INFORMATION OVERVIEW ON HIGH-RISK THIRD COUNTRIES AND APPLICABLE REQUIREMENTS

1. Purpose and objective of the information

The main purpose of this information on high-risk third countries is to ensure effective prevention of money laundering and terrorist financing by identifying countries where significant deficiencies in the prevention system of money laundering and terrorist financing have been identified.

The purpose of this information:

- **to inform** financial institutions and other obliged entities, as defined in the Law on the Prevention of Money Laundering and Terrorist Financing of the Republic of Lithuania (hereinafter – the LPMLTF), as well as supervisory and law enforcement authorities about the international lists in force;
- **to ensure compliance** with international and Lithuanian legal acts;
- **to ensure proper risk assessment and management** by identifying high-risk third countries, applying enhanced customer due diligence measures, and developing a practical awareness of the necessity to apply such measures when dealing with customers or transactions from high-risk jurisdictions;
- **to contribute** to the reduction of the risk of money laundering and terrorist financing in Lithuania and to the strengthening of the effectiveness and resilience of the national prevention system.

2. High-risk third countries identified by the European Commission

2.1. High-risk third countries – the countries recognised as having strategic deficiencies in their national anti-money laundering and terrorist financing systems that pose a significant threat to the integrity of the financial system of the European Union (hereinafter – the EU).

2.2. The list of high-risk third countries is based on:

- 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[1].

- On the basis of the powers conferred by Directive (EU) 2015/849, the European Commission adopts delegated acts (i.e. Delegated Regulation (EU) 2016/1675[2] or subsequent delegated regulations supplementing or amending Regulation (EU) 2016/1675) to include specific countries in the high-risk list.

The EU bases its list of high-risk third countries on clearly defined criteria set out in EU legal acts and international standards, in particular in the guidelines of the Financial Action Task Force (FATF).

2.3. Assessment criteria used by the EU in drawing up the list of high-risk third countries:

The EU list of high-risk third countries is drawn up in accordance with the methodology approved by the EC and with reference to the assessment criteria defined therein[3].

2.4. The EU list of high-risk third countries is published officially and is accessible through this link: https://finance.ec.europa.eu/financial-crime/anti-money-laundering-and-countering-financing-terrorism-international-level_en

2.5. Updating the EU list of high-risk third countries.

The European Commission regularly reviews and updates the EU list of high-risk third countries, taking into account the calendar of FATF plenary meetings. During each update of the list, countries can be both added to and removed taking into account the FATF lists and the assessment carried out by the EU on its own. Under the urgency procedure, a delegated act may be adopted within shorter time limits, therefore, it is necessary to regularly monitor information on delegated regulations adopted by the European Commission in order to be sure of changes to the list of high-risk third countries.

3. High-risk third countries identified by the Financial Action Task Force on Money Laundering and Terrorist Financing (FATF)

The FATF continuously identifies and reviews jurisdictions with strategic deficiencies in countering money laundering and terrorist financing that present a risk to the international financial system and

[1] Directive 2015/849 - EN - EUR-Lex
[2] Delegated Regulation - 2016/1675 - EN - EUR-Lex
[3] https://finance.ec.europa.eu/financial-crime/anti-money-laundering-and-countering-financing-terrorism-international-level/eu-methodology-identification-high-risk-third-countries_en?utm_source=chatgpt.com

closely monitors their progress. The FATF reviews jurisdictions based on threats, vulnerabilities, or particular risks arising in the jurisdiction[4].

Taking into account the scale and nature of risks, the FATF compiles and publishes two lists, which are updated three times a year: Jurisdictions under Increased Monitoring (the "grey list") and High-Risk Jurisdictions subject to a Call for Action (the "black list").

3.1. FATF "grey list"

1. The countries are subject to increased monitoring.
2. These are countries that have strategic deficiencies in countering money laundering, terrorist financing and the proliferation of weapons of mass destruction, but are cooperating with the FATF.
3. The list of the countries that have committed to implement action plans within the set timeframes.

