

**Internal Control System Guidelines for Sworn Advocates  
Of the Collegium of Sworn Advocates of Latvia  
“Prevention of Money Laundering and Terrorism and Proliferation Financing  
and Compliance with the International and National Sanctions”  
(Abbreviated names: Internal Control System Guidelines / ICS Guidelines / the  
Guidelines)**

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Advocacy Law of the Republic of Latvia  
and  
Section 45, Part (1), paragraph 2, and  
Section 46, Part (2), paragraph 1 of the  
Law on Prevention of Money Laundering and Terrorism and Proliferation Financing  
and  
Section 13, Part (4<sup>4</sup>) and Section 13.<sup>1</sup> of the Law on International Sanctions and  
National Sanctions of the Republic of Latvia*

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## Preamble

(1) Internal Control System Guidelines of the Collegium of Sworn Advocates of Latvia (hereinafter – the ICS Guidelines) has been issued in accordance with the Advocacy Law of the Republic of Latvia, the Law on Prevention of Money Laundering and Terrorism and Proliferation Financing, and the Law on International Sanctions and National Sanctions of the Republic of Latvia, and published at [www.advokatura.lv](http://www.advokatura.lv),

(2) The ICS Guidelines has been developed with due regard to the FATF Recommendations of 23 October 2008 to the representatives of legal profession and the FATF Guidelines of 26 June 2019 for the representatives of legal profession, published at <https://www.fatf-gafi.org/> un [www.advokatura.lv](http://www.advokatura.lv),

(3) Whereas Section 92 of the Satversme (Constitution) of the Republic of Latvia guarantees every person's right to protection of their rights and legitimate interests at fair court,

(4) Whereas the right of each person to defense including the right to choose the position of defense and to attract a defense counsel of their own choice is enshrined in Section 20 of the Criminal Procedure Law,

(5) Whereas procedural immunity of an advocate in rendering of legal assistance is enshrined in Section 122 of the Criminal Procedure Law,

(6) Whereas confidentiality obligation of an advocate in relation to the information collected in the course of provision of legal assistance is enshrined in Paragraph 2.3 of the Code of Ethics of Sworn Advocates of Latvia,

(7) Whereas, according to the provisions contained in Section 3, Part One, paragraph 4, sub-paragraphs a-d of the Law on Prevention of Money Laundering and Terrorism and Proliferation Financing, an advocate is the subject of the said law whenever they, acting in the name and on behalf of their clients, take any professional actions related to transactions of certain category, namely: (a) purchase or sale of real estate, equity shares in a commercial company; (b) management of the clients' funds, finance instruments and other assets; (c) opening and operation of all types of accounts with credit institutions or finance institutions; (d) establishing, management of provision of operation of legal formations as well as making investments required for the establishing, management or operation of a legal formation,

(8) Whereas, according to Section 2, Part Two of the Law on International Sanctions and National Sanctions of the Republic of Latvia, the Law is applicable to all persons (including advocates – editorial remark), and they have the duty to abide by and comply with the international and national sanctions,

(9) Whereas, according to the provisions contained in Section 31.<sup>4</sup> of the Law on Prevention of Money Laundering and Terrorism and Proliferation Financing, the reporting obligation of an advocate has to be made subject to a precise border between compliance with the reporting obligation and with the confidentiality obligation,

(10) Whereas, taking into consideration that no measures taken for prevention of money laundering and terrorism and proliferation financing may impose restrictions to free access to legal assistance according to the legal objectives of the provision thereof,

(11) Whereas the key principles that govern the professional activities of advocates including the confidentiality obligation and ensuring of a person's right to defense, must be adhered to along with the rules that restrict the activities of advocates,

(12) Whereas compliance with the requirements of the ICS Guidelines enables advocates to evade eventual involvement in money laundering and terrorism and proliferation financing as well as contributes to the compliance with the international and national sanctions,

(13) Whereas relations of an advocate and a client are based on their mutual agreement, yet according to Section 67 of the Advocacy Law of the Republic of Latvia, confidentiality obligation of an advocate only extends not only to the period of handling a case and the post-trial period but also to the occasion where an advocate only familiarizes with description of situation by the potential client without undertaking the handling of the case in question,

(14) Whereas due diligence, continuous supervision and custody of the client's files is occasionally required to achieve the goal stipulated in the Law on Prevention of Money Laundering and Terrorism and Proliferation Financing,

(15) Whereas subjects of the Law on Prevention of Money Laundering and Terrorism and Proliferation Financing are obligated to comply with requirements of the said law regardless of the results of risk assessment, except the due diligence obligation,

(16) Whereas the provision of legal assistance cannot be burdened with additional duties that exceed beyond the advocate's competence and contradicts with the legitimate objectives of the provision of legal services,

(17) Whereas an advocate is unable to properly perform the duty to advise, defend and represent a client and the client, on the turn, is prevented from enjoying the guaranteed right to fair court if in the course of legal proceedings or preparatory stage thereof the advocate has to cooperate with governmental institution and provide to them the information collected in the course of providing legal assistance to, representing or defending the client,

(18) Whereas compliance with requirements of the Law on Prevention of Money Laundering and Terrorism and Proliferation Financing and the Law on International Sanctions and National Sanctions of the Republic of Latvia require development and uniform application of additional recommendations,

(19) Whereas the Council of Sworn Advocates of Latvia has approved the ICS Guidelines available to each advocate that prescribes the set of measures required to ensure compliance with the requirements of the Law on Prevention of Money Laundering and Terrorism and Proliferation Financing and the Law on International Sanctions and National Sanctions of the Republic of Latvia,

(20) Whereas the set of measures to be taken by an advocate to ensure compliance with the requirements of the Law on Prevention of Money Laundering and Terrorism and Proliferation Financing and the Law on International Sanctions and the National Sanctions of the Republic of Latvia depends on specifics of the activities and legal assistance provided by an advocate, the ICS Guidelines is developed with the view to establish common guidelines to serve as basis for advocates to determine their individual rules of action as appropriate to the identified risk and to apply more stringent risk elimination measures where appropriate.

## **Chapter I. General Provisions**

### **1. Terms used in the Guidelines**

**1.1. Responsible Person** – a person responsible for compliance with requirements of the Guidelines:

1.1.1. An individually practicing advocate where legal assistance is provided by the advocate;

1.1.2. (Subparagraph has been excluded by the decision of the Council of Sworn Advocates of Latvia No. 366 of 9 November 2021 (minutes No.14));

1.1.3. member or authorized member where legal assistance is provided by a law firm - partnership registered with the Commercial Register in accordance with the Commercial Law;

1.1.4. board member or authorized board member where legal assistance is provided by a law firm – limited liability company registered with the Commercial Register in accordance with the Commercial Law.

**1.2. Provision of Occasional Legal Assistance** – provision of one-off/temporary/occasional legal assistance that features no continuous nature.

**1.3. Dual Use Goods** – goods intended for dual (civil and military) use (such as equipment, materials, chemical substances, software, technologies) and services (such as transportation, brokerage, transit) listed in Annex 1 to the Council Regulation (EC) No. 428/2009, Annex 2 to the Council Regulation (EU) No. 833/2014, Common Military List of the European Union and the National List of Goods and Services of National Importance of the Republic of Latvia.

**1.4. FCMC** – Finance and Capital Market Commission.

**1.5. FCMC Normative Regulations** – Normative Regulations of Finance and Capital Market Commission No. 16 of 11 August 2020 “Regulations concerning sanction risk management”.

**1.6. Guidelines** – this Internal Control System Guidelines for Sworn Advocates of the Collegium of Sworn Advocates of Latvia “Prevention of Money Laundering and Terrorism and Proliferation Financing and Compliance with the International and National Sanctions (abbreviated names – Internal Control System Guidelines / ICS Guidelines / the Guidelines).

**1.7. Client Transaction** – the below-listed types of transactions:

1.7.1. Purchase and sale of real estate, equity shares in a commercial company;  
1.7.2. Management of the client's funds, finance instruments and other assets;  
1.7.3. opening and operation of all types of accounts with credit institutions or finance institutions;

1.7.4. establishing, management of provision of operation of legal formations as well as making investments required for the establishing, management or operation of a legal formation, as well as opening and operating of all types of accounts with credit institutions or financial institutions;

**1.8. The Law** – The Prevention of Money Laundering and Terrorism and Proliferation Financing.

**1.9. National Sanctions** – restrictions applied by the Cabinet to a subject of sanctions in accordance with the regulatory acts of Latvia and the international law.

