Regulations and guidelines X/202X

Customer due diligence related to compliance with sanctions regulation and freezing orders

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FINANCIAL SUPERVISORY AUTHORITY
tel. +358 9 183 51
firstname.surname@fiva.fi
fin-fsa.fi

FIN-FSA
FINANSSIVALVONTA

Legal nature of regulations and guidelines

Regulations

Financial Supervisory Authority (FIN-FSA) regulations are presented under the heading ‘Regulation’ in the FIN-FSA’s regulations and guidelines. FIN-FSA regulations are binding legal requirements that must be complied with.

The FIN-FSA issues regulations only by virtue of and within the limits of legal provisions that entitle it to do so.

Guidelines

FIN-FSA interpretations of the contents of laws and other binding provisions are presented under the heading ‘Guideline’ in the FIN-FSA’s regulations and guidelines.

Also, recommendations and other operating guidelines that are not binding are presented under this heading, as are the FIN-FSA’s recommendations on compliance with international guidelines and recommendations.

The formulation of the guideline shows when it constitutes an interpretation and when it constitutes a recommendation or other operating guideline. A more detailed description of the formulation of guidelines and the legal nature of regulations and guidelines is provided on the FIN-FSA website.

fin-fsa.fi > Regulation > Legal framework of FIN-FSA regulations and guidelines

Contents

1 Scope of application and definitions

1.1 Scope of application

These regulations and guidelines shall apply to the following obliged entities referred to in chapter 1, section 2 of the Act on Preventing Money Laundering and Terrorist Financing (444/2017, hereinafter the *AML Act*):

- credit institutions referred to in the Credit Institutions Act (610/2014) and branches of third-country credit institutions
- insurance companies and special purpose vehicles referred to in the Insurance Companies Act (521/2008)
- employee pension insurance companies referred to in the Employee Pension Insurance Companies Act (354/1997)
- branches of third-country insurance companies referred to in the Act on Foreign Insurance Companies (398/1995)
- fund management companies referred to in the Mutual Funds Act (213/2019) and custodians authorised under said Act
- investment firms referred to in the Act on Investment Services (747/2019) and branches of third-country firms
- a central securities depository referred to in the Act on the Book-Entry System (348/2017), including a registration fund and clearing fund established by it
- Finnish central counterparties referred to in the Act on the Book-Entry System and Clearing Operations
- payment institutions referred to in the Payment Institutions Act (297/2010)
- managers of alternative investment funds authorised in accordance with the Act on Alternative Investment Fund Managers (162/2014) as well as custodians authorised under said Act
- entities as referred to in Article 27(2) of Regulation (EU) 2017/2402 of the European Parliament and of the Council laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012, which have been granted authorisation as referred to in Article 28 of said Regulation
- holding companies that have been granted authorisation to pursue holding company activities as stipulated in chapter 2 a of the Credit Institutions Act
- approved public arrangements as referred to in Article 2(1)(34), and approved reporting mechanism as referred to in Article 2(1)(36), of Regulation (EU) No 600/2014 on markets in financial instruments and amending Regulation (EU) No 648/2012, to which the Financial Supervisory Authority has granted authorisation and for the supervision of which it is responsible under Article 27 b(1)(2) of said Regulation
- branches of foreign entities corresponding to the abovementioned supervised entities
- foreign entities corresponding to the abovementioned supervised entities, where the entity provides services in Finland through a representative without establishing a branch

- financial institutions belonging to the same consolidation group with a credit institution referred to in the Credit Institutions Act
- account operators referred to in the Act on the Book-Entry System and Clearing Operations and foreign corporations' Finnish offices that have been granted the rights of an account operator
- natural persons and legal persons referred to in sections 7, 7 a and 7 b of the Payment Institutions Act and alternative investment fund managers liable to register referred to in the Act on Alternative Investment Fund Managers
- local mutual insurance associations as referred to in the Local Mutual Insurance Associations Act (1250/1987)
- insurance intermediaries and ancillary insurance intermediaries referred to in the Insurance Distribution Act (234/2018), and branches of foreign insurance intermediaries and foreign ancillary insurance intermediaries that operate in Finland
- Finnish credit intermediaries referred to in the Act on Intermediaries of Consumer Credit Relating to Residential Property (852/2016) and Finnish branches of foreign credit intermediaries
- virtual currency providers referred to in the Act on Virtual Currency Providers (572/2019)
- traders within the scope of application of the Act on the Registration of Certain Credit Providers and Credit Intermediaries (186/2023).

1.2 Definitions

For the purposes of these regulations and guidelines, the following terms shall have the following meanings:

- *A customer* refers to one to whom the supervised entity provides products or services.
- *Compliance function* refers to a part in the supervised entity's organisation whose function is to supervise compliance with legal requirements and internal guidelines, to assess the adequacy of actions proposed to prevent and remediate any detected shortcomings in regulatory compliance and to provide support and advice on compliance with regulation and internal guidelines to the management and other staff of the supervised entity. It may also prepare policies and processes to manage risks pertaining to compliance with applicable requirements (so-called *compliance risks*) and to ensure regulatory compliance.
- *Controls* refer to procedures ensuring that operational goals are reached. Controls include all measures taken to prevent, detect and reduce errors, disruptions, shortcomings, faults and misuse.
- *Freezing orders* refer to decisions imposed under the Act on the Freezing of Funds with a View to Combating Terrorism (325/2013), (so-called freezing list of the National Bureau of Investigation)
- *Parties subject to sanctions* refer to natural persons, legal persons, entities and bodies subject to sanctions based on either sanctions regulation or Finnish national freezing orders, either directly or indirectly through ownership or control.
- *Sanctions risk* refers to the risk of acting contrary to sanctions imposed by the United Nations or European Union, or Finnish national freezing orders.

- *Sanctions regulation* refers to Regulations issued under Article 215 of the Treaty on the Functioning of the European Union and Government Decrees referred to in sections 1 and 2 a(1) of the Act on the Enforcement of Certain Obligations of Finland as a Member of the United Nations and of the European Union.
- *Economic resources* refer to assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services.
- *Supervised entity* refers to obliged entities which are under the supervision of the Financial Supervisory Authority according to chapter 7 section 1 paragraph 1 subsection 1 of the AML Act.
- *Funds* refer to financial assets and benefits of every kind, including (but not limited to) the following:
  - cash, cheques, claims on money, drafts, money orders and other payment instruments;
  - deposits in financial institutions or other entities, balances on accounts, debts and debt obligations;
  - publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
  - interest, dividends or other income on or value accruing from or generated by assets;
  - credit, right of set-off, guarantees, performance bonds or other financial commitments;
  - trade finance instruments;
  - documents showing evidence of an interest in funds or financial resources;
- *Freezing of funds* refers to the prevention of any move, transfer, alteration, use of or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management.

2 Legislative background and international recommendations

2.1 Legislation

The following legal provisions relate to the matters addressed in these regulations and guidelines:

- AML Act (444/2017).
- Act on the Enforcement of Certain Obligations of Finland as a Member of the United Nations and of the European Union *(*659/1967, hereinafter *the Sanctions Act)*
- Act on the Freezing of Funds with a View to Combating Terrorism (325/2013, hereinafter the *Freezing Act)*
- Act on Virtual Currency Providers (572/2019)
- Act on Insurance Companies (521/2008)
- Act on the Financial Supervisory Authority (878/2008, hereinafter *the FIN-FSA Act*)
- Credit Institutions Act (610/2014)
- Investment Services Act (747/2012)
- Mutual Funds Act (213/2019)
- Payment Institutions Act (297/2010)
- Act on Alternative Investment Fund Managers (162/2014, hereinafter *the AIFM Act*)
- Act on the Book-entry System and Clearing Operations (348/2017)
- Enforcement Code (705/2007)
- Security Clearance Act (726/2014)
- Act on the Criminal Register (770/1993)
- Accounting Act (1336/1997)

2.2 European Union Regulations

The following directly applicable European Union Directives are related to the matters addressed in these regulations and guidelines:

- Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism (hereinafter *Council Regulation (EC) No 2580/2001*)
- 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 (hereinafter *Council Regulation (EC) No 2271/96*)

2.3 European Union Directives

The following European Union Directives are related to the matters addressed in these regulations and guidelines:

- Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (hereinafter *the Fourth Anti-Money Laundering Directive*, *4AMLD*)

2.4 FIN-FSA's regulatory powers

FIN-FSA's power to issue binding regulations on the subject is based on the following legal provisions:

- Section 39(4) of the Payment Institutions Act
- Chapter 15, section (18)(4) of the Credit Institutions Act
- Section 13(4) of the Act on Virtual Currency Providers
- Chapter 12(3)(4) of the Securities Markets Act
- Chapter 12, section 10 of the AIFM Act
- Chapter 6, section 21(1)(4) of the Insurance Companies Act
- Chapter 26, section (15)(4) of the Mutual Funds Act
- Chapter 8, section 13 of the Act on the Book-Entry System and Settlement Operations
- Section 18(2) of the FIN-FSA Act.

2.5 International recommendations

The following Guidelines issued by the European Securities Markets Authority (hereinafter *the EBA*) are related to the matters addressed in these regulations and guidelines:

- EBA Guidelines on internal governance (EBA/GL/2021/05)
- EBA Guidelines on internal governance under Directive (EU) 2019/2034 (EBA/GL/2021/14)

The EBA's guidelines are available on the websites of the FIN-FSA, at Finanssivalvonta.fi, and the EBA, at www.eba.europa.eu.

Interpretations of regulation (Q&A) published by the EBA are available at www.eba.europa.eu.

The following international recommendations and treaties are related to the matters addressed in these regulations and guidelines:

- Commission Recommendation (EU) 2019/1318 of 30 July 2019 on internal compliance programmes for dual-use trade controls under Council Regulation (EC) No 428/2009 (hereinafter *Commission Recommendation (EU) 2019/1318*)

- EU Best Practices for the effective implementation of restrictive measures, 10572/22 (hereinafter *the EU Best Practices on Sanctions*)
- Treaty on the Functioning of the European Union.

3 Objectives

(1) These regulations and guidelines address the arrangement of effective policies, procedures and internal control related to sanctions regulation and freezing orders. More detailed regulations and guidelines are provided on topics related to the organisation of the supervised entity's activities, evaluation of risks, customer due diligence, sanctions screening, asset freezing, management methods for sanctions risk and reporting.

