



**FINANCIAL SERVICES AND MARKET SUPERVISION DEPARTMENT  
BANK OF LITHUANIA**

To: Managers of banks, credit unions, electronic money institutions and payment institutions

4/10/2022 No. S 2022/(34.55.E-3900)-12-4749

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**RE: IMPROVING THE PROVISION OF PAYMENT SERVICES AND THE EXPERIENCE OF PAYMENT SERVICE USERS**

Dear Head of Financial Institution,

We are writing to you to improve the quality of payment services provided by the bank, credit union, electronic money or payment institution managed by you. One of the strategic directions of the Bank of Lithuania is the financial sector that creates value for the consumer, which aims to improve the quality and accessibility of financial services, the inclusion of different social groups and the integrity of the financial services market. In supervising financial institutions (hereinafter – *FIs*) that provide payment services, we would like to draw the attention of FIs to certain requirements that they must comply with in their day-to-day activities and compliance with which will be taken into account in the course of supervision of FIs. We would also like to draw attention to the shortcomings in the activities of FIs and possible improvements in the relevant areas of supervision and to make recommendations that, in the opinion of the Bank of Lithuania, would help to improve the quality of payment services, customer experience and ensure smoother provision of payment services, as well as to formulate proposals to FIs on specific measures in line with the best market practices.

It should be noted that FIs are obliged to comply with all the requirements of the legal acts regulating the activities of FIs, to continuously strive for the improvement of payment services, increasing their compliance with the expectations of the users of the services, and not to limit themselves to the issues mentioned in the present Letter and/or to the proposals made by the Bank of Lithuania regarding them.

**I. Improving the experience of payment service users when payment service providers apply measures for anti-money laundering and combating the financing of terrorism (hereinafter – *AML/CFT*) and de-risking policies to them.** The Bank of Lithuania, while monitoring the market situation, has drawn the attention of FIs to the need to improve three areas<sup>1</sup> where payment service users<sup>2</sup> (hereinafter – *PSUs*) face the most uncertainties when FIs apply to them *AML/CFT* measures. This need of the Bank of Lithuania was also supported by the respondents who participated in the public consultation published by the Bank of Lithuania.<sup>3</sup> The following are the Bank of Lithuania's recommendations to FIs, taking

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<sup>1</sup> [https://www.lb.lt/uploads/publications/docs/34265\\_165aa2e9761d2130300617ca065c928d.pdf](https://www.lb.lt/uploads/publications/docs/34265_165aa2e9761d2130300617ca065c928d.pdf)

<sup>2</sup> A payment service user is understood as a natural or legal person, another organisation or a subdivision thereof, making use of a payment service in the capacity of either payer or payee, or both (Article 2(31) of the Law on Payments).

<sup>3</sup> <https://www.lb.lt/lt/konsultacijos/mokejimo-paslaugu-vartotoju-patirties-gerinimas-mokejimo-paslaugu-teikejams-ju-atzvilgiu-taikant-pinigu-plovimo-ir-teroristu-finansavimo-prevencijos-priemones>

into account each area for improvement individually.

**1. Strengthening communication between FIs and PSUs.** The Bank of Lithuania has noted that disagreements between PSUs and FIs on the application of AML/CFT measures are caused by insufficient communication and cooperation between the parties; therefore, it is necessary to strengthen the FIs' communication on the objectives of AML/CFT risk management measures and/or on the specific AML/CTF risk management measures applied by FIs. In many cases, clearer communication between FIs on the scope, objectives and/or duration of the requested information and/or other AML/CFT risk management measures, as well as closer cooperation between FIs and PSUs in the exchange of relevant information, would, in the opinion of the Bank of Lithuania, help to avoid disagreements between PSUs and FIs. In this regard, the Bank of Lithuania recommends that FIs improve and enhance the communication with PSUs when asking PSUs to provide information for the purposes of AML/CFT risk management, including clear and consistent communication with PSUs on the information/documents required to be provided, the format and manner in which such information and/or data can be provided, the provision of a reasonable and justifiable deadline for the provision of the information, and the indication of possible alternatives to the requested information in the case of cases when PSUs claim that it is not possible for them to provide the specific information.

