

Finansinspektionen's Regulatory Code

Publisher: Finansinspektionen, Sweden, www.fi.se
ISSN 1102-7460



This translation is furnished for information purposes only and is not itself a legal document.

FFFS 2017:11

Published on 30 June
2017

Finansinspektionen's regulations and general guidelines regarding measures against money laundering and terrorist financing;

decided on 26 June 2017

Finansinspektionen prescribes¹ the following pursuant to sections 18 and 19 of the Ordinance on Measures against Money Laundering and Terrorist Financing (2009:92).

Chapter 1. Scope and definitions

Section 1 These regulations contain provisions governing the measures which an undertaking must implement in order to prevent the operations from being used for money laundering or terrorist financing. The regulations cover questions such as risk assessment and procedures, measures for verifying identity, monitoring and reporting, and internal control.

Section 2 These regulations apply to

1. natural and legal persons conducting such operations as set forth in Chapter 1, section 2, points 1-12 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630), and
2. branches in Sweden of foreign legal persons with head offices abroad which conduct such operations as referred to in point 1.

Provisions applicable to the board of directors or managing director of legal persons shall be applied in the same way to authorised representatives in types of association in which there is no board of directors or managing director.

Section 3 The same definitions are used in these regulations as in Chapter 1, sections 6-10 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630).

The following definitions are also used:

1. *undertaking*: a physical or legal person engaging in activities covered by these regulations, and

¹ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.

2. *pecially appointed executive*: a member of the management team, a managing director or equivalent executive referred to Chapter 6, section 2, first paragraph, point 1 of the Act on Measures against Money Laundering and Terrorist Financing.

Chapter 2. Risk assessment and procedures

Section 1 Provisions governing an undertaking's general risk assessment are contained in Chapter 2, section 1 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630).

The undertaking must evaluate its general risk assessment regularly, at least once a year, and when necessary update it.

The undertaking must also update its general risk assessment before it offers new or significantly changed products or services, enters new markets or makes other changes affecting its activities.

Section 2 An undertaking's common procedures as referred to in Chapter 2, section 9 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630) must cover the group's overarching procedures and guidelines for preventing money laundering and terrorist financing in its branches and subsidiaries.

Section 3 Provisions governing an undertaking's procedures for exchanging information are contained in Chapter 2, section 9, second paragraph of the Act on Measures against Money Laundering and Terrorist Financing (2017:630).

These procedures must cover the ways in which information may be shared within the group concerning customer due diligence, account and transaction details and other relevant information in order to prevent money laundering and terrorist financing. The undertaking must evaluate these procedures regularly, at least once a year, and if necessary update them.

Section 4 Provisions on an undertaking's procedures for 'fit and proper' testing are contained in Chapter 2, section 13 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630).

These procedures must ensure that employees, contractors and other persons involved in its activities in a similar capacity have a level of understanding of money laundering and terrorist financing commensurate with their duties and functions. The procedures should also include a description of how the undertaking in general ensures that a person is fit for the tasks he/she is expected to perform.

Section 5 Provisions on an undertaking's training of employees, contractors and other persons involved in its activities in a similar capacity are contained in Chapter 2, section 14 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630).

The training should be based around the risk identified by the undertaking in its activities, as described in Chapter 2, sections 1 and 2 of the same Act.

The undertaking should adapt the content and frequency of the training to the employee's duties and function in matters concerning measures against money laundering and terrorist financing. If the undertaking's general risk assessment is updated or otherwise changed, the training should be updated accordingly.

In addition to what is stipulated in Chapter 2, section 14, second paragraph of the Act on Measures against Money Laundering and Terrorist Financing, the undertaking must constantly brief its employees, contractors and other persons involved in its activities in a similar capacity on new trends, patterns and methods and other information relevant to the prevention of money laundering and terrorist financing.

Section 6 An undertaking must document the training provided according to Chapter 2, section 14 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630), either electronically or on paper.

The documentation should cover the following:

- the content of the training,
- the names of the participants, and
- the date of the training.

Section 7 An undertaking must identify and analyse the threats or hostile acts that could occur against its employees, contractors and other persons involved in its activities in a similar capacity.

The undertaking must investigate any incidents and use this knowledge to update the procedures it is required to have under Chapter 2, section 15 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630). The scope of the procedures should be based on the undertaking's general risk assessment, the threats facing it, the nature of its activities and similar matters.

Chapter 3. Measures to verify identity

Section 1 As well as identifying a customer in accordance with Chapter 3, section 7 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630), an undertaking should also verify their identity by taking the steps described in sections 2-7.

