

KREDITTILSYNET

Norway

Translation date: July 2004

Translated by Government Authorised Translator Mr. Peter Thomas

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Regulations on measures to combat the laundering of proceeds of crime etc. (Money Laundering Regulations)

Laid down by the Ministry of finance on 10 December 2003 in pursuance of the Act on measures to combat the laundering of proceeds of crime etc., (No. 41 of 20 June 2003, Money Laundering Act) sections 5, 6, 8, 10, 15, 18 and 19. Cf. EEA Agreement annex IX no. 14 (Directive 2000/12/EC) and no. 23 (Directive 91/308/EEC as amended by Directive 2001/97/EC).

Chapter 1. Introductory provisions

Section 1 Scope of application

These regulations apply to entities with a reporting obligation as listed in the Act on measures to combat the laundering of proceeds of crime etc., (Money Laundering Act, No. 41 of 20 June 2003) section 4.

Chapter 2. Customer relationships, requirements on identity documents, identity verification etc.

Section 2 Establishment of customer relationships

A "customer relationship" as mentioned in the Money Laundering Act section 5 (identity verification) is considered to be established once the customer is able to utilise the services of an entity with a reporting obligation, for example in connection with the opening of an account or the issue of a payment card.

State authorised and registered auditors are considered to have established a customer relationship once they have accepted an assignment, including counselling and other non-audit services, or sent an auditor's declaration to the Register of Business Enterprises, cf. the Business Enterprises Register Act section 4-4.

Authorised external accountants are considered to have established a customer relationship once they have entered into a written agreement on an assignment with a principal or an assignment requiring a written agreement, cf. the External Accountants Act section 3.

Real estate agents who carry on real estate agency are considered to have established a customer relationship with a principal once they have accepted an assignment to sell or purchase property. In the case of an assignment to sell a property the estate agent shall in

addition require the buyer to produce valid proof of identity prior to settlement. The first and second sentence apply equally to cooperative housing associations and lawyers who carry on estate agency when the assignment refers to estate agency.

Lawyers and others who provide independent legal assistance on a professional or regular basis are considered to have established a customer relationship once they have accepted an assignment as mentioned in the Money Laundering Act section 4 second paragraph no. 7.

Section 3 Special provisions on dealers in valuable objects

Entities with a reporting obligation under the Money Laundering Act section 4 second paragraph no. 8 shall request proof of identity in accordance with the Money Laundering Act section 5 and shall record data in accordance with the Money Laundering Act section 6:

1. in connection with cash transactions of NOK 40 000 or more or a corresponding amount in foreign currency where it is suspected that a transaction involves the proceeds of crime or circumstances covered by the Penal Code section 147a or section 147b, and
2. in connection with all cash transactions of NOK 100 000 or more or a corresponding amount in foreign currency.

Where transactions comprise a series of operations that appear to be related with each other, the threshold amount shall be computed on a collective basis.

Section 4 Requirement on identity documents etc (natural persons)

Written proof of identity as mentioned in the Money Laundering Act section 5 first paragraph third sentence shall be produced in the original or as a confirmed copy. For natural persons, identity documents shall contain their full name, signature, photograph and personal identity number (or D-number¹). Identity documents shall be issued by a public authority or other body whose control routines for the issue of documents are satisfactory, and whose documents are generally accepted as having a satisfactory level of security.

If a Norwegian personal identity number or D-number has not been allocated, satisfactory identity documents shall be produced containing the customer's full name and date of birth, place of birth, sex and nationality. If the entity with a reporting obligation is aware that the customer has dual nationality, this shall be registered as additional information.

Proof of identity as mentioned in the first paragraph shall be produced by the person(s) authorised to operate the account or safe custody facility, or authorised to have the transaction 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.

Section 5 Cases where the customer is unable to produce identity documents

Where the customer is unable to produce identity documents as mentioned in section 4, the entity with a reporting obligation may establish a customer relationship or carry out the requested transaction provided the said entity is certain of the customer's identity, has reason to believe that the customer does not possess identity documents, and it is unreasonable in view of the customer's age or state of health to require him/her to obtain identity documents. The entity with a reporting obligation shall in such case obtain and register data as mentioned in the Money Laundering Act section 6 by other means. This provision does not apply to persons who undertake large transactions on a regular basis.

Section 6 Requirement on identity documents etc (legal persons)

Legal persons registered in the Register of Business Enterprises shall produce a certificate of registration that does not date back more than three months.

Legal persons registered in the Central Coordinating Register for Legal Entities but not in the Register of Business Enterprises shall produce a transcript from the Central Coordinating Register for Legal Entities containing all registered data on the entity as mentioned in the Act on the Central Coordinating Register for Legal Entities section 5 and section 6 second paragraph that does not date back more than three months.

A legal person who is not registered in the Central Coordinating Register for Legal Entities but is registered in another public register shall produce documentary evidence of similar, uniquely identifying characteristics, details of the legal person's name (firm), the address of its place of business or head office and, if applicable, its foreign organisation number, and shall also state which public register, within or outside Norway, can verify the information given.