**1.10. ML** – money laundering.

**1.11. OFAC** – Sanctions of the Office of Foreign Assets Control of the United States Department of the Treasury.

**1.12. Provision of Regular Legal Assistance** – provision of legal assistance on long-term basis on the grounds of agreement on the provision of legal assistance entered into by the advocate and the client.

**1.13. PF** – financing of production, storage, handling, use or distribution of mass destruction weapons (proliferation).

**1.14. Sanctions Law** – the Law on the International and National Sanctions of the Republic of Latvia.

**1.15. Subject of Sanctions** – a subject of the international public law, a natural or legal entity, or another identifiable subject to which international or national sanctions apply.

**1.16. International Sanctions** – restrictions applied to a subject of sanctions in accordance with the Law on International Sanctions and National Sanctions of the Republic of Latvia as adopted by the United Nations Organization, the European Union or another international organization to which Latvia is a State Party, and as directly applied or implemented in Latvia in accordance with the procedure prescribed by the Law on the International and National Sanctions of the Republic of Latvia.

**1.17. Strategic Goods** – systems, equipment, components, supplies, chemical substances, items, software, technologies and services listed in Annex 1 to the Council Regulation 428/2009, Annex 2 to the Council Regulation 833/2014, Common Military List of European Union and National List of Strategic Goods and Services of the Republic of Latvia.

**1.18. TF** – terrorism financing.

**1.19.** Other terms used in these Guidelines correspond with the definitions provided in Section 1 of the Law and Section 1 of the Sanctions Law.

## **2. Subjects of Guidelines**

2.1. Subject of the Guidelines include the persons listed in Section 4 of the Advocacy Law of the Republic of Latvia and law firms registered with the Commercial Register in accordance with the Commercial Law as partnerships and limited liability companies (hereinafter – **Advocates**).

2.2. An Advocate shall be free to delegate the performance of specific assignments or duties to their employees or authorized representatives to ensure compliance with the requirements of the Guidelines, the Law and the Sanctions Law. Such delegation shall not release the Responsible Person from liability for non-compliance with requirements of the Guidelines, the Law and the Sanctions Law.

## **3. Purpose of the Guidelines and Internal Control System**

3.1. The Guidelines prescribes the set of measures required to ensure compliance with the requirements of the Law and the Sanctions Law to prevent any involvement of Advocate in ML/TF/PF or evasion of the national and international sanctions.

3.2. Each Advocate shall establish and implement the following elements of internal control system proportionate to the nature and size of the Advocate concerned (Section 6, Part 1 of the Law and Section 13.<sup>1</sup>, Part 1 of the Sanctions Law):

3.2.1. Assessment of professional activity risk of the Advocate in terms of prevention of ML/TF/PF and compliance with the International and National sanctions.

3.2.2. Internal procedure for prevention of ML/TF/PF and compliance with the International and National sanctions.

3.3. Advocates shall also establish the internal control system if their professional activities are not subject to application of the Guidelines in terms of prevention of ML/TF/PF in accordance with Subparagraph 4.2 of the Guidelines.

3.4. Advocates shall conduct assessment of their professional activity risk in the field of prevention of ML/TF/PF and compliance with the International and National sanctions with due regard to (Section 6, Part 1<sup>1</sup> of the Law):

3.4.1.1. the risks identified by the European Commission in their assessment of money laundering and terrorism financing risks (hereinafter – the European Union Risk Assessment) (published on the website of the Financial Intelligence Unit of Latvia at: <https://www.fid.gov.lv/lv/darbibas-jomas/nilltjpf-risku-novertejumi>);

3.4.1.2. the risks identified in the national report on prevention of money laundering and terrorism and proliferation financing risks (published on the website of the Financial Intelligence Unit of Latvia at: <https://www.fid.gov.lv/lv/darbibas-jomas/nilltjpf-risku-novertejumi>);

3.4.1.3. the risks listed in the methodic material of the Financial Intelligence Unit of Latvia – Features or risk indicators to suspect use of professional service

providers for ML, TF and PF purposes (classified information, published on the Website of the Collegium of Sworn Advocates of Latvia at [www.advokatura.lv](http://www.advokatura.lv) in restricted section “Supervisory and Control Committee (AMLTFPF-SL matters”));

3.4.1.4. the risks identified in sectoral risk assessment of advocates (published on the Website of the Collegium of Sworn Advocates of Latvia at: <https://advokatura.lv/lv/nilltpfnl-sl-jautajumi/zverinatu-advokatu-nilltpf-risku-novertejums/>);

3.4.1.5. other risks inherent to activities of the Advocate in question.

#### **4. Scope of Application of the Guidelines**

4.1. Requirements of Paragraph 5 of the Guidelines concerning the compliance with National and International sanctions are binding upon all Advocates regardless of their specialization and field of operation.

4.2. Unless expressly otherwise stipulated in these Guidelines, requirements of the Guidelines regarding the prevention of ML/TF/PF (Chapters II – V of the Guidelines) only extend to an Advocate who, acting in the name and on behalf of their client, provides legal assistance in the planning and implementation of or participates at transactions or takes other transaction-related professional actions on behalf of their client in relation to any transactions of the Client (Section 3, Part 1, Paragraph 4 of the Law).

4.3. Obligation to report on a suspicion transaction to the Financial Intelligence Unit of Latvia stipulated in Paragraph 18 of the Law also extends to Advocates on other occasions not listed in Subparagraph 4.2 of the Guidelines except in respect on the information that they obtain performing their task of defending or representing their clients in pre-trial criminal proceedings or in court proceedings or consulting on the initiation of or evasion from court proceedings. The reporting obligation also extends to occasions related to legal proceedings if there are reasonable grounds to suspect that the purpose of receipt of legal assistance is ML/TF/PF (Section 31.<sup>4</sup>, Part 5 of the Law).

On the occasions listed in Subparagraph 4.2 of the Guidelines, requirements of the Guidelines and the Law in relation to:

1) Suspending of the provision of legal assistance and decision-making regarding the premature fulfillment of the client's obligations,

2) Abstaining from implementation of a transaction do not apply if an Advocate is defending or representing clients in pre-trial or judicial proceedings or consulting on the initiation of or evasion from court proceedings (Section 11, Part 8 of the Law).

The reporting obligation stipulated in this Subparagraph shall not apply if the Advocate has completed the provision of legal assistance in question to the client.

4.4. In terms of prevention of ML/TF/PF, the Guidelines shall not apply to changes in the registries kept by the Enterprise Register of the Republic of Latvia unless such changes are related to the transaction specified in Subparagraph 4.2 of the Guidelines.

4.5. For the purpose of these Guidelines, pre-trial or judicial proceedings shall mean:



- 4.5.1. eventual proceedings (assessment of the chance to succeed in handling a case at court, development of litigation and pre-trial documents, conducting of settlement or mediation negotiations, etc.);
- 4.5.2. legal proceedings and representation at court in civil procedure;
- 4.5.3. arbitration procedure;
- 4.5.4. administrative procedure conducted by authority or court;
- 4.5.5. administrative offence cases;
- 4.5.6. constitutional court procedure;
- 4.5.7. pretrial criminal procedure and criminal procedure at court;
- 4.5.8. judgment enforcement procedure (recognition and enforcement of arbitration and court rulings, etc.).

## 5. Check for Sanctions

5.1. Prior to the provision of any legal assistance to clients, an Advocate shall check on the website of Financial Intelligence Unit of Latvia <https://sankcijas.fid.gov.lv/>, whether or not the client, the subjects controlling the client or ultimate beneficiary of the client is listed in the List of International or National Sanctions.

Screenshots of websites and other records that display the results of check for sanctions shall be kept in file by the Advocate.

5.2. Where requirements of the Guidelines for prevention of ML/TF/PF are applicable to an Advocate, the Advocate shall apart from the obligation stipulated in Subparagraph 5.1 of the Guidelines, fill in the form as per Annex No. 1 to verify whether or not the client, the subjects controlling the client or the ultimate beneficiary of the client is included in the list of International or National sanctions,

Where requirements of the Guidelines for prevention of ML/TF/PF are not applicable to an Advocate, as a part of client identification process the Advocate shall be entitled, based on risk assessment approach, to fill in the appropriate form as per Annex No. 3 to verify whether or not the client, the subjects controlling the client or the ultimate beneficiary of the client is included in the list of International or National sanctions, apart from the obligation stipulated in Paragraph 5.1 of the Guidelines.