Natural person

Section 2 An undertaking shall verify the identity of a natural person by means of a Swedish driver's licence, Swedish passport or identity card issued by a Swedish authority, or a Swedish certified identity card.

The undertaking shall verify the identity of natural persons who do not have a Swedish identity document against a passport or other identity document. The passport or identity document must contain a photograph of the person and information on citizenship, and must be issued by an authority or other authorised issuer. A copy of a foreign passport or other foreign identity document shall be retained in accordance with the requirements set out in Chapter 5, section 3 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630).

If a natural person has no identity document at all, the undertaking shall verify the person's identity from other reliable documents and other checks according to the risk-based procedures the undertaking is required to have under Chapter 2,

section 8 of the Act on Measures against Money Laundering and Terrorist Financing.

Representative of a natural person

Section 3 If a natural person is represented by a person who is not an administrator or trustee, the undertaking must

1. verify the identity of the representative in accordance with section 2 or 5, and
2. verify the representative's authority to represent the natural person, and the conditions on which this authority is based, by at least checking a written power of attorney, birth certificate or equivalent document.

Section 4 If a natural person has an administrator or a trustee, the undertaking should at least

1. verify the identity of the administrator or trustee in accordance with section 2 or 5, and
2. where necessary, verify the letter of appointment or equivalent document covering the engagement of the administrator or trustee.

Natural person not physically present

Section 5 An undertaking shall verify the identity in a non-face-to-face situation by:

1. using electronic identification to produce an advanced electronic signature as set forth in the Act (2016:561) laying down additional requirements to the EU Regulation on electronic identification or by using any other technology for electronic identification which provides equivalent certainty, or
2. verifying the natural person's identity in an appropriate manner by
 - a) obtaining information regarding the person's name, address, personal identity number or equivalent,
 - b) verifying the information against external registers, certificates, or other equivalent documentation, and
 - c) contacting the natural person by sending a confirmation to the person's address in the population register or other reliable address, or ensuring that the person sends a certified copy of an identity document, or other equivalent measure.

Legal person

Section 6 An undertaking shall verify the identity of a legal person by means of a certificate of registration or equivalent authorising documents, or make equivalent checks against external registers.

The undertaking shall also verify the identity of a representative of a legal person by

1. verifying the identity of the legal person's representative in accordance with section 2, and
2. confirming the authority to represent the legal person and the conditions on which this authority is based, by checking the information in point 1 against the legal person's certificate of registration, external register or equivalent.

Legal person not physically present

Section 7 An undertaking shall verify the identity of a legal person who is not present by means of a certificate of registration or equivalent authorising documents, or make equivalent checks against external registers.

The undertaking shall also contact the legal person by sending a confirmation to the legal person's registered address or taking an equivalent measure.

The undertaking shall also verify the identity of a representative of a legal person who is not present by:

1. identifying and verifying the legal person's representative in accordance with section 5, and
2. confirming the person's authority to represent the legal person and the conditions on which this authority is based, by checking the information in point 1 against the legal person's certificate of registration, external register or equivalent.

Verifying the identity of a beneficial owner

Section 8 To verify the identity of a customer's beneficial owner according to Chapter 3, section 8 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630), an undertaking must obtain reliable and sufficient information on the customer's beneficial owner by means of public registers, relevant information from the customer or other information that the undertaking has received.

If the customer is a legal person and the beneficial owner cannot be determined in accordance with Chapter 3, section 8, third paragraph of the Act on Measures against Money Laundering and Terrorist Financing, the undertaking must verify the identity of a chairman, managing director or equivalent executive acting for the beneficial owner according to section 2 or 5.

Simplified measures for natural persons

Section 9 When simplified measures for customer due diligence according to Chapter 3, section 15 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630) are applied to a natural person, the undertaking must

1. identify and verify the identity of the natural person by:
 - a) obtaining information regarding the customer's name, address, personal identity number or equivalent, and
 - b) checking these details against external registers, certificates, other documentation or equivalent, and

2. to a limited extent, take other steps as described in Chapter 3, sections 8 and 10-13 of the Act on Measures against Money Laundering and Terrorist Financing.

Simplified measures for legal persons

Section 10 When simplified measures for customer due diligence according to Chapter 3, section 15 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630) are applied to a legal person, the undertaking must

1. identify and verify the identity of the legal person's representative by

a) obtaining information regarding the representative's name, address, personal identity number or equivalent, and

b) confirming the representative's authority and the conditions on which this authority is based, by checking the information in point a) against the legal person's certificate of registration, external register or equivalent or an identity document for the representative according to section 2, and

2. to a limited extent, take other steps as described in Chapter 3, sections 8 and 10-13 of the Act on Measures against Money Laundering and Terrorist Financing.

