Approved by Decision of the

Bar Council of the

Lithuanian Bar Association,

dated 30 January 2020

## **RULES FOR ADVOCATES AND ADVOCATES’ ASSISTANTS REGARDING PREVENTION OF MONEY LAUNDERING AND TERRORIST FINANCING**

### **I. GENERAL PROVISIONS**

1. The purpose of the Rules for Advocates and Advocates’ Assistants Regarding Implementation of Measures of the Law of the Republic of Lithuania on the Prevention of Money Laundering and Terrorist Financing (hereinafter referred to as the Rules) is to help establish procedures for advocates and advocates’ assistants for the implementation of measures for the prevention of money laundering and/or terrorist financing.
2. The concepts used in the Rules shall be understood as 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. These Rules are intended for advocates and advocates’ assistants (hereinafter collectively referred to as the Advocates) only when they are acting on behalf of, and for the benefit of, a client or assisting a client in planning or carrying out:
	1. transactions of buying or selling real estate or companies;
	2. transactions of managing clients’ money, securities or other assets;
	3. transactions of opening or managing bank or securities accounts;
	4. transactions of organisation of contributions necessary for the establishment, operation or management of legal entities and other organisations;
	5. transactions of appearance or creation, operation or management of providers of services of formation and administration of trusts or companies[[1]](#footnote-1) and/or related transactions.

4. The Advocates, following the Rules, shall be bound by the main principles of advocates’ activities defined in the Law of the Republic of Lithuania on the Bar and the Code of Ethics of Lithuanian Advocates.

1. Advocates, having assessed client risk and in order to convince the client not to engage in possibly illegal activities, following the Law of the Republic of Lithuania on the Legal Protection of Personal Data, shall warn the client that information on transactions to be conducted, which are indicated in paragraph 3 of the Rules, suspicious monetary operations related to them and other information can be submitted to the Financial Crime Investigation Service or another supervisory authority according to paragraph 3 of Article 23 of the Law on the Prevention of Money Laundering and Terrorist Financing.
2. Advocates shall seek that the conducted transactions correspond to the Advocate’s knowledge about the client’s business risk profile and shall assess the client’s activities under the procedure set by the Law on the Prevention of Money Laundering and Terrorist Financing. Relevant requirements shall apply only to those transactions of the client, about which the Advocate is given information. Relevant requirements shall not apply according to paragraph 20 of Article 9 of the Law on the Prevention of Money Laundering and Terrorist Financing when the Advocate’s client is a financial institution of the Republic of Lithuania or a financial institution registered in another European Union Member State, which established requirements equivalent to the requirements of the Law on the Prevention of Money Laundering and Terrorist Financing and is supervised by competent authorities for compliance with those requirements.
3. The Rules shall not apply to Advocates when a client’s legal situation is being assessed or a client is defended or represented in proceedings in court, including giving advice on starting or avoiding proceedings in court, disregarding whether such information is received or obtained before, during or after such proceedings.

