



### Lithuanian Government's decision to approve the draft amendments to the Law on Prevention of Money Laundering and Terrorist Financing



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On 2023-12-01 Lithuanian Government has approved the proposed amendments to the Law on Prevention of Money Laundering and Terrorist Financing.

The main changes concern:

- Exchange of information between financial institutions.
- Regulation of outsourcing of customer identification process.
- Limitation of outsourcing of transaction monitoring functions.
- Impeccable reputation of managing persons and shareholders of obliged entities.
- Limiting the account opening to keep the authorised capital of VASPs only in the credit institutions.

### The List of Target Areas



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From December 1 by the order of the Minister of Finance, the revised list of Target Territories came into force, including the Russian Federation. Earlier this year Uruguay was removed from the list.

### Decisions of the Board of the Bank of Lithuania



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The Bank of Lithuania has issued a EUR 55 000 fine to an electronic money institution Valyuz UAB for violations related to anti-money laundering and anti-terrorist financing requirements. The BoL identified deficiencies in internal control procedures related to enhanced due diligence, inadequate procedures for monitoring client business relations and operations, conflicts of interest between AML/CTF function and business interests.

### Decisions of the Board of the Bank of Lithuania



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The Bank of Lithuania has issued a EUR 25 000 fine to LTL Kredito unija for violations related to anti-money laundering and anti-terrorist financing requirements. The violations include deficiencies in the review and updating of customer information, inadequacies in individual risk assessment procedures, and shortcomings in monitoring business relationships and operations.

### The Communications Regulatory Authority (CRA) has introduced additional video verification of a natural person's identity



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The Communications Regulatory Authority (CRA) has introduced additional video verification of a natural person's identity. Until now, this could be done either in the physical presence of the person or remotely using electronic identification tools.

### AML/CTF Draft Law



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The Ministry of Finance of the Republic of Lithuania has prepared a Draft Law on the prevention of money laundering and terrorist financing, which aims to implement the provisions of the Markets in Crypto-Assets Regulation (MiCA) and Regulation on Information Accompanying Transfers of Funds and Certain Crypto-Assets (TRF).

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

*Our recommendations and details are in this file*



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# REGULATORY COMPLIANCE UPDATE



## EMI, PI REGULATION

12.2023

### Dear CEO letter by the Bank of Lithuania



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At the end of November the Bank of Lithuania shared the newest dear CEO letter on the principles of good governance practices for electronic money and payment institutions (EMI, PI) to follow:

- Governance System and Structure
- Competence and Experience of Managers and Shareholders
- Ability of Managers to Devote Sufficient Time
- Management of conflicts of interest and independence
- Internal control
- Risk management culture
- Maturity and Culture
- Focus on sustainability

### FAQ by the Bank of Lithuania



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The Bank of Lithuania has expanded its Frequently Asked Questions (FAQ) section regarding agents of electronic money and payment institutions and electronic money distributors.

### The license of PCS Transfer, UAB has been revoked



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The Bank of Lithuania has determined that the electronic money institution PCS Transfer, UAB, has suspended its activities and has not resumed them within the deadlines set by legal acts. In addition, the supervisory authority assessed that the institution's internal control and management system did not meet the requirements of legal acts and that it is not ready to provide services. For these reasons, the Bank of Lithuania revoked the electronic money institution license issued to "PCS Transfer", UAB.

### Financial market supervision decisions of the Bank of Lithuania



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The Bank of Lithuania has found that the electronic money institution BENKER UAB (former name - BEM Europe UAB) did not comply with the equity capital requirements that it is obliged to comply with on an ongoing basis from the end of December 2022 until the end of September 2023. As a result of this violation, at the beginning of October, the Bank of Lithuania had suspended the validity of the electronic money institution licence issued to BENKER UAB. Since the institution corrected the violation, the Bank of Lithuania cancelled restrictions on activities, but allocated 27 thousand Eur fine.

### Decisions of the Financial Market Supervision Committee of the Bank of Lithuania - impact measures



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NexPay UAB fined for improper notification of a cyber incident.

The Bank of Lithuania reminds that in the case of a major operational or security incident, payment service providers are obliged to immediately notify the supervisory authority and provide as much detailed information as possible. The electronic money institution NexPay UAB was confronted with a cyber-attack which prevented its customers from using payment services for a certain period of time. The Bank of Lithuania found that the institution disclosed only part of the material information about the incident that it was aware of. For this, NexPay UAB was fined 50,000 EUR.

