

Act of 20 June 2003 No 41 on measures to combat the laundering of proceeds of crime etc. (Money Laundering Act)

Section 1. Purpose of the Act

The purpose of the Act is to prevent and combat the laundering of the proceeds of crime.

Section 2. Definitions

For the purposes of this Act, the following definitions shall apply:

- 1 *entity with a reporting obligation*: such person or undertaking as is referred to in section 4,
- 2 *transaction*: any transfer, intermediation, exchange or placement of assets.

Section 3. Geographical scope

This Act applies to entities with a reporting obligation who are established in Norway, including branches of foreign undertakings.

The King may issue regulations prescribing that this Act shall wholly or partly apply to Svalbard and Jan Mayen, and lay down special regulations concerning measures to combat the laundering of criminal proceeds and financing of terrorism in these areas.

Section 4. Scope of Application

The Act applies to the following undertakings and legal persons:

- 1 financial institutions,
- 2 Norges Bank (Central Bank of Norway),
- 3 e-money institutions,
- 4 persons and undertakings operating activities consisting of transfer of money or financial claims,
- 5 investment firms,
- 6 management companies for securities funds,
- 7 insurance companies,
- 8 pension funds,
- 9 postal operators in connection with provision of postal services,
- 10 securities registers,
- 11 other undertakings whose main activity is subject to items 2 to 12 and 14 of annex I to Directive 2000/12/EC relating to the taking up and pursuit of the business of credit institutions, including the provision of loans, stockbroking, payment transmission, financial leasing, advisory services and other services associated with financial transactions and letting of safe deposit boxes.

The Act also applies to the following legal and natural persons in the exercise of their

professions:

- 1 1 state authorised and registered public accountants,
- 2 authorised external accountants,
- 3 real estate agents and housing associations that act as real estate agents,
- 4 insurance brokers,
- 5 project brokers,
- 6 currency brokers,
- 7 lawyers and other persons who provide independent legal assistance on a professional or regular basis when they assist or act on behalf of clients in planning or carrying out financial transactions or such transactions concerning real property or movable property as are referred to in item 8;
- 8 dealers in objects, including auctioneering firms, commission agents and the like, in connection with cash transactions of NOK 40 000 or more or a corresponding amount in foreign currency. This shall only apply to transactions involving payment cards when so provided in regulations laid down by the Ministry;
- 9 persons and undertakings that, in return for remuneration, offer services corresponding to those referred to in items 1 to 8.

This Act also applies to persons and undertakings who perform services on behalf of or for entities with a reporting obligation.

When a lawyer acts as manager of a bankrupt's estate, the provisions laid down in sections 7, 8, 11, 16 and 17 shall apply.

The King may in regulations lay down provisions concerning the application of this Act to gaming activities, debt collection agencies and regulated markets.

Section 5. Identity verification

Entities with a reporting obligation shall on establishment of a customer relationship request the customer to show valid proof of identity. This obligation also applies to employees of entities with a reporting obligation. Written proof of identity shall always be regarded as valid proof of identity.

As regards transactions involving NOK 100 000 or more concerning customers with whom the persons or undertakings obliged to report have no previously established customer relationship, proof of identity shall be requested as referred to in the first paragraph. The above threshold shall be assessed collectively in respect of transactions carried out in several operations that appear to be associated with each other. If the transaction amount is not known when the transaction is carried out, identity verification shall be performed as soon as entity with a reporting obligation becomes aware of the amount and that it exceeds the threshold.

The entity with a reporting obligation shall in all cases request proof of identity as referred to in the first paragraph if he or she suspects that the transaction is associated with the proceeds of crime or with offences covered by section 147a or section 147b of the Penal Code.

Identity verification shall be effected by personal appearance of the customer at the office of the entity with a reporting obligation. If personal appearance constitutes a major inconvenience for the customer or is not practicable, an exception may be made from this requirement provided that satisfactory identity verification can nevertheless take place.

The Ministry may in regulations lay down further rules concerning the carrying out of identity verification, what is regarded as valid proof of identity and exceptions from the obligation to

request proof of identity and to perform identity verification.

Section 6. *Data registration*

Entities with a reporting obligation shall record the following data concerning customers:

- 1 full name or name of company,
- 2 personal identity number, organisation number, D-number¹ or, if the customer has no such number, another unique identity code,
- 3 permanent address,
- 4 reference to proof of identity supporting the identity of verification, and
- 5 any other data required pursuant to regulations issued by the Ministry.