In the opinion of the Bank of Lithuania, FIs **should, to the extent possible**, in order to improve communication with PSUs:

**1.1. explain in more detail the specifics of the requested documents and/or information**, i.e. what documents are required (e.g. the content and form of the documents, what information they must contain, who issues them, etc.). It should also be noted that although the legislation governing the implementation of the AML/CFT requirements does not provide for an exhaustive list of documents and information that FIs are required to obtain in the course of the customer identification and/or risk assessment, the measures taken by the FIs to manage (mitigate) the AML/CFT risk must be objectively justified and proportionate to the objectives of AML/CFT. In the context of the provision of information, this should be understood to mean that the amount and nature of the information requested from the customer by the FI may vary from case to case (taking into account the totality of the existing circumstances and risks), but that the information requested should be the information necessary to ensure that the AML/CFT risks are properly assessed and managed. In the assessment of the Bank of Lithuania, FIs should take into account the recommendations of the financial intelligence units on monitoring of customer relationships and reporting of suspicious activity and should consider all the circumstances in an integrated manner when establishing internal policies and procedures for assessing and managing the AML/CFT risks, for example, whether the information requested will have a material impact on the assessment of the AML/CFT risks associated with a particular business relationship and/or a particular payment transaction and will contribute to the appropriate management of the existing risks, as well as whether the customer is objectively in a position to provide the requested information and/or whether there are no other means to manage the risks arising. The Bank of Lithuania encourages FIs to maintain regular contact with PSUs, explaining what documents need to be submitted and why. If the customer is not able to provide the relevant documents, it should be offered that the customer would provide equivalent data to the requested information in a form acceptable to the parties. In the opinion of the Bank of Lithuania, the provision of clearer requirements of the FI would help the PSU to understand more specifically what documents the FI wishes to receive from them and to avoid the PSU's failure to act (delaying the submission of documents) due to the fact that the PSU may not understand what the FI requires. When requesting information from a PSU, the purpose of the requested information should be made as clear as possible, i.e. why the FI needs the information. FIs should further assess situations where customers are unable to provide the requested information for legitimate reasons (e.g. where third party extracts, contracts, etc. are requested) and the third party does not agree to disclose such data to the customer or its FI (e.g. in the case of asset purchase transactions), and should provide possible operational models to address these situations without obliging PSUs to fulfil obligations that they are not able to perform due to circumstances beyond the control of the PSUs.

In the opinion of the Bank of Lithuania, the above-mentioned communication between PSUs and FIs could be improved by certain additional communication tools (e.g. relevant digital

and/or physical leaflets (one-pagers), Frequently Asked Questions (FAQs) on the FI's website, and/or a separate section on this subject on the website), which could be directed to the PSUs that are required by the FI to provide certain information and/or documents. The Bank of Lithuania recommends that, where possible, information on the possible sources of submission of documents should also be provided to PSUs. Providing such information on the FI's website or individually to the PSU who is requested to submit information could presumably improve the customer experience and help PSUs to avoid wasting time and effort and incurring additional costs when PSUs request information from inappropriate but paid sources etc.;

**1.2. to assess more carefully and set a reasonable and appropriate timeframe for submission of the requested information.** The Bank of Lithuania receives complaints from PSUs about excessively short deadlines set by FIs for the submission of information to their customers to manage the AML/CFT risks, and the FIs do not take into account the scope and/or content of the information to be obtained, or the sources of information. Therefore, we would like to draw the FIs' attention to the fact that in cases where the FI asks the customer to provide more than one document and/or the provision of the document is dependent on the actions of third parties (including those established outside the Republic of Lithuania and/or the European Union and/or the European Economic Area) and/or the preparation/provision of the document requires additional time, etc., the FI should take into account these circumstances and set a reasonable deadline for the customer to submit the requested documents;