Chapter 4. Monitoring and reporting

System for disclosure

Section 1 An undertaking's system pursuant to Chapter 4, section 7 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630) may be electronic or manual.

The undertaking must ensure that the system is designed in such a way that the information can be provided in a digital, structured and editable format. The undertaking must ensure that the information is provided via secure channels or in some other secure manner. The undertaking must also ensure that the information is treated as confidential.

Chapter 5. Record keeping and information

Section 1 An undertaking shall keep documents and information, pursuant to Chapter 5, sections 3 and 4 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630), in a safe manner, electronically or on paper.

The undertaking shall ensure that the documents and information are easy to access and identify.

Conditions for extended record keeping and information

Section 2 An undertaking shall retain documents and information pursuant to Chapter 5, section 4 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630) for ten years, if

1. the documents or information could point to money laundering or terrorist financing or otherwise indicate that assets have derived from criminal activity,
2. circumstances covered by point 1 have been reported to the Swedish Police according to Chapter 4, section 3 or 6 of the Act on Measures against Money Laundering and Terrorist Financing, and
3. an authority has instructed the undertaking that the documents or information need to be retained for this period.

Chapter 6. Internal control and reporting of suspected violations

Section 1 When an undertaking assesses whether it needs to appoint the functions specified in Chapter 6, section 2, first paragraph, points 1 and 3 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630), it should take particular account of

1. the undertaking's turnover,
2. the number of employees,
3. the number of places of business,
4. the activities of the undertaking,
5. the products and services provided,
6. the complexity of the activities, and
7. the undertaking's general risk assessment.

The functions should perform the tasks described in sections 2–4 and 9.

Specially appointed executive

Section 2 A specially appointed executive shall

1. carry out a general risk assessment according to Chapter 2, sections 1 and 2 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630),
2. update the general risk assessment according to Chapter 2, sections 1 and 2 of the Act on Measures against Money Laundering and Terrorist Financing and Chapter 2, section 1 of these regulations,
3. ensure that the undertaking has common internal procedures and guidelines in accordance with Chapter 2, sections 8-12 of the Act on Measures against Money Laundering and Terrorist Financing and Chapter 2, section 2 of these regulations, and
4. update the common internal procedures and guidelines according to Chapter 2, sections 8-12 of the Act on Measures against Money Laundering and Terrorist Financing and Chapter 2, section 2 of these regulations.

The specially appointed executive may appoint one or more persons to assist him/her and delegate powers under the first paragraph to these persons.

Section 3 A specially appointed executive shall control and monitor that the measures, procedures or other actions decided on by the undertaking are actually implemented in its activities.

Section 4 A specially appointed executive shall report to the board of directors or the managing director. If the specially appointed executive is the undertaking's managing director, he/she must report to the board of directors.

Appointed officer for controlling and reporting obligations

Section 5 An undertaking must have an appointed officer for controlling and reporting obligations according to Chapter 6, section 2, point 2 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630).

The appointed officer for controlling and reporting obligations shall

1. monitor and regularly control that the undertaking is complying with the Act on Measures against Money Laundering and Terrorist Financing, these regulations and the undertaking's procedures and guidelines,
2. provide advice and support to the undertaking's employees, contractors and other persons involved in its activities in a similar capacity on rules concerning money laundering and terrorist financing,
3. inform and train the relevant persons on rules concerning money laundering and terrorist financing,
4. ensure that information is provided according to Chapter 4, section 6 of the Act on Measures against Money Laundering and Terrorist Financing in the manner stipulated by the Swedish Police,
5. control and regularly assess whether common internal procedures and guidelines to prevent the business being used for money laundering or terrorist financing, as set out in Chapter 2, sections 8-12 of the Act on Measures against Money Laundering and Terrorist Financing and Chapter 2, section 2 of these regulations, are appropriate and effective, and
6. provide recommendations to the relevant persons based on the observations made by the function.

The appointed officer for controlling and reporting obligations may appoint one or more persons to assist for him/her and delegate powers under the first paragraph to these persons.

Section 6 An appointed officer for controlling and reporting obligations shall be placed within the undertaking and shall be independent of the functions and areas to be monitored and verified.

Section 7 An appointed officer for controlling and reporting obligations shall report to the board of directors or the managing director.

