

MEMORANDUM



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Finansinspektionen's work with anti-money laundering supervision

Background note for hearing in the Committee on Finance 7 March 2019

Summary

Anti-money laundering supervision aims to check that firms are following the rules and regularly developing and improving their work to prevent money laundering. This supervision is risk-based in accordance with current legislation. Approximately 2,000 firms fall under FI's supervision with regard to the anti-money laundering regulations.

When it comes to Swedish banks' subsidiaries in the Baltic region, the primary responsibility for the supervision lies with the authority in the country where the subsidiary is operating, and national rules apply. Therefore, FI is not able to conduct its own supervision of the subsidiaries at their location in the Baltic countries, review customers or transactions or intervene against these banks. The key component in effective supervision of banks with operations in several countries is collaboration between the competent authorities.

Recent reports in the media about serious deficiencies in the handling of money laundering in the Baltic countries show that FI and other supervisory authorities should have done more to coordinate the supervision of banks with operations in several countries. As previously announced, FI and the supervisory authorities in Estonia, Latvia and Lithuania have together initiated an investigation into the Swedish banks' handling of money laundering.

The collaboration between the authorities must also be strengthened to achieve effective supervision. FI and other authorities have now begun to work on a closer strategic and operational collaboration regarding how anti-money laundering within the financial sector in the region can be strengthened. FI will arrange a meeting in the near future with the highest responsible persons at FI's counterparts in the Nordic and Baltic countries.

FI will reallocate resources already this year to strengthen anti-money laundering supervision. FI also requested an additional SEK 10 million per year in appropriations to strengthen anti-money laundering supervision from 2020 onward.

Supervision of Swedish banks' operations in the Baltic region

For a Swedish bank with operations only in Sweden, the supervision responsibility lies solely with FI. However, some banks conduct business in other countries via subsidiary banks, which thus are domiciled in another country. This means that the bank has received authorisation to conduct business from the supervisory authority in the other country. This also means that the primary responsibility for supervision lies with the authority in the country where the subsidiary bank conducts business, and that national rules apply (even if many of these rules are harmonised by joint EU regulations).

In practice, this means that supervision of the compliance of the Swedish banks' Baltic subsidiary banks with the anti-money laundering rules is carried out by the supervisory authorities in Estonia, Latvia and Lithuania. In other words, these authorities check that the subsidiary banks have strong know-your-customer routines, have well-functioning transaction monitoring and report suspicious transactions to the national criminal investigation authorities in each country.

FI is not able to conduct its own supervision of the subsidiaries at their location in the Baltic countries, review customers or transactions or intervene against these banks with sanctions or the equivalent. As the home country authority for the Swedish parent banks, FI is responsible for the supervision of the Swedish operations. FI also has the overall responsibility for supervision of governance, risk management and internal control at the group level. If, for example, there are deficiencies in a Swedish parent bank's governance of the operations in the banking group as a whole, FI is able to intervene. The requirements on the parent bank within the area of anti-money laundering include establishing joint procedures and guidelines for processing personal data and distributing information on suspected money laundering to concerned parties within the group.

Due to the division of the supervision of bank groups that have operations in several countries, collaboration between the competent authorities becomes crucial for achieving effective supervision. For this reason, FI collaborates on a regular basis with Baltic and other authorities with regard to both anti-money laundering supervision and other supervision of Swedish banks' operations in other countries. The authorities exchange risk assessments and inform one another about identified problems and planned measures, both with regard to specific institutions and at a higher level.

Recent reports in the media about serious deficiencies in the handling of money laundering in the Baltic countries show that FI and other supervisory authorities should have done more to create effective supervision of banks with operations in several countries. The collaboration must be strengthened. FI and other concerned authorities have now taken the first steps to do this; FI's actions are described below.

Over the past few years, supervision conducted by the Baltic authorities has been tightened at the national level; the Baltic authorities have also taken measures. For example, this is evident from the sanctions issued to Swedbank in the Baltic states for deficiencies in the bank's work to prevent money laundering. In 2016, the Latvian supervisory authority issued Swedbank an administrative fine of EUR 1.36 million. In 2018, the Lithuanian supervisory authority concluded an investigation that resulted in Swedbank being issued a warning.

