

REGULATORY COMPLIANCE UPDATE



AML/CTF REGULATION

02.2023

Resolutions of the Board of the Bank of Lithuania



[LINK](#) [LINK](#)

The Bank of Lithuania has revoked the payment institution license from UAB SHIFT Financial Services LT for gross and systematic violations of the Republic of Lithuania Law on the Prevention of Money Laundering and Terrorist Financing.

During the inspection, the Bank of Lithuania has found that the institution's internal control measures related to client identification and compliance with international financial sanctions were insufficient and did not meet requirements. The transaction monitoring system was also found to have serious deficiencies, which hindered timely and efficient identification and investigation of suspicious transactions. The institution failed to properly monitor payment remittances, analyse unusual client remittances, determine the source of funds, conduct internal investigations into suspicious activities of clients or remittances, and report such cases to the Financial Crimes Investigation Service.

Additionally, the institution did not appoint a board member responsible for the implementation of ML/TF prevention measures and did not ensure compliance with internal control procedures in this area.

FATF Statement on the Russian Federation



[LINK](#)

The Financial Action Task Force has suspended Russia's membership in the organization due to the Russia's war in Ukraine. FATF has identified that Russia has been actively involved in the arms trade, malicious cyber-activities and the evasion of sanctions.

Due to the suspension, Russia will no longer have the right to attend the FATF's meetings, access FATF documents. Suspension of membership does not relieve the Russia of its obligation to comply with the FATF standards and financial obligations.

Chainalysis: The 2023 Crypto Crime Report



[LINK](#)

Chainalysis has released its annual crypto crime report, according to which the crime-related on-chain crypto transactions has reached an all-time high of USD 20.6 billion. Overall, illicit activity in cryptocurrency remains a small share of total volume at less than 1%. Almost half of these illicit transactions are associated with sanctioned entities.

Centre of Excellence in Anti-Money Laundering: Assessment of High-Risk Customers' Methodology and Practice



[LINK](#)

On February 28, 2023, the Centre of Excellence in Anti-Money Laundering organized training, during which the methodology for assessing and managing high-risk customers (enhanced due diligence), possible risk assessment factors, and practical aspects of the assessment.

During the training, the speakers discussed how in practice enhanced due diligence on high-risk customers should be implemented in financial institutions, what criteria should be chosen when developing a customer risk assessment model, design ideas for an ideal customer risk model.

Jurisdictions under Increased Monitoring – 24 February 2023



[LINK](#)

The Financial Action Task Force has updated its list of jurisdictions under increased monitoring ("grey list"). As of February 24, 2023, the following jurisdictions are no longer subject to increased monitoring by the FATF:

- Cambodia
- Morocco

The Following countries are included in the grey list:

- South Africa
- Nigeria

FATF: Money Laundering and Terrorist Financing in the Art and Antiquities Market



[LINK](#)

The Financial Action Task Force has released a Report on Money Laundering and Terrorist Financing in the Art and Antiquities Market. The report outlines typical ML methods in the sector, which include hiding or transferring illicit proceeds by concealing the identity of the true buyer, under or over-pricing items, and the use of fake sales or false auctions.

FATF states that terrorist financing is often performed using ML methods, such as the use of shell companies and cash transactions, to conceal or disguise the origin of the goods. Looted goods are usually advertised in social media. Terrorist financing risks are highest in the conflict zones.

Report also identifies a number of proceeds-generating crimes that occur within these markets, including art forgery, fraud, theft, and illegal trafficking.

Lastly, the report provides a non-exhaustive list of risk indicators that can help identify suspicious activities.



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Detailed and full Regulatory Compliance report on AML/CTF regulation can be found here:

Our recommendations and details are in this file





Annual Meeting with representatives of electronic money and payment institutions



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On 22 February, the Bank of Lithuania organized Annual Meeting with representatives of electronic money and payment institutions. In its annual activity review, the Bank of Lithuania discussed:

Strategy for 2022 - 2025 of The Bank of Lithuania

- Overview of the results of financial market supervision in 2022
- Supervisory focus for 2023

Overview of the EMI and PI sector 2022

- Market overview
- Licensing

Activities of financial market entities in 2023

- Supervisory activities
- Information Communication Technology (ICT)
- Fraud prevention
- Legislation
- Prevention of money laundering.

