

## Latvia\*

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Latvia is a growing regional financial center that has a large number of commercial banks with a sizeable non-resident deposit base. Although these banks continue to face money laundering risks, Latvian government agencies and banks acted in 2005 to significantly strengthen the financial sector and to comply with international anti-money laundering (AML) standards. Many of the improvements addressed money laundering concerns outlined in the Notices of Proposed Rulemaking against two Latvian banks—VEF Banka and Multibanka—that was issued by the U.S. Government on April 26, 2005, under Section 311 of the USA PATRIOT Act.

Sources of laundered money in Latvia primarily involve tax evasion, but also include counterfeiting, corruption, white-collar crime, extortion, financial/banking crimes, stolen cars, contraband smuggling, and prostitution. A significant amount of the proceeds of tax evasion are believed to originate from outside of Latvia. Organized crime is thought to account for a portion of criminal proceeds that are obtained domestically.

The Government of Latvia (GOL) criminalized money laundering for all serious crimes in 1998. There are requirements for customer identification, the maintenance of records on all transactions, and the reporting of large cash transactions and suspicious transactions to the Office for the Prevention of the Laundering of Proceeds Derived from Criminal Activity (Control Service), which is Latvia's Financial Intelligence Unit (FIU).

The Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity (the anti-money laundering law (AML)) requires all institutions engaging in financial transactions to report suspicious activity. On February 1, 2004, Latvia adopted amendments to the AML law that expand the scope of reporting institutions, and include auditors, lawyers, and high-value dealers, as well as credit institutions. The law lists four categories of entities obligated to report suspicious activities: participants in financial and capital markets (credit institutions, insurance companies, private pension funds, stock exchanges, brokerage companies, investment companies, credit unions, and investment consultants); organizers and holders of lotteries and gambling enterprises; companies engaged in foreign currency exchange; and individuals and companies who perform professional activities and services associated with financial transactions (money transfer services, tax consultants, auditors, auditing companies, notaries, attorneys, real estate companies, art dealers, and commodities traders). Another 2004 amendment provides for the inclusion of all offenses listed in the criminal law, including terrorism, as predicate offenses for money laundering. The amendments also provide the FIU with authority to stop transactions for up to 45 days.

In January 2005, the Council of Ministers adopted Regulation 55 that created a Council for the Prevention of Laundering of Proceeds Derived from Criminal Activity, a state-level AML body chaired by the Prime Minister. In April 2005, Latvia made it illegal for banks and individuals to ignore money laundering, and criminalized the misrepresentation of the ownership of funds. In May 2005, additional amendments to the AML and the criminal law were adopted that significantly enhanced the ability of Latvian law enforcement agencies to share information with each other and with Latvia's banking regulator, the Financial and Capital Markets Commission (FCMC). In 2005, Latvia also passed a new Criminal Procedures Code, which removed many procedural hurdles that previously made it difficult for Latvian law enforcement agencies to aggressively investigate and prosecute financial crimes. For example, prosecutors no longer need to prove "knowledge" of the criminal origin of funds before charging a person or institution with a financial crime. Reportedly, there are also plans to increase staffing levels for AML units within the Financial Police, the Economic Police, and the FIU.

In November 2005, Latvia passed legislation instituting a cross-border currency declaration requirement, which will take effect on June 30, 2006. The cash declaration law stipulates that any person crossing the Latvian border and either importing into or exporting from the customs territory of the European Union, cash (or bank notes, financial instruments, checks, bonds) equivalent to or exceeding 10,000 euros (approximately \$12,300), is obligated to declare the money to a customs officer, or, where there is no customs checkpoint, to a Border Guard.

Banks are not allowed to open accounts without prior customer due diligence, and the AML law stipulates that banks must obtain client identification documents for both residents and non-residents. For legal entities, banks must collect additional information on incorporation and registration. In June 2005, sanctions against banks that violated the AML statutes were toughened to provide for fines of as much as the equivalent of \$176,000.

In addition to suspicious transactions, the law also mandates institutions to report unusual transactions. Obligated entities must report single cash transactions or several related transactions, if the equivalent is 40,000 lats (approximately \$70,400) or more, or if, due to indicators that suggest unusual transactions, there is cause for suspicion regarding the laundering or attempted laundering of the proceeds from crime. Financial institutions must keep transaction and identification data for at least five years after ending a business relationship with a client. If money laundering or terrorist financing is suspected, financial institutions have the ability to freeze accounts. If a financial institution finds the activity of an account questionable, it may close the account on its own initiative.