If it is clear or probable that the legal person is not registered in a public register, proof of identity shall be requested in accordance the Money Laundering Act section 5 and data shall be recorded for a natural person on behalf of the legal person in accordance with the Money Laundering Act section 6.

Section 7 Exceptions from the obligation to request proof of identity

The obligation to request a proof of identity pursuant to the Money Laundering Act section 5 and the obligation to record data pursuant to the Money Laundering Act section 6 does not apply:

- a) if the customer is a financial institution, cf. the Financial Institutions Act section 1-4, investment firm, or management company for securities funds or such foreign undertaking subject to equivalent legislation as satisfies the identification obligations set out in Council Directive of 4 December 2001 on prevention of the use of the financial system for the purpose of money laundering (2001/97/EC), and is in addition subject to a supervisory regime of EEA standard.

- b) to the writing of insurance policies where the premium is to be paid by debiting an account opened in the customer's name with a credit institution as mentioned in the Financial Institutions Act section 1-5, subsection 3, provided the credit institution:
- (1) is subject to these regulations or equivalent legislation in conformity with Council Directive of 4 December 2001 on prevention of the use of the financial system for the purpose of money laundering (2001/97/EC), or
 - (2) has by other means satisfied itself, and recorded evidence, of the identity of the customer.
- c) to the writing of life insurance policies by an institution authorised to write life assurance, and other insurance undertakings in conformity with the Council Directive 2002/83/EC of 5 November 2002 concerning life assurance (the Consolidated Life Directive), where the annual premium does not exceed NOK 8,000, or where a single premium is to be paid not exceeding NOK 20,000. If the periodic premium amount to be paid in any given year is increased so as to exceed the NOK 8,000 threshold, production of identity documents as mentioned in section 2-1 shall nonetheless be requested.
- d) to the writing of pension insurance policies by an institution authorised to write life assurance, and other insurance undertakings in conformity with the Council Directive 2002/83/EC of 5 November 2002 concerning life assurance (the Consolidated Life Directive), where the policy is taken out by virtue of a contract of employment or the insured's occupation, provided that such policies do not contain a surrender clause and may not be used as collateral for a loan.
- e) to the writing of non-life insurance policies, including travel insurance policies, as well as credit insurance policies, by undertakings authorised to carry on such insurance business.

The ministry may, pursuant to the Money Laundering Act section 4 first paragraph no. 3 (e-money institutions), except entities with a reporting obligation from the Money Laundering Act section 5 by individual decision.

Section 8 Verification of identity etc.

Entities with a reporting obligation shall check customers' identity documents. Entities with a reporting obligation shall satisfy themselves of customers' identity, including verifying by satisfactory means that the photograph and signature appearing in the identity document match the appearance and signature of the customer or of the individual appearing at the premises of the said entity in person on behalf of the customer.

An entity with a reporting obligation may, pursuant to the Money Laundering Act section 4 first and second paragraph, enter into a written agreement with another entity with a

reporting obligation regarding verification of identity that entities with a reporting obligation are obliged to perform under the first paragraph above. In such cases the primary entity with a reporting obligation is responsible for ensuring that identity verification is carried out in due and proper manner in accordance with law and regulations and for establishing proper routines in accordance with section 10 fourth paragraph and section 16.

Branches in Norway of foreign institutions listed in the Money Laundering Act section 4 may, when establishing customer relationships with customers under the provisions of section 2, rely on confirmation from the institution's head office that the customer's true identity has been verified.

If an entity with a reporting obligation has reason to believe that data contained in the identity documents are not correct, the data shall be verified. Details of the basis for, and the nature of, the verification made shall be retained together with data as mentioned in the Money Laundering Act sections 5 and 6.

The entity with a reporting obligation that establishes the customer relationship or carries out the transaction shall retain the data contained in the identity documents as well as details of the institution that was responsible for identity verification in the particular case in accordance with the provisions of section 15.

Section 9 Absence of, or inadequate, proof of identity – refusing the customer

If identity documents containing data as mentioned in section 4 are not produced, or there is reason to believe that the identity documents are not correct and verification as mentioned in section 8 does not disprove such suspicion or cannot be carried out, the entity with a reporting obligation shall refuse to establish a customer relationship or to carry out the transaction. If there is suspicion as mentioned in section 10, first paragraph, the rules of section 10 to section 11 shall apply. The same applies if the customer's identity is in doubt.

Chapter 3. Investigation and reporting of suspicious transactions etc.

Section 10 Investigation of suspicious transactions

Examples of circumstances that may trigger the obligation to make investigations pursuant to the Money Laundering Act section 7 are that the transaction appears to lack a legitimate purpose, is unusually large or complex, is unusual in relation to the customer's habitual business or personal transactions, involves a transfer to or from a customer in a country or area lacking satisfactory measures against money laundering or terrorist financing, or is otherwise of an anomalous nature.

Neither the customer nor any third party shall be made aware that investigations as mentioned above are being carried out.

Entities with a reporting obligation shall make a written or electronic record of the results of such investigations.