(2) The objective of these regulations and guidelines is to ensure that:

- The supervised entity has sufficient resources to ensure compliance with sanctions.
- The management of the supervised entity has a current view to the management of sanctions risk by the supervised entity and progress therein.
- The supervised entity has organised its activities so that it has clearly defined roles and responsibilities to ensure compliance with sanctions.
- The supervised entity understands risks associated with its activities and has arranged effective and adequate methods to manage and mitigate them.
- The supervised entity has effective means to detect parties subject to sanctions and freeze their funds, where necessary.
- The supervised entity has effective internal controls to test processes and systems and to detect misconduct.
- The supervised entity has policies and procedures in place that are suitable for their own activities to manage risks related to sanctions imposed by third countries. The supervised entity has appropriate processes and channels for reporting both internally and to competent authorities.

(3) These regulations and guidelines aim to provide entities supervised by the FIN-FSA with interpretations and recommendations to comply with sanctions laws and regulation.

(4) In addition, these regulations and guidelines aim to issue binding regulations to supervised entities pursuant to the regulatory powers laid out above in chapter 2.4.

(5) These regulations and guidelines aim to guide supervised entities in their actions to ensure compliance with sanctions laws and regulations.

(6) Furthermore, these regulations and guidelines aim to provide supervised entities with more detailed guidance on the practical arrangement of effective policies, procedures and internal control required by regulation.

4 Organisation of functions to comply with sanctions regulation and freezing orders

4.1 General

(1) In accordance with chapter 3, section 16 of the AML Act, obliged entities shall have effective policies, procedures and internal control to ensure that they comply with obligations imposed on them by sanctions regulation and freezing orders.

(2) In accordance with chapter 9, section 1(1) of the AML Act, obliged entities shall designate a person from their management to be responsible for supervising compliance with said Act and provisions issued thereunder.

(3) In accordance with chapter 9, section 1(1) of the AML Act, obliged entities shall ensure that their employees are provided with training to ensure compliance with said Act and provisions issued thereunder.

4.2 Roles and responsibilities to ensure compliance with sanctions regulation and freezing orders

GUIDELINE (paragraphs 4–6)

(4) According to the FIN-FSA's interpretation, effective internal control referred to in chapter 3, section 16 of the AML Act means that the organisation must have clearly defined roles and responsibilities to ensure compliance with sanctions regulation and freezing orders.

(5) The FIN-FSA recommends that the roles and responsibilities referred to in paragraph 4 are described in a written format, for example, by maintaining an up-to-date organisation chart indicating the units and/or persons whose tasks include ensuring compliance with sanctions.

(6) According to the FIN-FSA's interpretation, the obligation under chapter 9, section 1(1) of the AML Act means that the supervised entity shall designate a person from its management who is responsible for the monitoring of compliance with sanctions. The person designated from the management must have adequate expertise, skills and authority.

4.2.1 Lines of defence

(7) In this chapter, the model of three lines of defence refers to a model where a supervised entity's internal control and risk management duties are divided among the following functions:

- the supervised entity's business units (first line of defence)
- independent risk management functions and compliance functions (second line of defence)
- internal audit (third line of defence)

(8) The EBA has issued Guidelines on internal governance (EBA/GL/2021/05), which apply to credit institutions and certain other obliged entities[1].

[1] *As regards the scope of application, see FIN-FSA regulations and guidelines 14/2021.*

(9) The EBA Guidelines on internal governance are based on the 'three lines of defence' model, which is discussed in particular under Title V on 'Internal control framework and mechanisms' of the EBA Guidelines. In accordance with the introduction to the Final Report on the EBA Guidelines, the tasks of the three lines of defence include the following:

First line of defence

The first line of defence refers to the business lines of the supervised entity. The business lines have processes and controls created for operational activities to ensure that business-related risks are identified, analysed and assessed, and that they are monitored, managed and reported to the management. The first line of defence is responsible for ensuring that business activities are pursued within the supervised institution's risk appetite defined by its management and that the business activities are compliant with external and internal requirements.

Second line of defence

The risk management function and compliance function form the second line of defence.

The risk management function, as part of the second line of defence, facilitates the implementation of a sound risk management framework throughout the supervised entity and typically has responsibility for identifying, monitoring, analysing, measuring, managing and reporting its risks. It is tasked with forming a holistic view on the supervised entity's all risks on an individual and consolidated basis. It challenges and assists the first line of defence in the implementation of risk management measures by the business lines in order to ensure that the process and controls in place at the first line of defence are properly designed and effective.

The compliance function typically monitors compliance with legal requirements and internal policies, provides support and advice on compliance to the supervised entity's management and other staff.

Both the risk management and compliance function have a role in ensuring that the internal control and risk management methods applied within the first line of defence are modified where necessary.

Third line of defence

The third line of defence refers to an independent internal audit function. The internal audit function is responsible for conducting audits, among other things, to ascertain that governance arrangements, processes and mechanisms are sound, effective, implemented and consistently applied. The internal audit function is also in charge of the independent review of the first two lines of defence.

GUIDELINE (paragraphs 10–14)

(10) The FIN-FSA recommends that supervised entities outside the scope of application of guidelines referred to in paragraph 8 also review the EBA guidelines on internal governance in preparing their policies, procedures and controls referred to in chapter 3, section 16 of the AML Act and assess, in line with the principle of proportionality, whether it is appropriate to design the risk management and internal control of the supervised entity in accordance with the model of three lines of defence, with a view to the size of the supervised entity, the nature and quality of its

activities and its organisational structures. However, investment firms are subject to EBA Guidelines on internal governance under Directive (EU) 2019/2034 (EBA/GL/2021/14).

(11) The FIN-FSA recommends that supervised entities pay attention to the clarity of the organisation structure of the firm so that internal control can be performed as effectively as possible.

(12) The FIN-FSA recommends that supervised entities have procedures to ensure that internal audit or other function performing internal control duties assesses the following considerations in a pre-determined frequency and schedule:

- adequacy of policies and other internal guidelines concerning sanctions relative to the risks documented by the supervised entity
- effectiveness of the implementation of policies and internal guidelines concerning sanctions
- effectiveness of control and quality control potentially conducted by the second line of defence
- effectiveness of the supervised entity's training programme concerning sanctions

(13) The FIN-FSA recommends that internal audit employees tasked with performing assessments related to sanctions have adequate understanding and expertise in sanctions regulation and compliance with freezing orders.

(14) The FIN-FSA recommends supervised entities to ensure that actions proposed to remediate shortcomings highlighted by internal audit and the compliance function are executed appropriately and effectively. In addition, action recommendations by internal audit and the compliance function should be executed by agreed deadlines and to the agreed extent.

4.2.2 Management duties in sanctions compliance

(15) The FIN-FSA's authority to issue more detailed regulations on the procedures to be followed in customer due diligence and the management of risks posed by customers to the activities of a supervised entity is based on the following provisions: Section 39(4) of the Payment Institutions Act, chapter 15, section 18(4) of the Credit Institutions Act, section 13(4) of the Virtual Currency Providers Act, chapter 12, section 3(4) of the Investment Services Act, chapter 12, section 10 of the AIFM Act, chapter 6, section 21(4) of the Insurance Companies Act, chapter 26, section 15(4) of the Mutual Funds Act and chapter 8, section 13 of the Act on the Book-Entry System and Settlement Operations.

(16) For the purposes of regulation 17–18, a supervised entity refers to supervised entities falling within the scope of authority to issue regulations under paragraph 15 above.

REGULATION (paragraphs 17–18)

(17) The management of the supervised entity shall adopt the supervised entity's policies procedures, and effective internal control for sanctions compliance and to monitor and develop measures related to sanctions compliance. The policies shall cover UN and EU sanctions as well as Finnish national freezing orders.

(18) The management of the supervised entity shall ensure that the supervised entity has adequate resources to manage the supervised entity's sanctions risks and to ensure compliance with sanctions regulation and freezing orders.

GUIDELINE (paragraphs 19–21)

(19) The FIN-FSA recommends that paragraphs 17–18 are also complied with by supervised entities excluded from the authority to issue regulations under paragraph 15.

(20) According to the FIN-FSA's interpretation, effective internal control referred to in chapter 3, section 16 of the AML Act entails that the management of the supervised entity receives regular reporting on vulnerabilities, deficiencies related to the entity's sanctions risk management and the progress concerning actions to develop sanctions risk management.

(21) The FIN-FSA recommends that the management of the supervised entity promotes a corporate culture that encourages compliance with sanctions regulation and freezing orders as well as internal guidelines and the reporting of misconduct while also ensuring that the supervised entity intervenes in misconduct effectively and proportionately.

4.3 Policies, procedures and other internal guidelines

(22) The FIN-FSA's authority to issue more detailed regulations on the procedures to be followed in customer due diligence and the management of risks posed by customers to the activities of a supervised entity is based on the following provisions: Section 39(4) of the Payment Institutions Act, chapter 15, section 18(4) of the Credit Institutions Act, section 13(4) of the Virtual Currency Providers Act, chapter 12, section 3(4) of the Investment Services Act, chapter 12, section 10 of the AIFM Act, chapter 6, section 21(4) of the Insurance Companies Act, chapter 26, section 15(4) of the Mutual Funds Act and chapter 8, section 13 of the Act on the Book-Entry System and Settlement Operations.

(23) For the purposes of regulation 29, a supervised entity refers to supervised entities falling within the scope of authority to issue regulations under paragraph 22 above.

GUIDELINE (paragraphs 24–28)

(24) According to the FIN-FSA's interpretation, chapter 3, section 16 of the AML Act entails that the supervised entity shall have written policies concerning sanctions regulation and freezing orders. Policies are high-level statements of intent. They shall indicate at least which sanctions the supervised entity will comply with when identifying, assessing, monitoring, and mitigating sanctions risks and a high-level description of methods and processes applied by the supervised entity.

(25) According to the FIN-FSA's interpretation, the procedures referred to in chapter 3, section 16 of the AML Act are more detailed than the policies referred to in paragraph 24, and they steer the supervised entity's practical measures to comply with sanctions regulation and freezing orders. Depending on the nature, size and extent of the business of the supervised entity, the policies may include guidance of different levels ranging from general guidance to detailed operative instructions. The supervised entity shall ensure that either the policies or procedures include a description of processes related to the management of sanctions risks, the roles and responsibilities of employees/units and other tasks related to the management of sanctions risks. The policies and procedures must be documented.

(26) According to the FIN-FSA's interpretation, the requirement to have effective policies as referred to in chapter 3, section 16 of the AML Act means that policies should be assessed periodically so

that changes in the operating environment and in the supervised entity's own business are taken into consideration and updated when necessary.

(27) According to the FIN-FSA's interpretation, the effective policies, procedures, and internal control referred to in chapter 3 section 16 of the AML Act means that the supervised entity shall also draft a detailed and practical instructions to ensure compliance with sanctions regulation and freezing orders.