5.3. As regards the existing clients, an Advocate shall identify the ultimate beneficiary of and the chain of subjects controlling the client at least every 24 (twenty-four) months, and as a rule whenever the Advocate becomes aware of the relevant changes.

5.4. An Advocate shall conduct the additional check stipulated in Subparagraph 5.5 of the Guidelines prior to assuming provision of any legal assistance on the following occasions:

5.4.1. where the Advocate is informed about any previous breaches or attempted breaches of sanctions by the client; or

5.4.2. information that follows from the merits of transaction or the available records shows that:

5.4.2.1. increased risk of sanction evasion exists (for example, the client or their ultimate beneficiary is a resident or national of a high risk third country);

5.4.2.2. the client is engaged in sale, production, export, import or transportation of strategic goods or dual use goods;

5.4.2.3. the client is engaged in export to, import from or transit transportation of goods via the countries listed in sanction lists or their neighboring countries, other than Member States of the European Union, or provides tourism services to the countries listed in sanction lists or their neighboring countries, other than Member States of the European Union.

5.5. On the occasions listed in Paragraph 5.4 of the Guidelines the Advocate shall conduct the following additional checks:

5.5.1. collect further information about the nature of transaction and the supporting documentation;

5.5.2. collect information about the other party of transaction and their ultimate beneficiaries to verify their information against the sanction lists;

5.5.3. Once the requirements stipulated in Subparagraphs 5.5.1 and 5.5.2 of the Guidelines are met, the Advocate shall, subject to the rules of the internal control system, either decide on provision of Temporary or Regular Legal Assistance or inform the Responsible Person and obtain their approval as appropriate.

5.6. The Advocate shall provide no legal assistance if an attempt of evasion or breach of the International or National Sanctions is reasonably suspected. Provision of legal assistance to the Subjects of Sanctions shall be permissible to ensure the constitutional rights of the Subject of Sanctions and on other exceptional occasions where the Responsible Person issues a separate decision on undertaking the provision of legal assistance to a Subject of Sanctions.

5.7. The requirements of Paragraphs 5.1-5.6 of these Guidelines shall also apply if the Advocate establishes as a result of the check stipulated in Paragraph 5.1 that the person is not a Subject of Sanctions yet individual sanctions of a Member State of the European Union or the North Atlantic Treaty Organization, such as OFAC sanctions, apply to such person.

5.8. Where no sufficient confidence in conformity of personal identification data with a person included in the lists of sanctions can be obtained by means of client due diligence (given that spelling of personal names may differ from language to language) or opinion is required from experts of the Ministry of Foreign Affairs regarding various sanctions-related situations, the Advocate/Responsible Person can apply for clarification to the Ministry of Foreign Affairs of the Republic of Latvia to the e-mail address: [sankcijas@mfa.gov.lv](mailto:sankcijas@mfa.gov.lv).

5.9. The requirements contained in Paragraphs 5.1-5.8 of the Guidelines shall not apply to provision of legal assistance in criminal procedure (except provision of legal assistance to the injured party).

5.10. The Advocate shall be entitled to remuneration for legal assistance provided within the scope of agreement on legal attendance from the Subject of Sanctions or a person included in the list of sanctions of a separate Member State of the European Union or the North Atlantic Treaty Organization, such as the OFAC List of Sanctions, yet it should be noted that collecting remuneration from the above-listed persons would be impossible where restrictions are imposed on such persons in the handling of their financial means.

Note: According to Chapter VIII “Regulation and Supervision of the Operation of the Financial Market and its Participants” of the Law on Latvijas Banka, Paragraphs 2 and 3 of the Transitional Provisions of the Law of Latvijas Banka, and Paragraph 19.2 of the FCMC Normative Regulations, a credit institution may provide financial services to a person included in the list of sanctions of a Member State of the European Union or the North Atlantic Treaty Organization where such services are required to compensate the costs incurred for provision of legal services to the person, provided that the credit institution has obtained written authorization from the Latvijas Banka to cover such costs. If this is the case, the Advocate’s client included in the list of sanctions of a separate Member State of the European Union or the North Atlantic Treaty Organization shall apply to the credit institution for authorization of payment of the Advocate’s invoice for legal assistance provided within the scope of agreement on legal attendance. If no sanction evasion attempt is established by the credit institution upon check of the Advocate’s invoice, the credit institution shall apply to the Latvijas Banka for authorization of payment against such invoice. The Advocate shall note that, as a part of check of the invoice issued by the Advocate, the credit institution shall assess the amount of the invoiced legal fee to determine whether or not it corresponds with the market price and whether or not it is incommensurably high compared to the Advocate’s invoices earlier paid by the Advocate’s client, if any.

5.11. The Advocate shall refrain from receipt of remuneration from third parties for provision of legal assistance to the Subject of Sanctions or persons included in the list of sanctions of a separate Member State of the European Union or the North Atlantic Treaty Organization, such as the OFAC List of Sanctions, because there is a risk that such behavior where remuneration is paid on behalf of the above-listed persons for any services provided to them can potentially be assessed as evasion of financial sanctions.

## **Chapter II. Client Due Diligence**

### **6. General Provisions**

6.1. Client due diligence measures mean a set of measures based on risk assessment whereby the Advocate (Section 11.<sup>1</sup>, Part 1 of the Law.):

6.1.1. identify the Client and verify the collected identification data;

6.1.2. identify the actual beneficiary and the chain of controlling subjects of the client, and establish whether the private individual in question is the ultimate beneficiary of the client;

6.1.3. collect and record information about the purpose and expected nature of the provision of Regular Legal Assistance and Occasional Legal Assistance;

6.1.4. undertake supervision of transactions in the course of provision of Regular Legal Assistance including checks to verify that transactions made in the course of provision of legal assistance are made in accordance with the information available to the Advocate regarding the client, their economic activities, risk profile and origin of their assets;

6.1.5. ensure storage, regular assessment and updating of the documents, personal data and information collected in the course of client due diligence in line with the related risks.

6.2. The Advocate shall conduct client due diligence (Section 11, Part 1 of the Law):

6.2.1. prior to the provision of Regular Legal Assistance (prior to executing agreement with the client);

6.2.2. prior to the provision of Occasional Legal Assistance where any of the following conditions is met in case of any preconditions listed in Subparagraph 4.2 of the Guidelines:

6.2.2.1. value of the client's transaction or a series of apparently related client's transactions is equal to or exceeds 15 000 euro;

6.2.2.2. transfer of funds including credit transfer, direct debit transfer, transfer of funds outside accounts or transfer of funds by means of payment card, electronic money instrument, mobile telephone, digital or other information technology device is effected in excess of 1000 euro;

6.2.2.3. purchase or sale transaction of cash foreign currency is effected where the value of a single transaction or a series of apparently related transactions exceeds 1500 euro;

6.2.3. where a ML/TF/PF or attempt thereof is suspected;

6.2.4. in case of suspect that the client due diligence data collected earlier are not reliable or appropriate

6.2.5. if the transaction uses virtual currency.

6.3. Where no information about whether or not the value of transaction amounts to the limit specified in Subparagraph 6.2.2 of the Guidelines is available at the time of provision of Occasional Legal Assistance, client due diligence shall be conducted as soon as it is clear that the value of client transaction amounts to the said limit.

6.4. The Advocate shall record all actions taken as a part of client due diligence and the results thereof. For the purpose of client due diligence, the Advocate shall fill in, or present to the client for filling in the form as per Annex No. 1 and fill in the form as per Annex No. 2 prior to the provision of legal assistance.

6.5. The Advocate must not commence or continue the provision of Regular Legal Assistance or provision of Occasional Legal Assistance to the person in question unless the Advocate is able to conduct the client due diligence measures stipulated in the Guidelines. The Advocate shall record and assess each such occasion and report to the Financial Intelligence Unit of Latvia on any suspected ML/TF/PF (Section 11, Part 7 of the Law).

6.6. The Advocate shall collect and record information about the purpose and expected nature of the Client's transaction including (Section 11.<sup>1</sup>, Part 6 of the Law):

6.6.1. Transactions in relation to which the Advocate services are expected;

6.6.2. Number and scope of expected transactions;

6.6.3. Economic or individual activities of the client for the purpose of which the respective services shall be used and, where appropriate, origin of the client's assets and origin of the welfare that features their financial condition.

