

POLICY GUIDANCE AND GUIDELINES ON ANTI-MONEY LAUNDERING, COUNTERING TERRORISM FINANCING AND ENFORCEMENT OF SANCTIONS



2017

TABLE OF CONTENTS

Introduction by the Chairman of the ALCB	3
At a Glance: Policies and Guidelines of the ALCB	4
Policy Guidance on Anti-Money Laundering, Countering Terrorism Financing and Enforcement of Sanctions	6
Guidelines on Compliance with OFAC Sanctions	14
Guidelines on High-Risk Jurisdictions	17
Guidelines on Independent External Assessment of AML/CFT Compliance Program	19
Acronyms	24

MAJOR STEP: INDUSTRY SELF-REGULATION

Ladies and gentlemen,

One of the key tasks of the Association of Latvian Commercial Banks (hereinafter – the ALCB) is to promote Latvia to become stronger as an internationally competitive and entrepreneurial country.

Digital transformation is unleashing new growth opportunities for the financial sector in Latvia, in Europe and globally. A responsible approach and adoption of the highest compliance standards underpins this growth and development.

Substantial engagement in the fight against financial crime, detailed knowledge of commercial activities of clients and cooperation with the public and law enforcement authorities is already common practice in our industry. Through our daily work, we are at the forefront of sound risk management and application of increased compliance standards in line with the common principles outlined in the Government approved Financial Sector Development Plan of Latvia.

Significant progress has been achieved since 2016 in the implementation of adequate compliance standards in order for the Latvian banking system not to be used for criminal purposes. We have committed to reach the highest AML/CFT compliance standards among member banks within the next 2 to 3 years.

In October 2017, we took a significant decision – to effectively manage the high inherent risks of the Latvian banks, the Council of the ALCB approved Policy Guidance and Guidelines on AML/CFT. The ALCB has approved such self-regulation documents for the first time and this marks a new direction of activities of the ALCB and confirms high professional maturity.

We will not stop with this - we will continue to actively work in order to strengthen the AML/CFT compliance function of the Latvian banks. The ALCB will constantly follow up in order for this commitment to translate into effective change and will regularly update guidelines and review them for compliance with the best international practice.

It is only through joint effort that we will be able to ensure the highest compliance standards in the financial sector, sustainable development of the industry and the whole Latvian economy.



Guntis Beļavskis

Chairman of the Council of
the Association of Latvian Commercial Banks

AT A GLANCE: AML/CFT POLICY AND GUIDELINES OF THE ALCB

The Policy Guidance on Anti-Money Laundering, Countering Terrorism Financing and Enforcement of Sanctions includes the following basic principles that are complied with by the members of the ALCB in the area of AML/CFT:

- vigilance against and explicit policy of no cooperation with non-authorized and not supervised financial intermediaries to guard against any attempts to abuse the Latvian financial system;
- strict requirements for cooperation with shell companies to ensure adequate level of corporate transparency among the clients;
- zero tolerance regarding intentional violations of AML/CFT laws and regulations;
- cooperation on a full and timely disclosure basis with all the concerned parties to facilitate effective fight against the financial crime;
- recognition of the AML/CFT principles enshrined in the laws and regulations of other countries relevant to respective Bank operations, including those of the USA;
- application of precautionary principle when deciding on the course of action on clients and transactions causing suspicions;
- establishment of a whistle blower's channel to the ALCB.

The ALCB invites other participants of the financial services market in Latvia to adhere to this Policy Guidance.

If a Bank does not comply with Policy Guidance, the ALCB Council shall take actions in accordance with the procedures provided for in the Articles of Association of the ALCB.

In order to efficiently implement the provisions of the Policy Guidance, the Council of the ALCB approved the following guidelines:

1. ALCB Guidelines on Compliance with Office of Foreign Assets Control (OFAC) Sanctions:
 - Banks comply with the OFAC sanctions for transactions and financial services in both the USD and any other currency;
 - in accordance with “comply or explain” principle Banks ensure full implementation of the OFAC sanctions and in special circumstances explain (document) the specific reasons for non-compliance with OFAC sanctions.

