

Regulations concerning measures to combat money laundering and the financing of terrorism, etc.

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Laid down by the Ministry of Finance 13 March 2009 pursuant to sections 4, 6, 7, 12, 13, 15, 17, 18, 21, 22, 24, 29, 32 and 33 of the Act of 6 March 2009 No. 11 relating to measures to combat money laundering and the financing of terrorism, etc. (Money Laundering Act).

Chapter 1. Introductory provisions

Section 1. Scope

These Regulations shall apply to entities with a reporting obligation as referred to in section 4 of the Act [date and number] relating to measures to combat money laundering and the financing of terrorism, etc. (Money Laundering Act).

Chapter 2. Customer due diligence measures and ongoing monitoring

Section 2. Establishment of customer relationships

Customer relationships shall be deemed to be established when the customer can use the services of the entity with a reporting obligation, for example on the opening of an account or issue of a payment card.

State authorised and registered public accountants are deemed to have established a customer relationship when they have taken on an assignment involving consultancy or other services or have sent an auditor's declaration to the Register of Business Enterprises, cf. section 4-4 of the Act relating to the Registration of Business Enterprises.

Authorised external accountants are deemed to have established a customer relationship when they have concluded a written assignment agreement with a client or have taken on an assignment for which a written agreement is required, cf. section 3 of the Act relating to authorisation of external accountants.

Real estate agents when acting as real estate agents are deemed to have established a customer relationship with a client when they have taken on a sale or purchase assignment. In connection with an assignment to sell, the real estate agent shall in addition require the purchaser to present a valid proof of identity prior to settlement. The first and second sentence shall apply correspondingly to housing associations and lawyers that act as real estate agents, when the assignment concerns such activities.

Lawyers and other persons who provide independent legal assistance on a professional or regular basis are deemed to have established a customer relationship when they have taken on an assignment as referred to in section 4, second paragraph (3), of the Money Laundering Act. Lawyers and other persons who provide independent legal assistance on a professional or regular basis are in all cases deemed to have taken on an assignment as referred to in the first sentence when confirmation of acceptance of the assignment is received by the client.

Section 3 Special provisions concerning dealers in objects

Entities with a reporting obligation under section 4, second paragraph (7) of the Money Laundering Act shall apply customer due diligence measures pursuant to section 7 of the Money Laundering Act.

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 sections 147 a, 147 b or 147 c of the Penal Code, and
2. in connection with all transactions of NOK 100 000 or more or a corresponding amount in foreign currency, where NOK 40 000 or more or a corresponding amount in foreign currency is paid in cash.

Where transactions comprise a series of operations that appear to be interrelated, the threshold amount shall be calculated collectively.

Section 4 Lawyers and other persons who provide independent legal assistance on a professional or regular basis

For entities with a reporting obligation as referred to in section 4, second paragraph (3), of the Money Laundering Act, the provisions of the Money Laundering Act shall apply when entities with a reporting obligation assist or act on behalf of clients in:

1. planning or carrying out financial transactions
2. transactions concerning real property, and
3. transactions concerning objects paid for in cash of NOK 40 000 or more, or a corresponding amount in foreign currency.

Section 5. Physical proof of identity of natural persons

Valid proof of identity of a natural person is originals of documents that:

1. have been issued by a public authority or by another body that has adequate control routines for issue of documents, have a satisfactory level of security, and
2. contain the full name, signature, photograph and personal identity number or D-number.

In the case of natural persons who have not been assigned a Norwegian personal identity number or D-number, identity documents shall, in addition to the requirements laid down in the first paragraph, contain the date of birth, place of birth, sex and nationality.

If a natural person's identity shall be verified on the basis of physical proof of identity without the personal appearance of the person concerned in compliance with section 7, fourth paragraph, of the Money Laundering Act, certified copies of documents as referred to in the first and second paragraph may be used.

The requirement that physical proof of the identity of natural persons shall contain a signature shall not apply to passports.

Section 6. Electronic proof of identity of natural persons

Valid proof of identity of natural persons is an electronic signature that fulfils the requirements of section 3 of the Regulations of 21 November 2005 No. 1296 concerning voluntary self-declaration arrangements for issuers of certificates, and which is included in a published list pursuant to section 11, first paragraph, of the Regulations referred to above.