3.2. FATF "black list"

The "black list" is the list of countries with serious strategic deficiencies in their systems for countering money laundering, terrorist financing, and financing of the proliferation of weapons of mass destruction. These countries are considered insufficiently cooperative with the FATF.

3.3. The FATF lists are published officially and are accessible through this link:

https://www.fatf-gafi.org/en/countries/black-and-grey-lists.html.

4. Requirements for financial institutions and other obliged entities

The lists of high-risk third countries drawn up by the European Commission and the FATF are extremely important in countering money laundering and terrorist financing. These lists must be taken into account when applying enhanced customer due diligence, which is considered one of the key measures for effective risk management. One of the main legal bases establishing the requirement to take these lists into account is Article 14 of the LPMLTF. The provisions of this Article specify the cases when financial institutions and other obliged entities must apply enhanced customer due diligence measures, including in cases where transactions or business relationships are carried out with natural persons or legal entities from high-risk third countries included in the lists compiled by the EC or the FATF.

[4] https://www.fatf-gafi.org/en/topics/high-risk-and-other-monitored-jurisdictions.html.

Given the importance of these lists and their significance for the risk management process, the provisions of Article 14 of the LPMLTF, which transpose international requirements into and implement them in national legal regulations by imposing clear obligations for financial institutions and other obliged entities, are discussed below.

4.1. Article 14(1)(3) and (4) of the LPMLTF state that financial institutions and other obliged entities must apply enhanced customer due diligence by applying additional customer and beneficial owner identification measures:

– where transactions or business relationships are carried out with natural persons residing or legal entities established in high-risk third countries as identified by the European Commission. After assessing the risk, enhanced customer due diligence measures shall not be obligatory in respect of branches or subsidiaries of financial institutions or other obliged entities established in the European Union, in which they hold the majority of shares and which are located in high-risk third countries as identified by the European Commission, provided that those branches or subsidiaries comply with the group-wide requirements equivalent to those established by this Law;

– where transactions or business relationships are carried out with natural persons resident or legal entities established in high-risk third countries determined according to the lists of countries with serious strategic deficiencies to counter money laundering and/or terrorist financing published by the Financial Action Task Force on Money Laundering and Terrorist Financing.

4.2. Article 14(1^1) of the LPMLTF.

When carrying out enhanced customer due diligence with respect to transactions or business relationships involving natural persons residing or legal entities established in high-risk third countries as identified by the European Commission, financial institutions and other obliged entities must:

(1) obtain additional information on the customer and on the beneficial owner;

(2) obtain addition information on the intended nature of the business relationship;

(3) obtain information on the source of funds and source of wealth of the customer and of the beneficial owner;

(4) obtain information on the reasons for the intended or performed transactions;

(5) obtain the approval of a senior manager for establishing or continuing business relationships with such customers;

(6) conduct enhanced ongoing monitoring of business relationships with these customers by increasing the number and timing of controls applied, and selecting patterns of transactions that need further investigation;

(7) ensure that, when an account is opened for a customer, the first payment by the customer is made through that customer's account held with a credit, payment or electronic money institution, where the credit, payment or electronic money institution is registered in a Member State of the European Union or in a third country which imposes requirements equivalent to those laid down in this Law, and is supervised by competent authorities for compliance with these requirements.

4.3. Article 14(4^2) of the LPMLTF.

Based on the results of the National Risk Assessment of Money Laundering and Terrorist Financing, when a high level of money laundering and terrorist financing risk related to natural persons residing or legal entities established in a specific high-risk third country as identified by the European Commission is determined in the Republic of Lithuania, the Director of the Financial Crime Investigation Service may require financial institutions and other obliged entities, in addition to the obligations laid down in paragraph 4^1 of this Article, to apply, as long as this level of risk is assessed as high in the Republic of Lithuania, one or more of the following additional measures to decrease the risks posed by natural persons residing or legal entities established in high-risk third countries as identified by the European Commission:

(1) to apply additional measures of enhanced monitoring of business relationships mitigating money laundering and/or terrorist financing risk;

(2) to enhance reporting of suspicious monetary operations and transactions;

(3) to limit business relationships or transactions with natural persons residing or legal entities established in high-risk third countries as identified by the European Commission.

