

Consequences facing companies inadequately prepared for tax audit 1/7/21



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Information published by the Latvian State Revenue Service (“SRS”) on sanctions they have imposed on persons that are subject to the Anti Money Laundering and Counter Terrorism and Proliferation Financing (“AML/CTPF”) Act for breaching* this Act and the International and National Sanctions Act, with data for 2020 and 2021, shows a large number of breaches and a lack of awareness of what the two Acts require and whether a company fits the definition of “subject” within the meaning of the AML/CTPF Act.

A problem commonly arises where companies read the AML/CTPF Act and do not view themselves as subject to it because they fail to consider certain cases where they qualify, for instance:

- Lending to a group company;
- Providing accounting services or legal advice to group companies;
- Providing intragroup financial or management advice.

These are just a few examples, and each company’s core business activity and services it provides should be assessed on their merits through a careful examination.

Industries with most breaches detected

- External accountants and tax consultants
- Legal service providers
- Agents and intermediaries in real estate transactions
- Vehicle dealers
- Crediting service providers
- Company acquisitions or sales

Commonly breached sections

The AML/CTPF Act: sections 6, 7, 8(2), 9, 10, 18(1) and (3), 20, 22(1-2), 25, 30, 37, and 37.2

The Sanctions Act: sections 13.1 and 45(3)

The essence of breaches detected

- The company’s internal AML/CTPF control system is incomplete.
- The company has not set up an internal control system for managing sanctions risk.
- The company does not have procedures in place for assessing sanctions risk.
- The company has not updated its internal control system and has not conducted a risk assessment or documented it.
- The company has not evaluated the adequacy and reputation of its compliance officer.
- The company has not duly notified the SRS of appointing an officer in charge.

- The company has not provided training to the officer in charge.
- The company has not ensured that the officer in charge is familiar with AML/CTPF legislation.
- The company is unable to present identification and investigation documents for all customers.
- The company has not identified ultimate beneficial owners.
- The company has not verified whether the ultimate beneficial owner is a politically exposed person.
- The company has not supervised or evaluated a customer's transactions.
- The company has not reported a suspicious transaction to the Financial Intelligence Unit.
- The company has not duly notified its line of business to the SRS.
- The company has not duly notified the SRS of changes to its officers in charge.
- The company has not conducted an adequate customer financing risk assessment.
- The company has not fulfilled the SRS's demand for conducting a review and presenting the documents requested.

Decisions made

- Levy a fine (from EUR 100 to 3,000).
- Suspend operations and impose a ban on registering changes on the commercial register for the company's reorganisation and change of shareholders.
- Suspend business operations.

The information published by the SRS leads to the conclusion that the internal control system and the required knowledge of AML/CTPF should be updated each year to avoid breaches and fines.

You are welcome to attend PwC's Academy online seminar on 22 February "How to get ready for an AML review by the SRS," where you will learn about the latest developments in this area and about the requirements for persons subject to the AML/CTPF Act. You will also have a chance to ask questions and receive a certificate of the knowledge you have acquired.

*Source: <https://www.vid.gov.lv/lv/atbildiba-par-likuma-prasibu-parkapsanu>