2. ALCB Guidelines on High – Risk Jurisdictions:
 - Banks do not render financial services to legal entities and individuals of jurisdictions who are identified as High-risk and Non-Cooperative Jurisdictions by the Financial Action Task Force (FATF);
 - Banks act with necessary due diligence when rendering services to client of jurisdiction being identified as a high risk in vendor crafted internationally recognized list of high risk jurisdictions.

3. ALCB Guidelines on Independent External Assessment of the AML/CFT Compliance Program:
 - the guidelines set forth the principles for:
 - choosing the independent external assessor;
 - minimum qualifications;
 - the scope of the independent external assessment.
 - for more efficient planning of independent external assessment the ALCB recommends Banks to coordinate their decisions and actions regarding the assessor and scope of the assessment with the Financial and Capital Market Commission;
 - the guidelines call for approval of remediation plan by the Bank’s Executive Board and following thorough monitoring of progress and deadlines provided in the plan.



**ASSOCIATION OF LATVIAN
COMMERCIAL BANKS**

**POLICY GUIDANCE ON ANTI-MONEY
LAUNDERING, COUNTERING
TERRORISM FINANCING AND
ENFORCEMENT OF SANCTIONS**

INTRODUCTION

1. The aim of this Policy Guidance is to set forth the standards for the members of the Association of Latvian Commercial Banks (hereinafter – the ALCB) on anti-money laundering, countering terrorism financing, as well as on enforcement of international, national and extra-territorial sanctions (hereinafter – AML/CFT).
2. The Policy Guidance is of an advisory nature; it is complied with on a voluntary basis by all members of the ALCB. The term “Bank” means a member or associated member of the ALCB. Associated ALCB members comply with the Policy Guidance to the extent necessary for management of risks pertaining to money laundering and terrorist financing, specific to their operations. In addition to its members, the ALCB invites other participants of the financial services market in Latvia to adhere to this Policy Guidance.
3. Banks understand and seek to strengthen their role in fighting financial crime, including global and local money laundering and terrorism financing and, therefore, through approval of this Policy Guidance certify their agreement to implement the highest AML/CFT standards and adhere to them in their daily work.
4. Banks may opt to establish tighter risk management standards for their operations than those provided for in this Policy Guidance.
5. By adopting this Policy Guidance the ALCB underscores the importance of not only complying with the applicable regulations, but also with the ever-evolving international best practices in the field of AML/CFT with the goal of ensuring further development of the Latvian financial sector and of international banking services provided by Latvian banks.
6. The ALCB is actively pursuing systemic improvements in the business environment pertaining to the financial services as well as in the overall investment climate in Latvia. Therefore, a significant work stream of the ALCB is to constantly improve AML/CFT policies and procedures at the industry level and to facilitate implementation of the appropriate AML/CFT compliance programs in the Banks. This is done in close cooperation and in coordination with the Latvian and foreign authorities, especially those of the European Union (hereinafter – EU), the European Economic Area, and the United States of America (hereinafter – USA) and their respective financial institutions.
7. This Policy Guidance supplements the Social Charter of the Banking Industry by detailing the expected code of conduct and the standards on AML/CFT matters.
8. The ALCB is tasked to exercise an active role in the implementation of this Policy Guidance and the principles enshrined herewith, as well as ensuring approval and implementation of self-regulation instruments as may become necessary.
9. The Banks provide the ALCB with regular reports on their compliance with the Policy Guidance and the related ALCB Guidelines (as provided for in Clause 20. hereafter), so that the ALCB can adequately inform all parties.