6.7. Where the Advocate reasonably suspects ML/TF/PF and there are grounds to believe that continued client due diligence measures can lead to disclosure of such suspect to the client, the Advocate shall be entitled to decide on discontinuation of client

due diligence and report on suspicious transaction to the Financial Intelligence Unit of Latvia. The Advocate shall also describe in report to the Financial Intelligence Unit of Latvia any considerations that serve as grounds to conclusion that continued client due diligence measures would disclose the Advocate's suspect to the client (Section 11, Part 6 of the Law).

**6.8. The Advocate shall conduct repeated client due diligence if** (Section 11, Part 1, Para 5, 6; Section 11.<sup>1</sup>, Part 1, Para 5; Part 7 of the Law):

6.8.1. Any client-related material conditions change in the course of provision of legal assistance;

6.8.2. A legal obligation exists to contact the client at agreed times to review any relevant information related to the ultimate beneficiary;

6.8.3. Such obligation is prescribed by the Law on Taxes and Duties;

6.8.4. The Advocate reasonably suspects that client due diligence data collected earlier are not reliable;

6.8.5. ML/TF/PF is reasonably suspected; or

6.8.6. Regular updating of information and data takes place.

## **7. Client Identification**

7.1. The Advocate shall fill in form as per Annex No. 1 to summarize the information collected from the client in the course of client identification procedure. Once the Advocate has filled in the form they shall obtain written certification of accuracy of the filled in information from the client. Alternatively, the Advocate may present the form as per Annex No. 1 for filling in to the client, in particular when collecting of information required from the client for due diligence purpose is not otherwise available.

7.2. (Subparagraph has been excluded by the decision of the Council of Sworn Advocates of Latvia No. 366 of 9 November 2021 (minutes No.14)).

7.3. The Advocate may select remote identification of a client (i.e., without personal presence of the client at the identification procedure) in accordance with the Cabinet Regulations No. 392 of 3 July 2018 "Procedure for remote identification of a client by a subject of the Law on Prevention of Money Laundering and Terrorism and Proliferation Financing".

### **7.4. Identification of Private Individuals**

7.4.1. Identity of a private individual is verified against an identification document that contains the following information, and a copy of such document is made (Section 12, Part 1 of the Law):

7.4.1.1. In case of a resident – name, surname, personal number;

7.4.1.2. In case of a non-resident – name, surname, date of birth, personal photo, series number and date of issuing of the identification document, the country and authority that has issued the document.

7.4.2. Where a private individual is represented by another private individual, the Advocate shall identify the representative in accordance with Subparagraph 7.4.1 of the Guidelines and make a copy of the authorization document (Section 12, Part 2 of the Law).

7.4.3. Whenever verifying identity of a resident private individual against an identification document, the Advocate shall check whether or not the identification document is listed in the Register of Invalid Documents (Section 12, Part 3<sup>1</sup> of the Law) (<https://www.latvija.lv/epakalpojumi/ep22>).

7.4.4. The Advocate shall make copy of the produced identification document of a private individual and keep the copy in file.

### **7.5. Identification of Legal Entities**

7.5.1. The following shall be requested for identification of a legal entity (Section 13, Part 1 of the Law):

7.5.1.1. documents or publicly available information that confirms the name, legal form and establishing or legal registration of the legal entity;

7.5.1.2. provision of data regarding the registered address and actual business address or the legal entity if different from the registered address;

7.5.1.3. presentation of statutory document of the legal entity (Articles of Association, for example) and identification of representatives of the legal entity authorized to transact with the Advocate, including names and surnames of the persons who hold offices in managerial bodies of the legal entity, and presentation of a document or a copy thereof that confirms the authority to represent the legal entity, as well as identity check of such persons in accordance with Subparagraph 7.4 of the Guidelines.

### **7.6. Identification of Legal Formations**

7.6.1. A legal formation shall be identified by (Section 13, Part 1.<sup>1</sup> of the Law.):

7.6.1.1. requesting presentation of documents or public information that confirms the status, purpose of formation and name of the legal formation;

7.6.1.2. requesting provision of data regarding the registered address and actual business address of the legal formation if different from the registered address;

7.6.1.3. identifying the structure and management of the legal formation including the ultimate beneficiary and senior management members, as well as authorized representatives of the legal formation or persons with similar position;

7.6.1.4. conducting identity check of representative of the legal formation in accordance with Subparagraph 7.4 of the Guidelines.

7.7. Alternatively, the Advocate can identify a legal entity or a legal formation by obtaining the above-listed data from the Commercial Register, European Business Register or other publicly available, reliable and independent source. In this case, the Advocate documents the information regarding the source of information specified in Subparagraph 7.5 and 7.6 of the Guidelines (Section 13, Part 2, Section 14, Part 2 of the Law).

7.8. The Advocate can collect the data listed in the Guidelines for identification of a client upon receipt of advance payment from the client by transfer via a credit institution where the relevant data are available from such payment.

## **8. Identification of Ultimate Beneficiary**

8.1. The Advocate shall identify the ultimate beneficiary of the client and, based on risk assessment, take the actions necessary to establish whether or not the identified

ultimate beneficiary is the actual ultimate beneficiary of the client (conduct reliability check of ownership title of the ultimate beneficiary (Section 18, Part 1 of the Law).

8.2. The Advocate shall identify the ultimate beneficiary of the client by collecting at least the following information (Section 18, Part 2 of the Law):

8.2.1. In case of resident – name, surname, personal number, date, month and year of birth, citizenship, country of usual residence as well as the net weight of the client's equity shares or stock owned or controlled, directly or indirectly, including direct or indirect equity, against the total holding, as well as the form of directly or indirectly exercised control;

8.2.2. In case of non-resident – name, surname, date, month and year of birth, series number and date of issuing of identification document, the country and authority that has issued the document, citizenship, country of usual residence, as well as the net weight of the client's equity shares or stock owned or controlled, directly or indirectly, including direct or indirect equity, against the total holding, as well as the form of directly or indirectly exercised control;

8.2.3. In case of indirect control exercised by the persons listed in Subparagraphs 8.2.1. and 8.2.2. of the Guidelines, information about the person who serves as intermediary in exercising the control – name, surname, personal number (if a person has no personal number – date, month and year of birth); in case of legal entity or legal formation – name, registration No. and registered address. In case of control exercised via a legal formation, the name, surname and personal number (if a person has no personal number – date, month and year of birth) of the authorized person or a person in similar position shall be also identified.

8.3. The Advocate shall use the data or documents from the Company Register of the Republic of Latvia to identify the ultimate beneficiary of the client. Apart from that, based on risk assessment, the Advocate shall identify the ultimate beneficiary of the client in at least two of the following ways (Section 18, Part 3 of the Law):

8.3.1. obtain certified statement of the ultimate beneficiary from the client;

8.3.2. use the data or documents from information systems of the Republic of Latvia or a foreign country;

8.3.3. use other means to identify the ultimate beneficiary where no data are otherwise available (such as search tools on the Internet, for example).

Where a client of the Advocate is a legal entity registered in the Republic of Latvia, the requirement for identification of the ultimate beneficiary against the registries kept by the Enterprise Register of the Republic of Latvia shall be mandatory (<https://info.ur.gov.lv>).

8.4. Once the ultimate beneficiary of the client is identified (ownership is verified) in the manner prescribed by Paragraph 8.3 of the Guidelines, the Advocate, based on publicly available information or the information available privately to the Advocate regarding the client and the given assignment, shall check reliability of ownership of ultimate beneficiary of the client according to the following procedure:

8.4.1. identify the persons exercising control over the client;

8.4.2. identify the persons whose interests are pursued by the client;

8.4.3. assess other information.

8.5. Based on reliability check of ownership of ultimate beneficiary of the client as stipulated in Paragraph 8.4 of the Guidelines, the Advocate shall make one of the following conclusion and state it in Annex No. 2 to the Guidelines:

8.5.1. it is highly reliable that the specified (formal) ultimate beneficiary) is also the actual ultimate beneficiary;

8.5.2. there are reasonable grounds to suspect that the specified (formal) ultimate beneficiary) is not the actual ultimate beneficiary;

8.5.3. The person who holds the senior managerial office is to be considered the ultimate beneficiary.

8.5.<sup>1</sup> Where the Advocate establishes that information about the ultimate beneficiary collected in the course of client due diligence does not conform with the information recorded in the registries kept by the Enterprise Register of the Republic of Latvia, the Advocate shall promptly notify the Enterprise Register of the Republic of Latvia thereof within three business days and explain the merits of the established nonconformity specifying whether the information is eventually incorrect on its merits or a spelling error is established in such information (this subparagraph came into effect as from 1 July 2020 – cf. the wording of Section 18, Part 3.<sup>1</sup> of the Law as of 1 July 2020 and Paragraph 45 of the Transitional Provisions).