Event held by the Bank of Lithuania



LINK

On 8 February 2023, the Bank of Lithuania held a consultative event "Preparing for a smooth licensing process and planned activities". During the event, the Bank of Lithuania presented the latest developments in the licensing of financial market participants, shared examples of good practice and recommendations. Slides from the event are available here.

Article published by the Bank of Lithuania



LINK

The Bank of Lithuania has analyzed the compliance of the electronic money (EMI) and payment institutions (PI) sectors with risk management, internal control and internal audit requirements, provided a summary of the results, and urged the institutions to improve.

Risk management

In order to assess how EMIs and PIs comply with risk management requirements and apply best practices in this area, it carried out a wide-ranging analysis, assessing 80 institutions (41 EMIs and 39 PIs) active in the market, which is more than half of the sector. None of the EMIs and PIs assessed scored in the top range, with 15 institutions moderately compliant, 50 institutions partially compliant and 15 not compliant at all. Deficiencies include the absence of risk management maps, risk and incident registers and risk management improvement and communication plans. Risk analysis and assessment are also often absent.

Internal control system

For the second year in a row, the Bank of Lithuania analyzed the implementation of internal control and management system soundness requirements by EMIs and PIs. This time 5 institutions were selected. The analysis showed that they only partially implemented the requirements in this area. The main weaknesses include unregulated roles, responsibilities and accountability of managers and staff, lack of specific individuals responsible for control functions, unregulated management of systems and data handling, transfer and storage, and the aforementioned weaknesses in the management of risk.

Ensuring the internal audit function

For the second year in a row, the Bank of Lithuania analyzed the implementation of internal audit requirements by institutions. In this regard, the documents and information for the first half of 2020-2022 of the selected 15 EMIs and s were examined. The results of the analysis showed that 13% of the institutions assessed had not implemented an internal audit function at all, while 60% of the institutions had significant deficiencies.

REMINDER ON REPORTING

By March 1 you had to provide the following AML-related reports to the Bank of Lithuania:

- Reports on monitoring;
- Report on foreign customers and their payment transactions;
- Report on activities of intermediaries.

Due to the end of the first quarter, the Reports for supervision of the implementation of money laundering and/or terrorist financing prevention measures as well Financial and activity reports for supervisory purposes shall be submitted to the Bank of Lithuania.



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Detailed and full Regulatory Compliance report on Payment services, electronic money, other institutions rendering payments, regulation can be found here:

Our recommendations and details are in this file



Decision of the Supreme Court of the Republic of Lithuania.



LINK

On 2 February this year the Supreme Court of Lithuania issued a decision in a labour case providing important clarifications on the employer's obligation to offer vacancies to dismissed employees.

According to Article 57(1)(1) of the Labour Code, an employer may dismiss an employee when the job function performed by the employee has become superfluous due to changes in work organisation or other reasons related to the employer's activities.

This ground for dismissal is particularly relevant for financial institutions, which often must let go of employees who perform functions that become redundant for them as a result of organisational changes. However, the dismissal of an employee based on Article 57(1)(1) of the Labour Code often gives rise to legal disputes, as dismissal on this basis is only possible **if during the period from the notice of termination of the employment contract to five working days before the end of the notice period, there is no vacancy at the workplace that the employee could be transferred to with his or her consent.**

The Supreme Court has clarified how the employer's obligation to offer vacancies to employees must be ensured in practice:

- Information on available vacancies may be provided to the dismissed employee not only individually but also by means of a public notice;
- An employee may be reassigned to another job, not only by the initiative of the employer but also on his/her own initiative;
- It would be an infringement if the employee was not given full information about vacancies in the company, if his/her requests for transfer were not taken into account, or if the transfer was unjustifiably refused.