RISK CULTURE

10. To ensure solid foundation for successful fight against the financial crime, we commit to zero-tolerance¹ regarding intentional violations of AML/CFT laws and regulations. While not tolerating any derogation from the applicable laws and regulations, banks are conscious of the ever present risk related to interpretation of the laws and regulations and take the necessary measures to limit these risks.
11. Banks understand that emerging industries will always be insufficiently regulated; accordingly, the Banks constantly and proactively update and strengthen their compliance policies and procedures based on appropriate corporate values, code of conduct and upon evaluation of all the risks, even in the areas that are not currently being subjected to regulation.
12. Banks fully respect the measures taken by the government, especially the financial sector supervision and control authorities, to fight money laundering and terrorism financing and recognize the requirements set forth by them as the minimum standards to be complied with in their daily work.
13. Banks cooperate on a full and timely disclosure basis with all the concerned parties to facilitate effective fight against the financial crime.
14. Latvian economy needs a well-developed and reliable banking sector. Money laundering and terrorist financing have been identified as major threats to the Latvian financial sector. Banks duly account of their significant role in the economy and the AML/CFT threats they face in continuously determining and documenting their corporate values and code of conduct.
15. In their decision-making process, members of the Supervisory Council of the Bank, members of its Management Board, as well as heads of departments and units and other employees, always assess their decisions vis-à-vis the regulatory expectations, high ethical standards, and the interests of the entire financial industry and the society at large, in addition to the business case and profitability considerations.
16. It is of utmost importance that the high ethical standards act as a safeguard against any illegal action and preclude “willful blindness” situations² regardless of where such action is carried out.

1 Zero-tolerance - in AML/CFT field, upon following the laws and other regulatory enactments regulating the operation of the Banks, as well as following the standards set by self-regulating institutions and related to the operation of the former (e.g., Bank’s Social Charter, ALCB Guidelines), codes of professional conduct and ethics, and other best practice standards introduced in the AML/CFT field, the Banks do not apply the tolerated risk exposure limits expressed in monetary form (e.g., an amount of acceptable monetary fine).

2 A situation in which a person seeks to avoid civil or criminal liability for a wrongful act by intentionally keeping oneself unaware of facts that would render liability.

APPLICATION OF LAWS, REGULATIONS AND VOLUNTARY STANDARDS

17. Banks comply with the relevant legislation and voluntary standards governing compliance³, including requirements set forth in the self-regulating industry documents.
18. Banks recognize and take into account the AML/CFT principles enshrined in the laws and regulations of other countries relevant to their operations, including those of the USA, as long as they do not contradict with the requirements of EU or Latvian legislation.
19. Banks comply with the following AML/CFT international standards and best practice guidelines:
 - 19.1. Financial Action Task Force (FATF) Recommendations;
 - 19.2. Guidelines of the Basel Committee on Banking Supervision;
 - 19.3. Wolfsberg Group Guidelines.
20. Banks comply with the following ALCB approved guidelines in furtherance of effective implementation of this Policy Guidance:
 - 20.1. The ALCB Guidelines for Compliance with Office of Foreign Assets Control (OFAC) Sanctions;
 - 20.2. The ALCB Guidelines on High-risk Jurisdictions;
 - 20.3. The ALCB Guidelines on Independent External Assessment of AML/CFT Compliance Program.

³ Compliance laws, rules and standards – laws and other regulations on the operation of Banks, standards set by self-regulating institutions related to the operation of Banks, codes of professional conduct and ethics, and other best practice standards applicable to the operation of Banks.