There are significant money laundering risks in the Baltic region. The sanctions from Latvia and Lithuania show that the banks must continue to strengthen their work to prevent money laundering and the financing of terrorism. However, in its analyses, FI has not found indications of the same scope of money laundering in Swedbank's or SEB's Baltic operations as was found in Danske Bank. Even if the scope appears to be smaller, FI still takes a serious view on the information that has been reported.

FI's measures following the disclosures about Danske Bank

In May 2018, the Danish financial supervisory authority Finanstilsynet published a report about Danske Bank in which it was stated that the bank had had serious deficiencies in its governance and control of the work to prevent money laundering. The bank published a report in September from the investigation by lawyers appointed by the bank to review the suspected money laundering in the Estonian branch. The investigation identified 6,200 suspicious customers who had made suspicious transactions during the period 2007–2015 totalling the equivalent of SEK 2,000 billion.

Due to this report, FI implemented several measures, including the following:

- FI has close contact with Finanstilsynet in Denmark. FI also intensified its contact with the supervisory authorities in Estonia, Latvia and Lithuania.
- Given the scope of the suspected money laundering, FI saw a need to analyse the situation in more depth and review the risk assessment of the Swedish banks' operations in the Baltic region. FI therefore started to map the money laundering risks in the Swedish banks' Baltic operations in September 2018. This mapping project focused on the operations conducted by SEB and Swedbank since their subsidiaries represent the majority of the banking market in the Baltic countries.
- In October, FI met with responsible supervisory authorities and financial investigative units (counterparts to the Financial Intelligence Unit of the Swedish Police) on location in all three Baltic countries to obtain their view of Swedbank's and SEB's operations in the Baltics

and the banks' work to prevent money laundering and the financing of terrorism.

- At a regular meeting of FI's Supervisory Committee in October, the decision was made to start an already planned investigation of SEB's Swedish operations in accordance with a proposal submitted by one of FI's own investigation teams.¹ The members of the committee discussed at the meeting if it was possible to expand the investigation to include the Baltic operations. The members agreed that there were money laundering risks in the Baltic operations and that it was important for FI to address these risks given the revelations about Danske Bank. It was also noted that it was difficult for FI to conduct on its own accord a meaningful investigation of the operations in the Swedish banks' Baltic subsidiary banks. Such an investigation needed to be carried out in cooperation with the Baltic authorities since they are responsible for the supervision of the subsidiary banks.
- In November, FI's Supervisory Committee decided that the money laundering risks in SEB's and Swedbank's operations in the Baltic states would be handled as part of the mapping project for the two banks that had already been started. The committee members also decided at the same meeting to start an already planned investigation into Swedbank's Swedish operations in accordance with a proposal from the responsible investigation team.²

FI's assessment of the risks in the banks' Baltic operations

When the media revealed severe deficiencies in Danske Bank's anti-money laundering efforts, FI reassessed the risks in the Swedish banks' operations in the Baltics. This assessment was based in part on information from the supervisory authorities and financial investigative units in Estonia, Latvia and Lithuania, information from the Swedish banks and statistics that show the banks' transactions in relation to the scope of the overall operations.

In October 2018, the Estonian central bank published statistics of cross-border payments in banks in Estonia for the period 2008–2015. The statistics showed that a large percentage of the cross-border payments went through Danske Bank's branch in Estonia. Danske Bank was also responsible for a significantly larger percentage of cross-border payments (in relation to the bank's total assets) than Swedbank and SEB.

It is important to keep this information in mind when analysing the most recent reports in the media. SVT's investigative journalism program Uppdrag Granskning reported that upwards of SEK 40 billion had been laundered in

¹ Reports in the media that a proposal from the investigation team to review Swedbank's Baltic operations was stopped at this meeting are thus incorrect. The proposal concerned SEB and its Swedish operations and received support from responsible managers.