(28) According to the FIN-FSA's interpretation, effective internal control under chapter 3, section 16 of the AML Act entails, among other things, supervising that policies, procedures and more detailed operating guidelines have been incorporated as part of the supervised entity's daily operations.

REGULATION (paragraph 29)

(29) Supervised entities must check the up-to-datedness of policies concerning compliance with sanctions regulation and freezing orders regularly, at least on an annual basis, and update the policies when necessary.

GUIDELINE (paragraphs 30-31)

(30) The FIN-FSA recommends that paragraph 29 is also complied with by supervised entities excluded from the authority to issue regulations under paragraph 22.

(31) The FIN-FSA recommends that the policies referred in paragraph 29 include an overview of the means and methods the supervised entity is using to ensure compliance with sanctions regulation and freezing orders.

4.4 Policies and procedures concerning employees

4.4.1 Background checks of employees to ensure compliance with sanctions regulation and freezing orders

GUIDELINE (paragraphs 32–36)

(32) The FIN-FSA recommends that a supervised entity's policies and procedures referred to in chapter 3, section 16 of the AML Act include background checks of the supervised entity's employees:

- to verify whether the supervised entity's employee is subject to sanctions regulation and/or freezing decisions and
- ensuring that the payment of wage does not breach sanctions regulation and/or freezing decisions.

(33) The FIN-FSA recommends that a supervised entity's policies and procedures include background checks of the supervised entity's employees working in functions related to sanctions compliance. The purpose of the background checks is to ensure that supervised entities' employees do not abuse their position for the purposes of sanctions evasion.

(34) The FIN-FSA recommends supervised entities to ensure that the policies and procedures concerning the background checks on employees referred to in paragraph 33 are commensurate with the nature, size, and extent of the supervised entity's activities.

(35) The FIN-FSA recommends that supervised entities conduct the background checks referred to in paragraph 33 on a risk-sensitive basis, taking into consideration how critical the employee's role is for sanctions compliance and that employee background checks have impacts limiting privacy and the protection of personal data as referred to in section 10 of the Constitution. Supervised entities should pay attention not to conduct more extensive employee background checks than what are relevant for the duties concerned.

(36) The FIN-FSA recommends supervised entities to note that the background check does not mean a background check by the Finnish Security and Intelligence Service under the Security Clearance Act or a background check referred to in Criminal Records Act but such lighter procedures whereby it is ensured that employees meet, in the context of recruitment and on an ongoing basis, any requirements posed to their professional competence, such as formal qualification, adequate education and experience. In the context of recruitment, the background check would entail, for example, the verification of information provided by the employee, to be conducted by contacting previous employers and educational institutions, subject to the employee's permission. The quality and extent of the background check could vary depending on the duties assigned to the employee. The principal purpose would be to ensure that the person's education, professional experience, personal characteristics, and ability meet the requirements of the position.

4.4.2 Training and competence of employees concerning sanctions

(37) In accordance with chapter 9, section 1(1) of the AML Act, obliged entities shall ensure that their employees are provided with training to ensure compliance with the AML Act and the provisions issued thereunder.

GUIDELINE (paragraphs 38–44)

(38) According to the FIN-FSA's interpretation, the obligation referred to in chapter 9, section (1)(1) of the AML Act to ensure the training of employees encompasses customer due diligence related to sanctions regulation and compliance with freezing orders as well as measures to ensure that the supervised entity complies with sanctions regulation and freezing orders.

(39) According to the FIN-FSA's interpretation, the obligation under chapter 9, section 1(1) of the AML Act to ensure that employees are provided with training means that supervised entities shall prepare policies and procedures for training and supervise compliance with them by keeping records of the timing, content, and participants of training, among other things.

(40) According to the FIN-FSA's interpretation, training given to ensure compliance with the obligation under chapter 9, section 1(1) of the AML Act shall be detailed enough to ensure that supervised entities' employees have the capability to perform on their duties in line with the requirements of the supervised entities' policies and procedures. The fulfilment of the obligation may require the preparation of separate training plans for different groups of employees.

(41) The FIN-FSA recommends that supervised entities arrange an induction for employees and ensure the maintenance of their professional competence regarding:

– customer due diligence related to sanctions regulation and compliance with freezing decisions and
– other sanctions regulation and compliance with freezing decisions.

(42) The FIN-FSA recommends supervised entities to ensure the continuous maintenance of their employees' professional competence to an extent required by their duties throughout the duration of the employment relationship. The adequacy and up-to-datedness of the training received by the employees should be monitored.

(43) The FIN-FSA recommends that the supervised entity considers the nature, size and extent of its activities in the training to ensure that the training is commensurate with the supervised entity's customer base, geographical location, products and services as well as distribution channels.

(44) The FIN-FSA recommends that the supervised entity updates the training programme on a regular basis and especially in circumstances where supervised entity's internal control has identified weaknesses related to the entity's procedures for complying with sanctions.

5 Assessment of impacts of sanctions regulation and freezing orders to the supervised entity's activities

(1) In this chapter, assessment of the impacts of sanctions regulation and freezing orders to the supervised entity's activities refers to a risk assessment prepared by the supervised entity in order to identify any threats and vulnerabilities it is exposed to concerning sanctions, and to assess the probabilities of the materialisation of these threats and vulnerabilities.

(2) The FIN-FSA's authority to issue more detailed regulations on the procedures to be followed in customer due diligence and the management of risks posed by customers to the activities of a supervised entity is based on the following provisions: Section 39(4) of the Payment Institutions Act, chapter 15, section 18(4) of the Credit Institutions Act, section 13(4) of the Virtual Currency Providers Act, chapter 12, section 3(4) of the Investment Services Act, chapter 12, section 10 of the AIFM Act, chapter 6, section 21(4) of the Insurance Companies Act, chapter 26, section 15(4) of the Mutual Funds Act and chapter 8, section 13 of the Act on the Book-Entry System and Settlement Operations.

(3) For the purposes of regulation 5, a supervised entity refers to supervised entities falling within the scope of authority to issue regulations under paragraph 2 above.

GUIDELINE (paragraph 4)

(4) According to the FIN-FSA's interpretation, ensuring the effective policies, procedures and internal control referred to in chapter 3, section 16 of the AML Act requires that the supervised entity has first prepared a risk assessment, in which it identifies threats and vulnerabilities it is exposed to concerning sanctions regulation and freezing orders. In addition, the risk assessment shall evaluate the probabilities of the materialisation of the threats and vulnerabilities, as well as the management methods of the risks and associated threats and vulnerabilities.

REGULATION (paragraph 5)

(5) Supervised entities shall prepare a risk assessment concerning sanctions whose up-to-datedness must be reviewed at least on an annual basis. The risk assessment shall be updated when necessary. The review of up-to-datedness and any updates made to the risk assessment shall be documented, with justifications.

GUIDELINE (paragraphs 6–12)

(6) The FIN-FSA recommends that paragraph 5 is also complied with by supervised entities excluded from the authority to issue regulations under paragraph 2.

(7) The review of up-to-datedness referred to above in paragraph 5 means that the supervised entity checks whether such changes have occurred in its operating environment that require an update of the risk assessments. Such changes include significant regulatory changes in the form of an entirely new sanctions programme or the provision of new products or services.

(8) The FIN-FSA recommends that the supervised entity also updates the risk assessment whenever there are changes in the supervised entity's risk management framework or the supervised entity

detects new vulnerabilities in its activities. The supervised entity should ensure that its management as defined in chapter 4.2 paragraph 6, receives regular reporting on changes in sanctions risks.

(9) The FIN-FSA recommends that the supervised entity's risk assessment indicates the supervised entity's justified view of sanctions risks it is exposed to, including at least the following descriptions:

- how products and services provided by the supervised entity could be utilised in sanctions evasion
- what sanctions risks are involved with the supervised entity's customers, products, services, distribution channels and geographical areas (such as linkages of a customer's business with countries subject to comprehensive sanctions)
- what sanction risks are involved with the geographical location of the supervised entity
- what sanctions risks related to terrorist financing[2] are involved with the supervised entity's activities
- what sanctions risks related to the financing of the proliferation of weapons of mass destruction[3] are involved with the supervised entity's activities

(10) The FIN-FSA recommends that, in the risk assessment, the supervised entity distinguishes sanctions risks related to customers, products, services, distribution channels and geographical areas on a business area-specific basis.

(11) The FIN-FSA recommends that, in updating the risk assessment, the supervised entity considers the following events after the preparation/update of the previous risk assessment as factors elevating the risk: infringements of sanctions, attempts to evade sanctions, suspicious transaction reports related to sanctions and circumstances where a sanctions-related infringement was close to occur.

(12) The FIN-FSA recommends that, in the sanctions risk assessment, the supervised entity evaluates, in addition to sanctions risks related to customers, also risks related to the supervised entity's business partners and other cooperation partners and the extent to which sanctions screening should cover business partners and other cooperation partners. Business partners and other cooperation partners include, for example, IT systems providers and outsourced service providers.

[2] United Nations Security Council Resolutions 1267 (of 1999), 1989 (of 2011) and 2253 (of 2015). See also FATF Recommendation 6. Targeted financial sanctions related to terrorism and terrorist financing.
[3] See FATF Recommendation 7. Targeted financial sanctions related to proliferation.

6 Customer due diligence to ensure compliance with sanctions regulation and freezing orders

6.1 General

(1) In accordance with chapter 3, section 16 of the AML Act, as part of customer due diligence measures, obliged entities must have effective policies, procedures and internal control to ensure that they comply with obligations imposed on them by sanctions regulation and freezing orders.

(2) In accordance with Article 1(5) of Council Regulation (EC) No 2580/2001 owning *a legal person*, *group* or *entity'* means being in possession of 50 % or more of the proprietary rights of a legal person, group or entity, or having a majority interest therein.

(3) Article 1(6) of Council Regulation (EC) No 2580/2001 and the EU Best Practices for the effective implementation of restrictive measures define the circumstances under which a legal person or entity shall be considered under the control of another person or entity and where its funds and economic resources shall be frozen.[4]

(4) Sections 3 and 6–7 of the Freezing Act provide a prohibition to transfer, alter and assign funds to natural and legal persons subject to freezing orders.

(5) In accordance with section 3(1)(4) of the Freezing Act, the freezing obligation under the freezing orders concerns, in addition to parties subject to freezing orders of the National Bureau of Investigation, legal persons in which a natural person or legal person subject to a freezing decision owns at least 50% alone or together with other natural or legal persons of this kind.

(6) In accordance with Section 3(1)(5) of the Freezing Act, the freezing obligation under the freezing orders concerns a legal person in which a natural or legal person referred to in paragraphs 1–3 exercises the control referred to in chapter 1, section 5 of the Accounting Act alone or together with other natural or legal persons of this kind.