### **II. IDENTIFICATION OF THE CLIENT AND BENEFICIARY**

1. Advocates, before starting provision of the services indicated in paragraph 3 of the Rules to a client, shall identify the client and the beneficiary in cases and under the procedure set in Article 9 of the Law on the Prevention of Money Laundering and Terrorist Financing, save when the current clients and beneficiaries were identified earlier, absent new circumstances or information in connection with determination of the risk level of the client and beneficiary, correctness or authenticity of their identity data, their activities and other significant circumstances.
2. In compliance with requirements of Articles 10–13 of the Law on the Prevention of Money Laundering and Terrorist Financing, Advocates, when identifying the client and the beneficiary, shall obtain necessary documents, data or information directly from the Information System of Legal Entities Participants (JADIS), other state information systems or registers and may directly not demand from the client that the client present these documents, data or information if the client confirms the documents, data or information obtained by the Advocate directly from state information systems or registers with his signature (including an advanced electronic signature or qualified electronic signature). Advocates shall report any data processor's refusal to present necessary documents, data or information for identification of the client, beneficiary to the Lithuanian Bar Association.
3. Advocates, determining the client’s and the beneficiary’s identity, shall recommend that the client provide accurate information to JADIS, the data processor of other state information systems or registers and shall have the right not to demand that the client confirm documents, data or information obtained directly from state information systems or registers with his signature if such documents, data or information do not differ from documents, data or information confirmed with the client’s signature earlier or if documents, data or information obtained from state information systems or registers are about the head of a legal entity or are obtained from the Population Register of the Republic of Lithuania.
4. When determining the client’s and the beneficiary’s identity in the client’s physical absence, the client who is a natural person or the representative of the client legal entity must present data about the beneficiary indicated in paragraph 2 of Article 12 of the Law on the Prevention of Money Laundering and Terrorist Financing. The data presented by the client shall be confirmed by use of electronic (recognition) means, including a qualified electronic signature, or by a signature on a written document.
5. In cases when it is determined that the beneficiary is a natural person holding the position of senior managing official, as indicated in subparagraph 1(b) of paragraph 14 of Article 2 of the Law on the Prevention of Money Laundering and Terrorist Financing, Advocates shall verify the identity of the natural person holding the position of senior managing official and shall keep entries about actions performs and difficulties encountered (if any).
6. Advocates, when identifying a client, may additionally use a questionnaire to determine the identity of the client, the nature of his activities and the identity of the beneficiary. Examples of recommended questionnaires are set out as annexes to these Rules. The client completing the questionnaire should be invited to sign the questionnaire (including with an advanced electronic signature or qualified electronic signature)
7. Advocates shall not establish or continue business relationships where they are unable to meet the requirements in connection with identifying the client and the beneficiary.
8. Advocates must ensure that the data, documents and information they hold on the client and the beneficiary are kept up-to-date (updated at least every 24 months). It is recommended that the Advocate impose an obligation on the client to provide documents or other data without delay if there is a change in the client’s beneficiary, the client’s governance structure or the nature of the client’s activities, the purpose or the expected nature of the business relationship with the Advocate, or the circumstances referred to in subparagraphs 1–5 of paragraph 1 of Article 14 of the Law on the Prevention of Money Laundering and Terrorist Financing.

### **III. ENHANCED CLIENT IDENTIFICATION**

1. Enhanced client identification by use of additional client and beneficiary identification means shall be performed in accordance with the provisions of Article 14 of the Law on the Prevention of Money Laundering and Terrorist Financing.
2. When presenting a questionnaire to the client or collecting information from the client in any other form, in addition to the questions in connection with identification of the client and the beneficiary, Advocates shall request information from the client, which shall consist of the risk factors indicated in paragraph 10 of Article 14 of the Law on the Prevention of Money Laundering and Terrorist Financing.

### **IV. SIMPLIFIED IDENTIFICATION OF CLIENT AND BENEFICIARY**

1. Simplified identification of the client and the beneficiary shall be performed if, upon collection of information about the client under the procedure set in these instructions, a low risk of money laundering and/or terrorist financing is identified in the cases provided for in paragraph 1 of Article 15 of the Law on the Prevention of Money Laundering and Terrorist Financing.
2. For simplified client identification, taking of the following steps is sufficient:

19.1. to collect main data of the client natural person and legal entity (first name, surname, personal ID number, name, legal form, address of the actual place of business and legal entity code (if any)), and

19.2. to make sure that the client’s first payment is made from an account with a credit institution, where the credit institution is registered in a European Union Member State or in a third country that set equivalent money laundering and terrorist financing prevention requirements and is supervised by competent authorities for compliance with these requirements.