### Bank of Lithuania – inspections plan



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The Bank of Lithuania announced the inspection plan for 2024. Six electronic and payment institutions have been named and involved in the inspection plan, eleven electronic and payment institutions to be inspected in 2024 remain unannounced.

### Announcement by the Bank of Lithuania



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The Bank of Lithuania announced that FinTech institutions are successfully competing with other sectors in payment services and their revenues are growing. The maturity of the sector still lacks focus on governance, internal control and risk management. While institutions face challenges in meeting equity capital requirements, they are willing to take additional risks by investing more and more of their clients' funds in securities.

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**Detailed and full Regulatory Compliance Report on EMI, PI regulation can be found here:**



*Our recommendations and details are in this file*



### Court of Justice of the European Union issues two decisions concerning fines under the GDPR



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*The news:* the Court of Justice of the European Union (hereinafter – CJEU) issued two decisions regarding conditions for calculating fines under the GDPR. The clarifications offered by the CJEU provide guidance on topics including the subjects of fines, the requirement of fault (or lack thereof), and more. Key takeaways:

- GDPR violation does not have to be committed or known by a legal person's management body, to result in a fine;
- GDPR infringement must be intentional or negligent in order to qualify for a GDPR fine. This is also relevant for cases where infringements were made by data processors, as the CJEU also clarified that data processors rather than data controllers may be negligent in cases where they process personal data for their own purposes, without the consent of the data controller or in a way that is incompatible with the agreed upon framework.

### Court of Justice of the European Union issues two decisions concerning processing of credit rating data and the right of data subjects to request the deletion of such data



LINK

*The news:* the Court of Justice of the European Union (hereinafter – CJEU) issued two decisions relevant for credit rating companies.

The key takeaways of the decisions:

- credit ratings, as automated processing, must adhere to GDPR exceptions, allowing processing of credit rating data only if necessary for a contract, authorized by the law of a particular member state, or based on explicit consent. Legitimate interest is not a valid basis for this type of processing.
- once the retention period in the public insolvency register concludes, credit rating companies cannot legitimize continued data retention based on legitimate interest, limiting retention to the public register period.
- data subjects have the right to prompt erasure by credit rating companies if they withhold consent and no overriding legitimate reasons justify continued processing.

### State Data Protection Inspectorate announces its decision to start an investigation, shares recommendations



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*The news:* following a potential personal data security breach, the State Data Protection Inspectorate (hereinafter – VDAI) announced that it has begun an investigation. VDAI's press release includes several important recommendations for all data subjects regarding phishing and overall cyber security.

#### VDAI's recommendations for all data subjects:

- always double check email addresses, especially if this is the first time receiving an email from a particular email address. Fraudulent emails often use fake email addresses that mimic real email addresses but contain minor changes or spelling mistakes, e.g., info@policija.it instead of info@policija.lt;
- hover over email links (without clicking) to check the actual URL. Beware of fraudulent emails with deceptive URLs and ensure the domain is familiar, free of misspellings or extra characters;
- be cautious of urgent or threatening emails urging immediate action, especially when seeking personal information without proper explanation;
- do not open attachments or links from unknown or suspicious sources, or share your passwords, PINs or other personal data

### European Commission published the draft cookie pledge proposal



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*The news:* with the aim of lowering the "cookie fatigue" phenomenon, the European Commission published the draft version of the cookie pledge proposal, which focuses on protecting the fundamental rights and freedoms of users, empowering them to make effective choices and providing a platform for stakeholders to exchange views. The final version of the pledge will be published in April 2024.



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**Detailed and full Regulatory Compliance report on PERSONAL DATA PROTECTION REGULATION can be found here:**

*Our recommendations and details are in this file*





### 12th package of sanctions on Russia's war of aggression against Ukraine



[LINK](#)

On December 18, 2023 the Council has adopted the twelfth package of sanctions against Russia. The focus of this package is to impose additional import and export bans on Russia, combat sanctions circumvention and close loopholes. In particular, this package includes additional listings of Russian individuals and companies and new import and export bans – such as banning the export of Russian diamonds to Europe. The package tightens the implementation of the oil price cap by monitoring more closely how tankers may be used to circumvent the cap. It also includes stricter asset tracing obligations and tough measures on third-country companies circumventing sanctions.