**1.3. to use secure communication channels to receive information from PSUs and ensure feedback.** The Bank of Lithuania would consider as a good practice those cases when the FI uses secure communication channels in order to reach the PSU more quickly, i.e. it contacts the PSU not only by the latter's e-mail and/or address given to the FI, but also by telephone and other communication channels specified by PSUs for contacts with the FI. In the opinion of the Bank of Lithuania, additional communication channels would help to receive the required response or documents (information) much faster and ensure smooth and efficient communication between the FI and the PSU. Feedback from the FI is particularly important when the PSU submits the requested information/documents, and the PSU should be informed immediately about the status of the submission and/or assessment of the information/documents. The FI should liaise with the PSU when the information provided by the PSU is being assessed and reviewed. In this case, the PSU should be informed, to the extent possible, of the duration, progress, etc. of such procedure. An example of good practice would be FI technology solutions (e.g. virtual chatbots, etc.) that simplify, speed up and facilitate communication between FIs and PSUs;

**1.4. explaining legal requirements in plain and understandable language to PSUs.** The Bank of Lithuania has observed that PSUs, not being financial service professionals, do not always understand the legal language used to present the requirements quoted by FIs from the legal acts. In this respect, the Bank of Lithuania would consider it as good practice for FIs to present legal requirements to PSUs in plain, understandable language. Where specific terms are used (e.g. final beneficiary, etc.), the FI should either provide a proper explanation of the meaning of the term used, or explicitly refer to, for example, the section of its website where the PSU can find an explanation of the term. In the opinion of the Bank of Lithuania, communication could also be facilitated by one-page glossaries (legal concepts and their explanations in simpler words, possibly with examples), which could be sent to PSUs together with the survey and/or the *Know Your Customer* (KYC) questionnaire, adequate prior information to customers on the possible consequences of not submitting the requested information on time (possible restrictions on payment accounts, etc.), etc.

**2. Improving processes for monitoring customer insight and business relationships, taking into account the expectations and experience of PSUs.** The Bank of Lithuania has noted that PSUs face many difficulties in completing and/or updating the KYC questionnaire, as well as in providing other information requested by FIs during the business relationship monitoring process. The most frequent reasons for complaints from PSUs are the following: lack of communication from FIs, including failure to provide assistance in completing KYC questionnaires; requests to fill in fields of the KYC questionnaire that are not relevant for a particular customer; requests to provide information that is available to FIs from state registers; requests to provide information on third parties; unclear criteria for inadmissibility of information/documents, etc.

**2.1. Improvement of KYC questionnaires, simplification of data updates and adaptability of KYC questionnaires to different groups of PSUs.** The Bank of Lithuania has observed that PSUs avoid, delay and/or fail to complete KYC questionnaires because the KYC questionnaires provided by FIs to PSUs are often voluminous, not tailored to different groups of PSUs (e.g. not-for-profit organisations, students, pensioners, etc.), and therefore cause a lot of confusion in filling them out. In order to ensure a more efficient and smooth implementation of the KYC process, the Bank of Lithuania recommends that FIs should provide KYC questionnaires to PSUs that are as clear as possible and are targeted at the relevant groups of PSUs, taking into account the specifics of FIs customers. For example, there could be groups such as students, seniors, non-profit organisations (NPOs), etc. PSU-specific questionnaires would reduce the time needed to complete KYC questionnaires by avoiding redundant questions that are not appropriate for individual PSU groups. In case a FI chooses to provide a single KYC questionnaire for all PSUs, the Bank of Lithuania believes that it would be appropriate for the FI to prepare explanatory KYC questionnaire completion documents (one-pagers) for different groups of PSUs, which would provide a more detailed explanation of which and how to fill in the boxes of the KYC questionnaire and detailed instructions for filling in the KYC questionnaire.