Our recommendation:

If your company is going through organizational changes or must make redundancies for other reasons, we recommend that you make a thorough assessment of the vacancies in the company for which the dismissed employee is suitable and to which he/she can be transferred with his/her agreement. We recommend that you always inform the employee individually in writing on your own initiative, giving as much information as possible about the vacancies, so that in the event of a dispute, you can provide factual evidence that you have complied with the obligations laid down in Article 57 of the Labour Code.

If you fail to do so, the court may order you to reinstate the employee (if possible) and you may be liable to pay the average remuneration for the period of forced absence, up to one year, as well as compensation for material and non-material damages suffered.

Information from the Ministry of Social Security and Labour.



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1st February each year the Minister of Social Security and Labour of the Republic of Lithuania approves the size of late fees payable by an employer to an employee for late payment of employment-related payments.

This year, a higher rate of late fee - **0.1% for each day of delay of payment** - has entered into force. Previously, the rate was 0.08%.

Late fees start to accrue from the first day of delay until the date of payment.

In the event of bankruptcy - the calculation of late fees shall cease upon entry into force of the court ruling to institute bankruptcy proceedings or from the day of the meeting of creditors during which the creditors resolved to implement out-of-court bankruptcy proceedings.


Our Recommendation:

As a reminder, if you are more than 2 months late in paying an employee, the employee may terminate the employment relationship on his/her own initiative. In this case, you would not have to pay a late fee, but the average monthly salary for each month of delay, up to a maximum of 6 months.


We recommend that you take steps to ensure that payments to your employees are always made on time, as you may be liable for late fees or up to 6 months' average salary






Romanian DPA fines Medijobs Platform SRL EUR 5,000 for insufficient technical and organisational measures to ensure information security.  [LINK](#)

The violation: the controller suffered a data breach. Unauthorized third parties had succeeded in accessing the IT infrastructure of the controller and had downloaded, deleted and transferred personal data of applicants such as name, e-mail address, professional history, marital status, etc. The DPA found that the controller had failed to implement adequate technical and organizational measures to protect personal data, which ultimately also contributed to the data breach.

Norwegian DPA fines ASA EUR 900,000 for insufficient fulfilment of data subjects' rights.  [LINK](#)

The violation: The DPA had received several complaints from customers who had submitted requests for information as well as deletion of their personal data, which Sats had not complied with. The DPA also found that Sats had processed certain customer data without a valid legal basis. As such, the Company was fined EUR 900,000.


EDPB adopts the final version of Guidelines on deceptive design patterns in social media platform interfaces.  [LINK](#)

The news: the EDPB published the finalised version of Guidelines on deceptive design patterns in social media platform interfaces. Previously titled "dark social media patterns", the new version of the Guidelines offers updated wording, further clarifications as well as a new annex providing an overview of all the best practices.

EDPB adopts the final version of Guidelines 07/2022 on certification as a tool for transfers.  [LINK](#)

The Guidelines:

- clarifies previous version of the guidelines and provides general overview of data transfers and certification;
- reviews requirements foreseen in ISO 17065 and the Guidelines 4/2018 on the accreditation of certification bodies under Article 43 of the GDPR;
- provides for guidance on the certification criteria already listed in Guidelines 1/2018 and establishes additional specific criteria that should be included in a certification mechanism to be used as a tool for transfers to third countries;
- provides elements that should be addressed in the binding and enforceable commitments that controllers or processors not subject to the GDPR should take for the purpose of providing appropriate safeguards to data transferred to third countries.
- contains examples of supplementary measures.


The EDPB adopted its opinion on the draft adequacy decision regarding the EU-U.S. Data Privacy Framework.  [LINK](#)

The news: following the published draft version of adequacy decision, which includes annexes constituting a new framework for transatlantic exchanges of personal data, the EU-U.S. Data Privacy Framework ('DPF'), the EDPB issued its Opinion. The Opinion, whilst welcomes the initiative, expresses several concerns and requests further clarifications, e.g., the lack of requirement of prior authorisation by an independent authority for the collection of data in bulk, lack of systematic independent review ex post by a court or an equivalently independent body, lack of clarity about the application of the DPF Principles to processors, the broad exemption to the right of access for publicly available information, and the lack of specific rules on automated decision-making and profiling.