AML/CFT COMPLIANCE POLICIES AND PROCEDURES

21. Banks ensure that their overall risk management policies and procedures and specifically the AML/CFT Compliance Program is appropriate and enables sound management of risks related to their operations. Banks recognize that formal adherence to the regulatory requirements is not a guarantee of the Compliance Program being considered effective and sufficient.
22. Banks regularly conduct a comprehensive risk assessment to evaluate ML/TF risks as well as international, national and extra-territorial sanctions risk present in their operations. In addition to independent external compliance reviews, Banks regularly execute and document relevant stress tests, as well as quality assurance tests of their policies and procedures.
23. Based on the results of the comprehensive risk assessment, Banks design and implement an internal control system that provides for appropriate level of mitigation of the risks identified.
24. Banks understand that when it comes to ensuring sound risk management and effective internal controls commensurate to the results of the comprehensive risks assessment, the laws and regulations will typically provide for the minimum requirements and may thus be insufficient to provide for appropriate level of risk mitigation.
25. Banks appoint designated AML/CFT officers⁴ (hereinafter – Designated Officer) to ensure integrity of operations and sound AML/CFT risk management.
26. Highly qualified experts shall be appointed as Designated Officers – those who exhibit the required experience and qualifications⁵, and are able to ensure adherence to high ethical standards in their decision-making and have proven such thru their past work experience.
27. Banks guard against any conflict of interest, including nepotism, situations in appointment of Designated Officers.
28. Being aware of the specific sanctions related risks and the increased global use of sanctions, Banks ensure that a special category of the Designated Officer is created – Sanctions Officer.
29. If any transactions cause suspicions of possible violations of any international, national or extra-territorial sanctions as regards the transaction in question or client involved, Banks perform enhanced due diligence and apply precautionary principle, i.e., transactions are not executed if it is not possible to perform sufficient due diligence to remove suspicion beyond doubt. Banks do not penalize employees who, having consulted the Designated Officer, decide to refrain from clearing the transaction or rendering a financial service due to reasonable doubts about possible sanctions violations.
30. Banks undertake regular independent external reviews to ensure compliance with the principles defined in this Policy Guidance. Detailed requirements on the scope of reviews and their execution are provided in the ALCB Guidelines on Independent External Assessment of AML/CFT Compliance Program.

4 A member of the Management Board of the Bank in charge of compliance with AML/CFT requirements and employees of the Bank in charge of compliance with AML/CFT requirements (AML/CFT Officer, MLR Officer, Sanctions Officer, Internal Auditors), who are specialists in AML/CFT field, etc.).

5 For example, CAMS or similar internationally recognized certificate.

COOPERATION WITH SPECIFIC CLIENT SEGMENTS

31. Banks are cognizant of the companies, that:
 - 31.1. provide intermediation services in payments and settlements and which do not belong to the same group of companies as the company conducting real economic activity (i.e., creating an economic value appropriate for the type of economic activity and submits financial reports to the relevant authorities);
 - 31.2. are mainly using electronic money or virtual currencies in their operations;
 - 31.3. are operating mainly using unregulated settlement systems; and which are not duly authorized and supervised credit institutions, payment services providers, or electronic money institutions,expose the Latvian banking sector to unacceptable risk. Such companies are actually creating an alternative payment services industry nesting⁶ in the Banks.
32. Banks are cognizant that companies, which do not have any real economic activity or that are not creating an economic value appropriate for the type of economic activity, expose the Latvian banking sector to increased risk, and therefore the Banks do not do business with such clients – shell companies. Real economic activity is characterized by legal and economically justified transactions, which have the following features:
 - 32.1. the client has business partners, about whom there are records or publicly available information that clearly describes the purpose of their operation, for example, in transactions in goods, those are conducted with a well-known manufacturer or distributor;
 - 32.2. documents supporting the transactions do not cause suspicions of bogus transactions, including the following, for example:
 - 32.2.1. regarding transactions in goods - bills of lading, storage documents, certificates of origin or certificates of quality provide information on the counterparties that is publicly verifiable;
 - 32.2.2. regarding the client's assets - there are documents certifying the property rights or excerpts from public registers.

6 *Nesting* – providing unregistered payment services having obtained access to payment systems through bank's payment services.