Section 8 An appointed officer for controlling and reporting obligations may be appointed for several or all undertakings within a group of companies. This applies

on condition that the appointed officer for controlling and reporting obligations has the expertise and resources to discharge his/her responsibility to all undertakings within the group which are covered by the Act on Measures against Money Laundering and Terrorist Financing (2017:630).

Section 9 Provisions on the responsibility of an appointed officer for controlling and reporting obligations to report to the Swedish Police are contained in Chapter 6, section 2 second paragraph of the Act on Measures against Money Laundering and Terrorist Financing (2017:630).

Independent audit function

Section 10 The independent audit function pursuant to Chapter 6, section 2 first paragraph point 3 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630) shall

1. review and regularly assess whether the undertaking's organisation, control processes, IT systems, models and procedures and guidelines are appropriate and effective,
2. review and regularly assess whether the undertaking's internal controls are appropriate and effective,
3. review and regularly assess whether the activities are being conducted in line with the undertaking's internal procedures and guidelines,
4. review and regularly assess the undertaking's risk management based on the undertaking's general risk assessment,
5. review and regularly assess the reliability and quality of the work done within the undertaking's other control functions,
6. provide recommendations to the relevant persons based on the observations made by the function, and
7. ensure that the actions pursuant to point 6 are carried out.

Section 11 An independent audit function shall report directly to the board of directors of the undertaking.

Section 12 An independent audit function shall be organisationally separate from the functions and areas that it is to monitor and control. The independence of the function means that its employees may not take part in the work of other functions or the operational activities.

Section 13 An undertaking may engage a third party to do the work of an independent audit function. However, the undertaking will always be responsible for the outsourced activity.

Procedures for model risk management

Section 14 Provisions on an undertaking's procedures for model risk management are contained in Chapter 6, section 1, second paragraph of the Act on Measures against Money Laundering and Terrorist Financing (2017:630).

These procedures must include a description of the underlying theory and the assumptions that have led to the design of a model. The procedures should also describe how the changes made to a model are to be documented.

Section 15 An undertaking should have procedures for a validation process for its models, to ensure that a model is fit for its purpose according to Chapter 6, section 1 second paragraph of the Act on Measures against Money Laundering and Terrorist Financing (2017:630).

In the validation process, the undertaking must ensure that the parameters and data used in a model are correct and complete and that the assumptions are reasonable and relevant.

Section 16 An undertaking must validate a model before using it. If substantial changes are made to a model, a new validation must be carried out.

Section 17 After every validation of a model, an undertaking shall draw up a report of the results of this validation.

Characteristics of the whistle-blowing system

Section 18 Provisions on an undertaking's reporting system for employees, contractors and other persons involved in its activities in a similar capacity are contained in Chapter 6, section 4 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630).

The undertaking must ensure that the reporting system safeguards the undertaking's information against access by unauthorised persons, prevent the information being corrupted or destroyed, and ensure that the information is accessible when needed.

The undertaking must ensure that the reporting system is designed in such a way that information can be provided anonymously.

Chapter 7. Reporting to Finansinspektionen

Periodic reporting of information

Section 1 An undertaking shall provide information to Finansinspektionen every year on

1. the activities of the undertaking,
2. the undertaking's general risk assessment and procedures,
3. the undertaking's measures for customer due diligence,
4. the undertaking's monitoring and reporting pursuant to Chapter 4 of the Act on Measures against Money Laundering and Terrorist Financing (2017:630),
5. the undertaking's measures to maintain compliance with the rules, and

6. the undertaking's training of employees, contractors and other persons involved in its activities in a similar capacity pursuant to Chapter 2, section 14 of the Act on Measures against Money Laundering and Terrorist Financing.

Section 2 An undertaking shall submit information to Finansinspektionen according to section 1 in digital form as specified in more detail on the authority's website.

Section 3 An undertaking shall provide information according to section 1 as of the balance-sheet date of 31 December.

The information must reach Finansinspektionen no later than 31 March.

Section 4 Amounts must be denominated in Swedish kronor.

To convert from currencies other than Swedish kronor, the exchange rate in effect on the balance-sheet date shall be used.

Request for information

Section 5 At the request of Finansinspektionen, an undertaking shall provide information in addition to that specified in section 1 if this is needed for the authority to assess the risk that may be associated with the undertaking.

These regulations and general guidelines shall enter into force on 1 August 2017, whereupon Finansinspektionen's regulations and general guidelines (FFFS 2009:1) regarding measures against money laundering and terrorist financing shall be repealed.

ERIK THEDÉEN

Jenny Stenhammar Gothnier