8.5.<sup>2</sup> The report to the Company Register of the Republic of Latvia stipulated in Sub-Paragraph 8.5.<sup>1</sup> hereof shall be filed in accordance with the procedure prescribed by the Guidelines approved by the Company Register of the Republic of Latvia “Guidelines for Reporting on information about beneficial owner eventually misreported to the Company Register of the Republic of Latvia” published on the website of the Collegium of Sworn Advocates of Latvia at <https://advokatura.lv/lv/nilltpfnl-sl-jautajumi/finansu-izlukosanas-dienesta-un-citu-instituciju-informacija/>.”

8.6. (Subparagraph has been excluded by the decision of the Council of Sworn Advocates of Latvia No. 366 of 9 November 2021 (minutes No.14)).

## **9. Enhanced Due Diligence of Client**

9.1. Enhanced due diligence of a client means risk assessment-based actions taken in addition to client due diligence and include one or more of the following measures as appropriate to risk assessment-based approach (Section 22, Part 1 of the Law):

9.1.1. collect and assess additional information about the client and their ultimate beneficiary, and check reliability of the collected additional information;

9.1.2. collect and assess additional information about the nature of proposed business relations;

9.1.3. collect and assess additional information about conformity of the client’s transactions with the specified economic activity;

9.1.4. collect and assess information about the origin of assets and welfare of the client and their ultimate beneficiary;

9.1.5. collect and assess information about substantiation of the proposed or completed transactions;

9.1.6. obtain approval to the engagement in or continuation of business relations from the Responsible Person;



9.1.7. conduct increased supervision of the business relations through increasing the number and frequency of control measures and determining the types of transactions subject to repeated inspection;

9.1.8. take other measures required to identify to their reasonable satisfaction the legal and economic nature of business relations or an occasional transaction.

9.2. To ensure that the requirement stipulated in Subparagraph 9.1.1 of the Guidelines is met, the Advocate shall request from the client presentation of a document that certifies the form of control exercised by the ultimate beneficiary over the client, as well as checks the information publicly available on the Internet resources regarding the client's activities (for example, the client's website, *Google Search* tool) (Section 22, Part 3<sup>1</sup> of the Law).

9.2.<sup>1</sup> The Advocate shall collect the additional information stipulated in the Subparagraph 9.1.2 and 9.1.3 of the Guidelines by checking the information publicly available on the Internet resources regarding the client's activities (for example, the client's website, *Google Search* tool) (Section 22, Part 3<sup>1</sup> of the Law):

9.3. If enhanced due diligence of a client is conducted, at least two of the approaches listed in Subparagraph 8.3 of the Guidelines shall be applied to identify the ultimate beneficiary.

9.4. The Advocate shall conduct enhanced due diligence of the client on the following occasions (Section 22, Part 2 of the Law):

9.4.1. Initiation and actual provision of Regular Legal Assistance or Occasional Legal Assistance to a client who has not been present in person at the identification procedure unless the following conditions are met:

9.4.1.1. the Advocate ensures that appropriate measures are taken to reduce ML/TF/PF risks including development of policies and procedures and instruction on remote identification procedure,

9.4.1.2. client identification by means of technical solutions including video identification or secure electronic signature, or other technological solutions is conducted in the scope and manner prescribed by the Cabinet Regulations No. 392 of 3 July 2018 "Procedure for remote identification of a client by a subject of the Law on Prevention of Money Laundering and Terrorism and Proliferation Financing";

9.4.2. Initiation and actual provision of Regular Legal Assistance or Occasional Legal Assistance to a client who is, or whose ultimate beneficiary is a politically exposed person, a family member of such person or a person closely related to a politically exposed person;

9.4.3. Where it is established upon initiation of business relations with a client or in the course of business relations that the client originates from a high risk third country (if this is the case, the Advocate shall take all measures listed in Paragraph 9.1) (Section 25<sup>1</sup>, Part 1 of the Law);

9.4.4. On other occasions of provision of Regular Legal Assistance or Occasional Legal Assistance to a client where the presence of high ML/TF/PF risk or risk of evasion of the International or National sanctions is established.

9.5. On the occasion described in Subparagraph 9.4 of the Guidelines the Advocate shall take one or more of the below-listed actions (Section 23, Part 1 of the Law):

9.5.1. obtain additional documents or information that confirms identity of the client;

9.5.2. examines the presented additional documents or obtain from a credit institution or financial institution registered in another Member State a confirmation that the client has business relations with such credit institution or financial institution and the institution has conducted client identification in person;

9.5.3. ensure that the first payment within the business relations is made from account opened in the name of the client with a credit institution subject to the ML/TF/PF prevention requirements stipulated in this Law or arising from legal acts of the European Union;

9.5.4. request personal presence of the client upon effecting of the first transaction;

9.5.5. in case of resident private individual – obtain information that confirms identity of the client from a document signed by the client with secure electronic signature.

9.6. When initiating the provision of Regular Legal Assistance or Occasional Legal Assistance to a client, the Advocate shall establish by means of risk assessment-based measures whether or not the client or their ultimate beneficiary is a politically exposed person, family member of a politically exposed person or a person closely related to a politically exposed person (Section 25, Part 1 of the Law) in at least two of the following ways (FID Guidelines for Management of Politically Exposed Persons Risk

<https://advokatura.lv/lv/nilltpfnl-sl-jautajumi/finansu-izlukosanas-dienesta-un-citu-instituciju-informacija/>;

<https://fid.gov.lv/darbibas-jomas/vadlinijas-tipologijas-riki>);

9.6.1. obtain statement certified by the client concerning a politically exposed person, family member of a politically exposed person or a person closely related to a politically exposed person;

9.6.2. use the data or documents from information systems of the Republic of Latvia or foreign countries including the database <https://www6.vid.gov.lv/PNP>; published by the State Revenue Service of the Republic of Latvia;

9.6.3. use other means to identify the ultimate beneficiary where such data are not otherwise available (for example, use search tools on the Internet).

9.7. Based on risk assessment, internal control system of an Advocate shall enable the Advocate to establish the fact that a client who is not a politically exposed person, family member of a politically exposed person or a person closely related to a politically exposed person at the time of initiation of business relations (provision of Regular Legal Assistance to the client) becomes such person after the initiation of business relations (provision of Regular Legal Assistance to the client) (Section 25, Part 2 of the Law).

9.8. Where the Advocate has established prior to or during the provision of Regular Legal Assistance that the client or their ultimate beneficiary is a politically exposed person, family member of a politically exposed person or a person closely related to a politically exposed person, the Advocate shall take the following actions (Section 25, Part 3 of the Law):

9.8.1. obtain approval from the Responsible Persons prior to the initiation of business relations (the precondition contained in this paragraph only applies in case of law firms);

9.8.2. take and record risk assessment-based steps to identify the origin of assets and welfare featuring financial condition of the client and their ultimate beneficiary. The Advocate shall establish the origin of assets and welfare that features the financial condition on the basis of information provided by the client and the publicly available information.

9.9. The Advocate shall implement enhanced monitoring of client's transactions when providing Regular Legal Assistance to a politically exposed person, family member of a politically exposed person or a person closely related to a politically exposed person (Section 25, Part 4 of the Law).

9.10. The Advocate, based on risk assessment, shall discontinue enhanced due diligence of the client due to the fact that the client is a politically exposed person, family member of a politically exposed person or a person closely related to a politically exposed person, where (Section 25, Part 5 of the Law):

9.10.1. the politically exposed person dies;

9.10.2. the politically exposed person holds no exposed political office any more for at least 12 months, and business relations of such persons no more present high ML/TF/PF risk.

### **Chapter III. Risks and Risk Assessment**

#### **10. Assessment of Client-Related Risk**

10.1. An Advocate shall assess the ML/TF/PF risk in accordance with this Chapter and fill in the form as per Annex No. 2.

10.2. Assessment of client-related risk shall include assessment of the risks listed in Subparagraph 10.3 of the Guidelines in their interdependent relation and their relation with the specific actual circumstances.