33. Banks do not render services to clients who were created and operate in order to avoid taxes.
34. Banks are aware that shell companies that are related to real economic activity, but have other features of a shell company, still cause high risk: therefore, business relationships with them are possible only upon executing enhanced due diligence and with additional monitoring measures. Enhanced due diligence and stricter monitoring measures are implemented by, for example:
 - 34.1. obtaining annual financial reports on their operations;
 - 34.2. properly documenting that the entities in question are subsidiaries or belong to a group of companies that are not shell companies, and their financial reports are included in consolidated financial reports of the parent company;
 - 34.3. properly documenting that they are owned by natural persons and their operations are presented in the tax declarations of the natural persons;
 - 34.4. properly documenting their real economic activity and if necessary resorting to additional measures in order to make sure that the economic activity or transactions of the client are not being performed with the aim of tax avoidance.
35. In order to ensure execution of clauses 31 to 34 above, Banks create and maintain appropriate and properly automated transaction control processes, as well as ensure regular and proper training of employees. Transaction control processes should ensure that the employees of the Banks are neither providing consultations nor assisting in preparation of documents for clients for such actions that are aimed at circumventing compliance requirements or tax obligations.

REPORTING ABOUT VIOLATIONS AND SANCTIONS

36. Banks do not permit unfair actions and violations, including deviations from the principles provided for in this Policy Guidance. In the event of a serious violation⁷, all Banks ensure employees have an option to blow the whistle using internal alarm channels.
37. The Banks ensure an additional restraint mechanism by implementing an external whistle-blower's channel to the special ALCB's email address: *whistle@lka.org.lv*.
38. The ALCB guarantees confidentiality of the whistle-blower⁸, and welcomes anonymous reports, if deemed necessary by the whistle-blower. The ALCB reminds that the whistle-blower is not entitled to disclose to the ALCB the non-disclosable information about the client or its transactions.
39. Having received the whistle-blower's report, the ALCB board shall evaluate the circumstances and, if necessary, takes actions that could contribute to termination of the unfair activities and violations.
40. Even though the Policy Guidance is of an advisory nature and the Banks have undertaken to comply with it on a voluntary basis, it is important that all Banks comply with the principles provided herein and thus collectively strengthen the reputation and reliability of all Banks; therefore, if a Bank does not comply with this Policy Guidance, the ALCB Council shall take actions in accordance with the procedures provided for in the Articles of Association of the ALCB.

CLOSING PROVISION

41. The Banks ensure compliance with the Policy Guidance through implementation of improvements to their internal control systems and upon necessity define transitional provisions for the implementation of this Policy Guidance, including for termination of business relations with the types of clients mentioned in the Policy Guidance.

7 In their whistle-blowing policies, the Banks define the criteria of unfair action and violations, about which the reports could be submitted through alarm channel.

8 Recommendations for anonymous reporting are available, for example, in "Corruption Victim's Handbook" ("Korupcijas upura rokasgrāmata") http://delna.lv/wp-content/uploads/2014/12/delna_rokasgramata_081214_apskate.pdf.



**ASSOCIATION OF LATVIAN
COMMERCIAL BANKS**

**GUIDELINES ON COMPLIANCE
WITH OFAC SANCTION**

1. The Association of Latvian Commercial Banks (hereinafter – the ALCB) and its members and associated members (hereinafter – the Bank(s)) are actively pursuing systemic improvements in the business environment pertaining to the financial services as well as in the overall investment climate in Latvia in close coordination with the partners from public and private sector.
2. Being a member state of the United Nations and the European Union (hereinafter – the EU), Latvia assumed the obligation to ensure compliance with, and implementation of, the economic sanctions set by those international organizations, and the Banks play a significant role in fulfilment of the said international obligations for the sake of development of a safe and stable financial system in Latvia.
3. Considering Clauses 1 and 2 above, one of the Banks' workflows is the permanent improvement of compliance with the international, national, and extraterritorial sanctions regime in cooperation with the state authorities and financial institutions of Latvia, the EU, and the USA, issuing the ALCB's guidelines and promoting the implementation of key business principles meeting the highest standards at the Banks, especially 'Know Your Client' principle.
4. Expeditious direct cooperation between the Banks and the US financial market participants and correspondent banks is also important for the development of Latvian financial sector and promotion of international banking services. Compliance with the restrictions imposed on the US financial market participants by the sanctions programmes set by the U.S. Department of the Treasury and the Office of Foreign Assets Control (hereinafter – OFAC), is essential for this successful and sustainable cooperation.
5. OFAC sanctions programmes cover several categories of sanctions against, but not limited to, the following:
 - 5.1. designated countries;
 - 5.2. designated entities established or operating in the interests of the designated countries subject to sanctions;
 - 5.3. designated persons identified to have violated the sanctions set by the US;
 - 5.4. individuals and organizations identified as involved in international crime.