Section 7. Physical proof of identity of legal persons

Valid proof of identity of a legal person registered in the Register of Business Enterprises is a certificate of registration not older than three months.

Valid proof of identity of a legal person registered in the Central Coordinating Register for Legal Entities, but not in the Register of Business Enterprises, is a transcript not older than three months from the Central Coordinating Register for Legal Entities containing all recorded information concerning the entity, cf. sections 5 and 6, second paragraph, of the Act relating to the Central Coordinating Register for Legal Entities.

Valid proof of identity of a legal person not registered in the Central Coordinating Register for Legal Entities but in another public register is a certificate or transcript from the register providing information of the name, address of the place of business or head office and any foreign organisation number. Such a certificate or transcript shall state which public register can confirm the information.

Valid proof of identity of a legal person not registered in a public register is:

1. documentation of the person's existence, and
2. a written declaration from a natural contact person, as referred to in section 8, fourth paragraph, of the Money Laundering Act, that the recorded information concerning the legal person is correct and valid proof of the identity of the person concerned.

Section 8. Subsequent retrieval of proof of identity

When verifying identity on the basis of valid proof of identity as referred to in section 7, fourth paragraph, for legal persons that shall be registered in the Register of Business Enterprises, entities with a reporting obligation shall require a certificate of registration to be produced within four weeks following expiry of the time limit for registration pursuant to section 4-1, first paragraph, of the Act relating to the Registration of Business Enterprises for the legal persons referred to there.

When verifying identity on the basis of valid proof of identity as referred to in section 7, fourth paragraph, for legal persons that shall be registered in the Central Coordinating Register of Legal Entities but not in the Register of Business Enterprises, entities with a reporting obligation shall require a transcript from the Central Coordinating Register of Legal Entities to be produced as referred to in section 7, second paragraph, within four weeks following the expiry of the time limit for registration in the Central Coordinating Register of Legal Entities pursuant to section 12 of the Act relating to the Central Coordinating Register for Legal Entities.

When verifying identity on the basis of proof of identity as referred to in section 7, fourth paragraph, of a legal person that shall be registered in another public register, entities with a reporting obligation shall require production of a certificate or transcript from the register providing information of the name, the address of the place of business or head office and any foreign organisation number within four weeks following registration in the register concerned, or within four weeks following the time limit for registration in the register where such a time limit applies.

For legal persons registered in the Register of Business Enterprises, the Central Coordinating Register of Legal Entities or other public register, entities with a reporting obligation shall demand valid proof of identity as referred to in section 7, first, second or third paragraph, to be produced within six months following establishment of the customer relationship.

If the requirements of this provision concerning subsequent retrieval of proof of identity are not complied with, the entity with a reporting obligation shall terminate the customer relationship.

Section 9 Outsourcing of execution of customer due diligence measures

In addition to the natural and legal persons who, pursuant to section 12 of the Money Laundering Act, may function as contractors, entities with a reporting obligation may enter into written agreements concerning outsourcing of execution of customer due diligence measures with undertakings and persons who perform such services for or on behalf of entities with a reporting obligation when such entities are part of the distribution system of the entities with a reporting obligation.

Section 12, third and fourth paragraph, of the Money Laundering Act shall apply correspondingly when the customer due diligence measures are outsourced to undertakings or persons as referred to in the first paragraph.

Section 10. Simplified customer due diligence measures

The obligation to apply customer due diligence measures pursuant to section 6, first paragraph (1), (2) and (4), of the Money Laundering Act shall not apply:

