

APPROVED BY:
Decision of the Bar Council of the
Lithuanian Bar Association, dated 20
September 2018

**DESCRIPTION OF THE PROCEDURE OF HANDLING THE REGISTER OF REPORTED
SUSPICIOUS TRANSACTIONS, SUBMISSION OF INFORMATION TO THE
FINANCIAL CRIME INVESTIGATION SERVICE AND SUPERVISION OVER
IMPLEMENTATION OF PREVENTIVE MEASURES BY THE LITHUANIAN BAR
ASSOCIATION**

I. GENERAL PROVISIONS

1. The purpose of the Description of the Procedure of Handling the Register of Reported Suspicious Transactions, Submission of Information to the Financial Crime Investigation Service and Supervision over Implementation of Preventive Measures by the Lithuanian Bar Association (hereinafter referred to as the Description) is to determine the procedures, according to which the Lithuanian Bar Association is to handle the register of registration of clients' suspicious transactions reported by Advocates (hereinafter referred to as the Register), to submit information to the Financial Crime Investigation Service and to implement supervision over measures for prevention of money laundering and/or terrorist financing applied by advocates, professional law partnerships and advocates' assistants (hereinafter referred to as the Advocates).
2. All concepts used in the Description are defined in the Law of the Republic of Lithuania on the Prevention of Money Laundering and Terrorist Financing (hereinafter referred to as the Law on the Prevention of Money Laundering and Terrorist Financing).
3. A suspicious transaction shall mean a transaction or intended or attempted transaction relating to property which is suspected of being, directly or indirectly, derived from a criminal act or from involvement in such an act and/or is, as suspected, associated with terrorist financing, which is indicated in the Advocate's report and which meets criteria set in the Description.
4. Implementation of money laundering and/or terrorist financing preventive measures in the Lithuanian Bar Association is carried out by the Bar Council. The Bar Council by its decision shall appoint authorised members of the Bar Council (hereinafter referred to as the Members) for implementation of individual preventive measures. Written instructions of the Members on

implementation of money laundering and terrorism financing preventive measures shall be binding on the Advocates, as provided for in this Description.

II. HANDLING THE REGISTER OF REPORTED SUSPICIOUS TRANSACTIONS

5. The Lithuanian Bar Association shall handle the Register of reports by Advocates of their clients' suspicious transactions. The Chairperson of the Bar Council shall appoint a person responsible for handling of the Register, who shall also be responsible for submission of information to the Financial Crime Investigation Service. Entries in the Register shall start to be made no later than within two business days after the date of the first report about a client's suspicious transaction to the Lithuanian Bar Association.

6. The Lithuanian Bar Association, upon receipt of an Advocate's report about a possibly suspicious transaction of his/her client:

6.1. shall register the report in the Register of received correspondence (in the document management system) in such a way as not to reveal the content of the report;

6.2. if a report is made not at the special e-mail address of the Lithuanian Bar Association, shall transfer the report to the person responsible for handling of the Register no later than within 3 working hours.

7. The person responsible for handling of the Register shall immediately, by use of secure electronic communication measures, inform and shall forward the report to the Members, who shall check information in the report and shall, no later than within 3 working hours, take a decision on registration of the Advocate's client's transaction in the Register upon evaluation of the following criteria:

7.1. whether the information in the report about a suspicious transaction is based on factual data or evidence;

7.2. whether the report contains information about the transaction planned to be conducted by the client of the Advocate who made the report;

7.3. whether the Advocate that made the report received information about the client's suspicious transaction by assessing his/her client's legal situation or defending his/her client, or representing him/her in court proceedings or regarding them, including giving advice on starting or avoiding proceedings in court, disregarding whether such information is received or obtained before, during or after such proceedings;

7.4. whether the evidence or data in the report about the client's suspicious transaction confirm meeting of the criteria (criterion) for recognising a transaction to be suspicious as set by Order No. V-240 of the Director of the Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania, dated 5 December 2014;

7.5. whether the Advocate sought to convince the client not to engage in illegal activities, warned the client that information about the transaction he/she is about to conduct, monetary operations or any other information may be or will be transferred to the Financial Crime Investigation Service.

8. In case of insufficient data for evaluation of circumstances indicated in paragraphs 7.1–7.5 above, the Members shall, no later than on the next business day, contact the reporting Advocate and shall request adjustment or supplementation of inaccurate or incomplete information no later than within 3 working hours.

