate", the State Joint Stock Company "Latvian Maritime Administration", the State Technical Supervision Agency, the Agricultural Data Centre, and the State Agency "Civil Aviation Agency", The Ministry of Justice shall publish the sanctions imposed and implemented by the above-mentioned registers in order to provide the public and the media with transparent and truthful information on the sanctions imposed, to ensure effective application of sanctions and to enable private persons to effectively protect their legitimate interests and comply with the requirements set out in regulatory enactments in respect of transactions with specific subjects and objects.

5.90. Also, using the information collected by the Ministry of Justice, public law entities have the possibility to identify persons in Latvia who are subject to national and international sanctions. However, it should be noted that this list is not exhaustive, as it is possible that there are persons who do not own corporeal and incorporeal things on which property rights or other property rights are to be registered, consolidated or made public in public registers. At the same time, this information may serve as an additional tool for the observance and enforcement of sanctions in the activities of public law entities.

⁹¹ Rules and recommendations prepared by the FCMC. Available: <https://www.mfa.gov.lv/lv/fkfk-sagatavotie-noteikumi-un-ieteikumi>


⁹² Sanctions Coordination Council. Available: <https://www.mfa.gov.lv/lv/sankciju-koordinacijas-padome>

⁹³ Informative materials. Available: <https://www.mfa.gov.lv/lv/informativie-materiali>

⁹⁴ Ibid.

6. Conclusions and recommendations

- 6.1. Neither the EU Directives on preventing the use of the financial system for ML, TF/PF nor the Latvian legislation provide that the public sector and its subordinate institutions should be included among the subjects of the AML Law. Consequently, public sector institutions are not directly subject to the obligations and requirements of the AML Law, such as conducting risk assessments, establishing an ICS, training employees, appointing a person responsible for compliance with the requirements of the AML Law, etc. There is also no monitoring and control body for public sector bodies to monitor compliance with the requirements.
- 6.2. The need to report suspicious transactions and activities possibly related to ML/TF/PF to the FIU stems first and foremost from the objective to prevent ML/TF/PF. However, it is also important for the public sector to take into account the significant (nationwide) reputational risks arising from possible direct or indirect involvement in activities related to ML/TF/PF.
- 6.3. ML risks exist for outgoing public sector payments where public funds are used to purchase criminally acquired property or to purchase a service the performance of which is financed with criminally acquired funds.
- 6.4. There are increased risks of ML where the public sector engages in civil law transactions or commercial activities, such as real estate disposals.
- 6.5. As regards the risks of ML in real estate disposal transactions, it should be noted that in recent years more and more cases have been detected in Latvia where there are reasonable suspicions that real estate has been used in ML schemes, in particular real estate in Riga and the Baltic Sea Region, including Jūrmala. There is an increased risk of ML in real estate transactions related to the acquisition of temporary residence permits - "golden visas".
- 6.6. Where information about a business partner's possible involvement in ML and other financial crime emerges after transactions have taken place, public authorities should use this information to better identify risks and strengthen controls to mitigate and prevent these risks.
- 6.7. Public sector bodies may choose to address ML risks through the existing ICS mechanism. Similarly, given that no high, horizontal ML risks have been identified for the public sector, the prevention of ML by a public sector body may be provided for as an additional responsibility in the job description of existing staff working on the body's ICS.
- 6.8. Public authorities need to know their business partners, both in terms of sanctions obligations and in terms of tackling ML. For the effective implementation of this principle in practice, it is recommended to use both the suggestions contained in the SAO's Audit Report and the studies, guidelines and other resources listed in this document and available on the FIU website.
- 6.9. A risk-based approach should be followed to address the risks of ML. Neither international nor national regulations include public sector bodies among the subjects of the AML Law, consequently the services they provide are by their nature not high NPA risk services and therefore NPA controls should not apply to all or most of the transactions carried out by a public body. At the same time, it should be borne in mind that, in transactions of a truly significant size, the materialisation of even a relatively low probability of risk may cause enormous losses to the public administration, which are not commensurate with the resources that would have been devoted to avoiding the risk and the consequent losses.
- 6.10. The threat of sanctions violation in Latvia is high, but the vulnerability to sanctions evasion in Latvia can be considered low; consequently, Latvia's risk of sanctions violation is assessed as medium. While public entities may be involved in sanctions



violations, the Sanctions Law imposes specific obligations on them to prevent such occurrences (see chapter "Specific obligations of public entities in the area of sanctions enforcement"), including sanctions screening and counterparties due diligence.

- 6.11. Although the legislation does not oblige public entities to carry out their own sanctions risk assessment or to develop an appropriate ICS, public entities should also consider this need on a case-by-case basis, thereby significantly reducing the risk of sanctions violations in the activities of public entities and helping to avoid the use of public entities for AML purposes.
- 6.12. Public sector bodies should control corruption risks through a corruption ICS, which forms the basis for successful anti-corruption compliance. However, when implementing policies and procedures to prevent corruption, the institution's AML requirements should also be assessed to ensure that they do not conflict with each other and are consistent with each other.

Abbreviations and terms

AML	Anti-Money Laundering
AML/CTPF	Anti-Money Laundering and Countering Terrorism and Proliferation Financing
Audit Report	Audit report "Is the public sector prepared to identify and prevent the risks of money laundering and breaches of sanctions?" prepared by the State Audit Office
EU	European Union
FATF	Financial Action Task Force
FCMC	Financial and Capital Market Commission
FIU	Financial Intelligence Unit
ICS	Internal control system
CPCB	Corruption Prevention and Combating Bureau
MFA	Ministry of Foreign Affairs
ML	Money laundering
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organisation
NRA	Latvian National money laundering/terrorism financing risk assessment report
NRA 2020	Latvian National money laundering/terrorism financing risk assessment report for the period from 2017 to 2019
OFAC	Office of Foreign Asset Control
AML Law	Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing of the Republic of Latvia
Proceeds of crime	According to the Criminal Law, in line with the concept of "criminally acquired property" - any property which has come into the ownership or possession of a person as a direct or indirect result of a criminal offence
Sanctions Law	Law on International Sanctions and National Sanctions of the Republic of Latvia
SAO	State Audit Office of the Republic of Latvia
SRS	State Revenue Service
TF/PF	Terrorism and proliferation financing
UBO	Ultimate Beneficial Owner
UN	United Nations
USA	The United States of America