German DPA issues a decision on the risk of third country access to EU/EEA personal data.  [LINK](#)

The news: the German DPA assessed third country public authorities' access possibilities to personal data processed by an EU/EEA-based company pursuant to Article 28 of GDPR. In this regard, the decision:

- highlights the importance of appropriate technical and organizational measures to ensure the security of personal data, including encrypting data where appropriate, in order to fulfil the duty of protecting personal data from access and processing by foreign authorities;
- encourages data controllers to be transparent about the measures they are taking to protect personal data, including publishing transparency reports and engaging in regular external audits.

EDPB adopts the final version of Guidelines on the Interplay between the application of Art. 3 and the provisions on international transfers as per Chapter V GDPR.  [LINK](#)

The news: following public consultation, the EDPB adopted finalized version of Guidelines on the interplay between Art. 3 and Chapter V GDPR. By clarifying the interplay between the territorial scope of the GDPR (Art. 3) and the provisions on international transfers in Chapter V, the Guidelines aim to assist controllers and processors in the EU in identifying whether a processing operation constitutes an international transfer, and to provide a common understanding of the concept of international transfers.



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Detailed and full Regulatory Compliance report on PERSONAL DATAPROTECTION REGULATION can be found here:

Our recommendations and details are in this file





UK Releases Counter Proliferation Program Guidance



The UK government released Counter Proliferation Program guidance for the fiscal years 2023 and 2024. According to the document, the program aims to improve international implementation of the obligations set out in the major treaties, conventions, and regimes seeking to counter the proliferation of weapons of mass destruction (WMD) and the illicit transfer of conventional weapons.

Russian warlord passed UK money laundering checks with mother's utility bill



Leaked emails have shown that Yevgeny Prigozhin, founder of the Wagner mercenary group, was able to pass UK anti-money laundering checks by submitting a utility bill in the name of his 81-year-old mother, Violetta Prigozhina, despite being under sanctions by the US, EU and UK and being placed on the FBI's most wanted list of international fugitives. When onboarding the customer, UK Law firm Discreet Law has requested Yevgeny Prigozhin to provide identification documents. Prigozhin lawyers have provided his ID and a gas bill in the name of his mother – the documents were accepted.

Targeting Key Sectors, Evasion Efforts, and Military Supplies, Treasury Expands and Intensifies Sanctions Against Russia



The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) has announced new determination targeting the Russia's metals and mining sector. OFAC has also imposed sanctions on 22 individuals and 83 entities. The measures, taken in coordination with allies and G7 partners, further isolate Russia from the international economy and hinder its ability to obtain the resources used to support the war.

How Russians Use Tether to Evade Global Sanctions



Inca Digital investigation has analyzed data of 163 crypto trading platforms and found that:

- 11 of 62 international crypto trading platforms do not require Russians to pass KYC checks to start trading.
- 38 of 62 international crypto trading platforms do not have Tether trading limits for Russian users.
- Many cryptocurrency trading venues do not use VPN checks, meaning Russians can easily circumvent IP address attribution.
- Crypto exchanges Huobi and Kucoin allow for transactions with Russian banks via their P2P platform that are sanctioned by the EU, US and others.
- In the first days of Russia's war, discussions on Tether in social media have surged.

Statement by the High Representative on behalf of the EU on the alignment of certain third countries



concerning restrictive measures in view of Russia's actions destabilizing the situation in Ukraine

The EU has adopted another set of restrictive measures against Russia, this time by setting price caps on petroleum products, which would be exempt from the prohibition to provide maritime transport of such products to third countries. In particular, USD 45 per barrel, for petroleum products traded at a discount to crude oil and USD 100 per barrel, for petroleum products traded at a premium to crude oil.