Entities with a reporting obligation shall establish proper internal control and communication routines that ensure that the obligation to make investigations is complied with. Internal reporting procedures shall be established whereby an employee who becomes suspicious of circumstances as mentioned in the first paragraph is required to report to his superiors and to a specially designated officer or unit within the entity. The officer or unit so designated shall report directly to a specially nominated senior manager who shall ensure that control and communication routines are established and that these routines are observed in the event of suspicious transactions.

Reports made within an undertaking which do not result in reports being submitted to the National Authority for Investigation and Prosecution of Economic and Environmental Crime in Norway (ØKOKRIM) shall be available in the undertaking in traceable form for at least five years after the report was received by the officer or unit responsible for anti-money laundering processes.

Section 11 Submission of data to ØKOKRIM

Responsibility for submitting to ØKOKRIM data as mentioned in the Money Laundering Act section 7 second paragraph rests with the senior manager assigned special responsibility under the Money Laundering Act section 13 third sentence.

Data submitted in accordance with the Money Laundering Act section 7 second paragraph shall as far as possible contain a description of the basis for the suspicion, including data concerning suspects; third parties, if any; account data, if any; and data on movements on the account, data on the nature and size of the transaction and whether the transaction has actually been carried out as well as to whom the funds are to be transferred and the origin of the funds. Relevant documents supplementing such data should be attached or forwarded.

Data shall be submitted using a standardised form prescribed or approved by ØKOKRIM. Submission may be by post, telefax or in machine-readable form (electronic medium). Data transferred electronically via a transmission medium beyond the physical control of the data controller shall be coded or secured by other means when confidentiality is essential.

Section 12 Electronic monitoring systems

Financial institutions shall by the end of 2004 establish electronic monitoring systems for the purpose of identifying transactions suspected of being related to the proceeds of crime or to circumstances coming under the Penal Code section 147a or section 147b.

The obligation to investigate pursuant to the Money Laundering Act section 7 applies equally in the event of such suspicion.

Kredittilsynet may make exceptions from the first paragraph by individual decision.

Section 13 Special reporting of transactions associated with countries or areas which have not implemented satisfactory anti-money laundering measures etc.

The Ministry of Finance may in response to a decision by the Financial Action Task Force on Money Laundering (FATF) impose a special, systematic obligation to report to ØKOKRIM transactions with or on behalf of persons or undertakings associated with countries or areas which have not implemented satisfactory measures against the laundering of proceeds of crime or circumstances covered by the Penal Code section 147a or section 147b.

Section 14 Prohibition of or restrictions on the right of entities with a reporting obligation to establish customer relationships with or undertake transactions to or from countries which have not implemented satisfactory anti-money laundering measures etc.

The Ministry of Finance may in response to a decision by the Financial Action Task Force on Money Laundering (FATF) impose a special prohibition of or restrictions on the right of entities with a reporting obligation to establish customer relationships with or carry out transactions with persons or undertakings associated with countries or areas which have not implemented satisfactory measures against the laundering of proceeds of crime or circumstances covered by the Penal Code section 147a or section 147b.

Chapter 4. Retention and deletion of data, training etc.

Section 15 Requirement as to retention and deletion of data etc.

Entities with a reporting obligation shall retain data as mentioned in sections 4, 6 and 8 for five years after years after termination of the customer relationship or after the transaction is carried out.

The first paragraph shall not prevent other provisions of law or regulations from establishing longer periods for data retention.

Documents and data retained by entities with a reporting obligation pursuant to the first paragraph shall be deleted within one year of the expiry of the retention obligation.

Data as mentioned in section 4 and section 6 shall be retained in the form of copies of presented identity documents. Each copy shall be endorsed with "certified true copy" and the signature of the person who carried out the verification of identity.

Entities with a reporting obligation shall retain data by such means as ensure that the documents do not lose their value as evidence. Where retention is not paper-based, entities with a reporting obligation shall ensure that retention takes place in accordance with regulations no. 1156 of 16 December 1992 section 5-3 and section 5-4.

Entities with a reporting obligation shall ensure that documents are secured so as to protect them against unauthorised access. Act No. 31 of 14 April 2000 relating to the Processing of Personal Data (Personal Data Act) with appurtenant regulations applies to the retention of personal data by entities with a reporting obligation.

Section 16 Training of employees etc., of entities with a reporting obligation

The obligations pursuant to the Money Laundering Act section 13 also include measures such as training, maintenance and upgrading of expertise, including participation in special training programmes in which employees and other persons who perform tasks in fulfilment of the regulations learn to recognise transactions which may be related to the laundering of proceeds of crime and to circumstances covered by the Penal Code section 147a and section 147b, and receive instruction in handling such cases.

Chapter 5. ØKOKRIM's administrative procedures

Section 17 ØKOKRIM's administrative procedures

ØKOKRIM shall draw up guidelines for its internal administrative procedures to ensure satisfactory routines for receiving information from entities with a reporting obligation listed in the Money Laundering Act section 4, to prevent unauthorised access to such information and to keep entities with a reporting obligation informed of the progress made in the investigation of reported cases.

Chapter 6. Concluding provisions

Section 18 Entry into force

These regulations come into force on 1 January 2004.