10.3. An Advocate shall assess the ML/TF/PF risk with due regard to the following (Section 11.<sup>1</sup>, Part 2 of the Law):

10.3.1 risks related to the client or their ultimate beneficiary;

10.3.2. risks related to legal form, ownership structure and behavior of the client;

10.3.3. risks related to economic or personal activities of the client or their ultimate beneficiary;

10.3.4. risks of residence or registration country of the client;

10.3.5. risks related to the services and products used by the client;

10.3.6. risks presented by the sources of supply of services and products.

10.4. An Advocate shall conduct risk assessment in accordance with the collected information contained in the form as per Annex No. 1 and collected from other publicly available, reliable and independent source.

10.5. If any information regarding any circumstances that affect ML/TF/PF risk is received following risk assessment, the Advocate shall conduct repeated assessment of risks (Section 11.<sup>1</sup>, Part 7 of the Law).

## 11. Categories of Risks

11.1. Clients of an Advocate shall be divided in low, medium and high ML/TF/PF risk clients according to the following characteristics:

11.1.1. **Low risk** – where no risk increasing factors are present and at least one risk decreasing factor is present;

11.1.2. **Medium risk** – where:

11.1.2.1. no risk increasing factors are present and no risk decreasing factors are present; or

11.1.2.2. no more than two risk increasing factors are present, and the Advocate classifies the client as a medium risk client on the basis of separate assessment;

11.1.3. **High risk** – where:

11.1.3.1. More than two risk increasing factors are present;

11.1.3.2. Less than three risk increasing factors are present, and the Advocate classifies the client as a high risk client on the basis of separate assessment.

11.1.3.3. At least one of the following conditions is met:

11.1.3.3.1. the client is a politically exposed person, family member of a politically exposed person or a person closely related to a politically exposed person;

11.1.3.3.2. there are reasonable grounds to suspect potential connection of the client of their ultimate beneficiary in ML/TF/PF regardless that no information is received from the Financial Intelligence Unit of Latvia regarding the client;

11.1.3.3.3. criminal procedure is instituted against the client and/or the client is convicted for ML/TF/PF;

11.1.3.3.4. according to the information received from the Financial Intelligence Unit of Latvia or other law enforcement authority, the client or their ultimate beneficiary is suspected for ML/TF/PF or International or National sanctions are imposed on them;

11.1.3.3.5 the client attempts to avoid provision of information or to conceal their economic activity;

11.1.3.3.6. the client is a shell formation;

11.1.3.3.7. the client has not been identified in person unless remote identification is conducted in accordance with Subparagraph 7.3 of the Guidelines.

## 12. Risk Increasing Factors

12.1. An Advocate shall use risk assessment-based approach taking into consideration and listing in Annex No. 2 all and any factors that objectively increase the risk of involvement or potential involvement of the client in ML/TF/PF, including the following risk increasing factors (Section 11.<sup>1</sup>, Part 3 of the Law):

12.1.1. the client is a legal formation – a company that manages private assets (a trust);

12.1.2. the client is a legal entity that emits, or is authorized to emit bearer shares (equity securities), or is owned by registered owners of equity shares held on behalf of the ultimate beneficiary;

12.1.3. ownership or shareholding structure of a client – legal entity is complicated or non-typical to the client's economic activities;

12.1.4. the client is an association, establishment or an equivalent legal formation without profit-gaining nature;

12.1.5. the client is a provider of legal formation establishment and operation services and has opened opens in their own name an account for handling of financial transactions on behalf of their clients;

12.1.6. commercial or private activities of the client are not related to the Republic of Latvia except where the client established business relations with a branch or representative office of a financial institution registered in the Republic of Latvia, or a parent/daughter company abroad, and commercial or private activities of the client are related to the country where such branch or representative office, parent or daughter company is situated (except where the client acquires certificates of an investment fund registered in the Republic of Latvia);

12.1.7. the client relies on services of a private banker in communication with the Advocate;

12.1.8. the client is using services, products or channels of their supply that facilitate anonymity;

12.1.9. the client is using services, products or channels of their supply that limit the due diligence or awareness of their personal and economic activities;

12.1.10. the client is making large cash transactions;

12.1.11. the client's transactions are made in unusual conditions;

12.1.12. the client is receiving payments from an unidentified third party;

12.1.13 the client is using new services, products or channels of their supply, or new technologies that are not typical to the industry;

12.1.14. the client or their ultimate beneficiary or the client's main cooperation partners are connected to an increased risk jurisdiction, that is, to a high risk third country or territory, including a county of territory:

12.1.14.1. classified by the Financial Action Task Force as a high risk and other monitored territories (<http://www.fatf-gafi.org/countries/#high-risk>);

12.1.14.2. identified by the European Commission as a high-risk third country that does not sufficiently fight money laundering and terrorist financing according to Commission Delegated Regulation (EU) 2022/229 of 7 January 2022 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R0229>);

12.1.14.3. listed in the list of low tax or tax free countries and territories in accordance with the Cabinet Regulations No. 333 of 27 June 2023 "List of Low Tax or Tax Free Countries and Territories";

12.1.14.4. characterized by high risk of corruption;

12.1.14.5. characterized by high level of criminal offences likely to result in ML/TF/PF;

12.1.14.6. subject to international or national sanctions or sanctions imposed by an individual Member State of the European Union or the North Atlantic Treaty Organization;

12.1.14.7. that provides funding or support to terrorist activities, or have terrorist organizations operating on their territories where such organizations are listed in the list of countries compiled by the countries or international organizations approved by the Cabinet that have compiled the lists of persons suspected for involvement of terrorist activities or production, storage, handling, use or distribution of mass destruction weapons;

12.1.14.8. that refuses to cooperate with the international organizations in the field of prevention of ML/TF/PF;

12.1.5. the client is engaged in any of the following commercial activities:

- 12.1.5.1. arrangement of gambling;
- 12.1.5.2. provision of encashment services;
- 12.1.5.3. brokerage in real estate transactions;
- 12.1.5.4. trade in precious metals and precious stones;
- 12.1.5.5. trade in weapons and ammunition;
- 12.1.5.6. provision of reinsurance services unless the service provider is appropriately licensed and subject to supervision, or rated in the category of investments by the international rating agencies;
- 12.1.5.7. provision of monetary services (such as cashier offices, currency exchange outlets, wire transfer agents or other service providers offering wire transfer possibilities);
- 12.1.5.8. provision of investment services and auxiliary services unless the service provider is appropriately licensed in a Member State or a third country where the requirements of regulatory acts in the field of prevention of money laundering and terrorism and proliferation financing are equivalent to those of legal acts of the European Union, and the service provider is subject to supervision;
- 12.1.5.9. provision of all types of consulting (such as finance, marketing, etc.) unless the service provider is appropriately licensed in a Member State or a third country where the requirements of regulatory acts in the field of prevention of money laundering and terrorism and proliferation financing are equivalent to those of legal acts of the European Union, and the service provider is subject to supervision.

### **13. Risk Decreasing Factors**

13.1. An Advocate shall assess the risk taking into consideration and listing in accordance with Annex No. 2 all and any factors that objectively decrease the risk of involvement or potential involvement of the client in ML/TF/PF.

13.2. The factors that decrease ML/TF/PF risk shall include, inter alia (Section 11.<sup>1</sup>, Part 4 of the Law):

13.2.1. effective ML/TF/PF prevention systems are in place in the country of residence or registration of the client;

13.2.2. the requirements applicable in the country of residence or registration of the client in the field of ML/TF/PF prevention correspond with the international standards adopted by the organizations responsible for defining standards in the field of ML/TF/PF prevention, and such requirements are complied with by the country;

13.2.3. the risk of corruption in the country of residence or registration of the client is low;

13.2.4. the risk of criminal offences likely to result in money laundering in the country of residence or registration of the client is low;

13.2.5. a client – private individual is only using their prime account for the purposes of the Law on Payment Services and Electronic Money;

13.2.6. the client is a merchant who has their shares listed in a regulated market in one or more Member States;

13.2.7. the client is the Republic of Latvia, a derived public entity, direct governmental authority or indirect governmental authority, or a share company controlled by the State or municipality;

13.2.8. the client is a company related to another client assessed by the Advocate as a low risk client in terms of ML/TF/PF risk, and the two clients have the same ultimate beneficiary.