6. Compliance with the OFAC sanctions will boost the Banks' credibility, reduce the probability of the Banks' reputational risk occurrence, and will thus further improve the international reputation of the whole Latvian financial services sector.
7. Under their operations, the Banks comply with the prohibitions stipulated in the OFAC sanctions and preclude execution of the transactions contravening those prohibitions, unless the same contradicts the normative acts binding upon Latvia or the Banks¹.
8. Under compliance with the OFAC sanctions, Banks follow 'comply or explain' principle, namely, Banks either ensure full implementation of the OFAC sanctions or explain (document) the specific circumstances and the reasons for non-compliance with those.
9. Following the principle stated in Clause 8 of the Guidelines, the Banks comply with the OFAC sanctions under transactions and financial services in both the USD and any other currency.
10. The Banks make all necessary investments to timely eliminate the obstacles hindering the compliance with the OFAC sanctions.
11. The Banks ensure that their internal control systems are sufficient and adequate for compliance with the OFAC sanctions.
12. The ALCB carries out regular trainings on implementation of the OFAC sanctions for the Banks' employees and arranges the events intended for informing the public about the Banks' duties under the Guidelines.
13. Complying with the principle mentioned in Clause 8 of the Guidelines, deviations from application of the OFAC sanctions are possible pursuant to Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, as well as where the same is based on the exceptions effective in the US from the scope of the sanctions programme.
14. The deviations are not applicable where the transaction concerns the US territorial jurisdiction or the transaction is in the USD.

1 For example: the Law on Payment Services and Electronic Money and Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, prohibiting the legal entities established in the European Union from compliance with the particular sanctions programmes against Cuba, Iran, and Libya adopted by the US.

**ASSOCIATION OF LATVIAN
COMMERCIAL BANKS**

**GUIDELINES ON HIGH-RISK
JURISDICTIONS**

1. Members and associated members (hereinafter – the Bank(s)) of the Association of Latvian Commercial Banks (hereinafter – the ALCB) shall comply with restrictions set forth on cooperation with jurisdictions identified as presenting high-risk of money laundering and terrorism financing in ALCB Guidelines on High-Risk Jurisdictions (hereinafter – the Guidelines). For the purposes of these Guidelines money laundering and terrorism financing risk encompasses also international, national and extraterritorial financial sanctions.
2. Banks are fully aware of all current laws and regulations applicable in Latvia, including, but not limited to, the Law on Payment Services and Electronic Money, and Council Regulation (EC) No. 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom¹ that prohibit legal entities incorporated in the European Union (hereinafter – EU) to execute certain sanctions programmes adopted by the United States of America (hereinafter – the USA) against Cuba, Iran and Libya.
3. ALCB makes every effort to ensure that fulfilment of the Guidelines does not result in violations of the Competition Law, or EU competition legislation. The ALCB Guidelines initiative is coordinated with the Latvian Competition Council.
4. Cooperation with high-risk jurisdictions having strategical deficiencies in the AML/CFT field², or jurisdictions on which international, national, or extra-territorial sanctions are imposed, causes increased compliance risks to the Banks. The Banks are aware that on-going transaction monitoring, being the most recognized tool for effective management of this risk, is not effective in all cases.
5. Being aware of this deficiency, the Banks do not render financial services to legal entities and individuals of jurisdictions who are identified as *High-risk and Non-Cooperative Jurisdictions* by the Financial Action Task Force (FATF).
6. Upon comprehensive risk assessment of jurisdictions, and making decisions on on-boarding and cooperation with a client, the Bank acts with necessary due diligence when rendering services to client from countries and jurisdictions not stipulated in Clause 5, yet having material AML/CFT deficiencies, and being identified as a high risk jurisdictions in vendor crafted internationally recognized lists of high risk jurisdictions.
7. Restrictions on service provision do not apply to the basic payment account services as per applicable EU legislation, for example, to a legal refugee or asylum seeker in EU or individual legally residing in the EU.
8. Banks set reasonable timeframe for termination of already established relationships with clients from high-risk jurisdictions.