Entities with a reporting obligation shall ensure that data so recorded is stored in a satisfactory manner.

By means of an account number or in another manner, a unique connection shall be registered between the customer relationship and the data.

If the entity with a reporting obligation knows or may have reason to believe that the customer is acting on behalf of another person or that another person owns the asset that is the subject of the transaction, the entity with a reporting obligation shall obtain such data as are referred to in the first and third paragraph concerning the person on whose behalf business is transacted, and record such data.

Section 7. *Obligation to investigate and report*

If an entity with a reporting obligation suspects that a transaction is associated with the proceeds of crime or with offences covered by section 147a or section 147b of the Penal Code, further investigations shall be made in order to confirm or disprove the suspicion. This obligation also applies to employees of entities with a reporting obligation.

If the investigations fail to disprove the suspicion, the entity with a reporting obligation shall on its own initiative submit data concerning the transaction in question and the matters that have given rise to suspicion to the National Authority for Investigation and Prosecution of Economic and Environmental Crime in Norway (ØKOKRIM). The entity with a reporting obligation and its employees shall, if so required, provide ØKOKRIM with all essential data concerning the transaction and the suspicion.

Customers or third parties shall not be informed that data has been provided to ØKOKRIM.

Section 8. *Data retention, etc.*

The entity with a reporting obligation shall retain a copy of the necessary documents used in connection with proof of identity as referred to in section 5 and data recorded as referred to in section 6 for five years after termination of the customer relationship or after the transaction is carried out.

The entity with a reporting obligation shall retain documents in connection with such transactions as are referred to in section 7, first paragraph, for five years after the transaction is carried out.

¹ A five-digit “D-number ” is assigned to foreign nationals who do not hold a Norwegian personal identity number who wish to register with the Brønnøysund Register Centre.

Documents and other data retained pursuant to the first and second paragraph by the entity with a reporting obligation shall be destroyed within one year after expiry of the retention period.

The Ministry may by regulations lay down further rules concerning which documents shall be retained and the means of retention.

Section 9. *Suspicious transactions*

The entity with a reporting obligation shall not carry out transactions entailing an obligation to investigate before ØKOKRIM has been notified. In special cases, ØKOKRIM may order that such a transaction shall not be carried out. The transaction may nevertheless be carried out before notifying ØKOKRIM if it is not possible to refrain from carrying it out or if omission to carry out the transaction would impede the investigation. In such a case, ØKOKRIM shall be notified immediately after the transaction has been carried out.

Section 10. *ØKOKRIM's obligation to destroy data*

Data received by ØKOKRIM pursuant to the provisions of section 7 shall be destroyed no later than 5 years after such information was recorded unless new information has been recorded or an investigation or legal proceedings instituted against the registered person within this period.

If ØKOKRIM's investigations show that a criminal act has not been committed, the information shall be destroyed as soon as possible.

The Ministry may provide further rules concerning ØKOKRIM's procedures, including destruction of data.

Section 11. *Duty of secrecy*

Information provided to ØKOKRIM in good faith pursuant to section 7 does not constitute a breach of the duty of secrecy and does not provide a basis for compensation or penalties.

Such entities with a reporting obligation as are referred to in section 4, first paragraph (1) may notwithstanding the duty of secrecy exchange necessary customer data when this is regarded as a necessary step in investigations of suspicions that a transaction is associated with the proceeds of crime or with offences covered by section 147a or section 147b of the Penal Code.

ØKOKRIM may provide information that it receives pursuant to the provisions of section 7 to public authorities other than the police that are engaged in tasks associated with the prevention of offences covered by section 147a or section 147b of the Penal Code.

Section 12. *Exceptions from lawyers' obligation to report, etc.*

Lawyers and others who provide legal assistance on a professional or regular basis are not obliged to report concerning matters with which they have become acquainted in the course of their work on determining a client's legal position or concerning matters with which they have become acquainted prior to, during and subsequent to legal proceedings when such matters are directly associated with a legal dispute.

This shall apply correspondingly to auditors and other advisers with a reporting obligation when such persons assist a lawyer or other person who provides legal assistance on a professional or regular basis.

Section 13. *Control and communication procedures*

Entities with a reporting obligation shall establish satisfactory internal control and communication procedures that ensure fulfilment of the obligations incumbent on entities with a reporting obligation pursuant to this Act and provisions laid down pursuant thereto. Control and communication procedures shall be in writing and shall be established at the highest management level of the entity with a reporting obligation. A person in the management shall be assigned special responsibility for following up the procedures. Training programmes and follow up shall be implemented for employees and other persons who perform tasks in fulfilment of obligations pursuant to the Act.