### Council and Parliament reach political agreement to criminalise violation of EU sanctions



[LINK](#)

The Spanish presidency of the Council and the European Parliament concluded their negotiations for an EU law which introduces criminal offences and penalties for the violation of EU sanctions. This directive ensures that those who violate or circumvent EU sanctions will be prosecuted. This gains particular importance in the context of the Russian war of aggression against Ukraine.

### EU Global Human Rights Sanctions Regime: restrictive measures prolonged



[LINK](#)

On December 4, 2023, the Council extended the EU Global Human Rights Sanctions Regime for an additional three years, until December 8, 2026. This regime aims to address individuals and entities involved in severe human rights violations and abuses worldwide. The current sanctions, applicable to 67 individuals, 20 entities, will undergo annual reviews.

### Fight against terrorism: Council adds two individuals to the EU terrorist list in response to the 7 October attacks



[LINK](#)

The Council decided to add two individuals to the EU terrorist list. This decision comes as part of European Union's response to the threat posed by Hamas and its brutal and indiscriminate terrorist attacks in Israel on 7 October 2023.

### Iran: Council sanctions 6 persons and 5 entities under the framework for restrictive measures in view of Iran's military support of Russia's war of aggression against Ukraine



[LINK](#)

On December 11, 2023, the Council implemented restrictive measures against six individuals and five entities involved in the development and production of unmanned aerial vehicles (UAVs) in Iran. These UAVs were utilized in Russia's illegal war of aggression against Ukraine.

### Nasdaq Settles Alleged Iran Sanctions Violation for \$4 Million



[LINK](#)

Stock exchange operator Nasdaq has reached a \$4 million settlement with the U.S. Treasury Department over accusations of violating Iran sanctions.

### Nasdaq Settles Alleged Iran Sanctions Violation for \$4 Million



[LINK](#)

Crypto exchange CoinList paid \$1.2 million to settle U.S. Office of Foreign Assets Control allegations it allowed users in Crimea, a Ukrainian peninsula annexed by Russia, to use the platform.

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



*Our recommendations and details are in this file*



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### European Parliament press release



EU Parliament and Council negotiators reached a provisional agreement on the Artificial Intelligence Act. This regulation aims to ensure that fundamental rights, democracy, the rule of law and environmental sustainability are protected from high risk AI, while boosting innovation and making Europe a leader in the field. The rules establish obligations for AI based on its potential risks and level of impact.

Main aspects to be touched by the Artificial Intelligence Act:

- Safeguards agreed on general purpose artificial intelligence.
- Limiting the use of biometric identification systems by law enforcement.
- Bans on social scoring and AI used to manipulate or exploit user vulnerabilities.
- The right of consumers to launch complaints and receive meaningful explanations.
- Fines ranging from 35 million euro or 7% of global turnover to 7.5 million or 1.5% of turnover.

#### Our recommendation:

We recommend following EU regulatory news on AI. Being aware of the latest developments in AI regulations can give you a competitive edge. It allows you to anticipate changes in the industry, align your strategies with evolving legal standards, and stay ahead of the curve in terms of compliance and ethical considerations.

### The Bank of Lithuania shared an updated project on BoL fraud prevention guidelines



To encourage financial market participants to improve the risk management of financial fraud and increase the effectiveness of the prevention measures, as well as to improve compliance with the requirements established in the legal acts of the European Union and the Republic of Lithuania, the Bank of Lithuania has prepared the Guidelines for the Prevention of Fraud.

The purpose of the guidelines is to help financial market participants providing payment services to timely notice, assess and reduce the risk of fraud, i.e. i.e. the risk that persons with criminal purposes may use the payment services provided to consumers by financial market participants for their activities, possibly related to fraud.

#### Our recommendation:

We recommend following the Guidelines for the Prevention of Fraud as it helps protect the integrity of financial transactions and ensures the security of sensitive information. This is not only important for the financial institutions themselves but also for the individuals and businesses relying on these services.

### European Banking Authority press release



The three European Supervisory Authorities (EBA, EIOPA and ESMA – ESAs) published an interactive factsheet that answers consumers' most frequently asked questions about sustainable finance. The factsheet provides tips to consumers considering buying financial products with sustainability features, including loans, investments, insurances and pensions.

The factsheet provides answers to frequently asked questions and steps consumers can take to understand how their financial choices could contribute to a more sustainable future.

#### Our recommendation:

Recommendation to share this information. These frequently asked questions and steps aims to help people make more informed decisions that align with a sustainable future. It's all about arming individuals with the knowledge they need to make positive contributions through their financial actions.