## **Chapter IV. Supervision of Client Transactions and Storage of Documents**

### **14. Supervision of Client Transaction**

14.1. In the actual provision of legal assistance to their clients, the Advocate shall ensure (Section 8, Part 2, Section 20, Part 1 of the Law):

14.1.1. update information about the client's economic or personal activities at least every 18 (eighteen) months by checking the information about the clients' activities publicly available from the Internet resources (such as the client's website, *Google Search* tool);

14.1.2. continuously supervise the client's transactions to which the provided legal assistance is related to ensure that such transactions cannot be treated as suspicious.

14.2. As a part of supervision of the client's transactions, the Advocate considering the risk-based approach examine the nature and purpose of the transaction and to ensure that they are not considered suspicious provide enhanced monitoring of these transactions (Section 20. Part 2 of the Law):

14.2.1. to large, complicated transactions non-typical to the client, or to series of related transactions without apparent economic or clear legitimate purpose;

14.2.2. to transactions with participation of parties from high risk third countries.

14.3. In the actual provision of legal assistance to their clients, the Advocate shall update all information prescribed by the Guidelines (conduct repeated client due diligence in the scope prescribed by the Guidelines) about the client and their actual beneficiary one every 5 (five) years (Section 11.<sup>1</sup>, Part 1, Paragraph 5 of the Law):

14.4. The Advocate shall impose obligation on the client to timely notify of any changes in the information provided by the client and notify the client of the consequences of failure to provide the requested information.

### **15. Storage of Collected Documents, Data and Information**

15.1. The Advocate shall keep record of client due diligence and risk assessment documents and present or submit copies of such documents upon request to the Council of Sworn Advocates of Latvia or Financial Intelligence Unit of Latvia.

15.2. The Advocate shall maintain and keep five years after the completion of Regular Legal Assistance or Occasional Legal Assistance (Section 37, Part 2 of the Law):

15.2.1. all information collected in the course of client due diligence including:

15.2.1.1. information about domestic and international transactions of the client, domestic or international transactions of incidental nature and the respective accounts,

15.2.1.2. copies of client identification documents, results of client due diligence and results of analyzes performed on the client, the information obtained during the supervision of the client's transactions regarding the client's transactions and the purposes of the transactions as well as the available information collected by electronic means of identification, certification services within the meaning of Section

1, Para 10 of the Electronic Documents Law in accordance with the Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC and other technological solutions in the scope and manner established by the Cabinet;

15.2.1.3. information about the client;

15.2.1.4. the client's statement of their ultimate beneficiary and the chain of controlling subjects;

15.2.1.5. the client's statement concerning a politically exposed person, a family member of a politically exposed person or a person closely related to a politically exposed person;

15.2.3. information about all payments made by the client;

15.2.4. correspondence with the client including e-mail correspondence;

15.2.5. filled in Annexes No. 1, No. 2 and No. 3 to the Guidelines;

15.2.6. other documents collected in the course of client due diligence;

15.2.7. information about reports to the Financial Intelligence Unit of Latvia, to the State Revenue Service and to the State Security Service.

15.3. The above-mentioned document storage period can be fixed longer than five years on certain occasions upon instruction of the Financial Intelligence Unit of Latvia.

15.4. The Advocate shall be entitled to process and store in electronic form data collected in the course of client identification and due diligence concerning the clients, their representatives and ultimate beneficiaries.

15.5. After the expiration of the period for storage of documents and information as stipulated in Subparagraphs 15.2 or 15.3 of the Guidelines the Advocate shall destroy the documents and information in their possession collected pursuant to the Guidelines (Section 37, Part 2.<sup>1</sup> of the Law.).

## **Chapter V. Suspicious Transactions and Abstaining from Transaction**

### **16. Suspicious Transactions**

16.1. A suspicious transaction shall mean a transaction or action that gives raise to reasonably suspect that the involved funds are derived, directly or indirectly, from a criminal offence or related to TF/PF or attempt of any of the foregoing.

16.2. In supervision of the client's business relations or transactions of occasional nature the Advocate shall pay special attention to the typologies of suspicious transactions published on website of the FID and to risks featured in the client's activities as published on website of the State Revenue Service including:

16.2.1. Transactions involving goods: non-typical delivery route and manner; incommensurable acquisition price, prepayment; signs of falsification in documents; parties to the transaction have the same address, e-mail address or telephone number without any logical grounds; the delivery routes or intermediaries are situated in high risk jurisdictions or adjacent to jurisdictions subject to sanctions without any logical grounds;



16.2.2. Transactions involving movable and immovable property: incommensurable acquisition price of the immovable property/transport vehicle; acquisition of the property is financed by a non-financial company/a legal entity incorporated abroad; the loan issued for acquisition of the property is secured by a collateral issued by a foreign credit institution, rather than by the property; repayment of loan obligations takes place soon after the granting of the loan; the funds uses for repayment of the loan are received from a legal entity incorporated abroad; the loan has no economic substantiation;

16.2.3. Transactions involving cash funds: fund deposits and/or withdrawal in a manner non-typical to commercial activity of the legal entity; amount of cash transactions on the account of a client – natural entity does not conform with personal activities and needs of the client; explanation provided by the client regarding the origin of the cash funds is either suspicious or non-verifiable;

16.2.4. Transfer of clear funds: turnover of debit and credit amounts is similar without any logical explanation (transit account); transaction amounts are rounded non-typically to the companies engaged in the industry in question; accumulation and re-transfer of funds non-typical to the companies engaged in the industry in question; rotating movement of funds between accounts of a single client or several companies; non-typical transfers to suspicious accounts of companies incorporated abroad prior to or after public procurement tenders / transfers by legal entities to virtual money purses / to accounts held abroad by share companies registered in Latvia that are difficult to explain; account turnover of the company leads to suspect simulation of commercial transactions;

16.2.5. Behavioral features of the client: the client has difficulties in answering questions regarding commercial or personal activity, or the client consults another person, or attends accompanied by third parties without any logical explanation; the client's knowledge and competence is incommensurable with the performed or scheduled transactions without any logical explanation; the client substantiates the transaction by facts that are difficult or impossible to verify;

16.2.6. Transactions involving finance instruments: a transaction with non-marketable finance instrument the market value of which is impossible to estimate, and the client can provide no logical explanation; transaction price of the finance instrument notably differs from market value of finance instruments; reverse transactions are performed with finance instruments within a short period of time; a free of payment transfer enters the client's security account from a third party, or an outgoing payment is made in favor of a third party without any logical explanation; the client's knowledge and competence is incommensurable to the level of complicatedness of the finance instrument transactions without any logical explanation; rapid increase of the client's finance instrument portfolio; transactions performed without additional funding by banks or the client without any logical explanation;

16.2.7. other actual typologies of suspicious transactions as published on website of the FIU at <https://fid.gov.lv/darbibas-jomas/vadlinijas-tipologijas-riki>;

16.2.8. The documents presented by the client to support the transaction contain material legal inaccuracies or errors, or any relevant information is missing including (but not limited to) information regarding payment procedure and details or identifying information of the involved finance instruments;

16.2.9. The client avoids presenting information about the proposed or existing transaction, or lacks knowledge of material details of their commercial activity or the proposed transaction;

16.2.10. The client seeks advice on operation of companies registered in low tax jurisdictions in Latvia and presents detailed information about the prospective cooperation ways and mechanisms, without providing specific information about the involved businesses;

16.2.11. other actual risks featured in the client's activities as published on website of the State Revenue Service at <https://www.vid.gov.lv/lv/vadlinijas>.

16.3. A transaction shall be classified as suspicious if advice is issued in respect of a transactions that features at least one typology of a suspicious transaction listed in Subparagraphs 16.2.1-16.3.4, or a risk featured in the client's activities.

16.4. The Advocate shall check prior to each transaction whether or not the transaction is characterized by typology of a suspicious transaction or any risk featured in the client's activities.

## **17. Abstaining from Transaction**

17.1. An Advocate shall decide to abstain from a transaction if the same is related, or reasonably believed to be related to ML/TF/PF, or there are reasonable grounds to suspect that the involved assets are derived, directly or indirectly, from a criminal offence or related to ML/TF/PF or attempt thereof (Section 32, Part 1 of the Law).

17.2. If abstaining from transaction, the Advocate shall take no actions with the involved assets in possession of the Advocate until instruction is received from the Financial Intelligence Unit of Latvia to discontinue abstaining from the transaction or instruction to freeze the assets (Section 32, Part 3 of the Law).