Section 14. *Supervisory Board for Measures to Combat the Laundering of the Proceeds of Crime*

The Supervisory Board for Measures to Combat the Laundering of Proceeds of Crime (the Supervisory Board) shall supervise:

- 1 ØKOKRIM's handling of information received pursuant to section 7,
- 2 ØKOKRIM's orders and authorisations pursuant to section 9, and
- 3 that ØKOKRIM complies with the obligation to destroy data pursuant to section 10.

The Supervisory Board shall consist of at least three members who shall be appointed by the King. In addition, one or more deputies shall be appointed. The chairman of the board shall satisfy the requirements applicable to Supreme Court judges. The Supervisory Board's members shall treat as confidential information to which they gain access in the exercise of their duties.

ØKOKRIM shall provide the Supervisory Board with the information, documents, etc. that the Supervisory Board finds necessary for its supervision. When so required by the Supervisory Board, ØKOKRIM's officials are obliged to give evidence to the Supervisory Board without regard to the duty of secrecy.

The Ministry may by regulations lay down further rules concerning the responsibilities and procedures of the Supervisory Board.

Section 15. *Electronic monitoring systems*

Such persons or undertakings obliged to report as are referred to in section 4, first paragraph (1) shall establish electronic surveillance systems. The Ministry may in regulations provide further rules concerning electronic monitoring systems.

Section 16. *Penalties*

Entities with a reporting obligation that wilfully contravene or are accessory to any contravention of this Act or regulations laid down pursuant thereto shall be liable to fines.

In the case of particularly aggravating circumstances, imprisonment for a term not exceeding one year may be imposed.

Section 17. *Orders and coercive measures*

Supervisory bodies may order an entity with a reporting obligation to put an end to matters that contravene this Act or provisions laid down pursuant thereto. Supervisory bodies may set a time limit for such matters to be brought into conformity with the order.

A person who fails to comply with an order pursuant to the first paragraph may be ordered to pay a coercive fine by the supervisory bodies. The coercive fine may be imposed in the form of a single payment fine or a recurrent fine. Such a fine may be enforced by execution proceedings.

The Ministry may in regulations provide further rules concerning the imposition of coercive fines including the amount of such fines.

Section 18. Regulations

The Ministry may by regulations lay down:

- 1 rules concerning supplementation and implementation of the provisions of this Act,
- 2 exceptions from one or more of the provisions of this Act in respect of certain entities with a reporting obligation,
- 3 rules concerning which data concerning a remitter shall accompany a transaction in the payment chain,
- 4 special rules concerning notification of transactions with or for persons or undertakings associated with countries or areas that have not implemented satisfactory measures to combat the laundering of proceeds of crime or financing of terrorism,
- 5 prohibition or restrictions as regards the right of the entity with a reporting obligation to establish business relations with or conduct transactions with persons or undertakings associated with countries or areas that have not implemented satisfactory measures to combat the laundering of proceeds of crime or financing of terrorism.

Section 19. Entry into force and transitional provisions

The Act shall enter into force on the date decided by the King.

The King may issue transitional provisions.

Section 20. Amendments to other Acts

From the commencement of this Act, the following amendments shall take effect in other Acts:

1. In the Act of 10 June 1988 No. 40 on Financing Activity and Financial Institutions, section 2-1, second paragraph, section 2-17, section 2-17a and the second sentence of the first paragraph of section 5-1 shall be repealed.

2. In the Act of 24 May 1985 No. 28 on Norges Bank and the Monetary System, the second sentence of the second paragraph of section 12 shall read:

Nor shall the duty of confidentiality pursuant to the previous paragraph apply to ØKOKRIM in respect of the provision of information pursuant to *section 7 of the Act on measures to combat the laundering of proceeds of crime, etc. (Money Laundering Act)*.

In the Act of 7 December 1956 No. 1 on the Supervision of Credit Institutions, Insurance Companies and Securities Trading etc. (Financial Supervision Act) section 6, second paragraph, shall read: When Kredittilsynet (The Financial Supervisory Authority of Norway) in the course of its work suspects the existence of circumstances involving the proceeds of a criminal act *or matters contrary to section 147a or section 147b of the Penal Code*, information to this effect shall be forwarded to the National Authority for Investigation and Prosecution of Economic and Environmental Crime, ØKOKRIM.