² No investigations proposed by the investigation team were stopped at this meeting, either.

Swedbank's Baltic operations. This indicates that there have been severe deficiencies, but FI is not able to assess whether the figure that has been reported is exhaustive. To the extent that can be assessed right now, the transactions are significantly smaller than the figure from Danske Bank's Estonian branch, where the equivalent of around SEK 2,000 billion is said to have been laundered. This is in line with the assessment that Swedbank in Estonia has a different business model and a different customer base than Danske Bank.

Finnish media recently published information about suspected money laundering in Nordea. There, the figure corresponds to around SEK 7 billion during the years 2005–2017. FI does not have more detailed information about these disclosures, but so far the reports have indicated a scope that is less extensive than in Danske Bank. However, FI takes a serious view of this new information, regardless of the size.

The recent disclosures clearly confirm that there have been deficiencies in the anti-money laundering efforts at the Swedish banks' Baltic operations, but they also indicate that these deficiencies primarily occurred a number of years ago. During 2014 and 2015, as regulations were gradually tightened, the Baltic authorities increased their supervision of money laundering. As described above, they also implemented concrete measures to counteract the deficiencies that were identified in the banks.

The overall assessment based on the information that FI currently has is that the anti-money laundering work in the Swedish banks' Baltic operations has improved in recent years. It is important for this work to progress, and this requires more in-depth supervision. Continued measures from FI and other authorities are therefore essential.

Measures FI is taking

FI has initiated an investigation together with the supervisory authorities in Estonia, Latvia and Lithuania into the Swedish banks' handling of money laundering. FI and the Baltic authorities are working together to determine the scope and focus of the investigations. This also includes deciding the period of time and the firms that will be investigated and how the work will be divided between the authorities.

FI is also in agreement with the other authorities in the Nordic and Baltic countries that the ongoing cooperation in the area of supervision must be significantly strengthened. FI will arrange a meeting in the near future for the highest responsible persons at FI's counterparts in the Nordic and Baltic countries. The intention is to create a closer strategic and operational collaboration on how to enhance anti-money laundering efforts within the financial sector in the region.

FI will reallocate its resources already this year to strengthen anti-money laundering supervision. On 21 February FI also decided in its annual request for budget means to ask for an additional SEK 10 million per year in appropriations to strengthen anti-money laundering supervision from 2020 onward. The Government and the Riksdag (the Swedish parliament) will decide on FI's request in the autumn when the Budget Bill is processed.

How FI conducts anti-money laundering supervision

Money laundering is a global and deeply rooted societal problem. The problems are almost always linked to criminal activities, such as tax-related offences, bribery, narcotics, human trafficking, fraud or robbery. The objective of the anti-money laundering regulations is for firms in the financial sector to work effectively to prevent money laundering and terrorist financing; it should be difficult for criminals to use the financial sector to launder money or finance terrorism, and suspicions of such activities should be reported to the Financial Intelligence Unit of the Swedish Police.

A bank's board of directors and management are always responsible for how the operations are managed. They are responsible for ensuring that the bank has sufficient governance and control to ensure that applicable rules are followed. When deficiencies are identified, it is the bank and its management that are responsible. This applies to money laundering as well.

It is FI's responsibility to monitor that the banks are following the rules. Under the current regulations, anti-money laundering supervision is risk-based, which means that FI should primarily direct its supervision efforts to areas where the risks are judged to be the greatest. Approximately 2,000 firms fall under FI's supervision with regard to the anti-money laundering regulations.

The measures to prevent and efforts to combat money laundering in Sweden encompass several authorities and a regulatory framework that includes both penal rules and administrative regulations. Administrative regulations are mainly preventive in nature. This is the part that FI is responsible for in its anti-money laundering supervision. These provisions aim to stop money laundering transactions from being carried out and prevent financial operations and other business activities from being used for money laundering. This means that FI does not investigate suspected money laundering; this responsibility lies with criminal investigation authorities and primarily the Financial Intelligence Unit of the Swedish Police.