9. The Members, in case of failure to receive the adjusted or additional information from the Advocate within the set time limit or in case they determine that, upon evaluation of circumstances indicated in paragraphs 7.1–7.5 hereof, there is no reason to treat the transaction as suspicious (paragraph 7.4 of the Description) or that the Advocate had no reason to report on the client's suspicious transaction (paragraphs 7.1–7.3 of the Description), shall, by a decision taken by the majority of votes, obligate the person responsible for handling of the Register to return the report on suspicious transaction to the Advocate who submitted it and to inform the Advocate that the transaction indicated in his/her report, according to information presented by the Advocate, is not to be registered as a suspicious transaction.

10. The Members, having received adjusted or additional information from the Advocate within the set time limit or in case they determine, according to the information in the Advocate's report, that the Advocate had a reason to report a suspicious transaction (paragraphs 7.1–7.3 of the Description) or that there is enough data to treat the transaction as suspicious (paragraph 7.4 of the Description), shall, by a decision taken by the majority of votes, obligate the person responsible for handling of the Register to register the Advocate's client's transaction as suspicious and to enter the following information in the Register:

10.1. data confirming the identity of the client, his/her/its representative (if transaction is conducted through a representative) (in case of a natural person: first name, surname, personal ID number (in case of a foreign citizen, his/her date of birth), citizenship; in case of a legal entity: name, legal form, address of the registered office, code, if any);

10.2. data about the transaction: transaction date, description of the assets for which the transaction is made (cash, real property and the like) and their value (amount of money, currency in which payment is made according to the transaction, the market value of the assets and the like), it is also to be noted whether a copy of the transaction document has been received;

10.3. data about the person – recipient of funds (in case of a natural person: first name, surname, personal ID number (in case of a foreign citizen, his/her date of birth); in case of a legal entity: name, legal form, address of the registered office, code, if any);

10.4. if applicable, data about the beneficiary (beneficiaries) (first name, surname, personal ID number (in case of a foreign citizen, his/her date of birth), citizenship) is also to be entered;

10.5. it is to be indicated which of the criteria approved by the legal act indicated in paragraph 7.4 of the Description the transaction meets, according to which it is recognised that the client's transaction is deemed suspicious.

11. The person responsible for handling of the Register shall inform the Financial Crime Investigation Service about a registered suspicious transaction under the procedure set in this Description.

12. The Members, by the majority of their votes, can address all members of the Bar Council directly or through the Secretary of the Lithuanian Bar Association for assessment of information indicated in paragraphs 9–10 hereof.

13. The person responsible for handling of the Register shall enter data into the Register chronologically, referring to documents on a monetary operation or transaction or other documents of legal effect in connection with conduction of transactions, no later than within one business day after their receipt from the Advocates.

III. PROCEDURE OF SUBMISSION OF INFORMATION TO THE FINANCIAL CRIME INVESTIGATION SERVICE

14. The person responsible for handling of the Register, having registered a suspicious transaction in the Register, no later than within 3 working hours after the transaction registration in the Register, shall transfer the information about the suspicious transaction registered in it and a copy of the document confirming the transaction (if any is received from the reporting Advocate) to the Financial Crime Investigation Service.

15. The information about the transaction registered in the Register and a copy of the document confirming the transaction (if any is received from the reporting Advocate) shall be submitted to the Financial Crime Investigation Service directly or to a person appointed by this service or, if no such person is appointed, at the address or e-mail published on the website of the service.

16. Following Article 20 of the Law on the Prevention of Money Laundering and Terrorist Financing, the person responsible for handling of the Register, having received from the Advocate information about the client's one-off payment to the Advocate in cash, where the amount of cash received is equal to or more than EUR 15,000 or an equivalent amount in foreign currency, shall transfer such information and information confirming the client's identity to the Financial Crime Investigation Service under the procedure set in paragraph 14 of the Description no later than within 2 business days from the date of receipt of such information. In case of any doubts about conformity of the

information presented by the Advocate to the provisions of Article 20 of the Law on the Prevention of Money Laundering and Terrorist Financing, the person responsible for handling of the Register shall address the Members for assessment of information presented by the Advocate.

17. The Lithuanian Bar Association shall inform the Financial Crime Investigation Service in writing about the appointed Members and the person responsible for handling of the Register no later than within 7 business days after their appointment or change.

IV. POWERS OF THE LITHUANIAN BAR ASSOCIATION IN PERFORMANCE OF SUPERVISION OVER ADVOCATES IN CONNECTION WITH IMPLEMENTATION OF MONEY LAUNDERING AND/OR TERRORIST FINANCING PREVENTIVE MEASURES AND PROCEDURE OF SUPERVISION PERFORMANCE

18. Supervision over the implementation of money laundering and/or terrorist financing preventive measures in the Lithuanian Bar Association is carried out by the Bar Council.