1 Official Journal, L 309, 29/11/1996 pp. 0001 – 0006.

2 <http://www.fatf-gafi.org/countries/#high-risk>.

**ASSOCIATION OF LATVIAN
COMMERCIAL BANKS**

**GUIDELINES ON INDEPENDENT
EXTERNAL ASSESSMENT OF
AML/CFT COMPLIANCE PROGRAM**

1. Guidelines set forth the principles for choosing the independent external assessor, its qualifications, and the scope of the assessment.
2. The Purpose of the Guidelines is to promote a unified and mutually comparable approach applied by the members (hereinafter – the Bank) of the Association of Latvian Commercial Banks (hereinafter – the ALCB) with regard to the application of regulations No. 154 of the Financial and Capital Market Commission (hereinafter – the FCMC) of 23 September 2016 “*Money Laundering and Terrorist Financing Risk Management Regulations*” by ensuring the independent external assessment of the system of anti-money laundering and countering terrorism financing and for compliance with international, national, and extraterritorial sanctions (hereinafter – AML/CFT), meanwhile achieving high integrity standards.
3. Guidelines spell out further principles set forth in the ALCB’s Policy Guidance on Anti-Money Laundering, Countering Terrorism Financing and Enforcement of Sanctions (hereinafter – Policy Guidance) clarifying the Banks’ stance on independent external assessments of AML/CFT Compliance Program.
4. Assessor – a legal entity meeting the criteria set in these Guidelines.

SELECTION OF INDEPENDENT EXTERNAL ASSESSOR

5. Independence criterion – when choosing the external assessor the Bank shall be confident that there are no conflicts of interest.
6. In evaluating the assessor – legal entity, every effort should be made to identify and rule out any possible conflicts of interest with regard to individuals (experts) who will actually perform the assessment, issue the opinion, and forge the conclusions.
7. In case the following conflict of interest situations (for example) are identified the independence criteria cannot be fulfilled:
 - 7.1. the assessor is a person associated with the Bank;
 - 7.2. the remuneration is conditional with the assessment results;
 - 7.3. over the past 36 months, the assessor participated in the implementation of the Bank’s AML/CFT internal control system, development of the Bank’s procedures and policies, development, calibration and testing of the Bank’s automated IT systems, etc.
8. The process of evaluating the conflict of interest risk shall be documented, including the Bank’s request for the potential assessor to deliver written statement on absence of facts that might give rise to the conflict of interest. The Banks shall take precautionary measures to ascertain the veracity of the assessor’s written statement.
9. When evaluating the risk of the conflict of interest, the Bank shall refrain from the situations that might have different interpretations and cause concerns about impartiality and independence of the assessors.
10. In case of ambiguous situations, the Banks shall ask for the opinion of the FCMC.

QUALIFICATIONS OF ASSESSOR

11. Criteria of qualifications in the AML/CFT area may be evaluated both individually and collectively. For example, regarding the collective knowledge of a team consisting of two or more assessors, one of them may be a sworn auditor and the other one – a certified AML/CFT expert.
12. The assessor being, e.g., a sworn auditor or a company of sworn auditors focusing on audit of financial statements shall not be sufficient for ascertaining the auditor's qualifications for performing the AML/CFT Compliance Program assessment. The assessor shall possess provable experience in AML/CFT area. As far as assessment of automated AML/CFT IT systems is concerned, besides competence in AML/CFT matters the assessors shall possess sufficient and provable collective competence in performing the assessment of automated IT AML/CFT risk management systems.
13. If the Bank has a substantial portion of transactions in USD¹, concerning the AML/CFT certification, the assessors or group of assessors shall be individually or collectively qualified in the US. This means the assessor shall have provable knowledge, evidencing the experience and competence in both international AML/CFT issues and those directly arising out of the requirements of the US AML/CFT regulations and standards.