1. if the customer is a legal person as referred to in section 4, first paragraph, of the Money Laundering Act, with the exception of (4), (8) and (9), or an undertaking operating as an insurance intermediary,
2. if the customer is a legal person subject to article 2 (1) (1) and (2) of Directive 2005/60/EC or a corresponding legal person in a state outside the EEA area that imposes requirements corresponding to those laid down in Directive 2005/60/EC, and compliance with the requirements is supervised,
3. if the customer is a company that has financial instruments listed on a regulated market in an EEA state or is subject to disclosure requirements consistent with those that apply to listing on a regulated market in an EEA state,
4. if the customer is a Norwegian state or municipal administrative body,
5. in relation to recording of information concerning and verification of the identity of beneficial owners of accounts with funds from several persons held by lawyers or other independent legal professionals from EEA member states, or
6. in relation to recording of information concerning and verification of the identity of beneficial owners of accounts with funds from several persons held by lawyers and other independent legal professionals from third states, provided that:
 - a. they are subject to requirements regarding the combating of acts referred to in sections 317 and 147b of the Penal Code in accordance with international standards,
 - b. compliance with the requirements is supervised, and
 - c. information concerning the identity of beneficial owners is available on request to credit institutions that keep the accounts concerned.

The obligation to apply customer due diligence measures pursuant to section 6, first paragraph (1), (2) and (4) of the Money Laundering Act shall not apply to:

1. life insurance policies if the annual premium does not exceed EUR 1000 or if a single premium is no more than EUR 2500,
2. insurance policies for pension schemes if the policy does not contain a surrender clause and the policy cannot be used as collateral,

3. non-life insurance policies, including travel insurance policies and credit insurance policies,
4. schemes providing retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme, or
5. electronic money, provided that:
 - a. the maximum amount stored in the device is no more than EUR 150 and the device cannot be recharged, or
 - b. a limit of EUR 2 500 is imposed on the total amount transacted in a calendar year, except when an amount of EUR 1 000 or more is redeemed in that same calendar year.

Section 11. Politically exposed persons

By holder of high public office or post as referred to in section 15, third paragraph (1), of the Money Laundering Act is meant:

1. a Head of State, Head of Government, Minister or Deputy Minister,
2. a member of a national assembly,
3. a member of a higher court that takes decisions that only exceptionally may be appealed,
4. a member of the board of an auditor general, court of auditors or central bank,
5. an ambassador, chargé d'affaires or high-ranking military officer,
6. a member of an administrative, managerial or controlling body in a state-owned undertaking,
7. a holder of a corresponding office or post as referred to in (1) to (5) in an international organisation.

By immediate family member as referred to in section 15, third paragraph (2) of the Money Laundering Act, is meant:

1. a spouse or a partner who, pursuant to national legislation, is equivalent to a spouse,
2. a child,
3. a spouse or partner of a child, and
4. a parent.

By close associate as referred to in section 154, third paragraph (3) of the Money Laundering Act, is meant a natural person who is known to:

1. be a beneficial owner in a legal arrangement or entity jointly with a person as referred to in section 15, third paragraph (1) or (2) of the Money Laundering Act,
2. have a close business connection to a person as referred to in section 15, third paragraph (1) or (2), of the Money Laundering Act, or
3. be the only beneficial owner in a legal arrangement or entity that in reality was established for the benefit of a person as referred to in section 15, third paragraph, (1) or (2), of the Money Laundering Act.

Chapter 3. Enquiries and reporting

Section 12. Enquiries concerning suspicious transactions

Circumstances that may activate the obligation to make enquiries pursuant to section 17 of the Money Laundering Act include that the transaction seems to lack a legitimate purpose, is exceptionally large or complex, is unusual compared with the business or personal transactions commonly associated with the customer, is carried

out to or from a customer in a country or area that lacks satisfactory measures to combat acts as referred to in sections 317 and 147b of the Penal Code or is in any other way unusual.

Section 13. Submission of information to Økokrim

The person assigned responsibility pursuant to section 23, second paragraph, of the Money Laundering Act shall be responsible for submission of information to the National Authority for Investigation and Prosecution of Economic and Environmental Crime in Norway (Økokrim) as referred to in section 18 of the Act.

Information provided pursuant to section 18 of the Money Laundering Act shall as far as possible contain a description of the basis for the suspicion, including information concerning the suspect, any third parties, any details of accounts and activity on accounts, information concerning the type and size of the transaction and whether the transaction has been carried out and to whom the funds are to be transferred and the origin of the funds. Relevant documents supplementing the information should be enclosed or forwarded separately.

Information shall be submitted electronically via AltInn¹. Should this not be possible, the information may be submitted by means of a standardised form prepared by Økokrim.

¹ Translator's note: AltInn is an Internet-based reporting channel enabling business enterprises and private individuals to submit information to Norwegian public agencies.