**12.2023**

## Decision of the Supreme Court of the Republic of Lithuania



**LINK**

The Supreme Court of Lithuania (Court) has recently provided clarity on the issue of reimbursement of training and qualification development expenses.

According to the Labour Code, the parties to an employment contract may agree on conditions for reimbursement of expenses incurred by the employer for the employee's training or qualification development when the employment contract is being terminated:

- on the initiative of the employer due to the fault of the employee; or
- on the initiative of the employee without a valid reason.

If the employee does not voluntarily agree to reimburse these costs, it is necessary to assess whether the employer can unilaterally deduct the costs from the employee's salary. This is precisely the situation examined by the Court.

The Court has established that the Labour Code does not permit unilateral deductions for training and professional development expenses. However, the Labour Code allows for the possibility of derogation from this general rule. The Labour Code states that if the following conditions are met, the parties may agree on a unilateral deduction:

- the employee's salary is at least 2 times the gross average monthly salary in the national economy;
- there are no agreements on derogations from labour law rules governing maximum working time and minimum rest periods, the conclusion or termination of an employment contract, minimum wage, safety and health at work, and gender equality and non-discrimination on other grounds; and
- there is a balance between the interests of the employer and employee.

### **Our recommendation:**

It is important to remember that not all training and qualification development expenses are automatically covered by the provision at hand.

The obligation for the employee to reimburse training costs incurred by the employer should arise only where the employee acquires knowledge that is not directly necessary for the performance of his or her job functions, meaning that the employee acquires additional knowledge or skills which go beyond the requirements of his or her job and which add value to the employee in the labour market.

In the light of the Court's decision, we recommend reviewing the agreements on the reimbursement of training and qualification development expenses.

## Information from the State Labour Inspectorate



**LINK**

Employers are reminded by the State Labour Inspectorate about the payment for work done on holidays .

In general, holidays are not considered working days unless the employee consents to it. However, there are exceptions such as working annualised hours or when stated in the collective agreement.

Furthermore, pregnant employees, those who have recently given birth or who are breastfeeding, can only work on holidays if they give their consent, without exceptions.

Regarding payment:

- employers must pay at least double the employee's remuneration for work done on a holiday;
- for overtime work done on a holiday, an amount of at least 2.5 times the employee's remuneration must be paid.

If an employee requests it, the working time on holidays or during overtime on holidays, multiplied by 2 or 2.5 (as mentioned earlier), may be added to their annual leave time.

## Consultation paper for draft regulatory technical standards Specifying the requirements for policies and procedures on conflicts of interest for issuers of asset-referenced tokens under article 32(5) of Regulation (EU) 2023/1114



LINK

The EBA has published a consultation paper on draft regulatory technical standards specifying the requirements for policies and procedures on conflicts of interest for issuers of asset-referenced tokens.

The draft RTS encompass specific provisions, including documentation requirements, related to personal transactions that have to be conducted objectively, in the interest of each party. The draft RTS also specify that the remuneration procedures, policies and arrangements of the issuer should not create conflicts of interest.

The conflict of interest policies and procedures of the issuers of ARTs should ensure that issuers consider all the circumstances which may influence or affect, or which may be perceived to influence or affect, their ability or the ability of the parties connected to an issuer of ARTs to take impartial and objective decisions.

### Our recommendation:

Familiarize yourself with the draft RTS. Evaluate your current arrangements regarding possible conflicts of interest and assess how well they reflect the guidelines provided in the draft RTS.

## Securities and Markets Stakeholder Group's (SMSG) advice to ESMA on its second consultation paper

The SMSG published its advice on ESMA's second consultation paper in relation to the MiCA regulation. The advice covers comments regarding proportionality, governance, measures for permissionless DLT, the specialness of the user base, pre-trade transparency for AMMs, white paper and cooperation between the competent authorities.

The SMSG draws ESMA's attention that CASPs should explain to their clients that their liability does not extend to the permissionless DLTs. The SMSG supports CASPs in maintaining their business continuity plans. The SMSG is of the opinion that investors should be informed about the use of their invested funds into a crypto-asset not only at the time when the white paper is published but on an ongoing basis after the crypto-asset issuance.

### Our recommendation:

Familiarize yourself with the SMSG's advice to ESMA on its second consultation paper on technical standards applicable to the MiCA regulation.

It is essential to assess whether your activities adhere to the advice provided by the SMSG.