19. The Lithuanian Bar Association advises Advocates on issues of implementation of preventive measures.

20. In performance of the supervision over the implementation of money laundering and/or terrorist financing preventive measures, the Bar Council shall have the right to start inspection of an Advocate's activities:

20.1. according to the inspection plan (supervision plan) approved by the Bar Council;

20.2. upon receipt of a notification or other information, where possible violations of provisions of the Law on the Prevention of Money Laundering and Terrorist Financing by the Advocate are recorded.

21. When making an inspection, in addition to the rights provided for in the Law of the Republic of Lithuania on the Bar, the Statute of the Lithuanian Bar Association, other legal acts on activities of the Lithuanian Bar Association, the Lithuanian Bar Association shall have the right:

21.1. to obtain oral or written explanations of the Advocate and other persons related to the ongoing inspection;

21.2. to demand that the Advocates arrive for giving explanations to the office of the Lithuanian Bar Association;

21.3. to use technical devices during the inspection;

21.4. to obtain data and documents or their certified copies, related to the Advocate being inspected, from other economic entities, also from state and municipal authorities.

22. The inspection shall start with a written notification to inform an Advocate about the intended inspection and making demands for provision of information necessary for the inspection, if

applicable, also indicating potentially committed violations and their character in the notification. The Advocate shall be given a period of at least 14 (fourteen) days for presentation of the demanded information and, if applicable, explanations.

23. Having read and assessed the information and explanations presented by the Advocate, the Bar Council shall take a decision:

23.1. to give mandatory instructions to the Advocate on implementation of preventive measures indicated in the Law on the Prevention of Money Laundering and Terrorist Financing;

23.2. to impose the measures of impact provided for in subparagraphs 1 and 6 of paragraph 1 of Article 36 of the Law on the Prevention of Money Laundering and Terrorist Financing;

23.3. to carry out an additional inspection;

23.4. to discontinue investigation of a violation (consideration of the issue of imposition of a measure (measures) of impact) when:

23.4.1. no violation is found;

23.4.2. conditions provided for in Article 38 of the Law on the Prevention of Money Laundering and Terrorist Financing are met;

23.4.3. information, which is a state secret, official secret, trade secret or other secret protected by laws, is the sole evidence referred to in case of imposition of a measure (measures) of impact and the person subject to the measure of impact is not aware of it and the person's request to discontinue consideration of the issue of imposition of a measure (measures) of impact has been received;

23.4.4. a basis is established for transfer of the material about violations of the Law on the Prevention of Money Laundering and Terrorist Financing, having signs of a criminal act, to a pre-trial investigation institution or public prosecutor;

23.4.5. more than 4 years have lapsed since the violation was established or more than 5 years have lapsed since the date of the violation (in case of a persistent violation, from the date the violation became apparent).

24. A decision of the Lithuanian Bar Association to give mandatory instructions to the Advocate shall be taken under the procedure set in Article 35 of the Law on the Prevention of Money Laundering and Terrorist Financing.

25. A decision of the Lithuanian Bar Association to impose the measures of impact indicated in subparagraphs 1 and 6 of paragraph 1 of Article 36 of the Law on the Prevention of Money Laundering and Terrorist Financing shall be taken on the grounds for imposition of measures of impact set in Article 36 of the Law on the Prevention of Money Laundering and Terrorist Financing and under the procedure set in Article 37 of the Law on the Prevention of Money Laundering and Terrorist Financing.

26. The Bar Council, considering measures of impact, takes into account whether the Advocate voluntarily prevents negative consequences of a violation, indemnifies for damages or remedies damage caused and, when there are no circumstances aggravating liability provided for in this law, following criteria of justice and reasonableness, can omit to impose measures of impact if the violation is of little significance, not causing material damage to interests protected by laws and if there is a reason to believe that the aim of supervision can be achieved by other measures, without imposition of measures of impact.

27. The Lithuanian Bar Association shall publish information on the decision to impose measures of impact, which has come into effect, including information on the essence of the committed violation of this law and the name of the legal entity or the first name and surname of the natural person that committed it, on the website of the Lithuanian Bar Association immediately, but in any case no later than within 5 business days after the decision is dispatched or handed in to the person, on whom the measure(s) of impact has (have) been imposed.

28. If a decision to impose a measure (measures) of impact is appealed against, the website of the Lithuanian Bar Association shall also display information on appeals made against imposed measures of impact and results of their examination.

29. An Advocate, who does not agree to a decision of the Bar Council, shall have a right to complaint about it in court under the procedure set by the Law of the Republic of Lithuania on Administrative Proceedings. Addressing court shall not suspend execution of the decision.
