

Riga, 06.06.2018.
Our ref.: 01.03.04/2253

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Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance (TAX3)
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Regarding additional information request after public hearing organised by the Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance (TAX3) on Combatting money-laundering in the EU banking system

The Financial and Capital Market Commission of Latvia (hereinafter – the FCMC) has received your letter No D 307851 dated 15 May 2018 regarding additional information request after public hearing organised by the Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance (TAX3) on "Combatting money-laundering in the EU banking system.

Taking into account your points of interest mentioned in the letter, firstly we would like to make use of the opportunity and give more details on our approach in sanctioning market participants. We consider that monetary fines are not the only and the most effective penalty to apply to market participants failing to comply with regulatory requirements. Usually we combine monetary penalties with the supervisory or corrective measures that are meant to improve the deficiencies. With the application of the corrective measure the bank is being put under enhanced supervision by the FCMC in respect the steps that it takes to improve the situation. The FCMC establishes results to be achieved in interim periods as well and monitors the implementation process. The bank shall submit the plan that allows the supervisor to follow and evaluate the progress the bank achieves.

The examples of corrective measures are:

- To draw up the action plan for improvements in the bank's internal control system, including measures for identifying transactions aimed at infringement or circumvention of international sanctions.
- To carry out audits with consent of the FCMC regarding the size and audit performer.

- To perform audit of customer base and decide on the termination of business relations with customers, creating disproportionately high reputational or ML/TF risks.
- To perform audit of customer base classification.
- To agree the plan with the FCMC on how to reduce the proportion of shell companies' credit turnover to a certain amount.

We would like to emphasize that AML/CFT supervision has been a high level priority for the FCMC in recent years. Almost all onsite inspections resulted in imposing sanctions. The information on sanctions applied is available on our webpage <http://www.fktk.lv/en/market/credit-institutions/2014-10-23-sanctions-imposed-by-fcmc.html>. In 2017, according to deficiencies detected during the inspections, 5 banks were fined, including fines in the amount of EUR 3 532 785. In addition to the fines, the banks were obliged to implement corrective measures mentioned above (information on corrective measures according to legislation is not published on the webpage).

Since 2016 the AML onsite inspections have been carried out according to the new enhanced methodology that was modelled based on the guidelines of the European Banking Authority and methodology advised by the consulting firm "Navigant Consulting Inc." (USA). As a result, inspections have become more enhanced, broader and more comprehensive. The efficiency of the internal control system has been assessed in greater detail, including training, internal audit, IT systems, responsibility of employees, etc. In November 2016, an independent testing of 12 banks in Latvia focused on non-resident customer service was completed by the US consulting firms "Navigant Consulting Inc.", "Exiger LLC" and "Lewis Baach Kaufmann Middlemiss" using a common methodology. The independent testing aimed to enhance internal control systems of those banks in the areas of anti-money laundering and countering the financing of terrorism (AML/CFT). The Latvian banks were tested against the US regulatory standards by comparing AML programs to regulatory requirements set forth in the BSA and implementing regulations, OFAC, the Federal Financial Institutions Examination Council BSA/AML Examination Manual ("FFIEC Manual"), relevant enforcement actions, guidance promulgated by the Financial Action Task Force and industry better practices. The FCMC was the initiator of this review considering that it would be necessary to involve highly professional and internationally recognized partners for its performance. Banks received overall positive observations. Auditors in some banks also indicated some areas in need of enhancement (for example, governance, internal control system, regular quality control). Main conclusions drawn were:

- independent testing results to be used for enhancement of AML systems, rather than sanctions;
- banks have to improve internal control systems to ensure Latvia's sustainable development;
- by the end of 2018, banks have to enhance internal control system under the recommendations to meet the status of the partner for secure correspondent.

As for ABLV Bank and your request to share FinCEN report the FCMC itself used the source of information on the following webpage <https://www.regulations.gov/docket?D=FINCEN-2017-0013>.

Unfortunately, the plan undertaken by ABLV Bank to implement the corrective measures you have requested should be regarded confidential supervisory information and taking into account requirements of Article 53 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, the FCMC is not entitled to disclose or share it as requested.

Further you asked the reasons why the FCMC gave ABLV Bank up to five years to implement the corrective measures it had imposed on the latter and had not opted for a shorter timeframe.

Please be advised that the timeframe for implementation of corrective measures imposed was 3 years - by 31.12.2020. As we explained in our answers to your questionnaire before the Committee's meeting, as a result of the investigations, ABLV Bank was monetary fined (3.167 million euros) on one occasion for deficiencies in the AML/CFT regime in 2016, as well as several corrective measures were taken in 2016 and 2017. Bank was obliged to invest at least EUR 18 500 000 (6.5+12 million euros) in total by 31.12.2020 to continue improvements in the Bank's Internal Control System. In addition, the Bank was obliged to take the measures concerning transformation of the Bank's client base in order to ensure that as at 31.12.2019 the proportion of financial assets of shell entities does not exceed 35% of the total financial assets of the clients with the Bank's consolidation group.

The proposed timeframe was carefully appraised. The argument behind the chosen timeframe for implementing the measures was that 18 million euros to be invested in improvement of Bank's Internal Control System would be a large amount of money and sufficient time should be given for take-up the funds. The most important improvements were envisaged from the very start. It should be noted that the monetary fine as well as investment volume due in corrective measure for ABLV Bank was the largest ever fine in the history of financial market supervision in Latvia.

Yours sincerely,



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