(7) Chapter 6 of FIN-FSA regulations and guidelines 2/2023 on preventing money laundering and terrorist financing provides regulations and guidelines on customer due diligence.

(8) This chapter provides regulations and guidelines clarifying the regulations and guidelines referred to in paragraph 7 insofar as required by customer due diligence necessary for compliance with sanctions regulation and freezing orders.

GUIDELINE (paragraphs 9-13)

(9) According to the FIN-FSA's interpretation, sanctions regulation and freezing orders referred to in chapter 3, section 16 of the AML Act apply to all natural and legal persons and set the obligation to freeze funds and other economic resources belonging to parties subject to sanctions regulation and/or freezing orders and the obligation not to make funds or economic resources available to such parties.

(10) The FIN-FSA recommends supervised entities to pay particular attention to the scope of application of each EU sanctions regulation[5]. Freezing obligations typically concern parties

[4] *EU Best Practices on Sanctions, paragraph 62–65. See also chapter 6.2.1.*
[5] *The EU's current sanctions programmes: https://www.sanctionsmap.eu/#/main.*

identified in EU sanctions regulations as well as funds and economic resources owned, held or controlled by such parties. Obligations under sanctions regulation typically include a prohibition to make any funds or economic resources directly or indirectly available to parties subject to sanctions.

Example:

If a supervised entity's customer is a natural or legal person named in an EU sanctions regulation, the supervised entity shall freeze the customer's funds. In addition, the supervised entity shall ensure that it does not make economic resources available to parties named in an EU sanctions regulation.

(11) The FIN-FSA recommends supervised entities to pay particular attention to the fact that obligations under sanctions regulation may require supervised entities to take other actions besides freezing funds, for example refusing to execute certain types of transactions with companies operating in certain economic sectors (so-called sectoral sanctions)[6].

(12) According to the FIN-FSA's interpretation, the so-called 50% ownership rule under Article 1(5) of Council Regulation (EC) No 2580/2001 referred to in paragraph 11 entails that the supervised entity shall freeze the funds of customers owned for more than 50% by a named party, also applying to other EU sanctions programmes than those specified in said Regulation. In addition, the supervised entity shall freeze funds that are controlled by the designated party.

(13) The FIN-FSA recommends supervised entities to pay particular attention to carefully adhering to the national freezing orders referred in section 3 of the Freezing Act as well as obligations referred in sanctions regulation.

6.2 Customer due diligence information

(14) Chapter 3 of the AML Act provides on customer due diligence obligations. In accordance with chapter 3, section 16 of the AML Act, as part of their customer due diligence measures, obliged entities shall have effective customer due diligence procedures to comply with sanctions regulation and freezing orders.

GUIDELINE (paragraphs 15- 18)

(15) According to the FIN-FSA's interpretation, the effective procedures referred to in chapter 3, section 16 of the AML Act include procedures to obtain customer due diligence information whereby the supervised entity is able to detect and mitigate sanctions risks related to the supervised entity's customers. The customer due diligence information maintained by the supervised entity on its customers must be up to date.

(16) According to the FIN-FSA's interpretation, chapter 3, section 16 of the AML Act entails that the supervised entity shall collect due diligence information on its customers both when establishing a customer relationship and on a regular basis throughout the customer relationship in order to be able to detect factors relevant for sanctions risk associated with the customer relationship and to conduct sanctions screening[7].

[6] *See European Council's guidance regarding sectoral sanctions imposed on Russian federation* https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/#economic
[7] *For more detailed information, see chapter 7, Sanctions screening.*

(17) The FIN-FSA recommends that the supervised entity applies an enhanced customer due diligence procedure when it assesses that the case involves a higher-than-normal sanctions risk.[8]

(18) The FIN-FSA recommends that in cases referred to in paragraph 17, the supervised entity obtains more extensive documentary evidence to ensure compliance with sanctions regulation and freezing orders. This may mean, for example, the utilisation of external service providers and establishing the owners of group companies based on documentary evidence and an extract from the Trade Registry and articles of association of these companies.

6.2.1 Identification of beneficiaries to ensure compliance with sanctions regulation and freezing orders

(19) The EU Best Practices on Sanctions[9] determine the criteria for assessing whether a legal person or entity is considered to be *controlled* by another person or entity. Accordingly, if any of the following criteria are satisfied, a person or entity is considered to have control over another legal person or entity, unless the contrary can be established on a case-by-case basis[10]:

a) having the right to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person or entity;

b) having appointed solely as a result of the exercise of one's voting rights a majority of the members of the administrative, management or supervisory bodies of a legal person or entity who have held office during the present and previous financial year;

c) controlling alone, pursuant to an agreement with other shareholders in or members of a legal person or entity, a majority of shareholders' or members' voting rights in that legal person, group or entity;

d) having the right to exercise a dominant influence over a legal person or entity, pursuant to an agreement entered into with that legal person, group or entity, or to a provision in its Memorandum or Articles of Association, where the law governing that legal person, group or entity permits its being subject to such agreement or provision;

e) having the power to exercise the right to exercise a dominant influence referred to in point (d), without being the holder of that right [11];

f) having the right to use all or part of the assets of a legal person or entity;

g) managing the business of a legal person or entity on a unified basis, while publishing consolidated accounts;

h) sharing jointly and severally the financial liabilities of a legal person or entity, or guaranteeing them.

(20) According to the EU Best Practices on Sanctions[12], if control is established in accordance with the criteria referred to in paragraph 19, the making available of funds or economic resources to non-listed legal persons or entities which are owned or controlled by a listed person or entity will in principle be considered as making them indirectly available to the latter, unless it can be reasonably determined, on a case-by-case basis using a risk-based approach, taking into

[8] *For more detailed information on the assessment of sanctions risks, see chapter 5, paragraph 9.*
[9] *EU Best Practices on Sanctions, paragraph 62.*
[10] *EU Best Practices on Sanctions, paragraph 62–65.*
[11] *For example, through a shell company.*
[12] *EU Best Practices on Sanctions, paragraph 66.*

account all of the relevant circumstances, including the criteria mentioned in the best practises, that the funds or economic resources concerned will not be used by or be for the benefit of that listed person or entity,[13].

GUIDELINE (paragraphs 21-22)

(21) According to the FIN-FSA's interpretation, effective procedures referred to in chapter 3, section 16 of the AML Act include procedures to identify the beneficial owners of customers subject to sanctions regulation and freezing orders. The effective procedures shall also cover parties that are indirectly subject to sanctions regulation and freezing orders referred to in paragraphs 11–12 but have not been identified in official sanctions lists.

(22) The FIN-FSA recommends supervised entities to pay particular attention to the fact that the definitions of ownership and control under sanctions regulation and freezing orders are not identical with the definition of a beneficial owner of a corporation in chapter 1, section 5 of the AML Act.

6.3 Ongoing monitoring of customer relationship

(23) Ongoing monitoring is provided on in chapter 3, section 4(2) and (3) of the AML Act, and the maintenance of the up-to-datedness and relevance of customer due diligence data is provided on in chapter 3, section 3(1) of the AML Act.

(24) In accordance with chapter 3, section 4(2) of the AML Act, obliged entities shall arrange monitoring that is adequate in view of the nature and extent of the customers' activities, the permanence and duration of the customer relationship and the risks involved in order to ensure that the customers' activities are consistent with the entities' experience or knowledge of the customers and their activities.

(25) Chapter 3, section 16 of the AML Act provides on the obligation of the supervised entity, as part of customer due diligence measures, to establish effective procedures to ensure that it complies with sanctions regulation and freezing orders.

(26) The FIN-FSA's authority to issue more detailed regulations on the procedures to be followed in customer due diligence and the management of risks posed by customers to the activities of a supervised entity is based on the following provisions: Section 39(4) of the Payment Institutions Act, chapter 15, section 18(4) of the Credit Institutions Act, section 13(4) of the Virtual Currency Providers Act, chapter 12, section 3(4) of the Investment Services Act, chapter 12, section 10 of the AIFM Act, chapter 6, section 21(4) of the Insurance Companies Act, chapter 26, section 15(4) of the Act on Common Funds and chapter 8, section 13 of the Act on the Book-Entry System and Settlement Operations.

(27) For the purposes of regulation 34–36, a supervised entity refers to supervised entities falling within the scope of authority to issue regulations under paragraph 26 above.

[13] *In uncertain situations, the supervised entity shall contact the National Enforcement Authority Finland.*

GUIDELINE (paragraphs 32–36)

(28) According to the FIN-FSA's interpretation, chapter 3, section 16 of the AML Act entails that the supervised shall establish procedures for the implementation of ongoing monitoring related to sanctions. As part of ongoing monitoring, the supervised entity shall check that transactions are:

– consistent with information held by the supervised entity on the customer, its business and risk profile,
– not breaching sanctions regulation or freezing orders and
– that customer due diligence information and documents held by the supervised entity are kept up to date.

(29) According to the FIN-FSA's interpretation, chapter 3, section 16 of the AML Act entails that the ongoing monitoring procedures established to ensure compliance with sanctions regulation and freezing orders shall include procedures for comparing customer due diligence information and the customer's activities to information obtained by the supervised entity on the customer and its activities in establishing the customer relationship or during the customer relationship as well as information obtained in the context of ongoing monitoring on the customer and its activities.

Example:

The need for customer due diligence measures initiated based on the customer's own activities may arise for example in circumstances where the customer is found to have a linkage to a party subject to sanctions or the customer has transactions to a country subject to comprehensive sanctions.

(30) According to the FIN-FSA's interpretation, chapter 3, section 16 and chapter 3, section 4(2) of the AML Act entails that ongoing monitoring shall be systematic and comprehensive relative to the extent of supervised entity's activities and the sanctions risk involved in the customer relationships. Comprehensive means, for example, that all products and services provided by the supervised entity have been considered in ongoing supervision.

(31) According to the FIN-FSA's interpretation, the obligation under chapter 3, section 1(3) of the AML Act to observe customer due diligence measures throughout the course of the customer relationship on the basis of risk-based assessment entails, among other things, that the supervised entity shall assess the impact of changes in the customer's activities on its individual risk level, also reflecting sanctions risk, as part of the ongoing monitoring of the customer relationship and particularly when updating customer due diligence data. Sanctions risks should also be taken into consideration when determining the risk levels.

(32) The FIN-FSA recommends that virtual currency providers have an IT systems-based analytical software at their disposal for customer due diligence and monitoring of customer activity if the nature and extent of the business pursued requires it, based on a risk assessment. Virtual currency providers should also use the information obtained by using the analytical software in assessing sanctions related risks arising from customers to their activities.