### **V. REPORTING SUSPICIOUS OPERATIONS AND PROVISION OF INFORMATION**

1. Advocates, having found that a client is performing a suspicious monetary operation or transaction, which, by reason of its character, can be related to money laundering and/or terrorist financing, disregarding the amount of that monetary operation or transaction, must suspend that operation or transaction (not to start, not to plan and/or not to perform actions related to transactions indicated in paragraph 3 of the Rules) and no later than within 3 working hours after the suspension or finding a suspicious monetary operation or transaction, must report such an operation or transaction to the Lithuanian Bar Association **at the e-mail address: plovimoprevencija@advokatura.lt**.
2. Advocates, having received information from a client about his intention to perform a suspicious monetary operation or transaction, must immediately inform the Lithuanian Bar Association about it **at the e-mail address: plovimoprevencija@advokatura.lt**.
3. Advocates shall submit to the Lithuanian Bar Association data confirming the client’s identity and information about a one-off payment to the Advocate in cash if the received cash amount is equal to or exceeds EUR 15,000 or an equivalent amount in foreign currency no later than within 7 (seven) business days **at the e-mail address: plovimoprevencija@advokatura.lt**.
4. Advocates, acting as a partnership without establishing a legal entity or after establishing a legal entity – a professional partnership, shall appoint persons who will organise implementation of money laundering and/or terrorist financing preventive measures and shall communicate with the Lithuanian Bar Association. Advocates, acting individually, without appointing a person, can independently organise implementation of money laundering and/or terrorist financing preventive measures set in the Law on the Prevention of Money Laundering and Terrorist Financing and communicate with the Lithuanian Bar Association. Persons appointed by Advocates, acting as a partnership without establishing a legal entity or after establishing a legal entity – a professional partnership, who will organise implementation of the provisions of the Law on the Prevention of Money Laundering and Terrorist Financing and keeping in contact with the Lithuanian Bar Association, must be notified in writing to the Lithuanian Bar Association no later than within 7 business days after their appointment or change at the e-mail address indicated in paragraph 20 of the Rules.
5. Advocates, ensuring confidentiality of enquiries, shall, within the time limits set in the Law on the Prevention of Money Laundering and Terrorist Financing, upon receipt of a reasoned demand from the Lithuanian Bar Association, present information they have about implementation of the money laundering and terrorist financing preventive measures. Information cannot be presented to any other persons, except for cases provided for in laws.

### **VI. RISK ASSESSMENT**

1. Advocates, assessing client risk, shall take into account information collected (with the help of a questionnaire), shall also assess information indicated in the List of Criteria for Recognition of Money Laundering and Suspicious Monetary Operations or Transactions approved by an order of the Director of the Financial Crime Investigation Service, which is published on the official website of the Financial Crime Investigation Service.
2. Advocates, having performed a risk assessment, shall assign the client to one of the following client groups:

26.1. Low risk client;

26.2. Normal risk client;

26.3. High risk client.

1. A low risk client shall be a client for whom there are legal grounds for simplified identification of the client and the beneficiary.
2. A high risk client shall be a client for whom there are legal grounds for enhanced identification of the client and the beneficiary.
3. A normal risk client shall be a person not assigned to the client category indicated in paragraph 27 or 28 of the Rules.
4. Advocates, if necessary and following these Rules, shall establish internal policies and internal control procedures in connection with the implementation of the requirements provided for in Article 29 of the Law on the Prevention of Money Laundering and Terrorist Financing.

### **VII. TERMINATION OF BUSINESS RELATIONSHIP**

1. If the client avoids or refuses, at the Advocate’s request and within the time limits indicated by the Advocate, to present information for implementation of the requirements of the Law on the Prevention of Money Laundering and Terrorist Financing, the Advocate shall have the right to terminate business relationship with the client.
2. Advocates shall keep a book of registration of suspicious monetary operations and transactions and clients, with whom business relationship was terminated in case provided for in paragraph 31 of these Rules, with regard to the rules set by the Director of the Financial Crime Investigation Service[[2]](#footnote-2). At the request of and within the time limits set by the Lithuanian Bar Association, Advocates shall give the Bar Council access to this registration book.

### **VIII. STORAGE OF INFORMATION**

1. Advocates shall store documents confirming the client’s identity and other documents or data obtained in implementation of money laundering and terrorist financing prevention for periods of time indicated in Article 19 of the Law on the Prevention of Money Laundering and Terrorist Financing.
1. A provider of services of formation and administration of trusts or companies is any natural person or legal entity that for business purposes provides any services listed in paragraph 15 of Article 2 of the Law on the Prevention of Money Laundering and Terrorist Financing to third parties. [↑](#footnote-ref-1)
2. Rules for Keeping Books of Registration of Monetary Operations, Transactions and Clients approved by Order No. V-129 of the Director of the Financial Crime Investigation Service, dated 4 September 2017. [↑](#footnote-ref-2)