Since July 2001, the Finance and Capital Market Commission (FCMC) has served as the GOL's unified public financial services regulator, overseeing commercial banks and non-bank financial institutions, the Riga Stock Exchange, and insurance companies. The Bank of Latvia supervises the currency exchange sector. The FCMC conducts regular audits of credit institutions and will apply sanctions to companies that fail to file mandatory reports of unusual transactions. The Control Service also checks to insure that it receives matching STRs on transactions that occur between Latvian banks.

The FCMC has approved guidelines for identifying customers and unusual and suspicious transactions, as well as guidance on the internal control mechanisms that financial institutions should have in place. The FCMC has mandated that financial institutions pay closer attention to suspicious transactions, particularly those involving jurisdictions on the Financial Action Task Force's (FATF) list of Non-Cooperative Countries and Territories (NCCTs). The May 2005 amendments to the AML law gave the FCMC the ability to share information with Latvian law enforcement agencies and to receive data on potential financial crime patterns uncovered by police or prosecutorial authorities. The June 2005 amendments to the Criminal Procedures Code added a new article criminalizing the deliberate provision of false information to a credit or a financial institution about a beneficiary.

Separate from legislative and regulatory requirements, the Association of Latvian Commercial Banks (ALCB) plays an active role in setting standards on AML issues for Latvian banks. Under the leadership of the ALCB and at the urging of the FCMC, Latvian banks collectively undertook a major review of existing customer relationships in the first half of 2005, which resulted in Latvian banks closing more than 10,000 accounts connected to customers unwilling or unable to comply with enhanced due diligence requirements. In May 2004, the ALCB adopted regulations on the Prevention of Money Laundering as guidance for Latvian banks. In June 2005, the ALCB adopted a Declaration on Taking Aggressive Action against Money Laundering, which was signed by all Latvian banks. In 2005, the ALCB also adopted a voluntary measure, observed by all Latvian banks, to limit cash withdrawals from automated teller machines to 1,000 lats (approximately \$1,760) per day. The ALCB guidelines are respected by member banks. In

addition to acting as an industry representative to government and the regulator, the ACLB organizes regular education courses on AML/CFT issues for employees of Latvian banks.

The Control Service, Latvia's FIU, is structurally part of the Latvian Prosecutor General's Office. The Control Service has the overall responsibility to coordinate and elaborate Latvia's AML policy and assess its effectiveness. During the first 11 months of 2005, the Control Service received 24,150 reports, of which 14,436 were reports of suspicious transactions. During that same time frame, the Control Service forwarded 139 cases to law enforcement, which included information from 2,120 unusual or suspicious transactions. The Control Service received 16,128 reports in 2004, and 15,371 reports in 2003. Approximately 40 percent of the reports received in 2004 and 2005 were for suspicious transactions and 60 percent were classified as unusual transactions.

In practice, the Control Service conducts a preliminary investigation of the suspicious and unusual reports and then may pass the information on to various authorities that investigate money laundering cases. The Control Service can forward case information to: specialized Anti-Money Laundering Investigation Units of the State Police, including the Economic Police and the Office for the Combat of Organized Crime; the Financial Police (under the State Revenue Service of the Ministry of Finance); the Bureau for the Prevention and Combat of Corruption (Anti-Corruption Bureau, ACB) for crimes committed by public officials; the Security Police (for cases concerning terrorism and terrorism financing); and other law enforcement authorities.

The Prosecutor General's Office also maintains a specially-cleared staff of seven prosecutors to prosecute cases linked to money laundering. In the first 10 months of 2005, the Prosecutor General's Office referred eight criminal cases to court for criminal offenses connected to money laundering. In one court case involving seven defendants, four of them received sentences for money laundering.

The adoption of Latvia's new Criminal Procedures Code in 2005 provided additional measures for the seizure and forfeiture of assets. The law allows law enforcement authorities better identify, trace, and confiscate criminal proceeds. Investigators have the ability to initiate parallel actions for the seizure of assets recovered during criminal investigations (previously this was possible only when investigations were complete). Latvia continues to work to adapt its legislation to the Framework Decision of the Council of the European Union of July 22, 2003 (2003/577/JHA) on the Execution in the European Union of Orders for Freezing Property or Evidence. Interagency cooperation between Latvian law enforcement agencies is improving, due to new legislative amendments that allow better information sharing and increased resources to conduct investigations. Still, cooperation is best at the highest governmental levels. At the end of 2004, the Latvian Prime Minister announced plans to create a senior (ministerial) level working group on financial crime, including representatives from government ministries, law enforcement, central bank officials and the FCMC, which led to the adoption of Council of Ministers Regulation 55 that formed the Council for the Prevention of Laundering of Proceeds Derived from Criminal Activity. The Council was the driving force behind the legislative amendments passed in May 2005.