(33) The FIN-FSA recommends that, if a virtual currency provider allows its customers to move virtual currencies into or from the service using features whose apparent purpose is to hide the origin of virtual currencies, this is considered in the risk assessment concerning sanctions and in organising ongoing monitoring. An example of a feature referred to herein is a so-called mixer.

REGULATION (paragraphs 34–36)

(34) Supervised entities shall ensure that adequate financial, technological and human resources are allocated to ongoing monitoring to prevent sanctions risks.

(35) Supervised entities shall ensure that both manual ongoing monitoring procedures and any IT systems-based sanctions screening at its disposal are based on the supervised entity's sanctions risk assessment and are sufficient with a view to the nature, size and extent of the business of the supervised entity. Particular attention shall be paid on sanctions risks concerning various products and services as well as customer relationship risks and geographical risks identified in the risk assessment.

(36) Supervised entities shall ensure that they have internal guidelines on ongoing monitoring as referred to in chapter 9, section 1(3) of the AML Act, covering at least:

- guidelines on the implementation of various ongoing monitoring duties with a view to sanctions risks associated with the supervised entity's different business areas as well as products and services.
- guidelines on the careful and sufficient documentation of actions taken; in particular so as to demonstrate ex-post the actions taken as a result of ongoing monitoring findings (including the processing of sanctions alerts and the justifications of the actions.

GUIDELINE (paragraph 37)

(37) The FIN-FSA recommends that regulations 34–36 are also complied with by supervised entities excluded from the authority to issue regulations under paragraph 26.

6.4 Obligation to obtain information concerning transactions to ensure compliance with sanctions regulation and freezing orders

(38) In accordance with the EU Best Practices on Sanctions, making funds available to a person or entity subject to sanctions, be it by way of payment for goods and services, as a donation, in order to return funds previously held under a contractual arrangement, or otherwise, is generally prohibited unless it is authorised by the competent authority pursuant to the relevant derogation provided for in the Regulation.[14].

(39) In accordance with the EU Best Practices on Sanctions, making economic resources available to a person or entity subject to sanctions, including by gift, sale, barter, or returning economic resources held or controlled by a third party to a designated owner, is prohibited in the absence of an authorisation granted by the competent authority pursuant to the relevant Regulation.[15]

GUIDELINE (paragraphs 40–44)

(40) The FIN-FSA recommends supervised entities to create internal guidelines determining the clarifications and supporting documents that must be obtained on a customer's transactions in order for the supervised entity to ensure that a transaction is not contrary to sanctions regulation or freezing orders.

[14] *EU Best Practices on Sanctions, paragraph 49.*
[15] *EU Best Practices on Sanctions, paragraph 57.*

(41) The FIN-FSA recommends supervised entities to consider, among other things, the following aspects when assessing the sanctions risks involved in a customer's transaction:

- Does the transaction involve parties directly or indirectly subject to sanctions, such as family members or representatives of sanctioned parties?
- Does the transaction involve goods or services subject to export and/or import restrictions or other restrictions (e.g., dual-use items)?
- Does the transaction involve countries or areas subject to comprehensive sanctions?
- Does the transaction show indications of sanctions evasion?
- Does the transaction allow the customer to receive payments from an unknown third party or show indications of an attempt to hide the beneficiaries behind complex chains of ownership or the use of front men?
- Does the service provided by the supervised entity involve several parties in different geographical areas (e.g., trade finance services)?

(42) The FIN-FSA recommends that, in assessing sanctions risks, supervised entities use information from publicly available sources, where considered credible and reliable by the supervised entity.

(43) The FIN-FSA recommends that supervised entities reach out to the customer where necessary to obtain additional information on the purpose of the transaction or the customer's activity to ensure that the purpose of the transaction or the customer's activity is not contrary to sanctions regulation or freezing orders. A non-document explanation provided by the customer however would not necessarily be enough to eliminate a suspicion concerning a transaction or activity of the customer.

(44) The FIN-FSA recommends that, where necessary, the supervised entity requests the customer to provide a written clarification to fulfil its obligation to obtain information concerning sanctions regulation and freezing orders, and in such cases particular attention should be paid to the authenticity and credibility of the documents. Depending on the circumstances, the following could be requested as written clarification, for example: business-related sale contracts, purchase and sale agreements, financing agreements, customs documents related to foreign trade and invoices.

6.5 Correspondent relationships

(45) This chapter applies to credit institutions, financial institutions and payment institutions referred to in chapter 1, section 4(1)(16) of the AML Act and payment service providers referred to in sections 7 and 7 a of the Payment Institutions Act.

(46) A correspondent relationship is defined in chapter 1, section 4(1)(18) of the AML Act.[16]

(47) Chapter 3, section 12 of the AML Act provides on enhanced customer due diligence procedures for correspondent relationships.

(48) Chapter 6 of FIN-FSA regulations and guidelines 2/2023 on preventing money laundering and terrorist financing provides regulations and guidelines on due diligence obligations concerning correspondent relationships.

[16] *Article 3(8)(a) and (b) of 4AMLD.*

(49) This chapter provides regulations and guidelines clarifying the regulations and guidelines referred to in paragraph 48 insofar as enhanced customer due diligence is necessary in the context of correspondent relationships and comparable arrangements to ensure that the counterparty complies with regulatory requirements concerning customer due diligence and that sanctions regulation and freezing orders are complied with.

(50) The FIN-FSA's authority to issue more detailed regulations on the procedures to be followed in customer due diligence and the management of risks posed by customers to the activities of a supervised entity is based on the following provisions: Section 39(4) of the Payment Institutions Act, chapter 15, section 18(4) of the Credit Institutions Act, chapter 12, section 3(4) of the Investment Services Act, chapter 12, section 10 of the AIFM Act, chapter 6, section 21(4) of the Insurance Companies Act and chapter 26, section 15(4) of the Mutual Funds Act

(51) For the purposes of regulation 53 and guidelines 54–56, a supervised entity refers to supervised entities falling within the scope of authority to issue regulations under paragraph 53 above.

(52) In addition to credit and financial institutions, guidelines 54–56 are also applied to payment institutions and to payment service providers referred to in section 7 and 7a of the Payment Institutions Act.

REGULATION (paragraph 53)

(53) The supervised entity must be able to demonstrate to the FIN-FSA the establishment of a correspondent relationship referred to in chapter 6.7.2 of FIN-FSA recommendations and guidelines or a comparable arrangement and the fact that the supervised entity has adequate information on the counterparty to ensure compliance with sanctions regulation and freezing orders.

GUIDELINE (paragraphs 54–56)

(54) The FIN-FSA recommends that, in the procedures referred to in chapter 3, section 16 of the AML Act, the supervised entity considers sanctions risks related to the correspondent relationship and a comparable arrangement.

(55) The FIN-FSA recommends that, before establishing a correspondent relationship and a comparable arrangement, the supervised entity considers sanctions risk related to the counterparty and any previous infringements of sanctions regulation by the counterparty to assess the need for the application of the enhanced identification procedure. The assessment should also be updated on a regular basis.

(56) According to the FIN-FSA's interpretation, when correspondent provides payment accounts to other credit and financial institutions, relevant customer due diligence data referred to in chapter 3, section 12(5)(2) of the AML Act that shall be submitted to the respondent, includes at least such information the counterparty's customers that may be necessary to comply with the obligation to obtain information under chapter 3, section 4(3), sanctions regulation and freezing orders under chapter 3, section 16 or the reporting obligation under chapter 4, section 1 of the AML Act.

7 Sanctions screening

7.1 General

(1) In this chapter, *sanctions screening* refers to a procedure whose objective is to identify parties subject to sanctions and freezing orders among the supervised entity's customer base and transactions involving the supervised entity or its customer as a counterparty by comparing them against name lists included in sanctions regulation and National Bureau of Investigation's freezing orders (hereinafter *sanctions lists*). Sanctions screening may be manual or IT systems-based, or a combination of these two.

(2) The FIN-FSA's authority to issue more detailed regulations on the procedures to be followed in customer due diligence and the management of risks posed by customers to the activities of a supervised entity is based on the following provisions: Section 39(4) of the Payment Institutions Act, chapter 15, section 18(4) of the Credit Institutions Act, section 13(4) of the Virtual Currency Providers Act, chapter 12, section 3(4) of the Investment Services Act, chapter 12, section 10 of the AIFM Act, chapter 6, section 21(4) of the Insurance Companies Act, chapter 26, section 15(4) of the Act on Common Funds and chapter 8, section 13 of the Act on the Book-Entry System and Settlement Operations.

(3) For the purposes of regulation 4–6, a supervised entity refers to supervised entities falling within the scope of authority to issue regulations under paragraph 2 above.

REGULATION (paragraphs 4–6)

(4) The supervised entity shall arrange sanctions screening so that it is able to detect parties subject to sanctions regulation and freezing orders and refuse to execute the service or transaction or to freeze these parties' funds where necessary.

(5) The supervised entity's sanctions screening shall focus on risks that the entity has identified in its risk assessment as significant risks to its operations from the perspective of compliance with sanctions laws and regulations.

(6) Credit institutions, payment institutions and virtual currency providers must have an IT systems-based solution to carry out sanctions screening.

GUIDELINE (paragraphs 7–10)

(7) The FIN-FSA recommends that regulations 4–6 are also complied with by supervised entities excluded from the authority to issue regulations under paragraph 2.

(8) The FIN-FSA recommends that paragraph 6 is also complied with by supervised entities excluded from the authority to issue regulations under paragraph 2, where the arrangement of IT-systems based sanctions screening shall be considered commensurate with respect to the nature, extent and size of the supervised entity's activities. Where the arrangement of IT systems-based sanctions screening would not be justified based on the principle of proportionality, the supervised entity should ensure that manual sanctions screening performed by the supervised entity are adequately comprehensive and effective with a view to the size of the supervised entity and the nature and extent of its activities.

(9) According to the FIN-FSA's interpretation, effective internal control referred to in chapter 3, section 16 of the AML Act entails that the supervised entity shall perform internal control regarding the effectiveness and operability of the sanctions screening. The supervised entity shall monitor, on an ongoing basis, the number of alerts, false alerts and alerts leading to the freezing of funds as well as the duration of internal investigations related to the alerts and any congestion in the processing of the alerts. The information received from the monitoring shall be reported on a regular basis to the persons responsible within the supervised entity's organisation and where necessary, to the operative management and board of directors of the supervised entity.

(10) The FIN-FSA recommends the supervised entity to use algorithm-based techniques, (so-called *fuzzy logic*) in sanctions screening, if the supervised entity is using an IT systems-based solution for sanctions screening. The objective is to detect sanctioned parties whose name can be spelled in multiple ways by identifying name pairs which are not identical but whose spelling, structure or pronunciation are very similar.