Like other supervision, anti-money laundering supervision includes several different types of supervision and information-gathering activities.

Ongoing supervision consists, for example, of FI gathering and analysing data reported by the firms, conducting risk assessments of firms, business models, market segments and products, following up on incidents and meeting with firms to identify relevant risks and how they should be managed. The ongoing

supervision also includes various controls, for example via register extracts, questionnaires and compilations of open-source material.

FI also conducts *surveys* and *in-depth analyses*, which are wider analyses (e.g. horizontal comparisons of risks and risk management in several banks) or more in-depth and narrower analyses of specific areas or phenomena.

Investigations, according to FI's investigation process, are when FI conducts a formal investigation of regulatory compliance within a specific area in one or several firms. Based on the information obtained during the investigations, FI always makes assesses the firm's compliance with the relevant requirements in the regulation.

There are a number of different activities under way at any given time within the area of anti-money laundering supervision – particularly with regard to the major banks. Typically, there are always open investigations, surveys and in-depth analyses as well as a number of activities within the ongoing supervision.

In an investigation, FI often finds areas of non-compliance. Some deficiencies do not lead to a sanctions assessment, and some sanctions assessments do not lead to a sanction decision. One reason for this may be that FI does not consider the evidence sufficiently clear that a firm has infringed upon the regulations. Another reason may be that the infringement in the matter in question is considered less severe, or the firm may have rectified the deficiencies that were identified.

The majority of FI's investigations are ended by FI writing a so-called closing letter to the firm. In its closing letter, FI describes for the firm the deficiencies and weaknesses that FI has identified and provides recommendations to the firm regarding measures that should be implemented.

Working in this manner with supervision – identification of deficiencies and weaknesses, action plans, recommendations and follow-up – is neither new nor unique to FI. FI has been working in this manner for a long time. This is also the approach applied to supervision within the EU and other comparable countries. An active dialogue combined with sanctions are two complementary and key components of clear and effective supervision.

If FI makes an overall assessment that an investigation has identified significant deficiencies in a firm's regulatory compliance, FI is obligated to decide on a sanction. FI has powerful tools. FI can decide to issue a warning or a remark to the firm. Both warnings and remarks can be combined with an administrative fine. In the most severe cases, FI can withdraw the firm's authorisation to conduct business. With the legislator's assignment of these powers to FI comes a great responsibility. Sanctions must never be decided on a whim. They must be based on careful investigations and analyses, and the legal assessments must meet very high standards.

To ensure well-founded, consistent and legally sound assessments, FI has carefully prepared investigation and sanction processes that specify how these assessments are to be carried out. FI may only initiate a sanction case based on documentation FI judges to be viable in further assessment, ultimately in a court of law. This requires a combination of expertise within the area of anti-money laundering, legal expertise and considerable experience in supervision and sanction assessments.

In order for FI to start a sanction case, the matter must have passed a number of steps. The sanction process specifies, for example, that the matter must be presented to FI's Chief Legal Counsel, who then decides whether it shall be escalated for sanction assessment. A number of senior staff members with different areas of expertise are involved in both this decision and the subsequent formulation of a proposed sanction decision. As a final step, FI's Board of Directors decides on sanctions.

There have been examples of sanctions in recent years related to non-compliance with the anti-money laundering regulations, for example the warning that FI issued to Nordea in 2015 that was accompanied by the then-maximum administrative fine possible of SEK 50 million. FI also issued Handelsbanken a remark and an administrative fine of SEK 35 million the same year. Following these sanctions, FI monitored that the banks have worked to rectify the identified deficiencies.

As described above, however, the sanctions are only a small part of the measures that FI has taken to improve compliance with the anti-money laundering regulations. A much larger number of closing letters containing concrete recommendations for measures have been sent to firms. Experience shows that most firms treat these recommendations seriously and make the changes FI has recommended. One of the reasons for this is that they know that FI will follow up on its recommendations in ongoing supervision. And that FI is prepared to return with sanctions or other measures of intervention if the deficiencies have not been rectified.