Russian Arms Dealer's Crypto Wallets Targeted by US Treasury Sanctions



The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) has imposed sanctions on the Russian sanction's evasion network led by Igor and Jonatan Zimenkov, who have been involved in projects related to Russia's defense capabilities and have supported sanctioned state-owned Russian defense entities. The Zimenkov network used front companies to funnel money and maintain a lawful appearance. The sanctions are part of the multilateral effort of the Russian Elites, Proxies, and Oligarchs (REPO) Task Force to identify, freeze, and seize assets of sanctioned Russians worldwide.

EU agrees 10th package of sanctions against Russia



The EU Council has adopted the 10th package of sanctions against Russia and those that support it in its illegal aggression against Ukraine. The 10th package contains new listings plus trade and financial sanctions, including further export bans worth more than EUR 11 billion, depriving the Russian economy of critical tech and industrial goods. It also steps up enforcement and anti-circumvention measures, including a new reporting obligation on Russian Central Bank assets.

Detailed and full Regulatory Compliance report on Financial and Economic Sanctions can be found here:

Our recommendations and details are in this file





Annual BoL meeting with EMIs and PIs



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On 22/02/2023 The Bank of Lithuania (BoL) has organized the annual meeting with representatives of local electronic money and payment institutions.

BoL introduced Compiled measures plan for the years 2022 - 2025, which is mainly focused on two areas:

1. Compliance of the provision of payment services with the expectations of consumers (Clause 21 of the rules for handling complaints received by financial market participants).

2. Clarification of tracking and canceling of payment transactions to consumers (Clauses 44 and 51 of the Law on Payments; BoL guidelines 22/12/2014 on Payment service provision)

BoL experts that financial market participants are considering The 04/10/2022 BoL Letter of expectations and implements BoL recommendations on daily basis.

Main aspects:

- Strengthened communication with customers implementing AML/TF prevention measures;
- Improvement KYC questionnaire (filling, updating) and business relations monitoring processes;
- Improved processes for restricting payment accounts and/or suspending payment transactions;
- Business relations termination and/or non-commencement only as the last resort AML/TF mitigation measure ;
- Voluntarily (free form) information provision to BoL about cases when business relations are terminated and/or not started due to high risk of a customer.

Our recommendation:

It is recommended to act in accordance with recommendations specified in the 04/10/2022 BoL Letter of expectations on provision of payment services and improving the experience of payment service consumers.

Financial market participants should expect inquiries from BoL regarding this matter.

Newsfeed of The Bank of Lithuania



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The Bank of Lithuania (BoL) has introduced Green Strategy outlines plans for 2023-2025

BoL sets out five main directions of climate sustainability efforts in 2023-2025. Actions planned under the Green Strategy support greening and the reduction of climate change risks in all areas of the bank's activities. The newly-established Climate Change Centre together with other departments of the central bank will work towards achieving these green goals.

1. Manage and mitigate climate-related risks to financial stability;
2. Ensure proper green disclosures by financial market participants;
3. Reduce the environmental impact of cash;
4. Ensure the environmental sustainability of BoL daily operations;
5. Increase green investments in Bank of Lithuania financial portfolio.

Our recommendation:

Like any other business, the financial sector should think green. Recommendation to follow BoL events and goods practices related to its Green Strategy.

Newsfeed of The Bank of Lithuania



LINK

Bank of Lithuania advisory supervision events this year's highlights are sustainability and fraud prevention.

BoL consulting events are one of forms of constructive cooperation with financial market participants. BoL share innovations in the field of regulation, provide examples of good practice, recommendations, express expectations, and receive feedback from the participants.

Our recommendation:

Sustainability and fraud prevention are important topics for consumers. We recommend participating in BoL consulting events and update knowledge, which will help the institution's communication with consumers on mentioned topics.

As your legal advisors we will be happy to assist you regarding all the questions related to proposed changes in regulation, including legal advice as well as revision and preparation of your internal documents.

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