Example:

> The supervised entity has a customer whose first name is Alexander. Names that are not identical with the customer's name but whose spelling, structure or pronunciation are very similar, include, for example, Alexandr, Alexandre, Oleksander and Oleksandr.

7.2 Customer sanctions screening

(11) In this chapter, *customer sanctions screening* refers to the comparison of information obtained on the customer to information in sanctions lists. The purpose of screening the customer base is to identify among the customer base any customers that are subject to sanctions.[17] Depending on the supervised entity's size and the nature and extent of the entity's business activities, the supervised entity may perform customer sanctions screening manually or automatically (IT systems-based), or a combination of these two.

(12) The FIN-FSA's authority to issue more detailed regulations on the procedures to be followed in customer due diligence and the management of risks posed by customers to the activities of a supervised entity is based on the following provisions: Section 39(4) of the Payment Institutions Act, chapter 15, section 18(4) of the Credit Institutions Act, section 13(4) of the Virtual Currency Providers Act, chapter 12, section 3(4) of the Investment Services Act, chapter 12, section 10 of the AIFM Act, chapter 6, section 21(4) of the Insurance Companies Act, chapter 26, section 15(4) of the Act on Common Funds and chapter 8, section 13 of the Act on the Book-Entry System and Settlement Operations.

(13) For the purposes of regulation 16-20, a supervised entity refers to supervised entities falling within the scope of authority to issue regulations under paragraph 12 above.

GUIDELINE (paragraphs 14–15)

(14) According to the FIN-FSA's interpretation, the effective procedures referred to in chapter 3, section 16 of the AML Act entail that the supervised entity shall identify parties subject to sanctions regulation and freezing orders among its own customer base to ensure the execution of the freezing of funds.

[17] *Wolfsberg Guidance on Sanctions Screening (2019), p. 7, section 4.*

(15) According to the FIN-FSA's interpretation, the effective procedures referred to in chapter 3, section 16 of the AML Act entail that the supervised entity shall have up-to-date information on its customers to ensure the execution of the freezing of funds.

REGULATION (paragraphs 16–20)

(16) In the context of establishing a customer relationship, supervised entities shall review valid sanctions lists concerning sanctions regulation and freezing orders and assess whether the customer or its beneficial owners are subject to UN or EU sanctions or subject to national freezing orders, or whether the customer is being owned more than 50 % or controlled by such parties, and where necessary, freeze the customer's funds.

(17) Supervised entities shall screen their entire customer base whenever sanctions lists are being updated and identify from the customer base parties subject to UN or EU sanctions or national freezing orders as well as identifying parties that are being owned more than 50 % or controlled by parties subject to aforementioned sanctions, and where necessary, freeze the funds of such parties. The sanctions screening of the customer base must be carried out without delay after the sanctions lists have been updated.

(18) Supervised entities must carry out customer sanctions screening also when there is a change in the name of the customer.

(19) Supervised entities must ensure that financial sanctions imposed by the UN Security Council with respect to terrorism and counter-terrorist financing[18] are included in the sanctions lists used in customer sanctions screening.

(20) Supervised entities must ensure that financial sanctions imposed by the UN Security Council with respect to the financing of the proliferation of weapons of mass destruction[19] are included in the sanctions lists used in customer sanctions screening.

GUIDELINE (paragraphs 21–23)

(21) The FIN-FSA recommends that regulations 16–20 are also complied with by supervised entities excluded from the authority to issue regulations under paragraph 12.

(22) The FIN-FSA recommends that, in customer sanctions screening e, supervised entities apply supplementary/enhancement lists used in addition to official sanctions lists, naming for example parties that are owned for more than 50% or controlled by listed parties.

(23) The FIN-FSA recommends that the supervised entity's customer sanctions screening, covers countries and geographical areas subject to comprehensive sanctions.

7.3 Sanctions screening of payments and transactions

(24) In this chapter, *payments* refer to any transfer of funds, including transfers of funds in a virtual or crypto currency.

[18] *See FATF Recommendation 6. Targeted financial sanctions related to terrorism and terrorist financing.*
[19] *See FATF Recommendation 7. Targeted financial sanctions related to proliferation.*

(25) In this chapter, *transactions* refer to transactions in which the supervised entity's customer or the supervised entity itself is one of the counterparties.

(26) In this chapter, *the sanctions screening of payments and transactions* means comparing the information in a payment or a transaction and its counterparties to the information in sanctions lists. The purpose of the sanctions screening of payments and transactions is to identify any parties subject to sanctions, and where necessary, freeze the funds of sanctioned parties and refrain from any transaction contrary to sanctions regulation (so-called sectoral sanctions). Depending on the supervised entity's size and the nature and extent of the entity's business activities, the supervised entity may perform customer sanctions screening manually or automatically (IT systems-based), or a combination of these two.

(27) The FIN-FSA's authority to issue more detailed regulations on the procedures to be followed in customer due diligence and the management of risks posed by customers to the activities of a supervised entity is based on the following provisions: Section 39(4) of the Payment Institutions Act, chapter 15, section 18(4) of the Credit Institutions Act, section 13(4) of the Virtual Currency Providers Act, chapter 12, section 3(4) of the Investment Services Act, chapter 12, section 10 of the AIFM Act, chapter 6, section 21(4) of the Insurance Companies Act, chapter 26, section 15(4) of the Act on Common Funds and chapter 8, section 13 of the Act on the Book-Entry System and Settlement Operations.

(28) For the purposes of regulation 29-31, a supervised entity refers to supervised entities falling within the scope of authority to issue regulations under paragraph 27 above.

REGULATION (paragraphs 29–31)

(29) A supervised entity shall have procedures in place to ensure that it screens, before executing and receiving a payment, valid sanctions lists based on sanctions regulation and freezing orders and investigates whether the payment involves parties subject to sanctions imposed by the UN and EU, or to national freezing orders, or parties owned for more than 50% or controlled by such parties, and where necessary, freeze the funds belonging to such parties.

(30) The supervised entity shall have procedures in place to ensure that it screens, before executing a transaction t, valid sanctions lists based on sanctions regulation and investigates whether (i) the transaction involves parties subject to sanctions imposed by the UN and EU or parties owned for more than 50% or controlled by such parties, and (ii) whether the provision of service related to the transaction is contrary to sanctions regulation or freezing orders, and, where necessary, refrain from the execution of the transaction or provision of service.

(31) The supervised entity shall specify which data fields in the payment shall be screened against the sanctions lists.

GUIDELINE (paragraphs 32–35)

(32) The FIN-FSA recommends that regulations 29–31 are also complied with by supervised entities excluded from the authority to issue regulations under paragraph 27.

(33) According to the FIN-FSA's interpretation, the regulation referred to in paragraph 30 entails that before the provision of service, the supervised entity must carefully review prohibitions and restrictions due to sanctions regulation concerning the provision of service by the supervised

entity. For example, the provision of financial services may involve prohibitions or restrictions under sanctions regulation. In particular, in the context of trade finance services, it is necessary to ensure that the transactions are not violating sanctions regulation and do not seek to evade sanctions regulation.

Example:

A supervised entity provides an export letter of credit for a customer's transaction related to Kazakhstan. The supervised entity's customer exports goods to its new customer in Kazakhstan. The goods have been determined as dual-use items, and their exports to Russia are prohibited under valid sanctions regulation. The supervised entity must ensure that the transaction does not directly or indirectly involve parties subject to sanctions and that the transaction does not seek to evade sanctions regulation in any other way, for example so that the ultimate recipient of the goods is in Russia.[20]

(34) The FIN-FSA recommends that, in sanctions screening concerning payments and other transactions, the supervised entity applies supplementary/enhancement lists used in addition to official sanctions lists, naming for example parties that are owned for more than 50% or controlled by listed parties.

(35) The FIN-FSA recommends that the supervised entity's sanctions screening of payments and transactions covers countries and geographical areas subject to comprehensive sanctions.

7.4 Prevention of sanctions evasion

GUIDELINE (paragraphs 36–37)

(36) According to the FIN-FSA's interpretation, chapter 3, section 16 of the AML Act entails that the supervised entity shall establish effective procedures for the prevention of evasion of sanctions regulation and freezing orders. The procedures shall ensure that the supervised entity does not participate in actions seeking or leading to the evasion of prohibitions and obligations under sanctions regulation.

(37) The FIN-FSA recommends supervised entities to consider that an elevated risk of sanctions evasion may be related, for example, to:

- a certain country or area known to function as a transit country in the evasion of prohibitions under sanctions regulation
- a given party participating in a transaction, such as:
  - a front or shell company;
  - a company with a complex ownership structure;
  - a company registered in a secrecy jurisdiction;
  - a company owned by a government subject to comprehensive sanctions;
  - a company making ownership arrangements concurrently with its owner becoming subject to sanctions;
  - a company having the same address as a sanctioned party;

[20] *See also Commission Recommendation (EU) 2019/1318.*

- a person belonging to the related parties of a sanctioned party;
- a person or company whose role in the transaction is unclear;

- various economic sectors, such as:
  - transport and logistics;
  - electronics and in particular goods and components suitable for military use;
  - aviation and in particular goods and components suitable for military use;
  - the oil and energy sector;
  - legal and tax advisory services and in particular services concerning the establishment and ownership arrangements of companies.

7.5 Management of sanctions lists

(38) In accordance with part six, title I, chapter 2, section 2 of the Article 297 of the Treaty on the Functioning of the European Union, regulations and directives which are addressed to all Member States, as well as decisions which do not specify to whom they are addressed, shall be published in the Official Journal of the European Union.[21] They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication[22].

(39) In accordance with section 4, subsections 2 and 3 of the Freezing Act, a freezing order shall be published in the Official Gazette and communicated without delay to the subject of the measure. Third parties are considered to have been informed of a freezing order at the latest on the date when it is published in the Official Journal of Finland[23].

(40) The FIN-FSA's authority to issue more detailed regulations on the procedures to be followed in customer due diligence and the management of risks posed by customers to the activities of a supervised entity is based on the following provisions: Section 39(4) of the Payment Institutions Act, chapter 15, section 18(4) of the Credit Institutions Act, section 13(4) of the Virtual Currency Providers Act, chapter 12, section 3(4) of the Investment Services Act, chapter 12, section 10 of the AIFM Act, chapter 6, section 21(4) of the Insurance Companies Act, chapter 26, section 15(4) of the Act on Common Funds and chapter 8, section 13 of the Act on the Book-Entry System and Settlement Operations.

(41) For the purposes of regulation 43–48, a supervised entity refers to supervised entities falling within the scope of authority to issue regulations under paragraph 40 above.