Section 14. Disclosure of enquiries, reporting or investigation

The prohibition against informing third parties that enquiries, reporting or investigations are being conducted pursuant to section 21 of the Money Laundering Act, shall not apply to:

1. communication of information to the public prosecution authority or the authority that supervises compliance with the Money Laundering Regulations by the entity with a reporting obligation.
2. exchange of information between legal persons that belong to the same group, as defined in section 1–3 of the Norwegian Accounting Act, where these are:
 - a. legal persons as referred to in section 4, first paragraph, with the exception of (4), (8) and (9) of the Money Laundering Act, or an undertaking operating as an insurance intermediary,
 - b. legal persons subject to article 2 (1) (1) or (2) of Directive 2005/60/EC, or
 - c. corresponding legal persons in a state outside the EEA area that imposes requirements corresponding to those laid down in Directive 2005/60/EC, and compliance with the requirements is supervised.
3. Exchange of information between persons who conduct their professional activities within the same legal person or network, where these are:
 - a. persons as referred to in section 4, second paragraph (1) to (3) of the Money Laundering Act or an undertaking that, in return for remuneration, provide corresponding services,
 - b. persons subject to article 2 (1) (3) (a) or (b) of Directive 2005/60/EC, or
 - c. corresponding persons in a state outside the EEA area that imposes requirements corresponding to those laid down in Directive 2005/60/EC.

4. Exchange of information between persons as referred to in (2) (a) to (c) or (3) (a) to (c) concerning a common customer in a transaction involving the person concerned, provided that corresponding obligations are imposed on such persons as regards the duty of secrecy and protection of personal data.

By network as referred to in the first paragraph (3), is meant a structure that has common ownership, management or internal control of compliance with relevant rules.

Information that is exchanged pursuant to the first paragraph (2), (3) and (4) may only be used for prevention of transactions associated with proceeds of crime or offences subject to section 147a 147b or 147 c of the Penal Code.

Section 15 Special reporting of transactions associated with countries or areas which have not implemented satisfactory measures against money laundering and financing of terrorism, 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 acts as described in sections 317 and 147 b of the Penal Code.

Section 16 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 measures against money laundering and financing of terrorism, 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 acts described in sections 317 and 147 b of the Penal Code.

Chapter 4. Retention

Section 17. Retention of information

Copies of identity documents as referred to in sections 5 and 7 shall be marked “*rett kopi bekreftes*” [“certified true copy”] with the signature of the person who has applied the customer due diligence measures and the date the measures were applied.

Documents and information shall be retained in a medium that maintains legibility throughout the retention period.

Backup copies shall be kept of electronic material. The backup copy shall be stored separately from the original.

Chapter 5. Internal routines and systems, etc.

Section 18. Electronic surveillance systems

Financial institutions as referred to in section 4 , first paragraph (1), of the Money Laundering Act shall establish electronic surveillance systems for the purpose of identifying transactions that may be associated with proceeds of crime or offences subject to section 147a, 147b or 147 c of the Penal Code.

Kredittilsynet may by individual decision derogate from the first paragraph.

Chapter 6. Final provisions

Section 19. Procedures followed by Økokrim and the police

Økokrim shall prepare guidelines for its internal procedures in order to ensure adequate systems for receipt of information from entities with a reporting obligation and prevent access to such information by unauthorised persons.

The police shall keep entities with a reporting obligation informed of the status of the investigation of reported matters.

Section 20. Information on the payer accompanying a transaction in the payment chain

Annex IX No. 23d to the EEA agreement (Regulation (EC) No. 1781/2006) on information on the payer accompanying transfers of funds shall apply as regulations with the adjustments resulting from annex IX, protocol 1 of the Agreement and elsewhere in the Agreement.

Section 21. Commencement

These Regulations shall enter into force when so decided by the Ministry.

From the date these Regulations enter into force, the Regulations of 10 December 2003 No. 1487 concerning measures to combat money laundering of the proceeds of crime, etc. (Money Laundering Regulations) shall be repealed.

The obligation to terminate customer relationships pursuant to section 8 shall apply only to customer relationships established after the entry into force of these Regulations.