The GOL has initiated a number of measures aimed at combating the financing of terrorism. It has issued regulations to implement the sanctions imposed by UNSCR 1267 and the subsequent respective resolutions (Cabinet of Ministers' Regulation No. 437, "On the Sanction Regime of the United Nations Security Council against the Afghan Islam Emirates in the Republic of Latvia." On October 14, 2004, Regulation No. 840 "On the Countries and International Organizations Whose Lists Include Persons Suspected of Committing Acts of Terrorism or Complicity Therein" entered into force. The regulations require that financial institutions report to the Control Service transactions related to any suspected terrorists or terrorist organizations on the UNSCR 1267

Sanctions Committee's consolidated list or on certain other terrorist lists, including those shared with Latvia by international partners. The Control Service maintains consolidated terrorist finance and watch lists and regularly sends these to financial institutions. On several occasions, Latvian financial institutions have temporarily frozen monetary funds associated with names on terrorist finance watch lists, including those issued by the U.S. Office of Foreign Assets Control (OFAC). To date, there have been no confirmed matches to names on the list. Article 17 of the AML law authorizes the Control Service to freeze the funds of persons included on one of the terrorist lists for up to six months. Any associated investigations, asset or property seizures, and forfeitures are handled in accordance with the new Criminal Procedure Code. On June 1, 2005, Latvia amended its Criminal Law supplementing it with a new Article 88' that specifically criminalizes the financing of terrorism.

Only conventional money remitters (such as Western Union and Moneygram) are permitted in Latvia. The remitters work through the banks and not as separate entities. Any other type of alternative remittance service is prohibited in Latvia.

Latvia has a growing legal gambling industry. Through September 2005, the gaming industry accounted for 70,530,000 lats (approximately \$124,200,000) of revenue, a 138 percent increase over the same period in 2004. In 2004, Latvia enacted a new law that restricts slot machines to defined gaming halls (places that have greater than ten gaming machines). New legislation adopted in November 2005 stipulates that no licenses can be issued for gaming businesses outside of casinos and gaming halls beginning in 2006.

The Ministry of Finance's Department of Lotteries and Gambling Supervisory Inspection regulates the gaming industry in Latvia. Casino inspectors preside over daily cash-out operations at each of the country's casinos. All casino customers must register and show proof of identification prior to entering the casino premises. Casinos and gaming halls must provide information about winnings of greater than 5,000 lats (approximately \$8,800) to the Ministry of Finance and the FIU. The Ministry of Finance has statutory authority to inquire about all casino owners and officers, and it works with the FIU to review licensing applications. In the first nine months of 2005, there were 2,191 inspections, which resulted in 155 violations.

There are four special economic zones in Latvia that provide a variety of significant tax incentives for the manufacturing, outsourcing, logistics centers, and trans-shipment of goods to other free trade zones. These zones are located at the free ports of Ventspils, Riga, and Liepaja, and in the inland city of Rezekne near the Russian and Belarusian Borders. There have been instances of reported cigarette smuggling to and from warehouses in the free trade zones, as well as outside them.

Latvia participates in MONEYVAL (the Council of Europe's Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures) and underwent a second-round mutual evaluation in 2002, the results of which were discussed during the MONEYVAL committee meeting in May 2004. Latvia is currently participating in a voluntary International Monetary Fund (IMF) evaluation that will further assess the country's AML regulatory and legal framework. This assessment will also be considered as MONEYVAL's third-round evaluation of Latvia.

Latvia is a party to the UN International Convention for the Suppression of the Financing of Terrorism and eleven other multilateral counterterrorism conventions. It ratified the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of Proceeds from Crime in 1998, and the Council of Europe Criminal Law Convention on Corruption in December 2001. A Mutual Legal Assistance Treaty (MLAT) has been in force between the United States and Latvia since 1999, and new amended extradition and MLAT agreements were signed in December 2005 (the amended agreements are awaiting ratification in Latvia). Latvia is a party to the 1988 UN

Drug Convention, and it ratified the UN Convention against Transnational Organized Crime in December 2001.

The Control Service, Latvia's FIU, has been a member of the Egmont Group since 1999 and has cooperation agreements on information exchange with FIUs in Belgium, Bulgaria, Canada, the Czech Republic, Estonia, Finland, Guernsey, Italy, Lithuania, Malta, Russia, Slovenia, and Poland. In addition, Latvia has signed multilateral agreements with several EU countries to automatically exchange information between the EU financial intelligence units using FIU.NET.

The GOL made substantial improvements in its anti-money laundering and counterterrorist financing regime in 2005. It should continue to implement and use the 2005 amendments to its AML law and Criminal Procedures Code to increase information sharing and cooperation between Latvian law enforcement agencies at the working level, and to strengthen its capacity and record in aggressively prosecuting and convicting those involved in financial crimes.