¹ Or the share of clients [and/or actual beneficiaries of the clients] from the CIS states, since there is a substantial share of USD transactions in the CIS states.

SCOPE OF ASSESSMENT

14. Within an 18-month period, the scope of assessment shall cover at least the following:
 - 14.1. Bank's money laundering and terrorist financing risk assessment;
 - 14.2. elements of internal control system in AML/CFT area², including special testing of AML/CFT automated systems;
 - 14.3. distribution of functions between the employees in charge of AML/CFT;
 - 14.4. AML/CFT training;
 - 14.5. internal and independent external AML/CFT Compliance Program assessments, assessment of business compliance control function, etc.;
 - 14.6. results of prior independent external assessments and progress in implementation of recommendations issued upon assessment.
15. The scope of assessment may cover all or some of the said areas, however the Banks shall ensure that assessment of all areas is performed during the same 18-month period.
16. The assessment term shall be deemed to begin on the date of the report on the results of the last comprehensive assessment.
17. In the assessment of money laundering and terrorist financing risks, particular attention shall be paid to risk mitigation measures and the control adequacy to the risk level pertaining to the clients, products and services, their delivery channels, and location of operations.
18. The assessments shall cover the compliance of the said areas with the current legal requirements and international standards, including Financial Action Task Force (FATF) recommendations, the ALCB Policy Guidance and respective guidelines, as well as other standards applicable to the sector.
19. If the Bank has a substantial portion of transactions in USD, the assessment shall also cover the compliance with the US regulations and standards, as long as those do not contradict the requirements of the European Union and Latvian legislation.

2 The set of elements of AML/CFT internal control system may be different for each Bank, and the same may be determined according to the business model and AML/CFT risk assessment. The minimum set of elements of AML/CFT internal control system is determined in the normative acts.

INFORMING THE FINANCIAL AND CAPITAL MARKET COMMISSION

20. To reduce the risk of the unsuitability or insufficiency of the selected assessor or the scope of the assessment, the ALCB recommends the Bank to coordinate its decisions and actions with the FCMC.
21. The ALCB recommends the coordination with the FCMC to be performed prior to commencing the process of verifying the suitability of the assessor.
22. If a comprehensive AML/CFT Compliance Program inspection has been executed by the FCMC during previous 18-month term, repeated external independent assessment might not be compulsory, subject to written approval of the FCMC.
23. If the scope of the FCMC inspection is limited (targeted assessment), the provisions of Clause 22 may not be applicable. The same is true for the FCMC off-site inspections.

ASSESSMENT OUTCOME AND REMEDIATION OF DEFICIENCIES

24. The report to the Banks' management on the deficiencies detected in independent external assessment shall contain the opinion of the respective process holder of the Bank as well. The assessor shall explain its recommendations, and the meaning of the recommendations shall be clear to the process holder.
25. Upon completion of the independent external assessment, the remediation plan shall be prepared, and the remediation plan shall be reviewed and approved by the Bank's Executive Board, as well as the Bank's Supervisory Council shall be duly informed on assessment results and remediation plan, assigning the respective financing for proper remediation of deficiencies, if necessary.
26. Upon approval of the remediation plan, the Bank's Executive Board shall monitor the progress and deadlines set in remediation plan.

ACRONYMS

ALCB - Association of Latvian Commercial Banks

AML - Anti-Money Laundering

AML/CFT - Anti-Money Laundering, Countering Terrorism Financing, as well as on Enforcement of International, National and Extra-Territorial Sanctions

BANKS - a Member or Associated Member of the ALCB

CAMS - Certified Anti-Money Laundering Specialist

CFT - Combating the Financing of Terrorism

EU - European Union

FATF - Financial Action Task Force

FCMC - Financial and Capital Market Commission

MLRO - Money Laundering Reporting Officer

OFAC - Office of Foreign Assets Control

USA - United States of America