17.3. If the Advocate abstains from transaction reasonably suspected to be related to ML/TF/PF or likely to serve as information facilitating evasion by the involved parties from liability, the Advocate shall be entitled to undertake the transaction and report on it upon completion to the Financial Intelligence Unit of Latvia (Section 36, Part 1 of the Law).

17.4. Subparagraph 17.3 of the Guidelines shall not apply to transactions by any persons on whom financial restrictions are imposed by the UN Security Council or the European Union (Section 36, Part 2 of the Law).

## **18. Reporting to the Financial Intelligence Unit of Latvia, to the State Revenue Service and to the State Security Service**

18.1. The Advocate shall report to the Financial Intelligence Unit of Latvia on each and every advised, proposed (intended), declared, initiated, suspended, performed or approved suspicious transaction in accordance with the procedure prescribed by the Cabinet Regulations No. 550 of 17 August 2021 "Regulations on the Procedure and Content of the Submission of Suspicious Transaction Reports and Threshold Declarations".

18.2. The reporting obligation shall also extend to any assets suspected to be derived, directly or indirectly, from a criminal offence or related to the financing of terrorism or proliferation or attempt of any such actions still not applied for the transaction or attempted transaction yet as well as to cases when there were sufficient grounds to establish a suspicious transaction, but due to insufficient attention or negligence, the reporting obligation has not been performed (Section 31.<sup>4</sup>, Part 1, Paragraph 2 of the Law).

18.3. The Advocate shall file report with the Financial Intelligence Unit of Latvia on the occasions prescribed herein via reporting system of the Financial Intelligence Unit of Latvia goAML (<https://goaml.fid.gov.lv>) upon registration in the capacity of Subject of the Law (Section 31.<sup>4</sup>, Part 1, Paragraph 1 and 2 of the Law).

18.4. The Advocate shall promptly notify the Financial Intelligence Unit of Latvia of abstaining from transaction no later than on the next following business day.

18.5. Whenever a suspicious transaction within the meaning of the Law is identified, the Advocate shall also promptly notify the State Revenue Service of a suspicious transaction undertaken by a person residing (registered) in the Republic of Latvia where at least one of suspicious features is present within the meaning of Section 22.2 of the Law on Taxes and Duties.

18.6. The Advocate shall perform notifying to the State Revenue Service stipulated in Subparagraph 18.5 of these Guidelines following the procedure prescribed by Subparagraph 18.1-18.3 of these Guidelines via reporting system of the Financial Intelligence Unit of Latvia goAML (<https://goaml.fid.gov.lv>) (Section 22.<sup>2</sup>, Part 1 and 5 of the Law “On Taxes and Fees”).

18.7. Whenever an Advocate becomes aware of any breach or attempted breach of sanctions, they shall promptly freeze without prior notice all and any funds and finance instruments possessed, held or controlled, directly or indirectly, in whole or in part, by the Advocate’s client – Subject of Sanctions, including the funds and finance instruments transferred to third parties if the Advocate is responsible for management of the funds or finance instruments in question, and notify the State Security Service and the Council of Sworn Advocates of Latvia (Sections 5 and 17 of the Sanctions Law) thereof in electronic form no later than on the next following business day and specify the following information:

18.7.1. the client and their ultimate beneficiaries – Subjects of Sanctions;

18.7.2. frozen financial assets or financial instruments of the Subject of Sanctions;

18.7.3. service refused to the Subject of Sanctions;

18.7.4. identified breach of sanctions including evasion or attempted evasion;

18.7.5. the established circumstances that lead to suspect eventual breach or evasion of sanctions.

18.8. If evasion or attempted evasion of sanctions is suspected in the enforcement of financial restrictions, the Advocate shall notify the Financial Intelligence Unit of Latvia within the term stipulated in Paragraph 18.7 and in the manner prescribed by the Guidelines (Section 17 of the Sanctions Law; Section 31.<sup>4</sup> of the Law).

18.9. The obligation stipulated in Paragraph 18.7 of the Guidelines shall not extend to the cases where legal assistance is provided by the Advocate in relation to removal of the client from the list of sanctions.

18.10. The Advocate shall provide the Council of Sworn Advocates of Latvia with the availability of reports submitted to the Financial Intelligence Unit of Latvia (including their registration data) (Section 31.<sup>4</sup>, Part 4 of the Law).

**Chapter VI. Threshold Declaration**  
**(Chapter has been excluded by the decision of the Council of Sworn**  
**Advocates of Latvia No. 48 of 16 March 2021 (minutes No.4))**

**Chapter VII. Training**

**20. Training**

20.1. The Advocate shall ensure that all lawyers engaged in legal employment relations with them or, in case of a law firm, all practicing Advocates of the law firm are aware of ML/TF/PF risks as well as the risks related to the international and national sanctions and the regulatory acts that govern their prevention, and provide regular training of such persons to improve their competence to identify the features of suspicious transactions and to take the actions prescribed by the Guidelines (Section 9 of the Law).

20.2. The training described in Subparagraph 20.1 of the Guidelines shall be take place at least every 12 months. If legal employment relations are established with any new lawyers of any new advocates join the law firm, the Advocate shall familiarize such persons within one month with the internal policy of the Advocate for the prevention of ML/TF/PF and compliance with the international and national sanctions and the related documents.

20.3. The Advocate shall keep on file information about the provided training and present the same to the Council of Sworn Advocates of Latvia where appropriate.

**Chapter VIII. Final Provisions**

**21. Liability**

21.1. The Responsible Person shall take all steps and actions necessary to ensure full compliance with the requirements of the Guidelines.

21.2. Sworn Advocates and Assistant Sworn Advocates shall bear disciplinary liability for breach of the requirements of these Guidelines in accordance with the procedure stipulated in Section 71 of the Advocacy Law of the Republic of Latvia.

21.3. The Responsible Person of a law firm shall bear disciplinary liability for breach of the requirements of these Guidelines in accordance with the procedure stipulated in Section 71 of the Advocacy Law of the Republic of Latvia.

## **22. Compliance with Requirements of the Guidelines**

22.1. The Guidelines contains the set of minimum requirements applicable to the Advocates in the field of prevention of ML/TF/PF and compliance with the International and National sanctions. Each Advocate shall, however, follow the Guidelines insofar appropriate to the identified risk and, where appropriate, apply individual risk prevention measures.

22.2. The Responsible Person shall ensure regular reviewing of their Guidelines along with amendments to the Law, other regulatory acts, and recording of such process at least every 18 months (Section 8, Part 2 of the Law)

22.3. The Advocates shall assess and record activities of the Responsible Person in the field of prevention of ML/TF/PF and sanctions at least every 18 months (Section 8. Part 2; Section 10, Part 2<sup>1</sup>; and Section 10.<sup>1</sup> of the Law).

22.4. The Advocates shall conduct and record assessment of the Responsible Person and other responsible persons (where appointed) in terms of their compliance with requirements of the Law at least every 18 months (Section 8. Part 2; Section 10, Part 2<sup>1</sup>; and Section 10.<sup>1</sup> of the Law).

22.5. The Council of Sworn Advocates of Latvia shall update the Guidelines and annexes thereto as appropriate and approve the respective amendments to the Guidelines.

22.6. Enactment of the Guidelines shall render null and void the Guidelines of the Council of Sworn Advocates of Latvia “Set of Measures Required to Ensure Compliance with Requirements of the Law on Prevention of Money Laundering and Terrorism Financing”.

## **23. Processing of Personal Data**

23.1. In the course of conducting client due diligence measures, the Advocate shall collect and process personal data of natural entities according to the objectives of the Law and the Sanctions Law with the sole purpose to prevent breach and evasion of the ML/TF/PF and the International and National sanctions, and undertake no further processing thereof in any manner incompatible with the above-specified objectives. Processing of personal data for any other purpose including commercial purpose shall be prohibited (Section 5.<sup>2</sup> of the Law).

Annexes:

1. Client identification forms:
  - 1.1. Resident private individual;
  - 1.2. Nonresident private individual;
  - 1.3. Resident legal entity;
  - 1.4. Nonresident legal entity.
2. Client risk assessment form.
3. Sanction check forms:

- 3.1. Sanction check form for private individual;
- 3.2. Sanction check form for legal entity.

Jānis Rozenbergs  
Chairperson of the Latvian Council of Sworn Advocates

*This document is signed with a secure electronic signature and contains a time stamp*