GUIDELINE (paragraph 47)

(42) According to the FIN-FSA's interpretation, effective procedures referred to in chapter 3, section 16 of the AML Act include procedures for the management of sanctions lists.

[21] https://eur-lex.europa.eu/oj/direct-access.html
[22] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016E297
[23] https://www.virallinenlehti.fi/

REGULATION (paragraphs 48–53)

(43) A supervised entity's sanctions screening shall include at least sanctions lists based on sanctions regulation and freezing orders. The sanctions lists used in sanctions screening shall be up to date. New sanctions lists shall be added to the scope of sanctions screening without delay once they have come into effect.

(44) The supervised entity shall regularly test processes and IT systems related to the management of sanctions lists to detect any deficiencies or malfunctions. Any deficiencies and errors detected shall be remediated without delay.

(45) The supervised entity shall ensure that any lists compiled by the supervised entity itself, which are used to automatically close false positive alerts (*safelisting*) are updated regularly, and it is ensured that they are up to date. The supervised entity shall assess on a regular basis whether the grounds for keeping a given name on the list are still valid.

(46) Credit institutions, payment service providers and virtual currency providers shall designate the person(s) responsible for the management of sanctions lists. In addition, credit institutions, payment service providers and virtual currency providers shall ensure that the persons responsible for the management of sanctions lists have adequate understanding of the obligations under sanctions regulation and freezing orders to perform the task as well as relevant technological expertise.

(47) If the supervised entity outsources or intends to outsource the management of sanctions lists to an external service provider, the supervised entity shall ensure that the external service provider has adequate expertise and competence for the management of sanctions lists. The supervised entity shall also ensure that the external service provider reports on its progress in the management of the sanctions lists to the supervised entity on a regular basis.

(48) The supervised entity shall have procedures in place to ensure the accuracy and integrity of data related to the sanctions lists.

GUIDELINE (paragraphs 49–51)

(49) The FIN-FSA recommends that regulations 43–48 are also complied with by supervised entities excluded from the authority to issue regulations under paragraph 40.

(50) According to the FIN-FSA's interpretation, regulation 43 entails that the supervised entity shall have procedures in place to ensure that the supervised entity complies with valid sanctions regulations and freezing orders from their date of entry into force.

Examples:

It has become common practice that EU sanctions regulations enter into force on the same day when they are published in the Official Journal of the European Union. This entails that the supervised entity's procedures must ensure that new sanctions are implemented as part of the supervised entity's sanctions screening without delay.

National freezing orders issued by the National Bureau of Investigation are published in the Official Gazette of Finland, and they apply as of the day of publication. This entails that the

supervised entity's procedures must ensure that new freezing orders are implemented as part of the supervised entity's sanctions screening without delay.

(51) The FIN-FSA recommends that the supervised entity uses a list of dual-use items, where applicable, in its sanctions screening. Such circumstances may be related for example to trade finance services provided by the supervised entity.

7.6 Systems used in sanctions screening

(52) In this chapter, the calibration of IT systems refers to the fine-tuning of the IT systems used in sanctions screening in a way ensuring that they are consistent with the specifications set by the supervised entity.

(53) The FIN-FSA's authority to issue more detailed regulations on the procedures to be followed in customer due diligence and the management of risks posed by customers to the activities of a supervised entity is based on the following provisions: Section 39(4) of the Payment Institutions Act, chapter 15, section 18(4) of the Credit Institutions Act, section 13(4) of the Virtual Currency Providers Act, chapter 12, section 3(4) of the Investment Services Act, chapter 12, section 10 of the AIFM Act, chapter 6, section 21(4) of the Insurance Companies Act, chapter 26, section 15(4) of the Act on Common Funds and chapter 8, section 13 of the Act on the Book-Entry System and Settlement Operations.

(54) For the purposes of regulation 55-58, a supervised entity refers to supervised entities falling within the scope of authority to issue regulations under paragraph 53 above.

REGULATION (paragraphs 55–58)

(55) A supervised entity shall ensure that the IT systems used in sanctions screening are fit for purpose and proportionate with the size of the supervised entity and the nature and quality of its activities.

(56) The supervised entity shall test the IT systems used in sanctions screening on a regular basis and at least always after system changes have been made. Any deficiencies and errors detected shall be remediated without delay.

(57) The supervised entity shall develop and update the information systems where necessary.

(58) The IT systems used by the supervised entity in sanctions screening shall be equipped with verification mechanisms and audit trails ensuring the accuracy and integrity of information and results.

GUIDELINE (paragraphs 59–63)

(59) The FIN-FSA recommends that regulations 55–58 are also complied with by supervised entities excluded from the authority to issue regulations under paragraph 53.

(60) According to the FIN-FSA's interpretation, regulation 58 entails that all sanctions alerts generated in the IT systems shall be audit-trailable. The supervised entity shall keep a complete and solid audit trail of the person(s) processing each alert and the grounds on which the alert was closed of subsequent actions were taken.

(61) The FIN-FSA recommends that the supervised entity establishes systems development and quality assurance methods that secure the operation of the systems as planned. In addition, there should be documentation on the systems ensuring their continued use and development, for example, in the context of a change in key personnel.

(62) The FIN-FSA recommends that the supervised entity calibrates the IT systems used by it in sanctions screening in regular intervals. The risk assessment prepared by the supervised entity should be utilised in the calibration.

(63) The FIN-FSA recommends that the supervised entity documents the changes made during the calibration and keeps a complete and solid audit trail no such changes.

7.6.1 Optimisation of sanctions screening

(64) In this chapter, the *optimisation of sanctions screening* refers to actions taken to improve the quality of alerts generated by sanctions screening and to reduce the number of false positive alerts.

GUIDELINE (paragraphs 65–66)

(65) The FIN-FSA recommends that supervised entities have procedures and written operating guidelines in place to optimise sanctions screening.

(66) The FIN-FSA recommends that supervised entities' internal control covers the optimisation of sanctions screening. When carrying out the optimisation, supervised entities should pay attention to not making such changes to sanctions screening which would lead their screening systems to automatically close alerts that would in fact require further investigation.

7.6.2 Data used in sanctions screening

(67) In this chapter, *data used in sanctions screening* refers to data compared to data included in a sanctions list. The data may be derived from the supervised entity's own databases or alternatively from an external service provider. For example, customers' date of birth, companies' taxation identifiers and customers' addresses are relevant information from the perspective of sanctions screening.

GUIDELINE (paragraphs 68–70)

(68) The FIN-FSA recommends that, based on a risk assessment, supervised entities define relevant data that should be utilised in sanctions screening.

(69) The FIN-FSA recommends that supervised entities have procedures in place to ensure the accuracy and integrity of data used in sanctions screening.

(70) The FIN-FSA recommends that supervised entities assess and test on a regular basis the data sources used in sanctions screening and the accuracy of data generated by them as well as the correctness of the data used in sanctions screening to ensure the effectiveness of sanctions screening. Data sources include, for example, the supervised entity's customer information systems.

7.7 Processing of sanctions alerts

(71) In this chapter, a *sanctions alert* refers to a hit generated in sanctions screening representing an adequate degree of similarity to a name in a sanctions list, leading to an alert by the IT system used in the sanctions screening.

(72) In this chapter, the *processing of a sanctions alert* refers to the investigation carried out to assess whether the party concerned is subject to sanctions.

GUIDELINE (paragraph 73)

(73) According to the FIN-FSA's interpretation, effective policies, procedures and internal control referred to in chapter 3, section 16 of the AML Act includes the investigation of sanctions alerts, operating guidelines for the investigation of sanction alerts and quality control related to the investigation of sanctions alerts.

7.7.1 Roles and responsibilities

GUIDELINE (paragraphs 74–76)

(74) According to the FIN-FSA's interpretation, chapter 3, section 16 of the AML Act entails that supervised entities draft procedures, and where necessary, supplementary operating guidelines, describing the entire process of handling sanctions alerts and clearly defining the roles, responsibilities and obligations of the units and/or employees investigating the supervised entity's sanctions alerts.

(75) The FIN-FSA recommends that supervised entity assess on a regular basis their procedures concerning the processing of sanctions alerts and the up-to-datedness of the related operating guidelines and updates them where necessary. Supervised entities should also ensure that the procedures and operating guidelines are available to employees investigating sanctions alerts.

(76) According to the FIN-FSA's interpretation, chapter 9, section 1 of the AML Act entails that supervised entities shall provide training to employees handling sanctions alerts. The purpose of the training is to ensure that employees who are responsible for handling sanctions alerts will comply with the sanctions regulation and freezing orders. In addition, the training ensures that the supervised entity's procedures and supplementary operating instructions are also complied with in practice.

7.7.2 Four-eyes principle

(77) In this chapter, the four-eyes principle refers to a procedure where the employee investigating the sanctions alert (hereinafter *the investigator*) requests another employee (hereinafter *the reviewer*) to review the findings made by the investigator and to approve the actions recommended by the investigator for the alert.

GUIDELINE (paragraphs 78–80)

(78) The FIN-FSA recommends that supervised entities determine in their operating guidelines for sanctions alerts the situations where the four-eyes principle should be applied. Such situations

could include alerts where the investigator is uncertain of the appropriate action, the escalation of alerts to the compliance unit, and notifications to the Enforcement Authority.

(79) The FIN-FSA recommends that when using the four-eyes principle, the supervised entity documents in a written format the checks that were made and the persons participating in the procedure.

(80) The FIN-FSA recommends the supervised entity to ensure that the reviewer has adequate expertise and experience of the investigation of sanctions alerts.

7.8 Reporting of major incidents to the FIN-FSA

(81) The FIN-FSA has issued regulations and guidelines 8/2014 on the management of operational risk in supervised entities of the financial sector, providing on the obligation of supervised entity to report major incidents to the FIN-FSA.

GUIDELINE (paragraph 82)

(82) The FIN-FSA recommends supervised entity to consider that reporting under paragraphs 81 shall cover major incidents regarding IT systems established to ensure compliance with sanctions and freezing orders.

8 Freezing of funds and economic resources and reporting

8.1 General

(1) In accordance with chapter 3, section 16 of the AML Act, obliged entities shall have effective policies, procedures and internal control to ensure compliance with sanctions regulation and freezing orders.

(2) In accordance with Article 3(1)(4) of the Freezing Act, the freezing obligation under the freezing orders applies, in addition to parties subject to freezing orders of the National Bureau of Investigation, to legal persons in which a natural or legal person subject to a freezing decision owns at least 50% alone or together with other natural or legal persons of this kind.