4.4. Article 14(5) of the LPMLTF.

When applying enhanced customer due diligence in the cases where transactions and business relationships are carried out with natural persons residing or legal entities established in high-risk third countries identified according to the lists of countries with serious strategic deficiencies to counter money laundering and/or terrorist financing published by the Financial Action Task Force on Money Laundering and Terrorist Financing, and in the cases where higher risk of money laundering and/or terrorist financing is identified based on the risk assessment and management procedures laid down by financial institutions or other obliged entities, the financial institutions and other obliged entities shall, in accordance with the procedures specified in this paragraph, apply one or more additional customer or beneficial owner identification measures at their own discretion to decrease the risks posed and must:

(1) obtain approval from a senior manager for establishing or continuing business relationships with such customers;

(2) take adequate measures to establish the source of wealth and the source of funds that are involved in the business relationships or transaction;

(3) perform enhanced ongoing monitoring of business relationships with such customers.

5. Practical examples

Example is applicable if the customer is a natural person or a legal entity

Situation: a customer from a high-risk third country (e.g., Syria) contacts a financial institution or another obliged entity. Before establishing a business relationship with the customer from a high-risk third country, the obliged entity must:

➢ **Carry out the identification of the customer and the beneficial owner:**

- perform customer and beneficial owner identification procedures in accordance with the identification methods set out in Articles 10–11 of the LPMLTF, ensuring the verification of the authenticity and validity of documents or data;
- verify the identity of the customer and the beneficial owner using reliable and independent sources (e.g., databases, public registers);
- take other actions to properly identify and verify the identity (assess whether the customer or the beneficial owner is a politically exposed person, establish and verify the identity of the representative (if applicable), make sure that the information collected is complete and accurate, etc.).

➢ **Collect additional information about the customer and transactions:**

- about the customer: nature and objectives of activities, beneficial owners;
- about planned transactions: amounts, frequency, partners, countries.

➢ **Carry out an individual risk assessment of the customer (based on the characteristics of the customer, products and their delivery channels, territory):**

- assess the nature of activities of the customer;
- assess the jurisdiction (whether the customer is from countries with a high risk of money laundering and/or terrorist financing);
- assess the products offered/transactions, their structure and nature.

➢ **Identify the source of funds and wealth:**

- request documents to prove the origin of funds and wealth (e.g., employment contracts, financial statements, inheritance documents, etc.);
- assess whether the funds are logically consistent with the customer's profile.

➢ **Obtain the approval from a senior manager:**

- document the decision before commencing or continuing business relationships with the customer;
- the manager must sign a confirmation that the risk is understood and accepted;
- the decision must be documented and justified by a risk assessment.

- **Perform enhanced monitoring:**
  - apply enhanced ongoing monitoring of customer activities and transactions;
  - establish more frequent updates of the information collected during customer due diligence;
  - use IT solutions to detect red flags.

***When carrying out enhanced customer due diligence with respect to transactions or business relationships involving natural persons residing or legal entities established in high-risk third countries as identified by the European Commission, financial institutions and other obliged entities must:**

1. obtain additional information on the customer and on the beneficial owner;
2. obtain addition information on the intended nature of the business relationship;
3. obtain information on the source of funds and source of wealth of the customer and of the beneficial owner;
4. obtain information on the reasons for the intended or performed transactions;
5. obtain the approval of a senior manager for establishing or continuing business relationships with such customers;
6. conduct enhanced ongoing monitoring of business relationships with these customers by increasing the number and timing of controls applied, and selecting patterns of transactions that need further investigation;
7. ensure that, when an account is opened for a customer, the first payment by the customer is made through that customer's account held with a credit, payment or electronic money institution, where the credit, payment or electronic money institution is registered in a Member State of the European Union or in a third country which imposes requirements equivalent to those laid down in this Law, and is supervised by competent authorities for compliance with these requirements.