(3) Section 2 b(3) of the Sanctions Act and section 14(3) of the Freezing Act include an obligation for obliged entities to submit information concerning sanctioned funds necessary for the execution of sanctions regulation and freezing orders without delay to the Enforcement Authority.

GUIDELINE (paragraphs 4–9)

(4) According to the FIN-FSA's interpretation, the policies and procedures under chapter 3, section 16 of the AML Act include policies and procedures for the freezing of assets.

(5) The FIN-FSA recommends that the supervised entity's documented policies and procedures referred to in paragraph 4 include the following:

- description of the process concerning the freezing of funds
- guidelines on the supervised entity's internal reporting
- guidelines on reporting to authorities
- guidelines on releasing frozen funds
- Persons/units responsible for the technical freezing of funds, inserting account and service blocks and the release of frozen assets and the unblocking of accounts and services.

(6) According to the FIN-FSA's interpretation, the obligation under chapter 3, section 16 of the AML Act to establish effective internal control for ensuring compliance with sanctions regulation and freezing orders entails that supervised entities maintain an up-to-date list of all funds frozen by them.

(7) According to the FIN-FSA's interpretation, the freezing obligation referred to chapter 3, section 16 of the AML Act by virtue of sanctions regulation is concerned with, in addition to funds and economic resources belonging to parties named in EU sanctions regulations and freezing orders, also funds and economic resources owned, held or controlled by the designated parties.

(8) The FIN-FSA recommends that the supervised entity tests the functioning of IT systems related to the freezing of assets on a regular basis and ensures that there are no attempts to evade account or service bans imposed on customers.

(9) The FIN-FSA recommends that supervised entities report to the Financial Intelligence Unit any detected attempts to evade sanctions.

8.2 Contacting the Enforcement Authority

(10) In accordance with section 2 b(1) of the Sanctions Act and section 14(1) of the Freezing Act, a decision to freeze funds is enforced by a bailiff in accordance with the provisions of chapter 8, sections 5–10 and 12–15 of the Enforcement Code

(11) In accordance with chapter 3, section 16 of the AML Act, obliged entities shall have effective policies, procedures and internal control to ensure compliance with sanctions regulation and freezing orders.

GUIDELINE (paragraphs 12–14)

(12) According to the FIN-FSA's interpretation, chapter 3, section 16 of the AML Act entails that supervised entities shall have procedures for reporting to Finland's National Enforcement Authority and for making inquiries to the Authority concerning the freezing of assets. .

(13) The FIN-FSA recommends that the supervised entity includes the following matters in an inquiry or notification to the Enforcement Authority:

- amount of funds (EUR), and where another currency than the euro is concerned, information on the amount of funds in the original currency;
- date on which the supervised entity set a block on the customer's accounts and services or stopped the payment or transaction;
- description of the payment, transaction or case;
- information on sanctioned parties related to the payment or the transaction;
- details of the sender of the funds (name and other information available on the sender) where a payment or transaction is concerned;
- details of the recipient of the funds (name and other information available on the recipient) where a payment or transaction is concerned;
- details of payment intermediaries (name of the sender's bank / payment service provider or r; intermediary banks and name of the recipient's bank / payment service provider), where a payment or transaction is concerned;
- copy of the payment message or the transaction;
- the supervised entity's own clarifications of the matter, including its own actions to resolve the matter; and
- Rationale for sending the inquiry to the Enforcement Authority.

(14) The FIN-FSA recommends that the supervised entity first investigates the case carefully before sending an inquiry referred to in paragraph 13 to the Enforcement Authority.

8.3 Suspicious transaction report

GUIDELINE (paragraph 15)

(15) The FIN-FSA recommends supervised entities submit a suspicious transaction report to the Finnish Financial Intelligence Unit at least in circumstances concerning:

- a sanctions infringement;
- sanctions evasion;
- terrorist financing.[24]
- the financing of weapons of mass destruction.[25]

[24] *Financial Action Task Force (FATF) recommendation 6 Targeted Financial Sanctions Related to Terrorism and Terrorist Financing.*
[25] *Financial Action Task Force (FATF) recommendation 7 Targeted Financial Sanctions Related to Proliferation.*

9 Testing of management methods and processes

9.1 General

(1) In accordance with chapter 3, section 16 of the AML Act, obliged entities shall have effective policies, procedures and internal control to ensure compliance with sanctions regulation and freezing orders.

(2) The FIN-FSA has issued regulations and guidelines 8/2014 on the management of operational risk in supervised entities of the financial sector[26]

GUIDELINE (paragraphs 3–5)

(3) According to the FIN-FSA's interpretation, chapter 3, section 16 of the AML Act entails that the supervised entity's internal control shall include testing the effectiveness and operability of policies, procedures and internal control related to sanctions regulation and freezing orders.

(4) According to the FIN-FSA's interpretation, chapter 3, section 16 of the AML Act entails that the supervised entity shall organise effective internal control for testing the systems and processes established for ensuring compliance with sanctions regulation and freezing orders.

(5) The FIN-FSA recommends supervised entity to consider that IT systems referred in section 9.1 of the FIN-FSA's regulations and guidelines on the management of operational risk in supervised entities of the financial sector, and referred in paragraph 2, include among other IT systems that are utilised to ensure compliance with sanctions. The regulations and guidelines provide obligation of the supervised entity to report of any substantial faults or disruptions in services of IT systems to the FIN-FSA.

9.2 Contingency plan

(6) The FIN-FSA has issued regulations and guidelines 8/2014 on the management of operational risk in supervised entities of the financial sector providing on the obligation of the supervised entity to prepare and maintain an up-to-date contingency plan.

GUIDELINE (paragraph 7)

(7) The FIN-FSA recommends supervised entities to consider that the contingency plan referred to in paragraph 4 shall cover the IT systems established to ensure compliance with sanctions and freezing orders.

[26] *FIN- FSA Regulations and guidelines 8/2014 "Management of operational risk in supervised entities of the financial sector" section 9.1 paragraph 2*

10 Third-country sanctions

(1) In this chapter, third-country sanctions refer to other sanctions than those under sanctions regulation (UN and EU sanctions) and freezing orders (national freezing decisions). For example, sanctions imposed by the United Kingdom[27] and the United States[28] are third-country sanctions. In this chapter, third-country sanctions do not include sanctions referred to in the Annexes of Council Regulation 2271/96.

GUIDELINE (paragraphs 2–6)

(2) The FIN-FSA recommends that supervised entities consider third-country sanctions in their risk management in circumstances where a violation of these third-country sanctions may pose a significant economic risk for the liquidity and capital adequacy of the supervised entity, even though such sanctions are not legally binding in Finland.

(3) The FIN-FSA recommends that if a supervised entity's customer is subject to third-country sanctions, the supervised entity should carefully investigate and assess what kind of risk is posed by establishment or continuation of the customer relationship to the supervised entity and whether it would be possible to receive an exemption/license for the matter from the sanctions authority of the country that has imposed the sanctions.

(4) The FIN-FSA recommends that when the supervised entity assesses economic risks referred in paragraph 2 and considers whether to establish or continue customer relationship with a customer who is subject to third country sanctions, the supervised entity should pay special attention to whether it has legally binding obligation to provide those services. A statutory obligation to provide services may be based, for example, on regulation concerning basic banking services[29] or an obligation to provide certain statutory insurance policies.[30]

(5) The FIN-FSA recommends that supervised entities consider the recommendations provided in paragraphs 2–4 also in correspondent relationships[31] and comparable arrangements if the supervised entity receives an order to intermediate payments to a party subject to third-country sanctions or receive payments from such a party.

(6) The FIN-FSA recommends that supervised entities also consider any risks related to money laundering and terrorist financing in circumstances where the supervised entity's customer or party to a transaction is subject to third-country sanctions.

[27] *Office of Financial Sanctions Implementation: https://www.gov.uk/government/organisations/office-of-financial-sanctions-implementation.*
[28] *Office of Foreign Assets Control: https://ofac.treasury.gov/.*
[29] *See chapter 15, section 6 of the Credit Institutions Act.*
[30] *Applicable laws include, for example the Employees Pensions Act, Self-Employed Persons Pensions Act, Farmers Pensions Act, and Seafarer's Pensions Act.*
[31] *Chapter 1, section 4(1)(18) of the AML Act.*

11 Reporting to FIN-FSA

(1) In accordance with chapter 7, section 2(1) of the AML Act, the FIN-FSA shall have the right to obtain the information and reports requested by it to enable the performance of the duties referred to in the AML Act or in provisions issued under it.

(2) In accordance with section 18(2) of the FIN-FSA Act, the FIN-FSA may issue regulations concerning the regular submission of information to the FIN-FSA, and on the manner of such submission, concerning the internal control and risk management of a supervised entity referred to in section 4 of the FIN-FSA Act.

(3) For the purposes of regulations 4–5, a supervised entity refers to supervised entities referred to in section 4 of the FIN-FSA Act and falling within the scope of authority to issue regulations under paragraph 2 above.

REGULATION (paragraphs 4–5)

(4) Supervised entities shall submit the information required by the FIN-FSA for the assessment of the supervised entity's internal control and risk management methods under the RA-reporting framework valid at the time.[32]

(5) Supervised entities shall submit the information referred to in paragraph 4 to the FIN-FSA on an annual basis by 28 February.

GUIDELINE (paragraph 6)

(6) The FIN-FSA recommends that paragraphs 4–5 above are also complied with by supervised entities excluded from the authority to issue regulations under paragraph 2.

11.1 Guidelines on the submission of supervisory information

GUIDELINE (paragraphs 7–8)

(7) Reporting under these regulations and guidelines shall be made in compliance with the instructions on machine-language data transmission available at the FIN-FSA's website www.finanssivalvonta.fi/en/reporting).

(8) Reporting under these regulations and guidelines shall be made in compliance with more detailed reporting instructions available at the FIN-FSA's website (www.finanssivalvonta.fi/en/reporting).

11.2 Validation of the information reported

GUIDELINE (paragraphs 9–10)

(9) The FIN-FSA recommends that supervised entities prepare a declaration of the accuracy of the information reported pursuant to these regulations and guidelines. The declaration should be dated, and it should be signed both by the person preparing the report and the person verifying

[32] *The reporting map for the financial and insurance sectors is available at the FIN-FSA website (www.finanssivalvonta.fi/en/reporting).*

the data. The supervised entity should keep the signed declaration and present it to the FIN-FSA at request. The supervised entity should prepare the declaration in connection with the first report, and update it whenever changes take place in the process described in it or in the responsible persons.

(10) The FIN-FSA recommends that, in preparing the declaration referred to above in paragraph 9, the guidance available at the FIN-FSA's website (www.finanssivalvonta.fi/en/reporting/) is observed.