It should be noted that in accordance with Article 29(1)(8) of the Law of the Republic of Lithuania on the Prevention of Money Laundering and Terrorist Financing (hereinafter – the *LPMLTF*), FIs are required to establish appropriate internal policies and internal control procedures related to the updating of customer and beneficiary identification information. Paragraph 33 of the Instructions to financial market participants aimed at preventing money laundering and/or terrorist financing<sup>4</sup> stipulates that FIs must regularly review and update the information and data on the identity of the customer and the identity of the beneficiary obtained from the monitoring of higher-risk customer relationships and use a risk-based assessment to determine the frequency of updating the data. Although the legislation does not regulate in detail the manner, timing and frequency of updating customer information (which is at the discretion of the FI), the frequency of updating must be such as to enable the FI to have sufficiently up-to-date information on its customers, in particular on those who pose a higher AML/CFT risk.

Thus, FIs should determine in their internal policies and internal control procedures relating to the updating of customer and beneficiary identification information the ways (e.g. contacting the customer to update the information, using data from a reliable and independent source) and the means by which they will update the customer and beneficiary information on the basis of a risk-based approach. Where possible and in the absence of additional risks, the Bank of Lithuania recommends that FIs simplify the process of updating the KYC questionnaire, i.e., that the data in the PSU's KYC questionnaire and/or at least part of the data can be updated on the basis of the previous KYC questionnaire by correcting, supplementing (if necessary) and confirming it, rather than requiring PSUs to fill in the KYC questionnaire data anew. In case the information already provided by the customer's FI is unchanged, the Bank of Lithuania considers that it would be sufficient for the PSU to confirm to the FI that the information is unchanged and/or to answer a few key questions provided by the FI to the PSU, thus confirming the validity of the existing information (conformity to the current situation).

**2.2. The right of FIs to obtain information directly from public information systems or registers.** Article 10(4) of the *LPMLTF* stipulates that an FI has the right to obtain the documents, data or information necessary to establish the identity of the customer or beneficiary referred to in the said Law directly from public information systems or registers, and not to require the customer to submit such documents, data or information himself, provided that the customer confirms the documents, data or information obtained directly from public information systems or registers with a signature (including an intelligent electronic signature or a qualified electronic signature). Therefore, according to the assessment of the Bank of Lithuania, the FI under the current regulation has the right to obtain information from the state registers and not to ask the customer to provide such information, however, in certain cases, when obtaining the information directly from the state information systems or registers, such documents, data or information must be confirmed by the signature of the customer.

Taking into account that the Bank of Lithuania still receives complaints from PSUs that FIs require to provide data that are available to FIs from public information systems and registers,

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<sup>4</sup> <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/91797560b6f011e4a939cd67303e5a1f>

the Bank of Lithuania recommends FIs to use the right to obtain data from FIs as often as possible, as provided for in Article 10(4) of the LPMLTF, without imposing an additional burden on PSUs with regard to the provision of information that is available to the FIs from the public systems and registers.

### **3. On restricting payment accounts and suspending payment transactions by FIs on the basis of the AML/CFT risk management.**

**3.1. Suspending payment transactions and restricting payment accounts.** The Bank of Lithuania has noted that in certain cases, when monitoring business relationships, FIs suspend (stop) payment operations of customers and/or restrict FIs' access to payment accounts by requesting additional information to substantiate the origin and sources of the customer's funds, the payment operation performed (made) or other circumstances. In many cases, PSUs are not informed in advance of the expected duration and/or progress of the process of assessing the documents and information requested by the FIs, including how long the restrictions imposed by the FIs may last and/or what additional steps the PSU could take to lift them as soon as possible (where possible). It has been observed that for some FIs, the process of assessing the documents submitted by the PSU and, in some cases, the actual contacting of the customer to submit such documents, takes an unreasonably long period of time (e.g. more than three weeks), and consequently, the restrictions imposed on the PSU continue for the same period of time. It should be noted that the Bank of Lithuania recommends<sup>5</sup> that the FIs should verify payments suspended due to international sanctions in a typical case within no more than three weeks. If for objective reasons the verification would be delayed, FIs should duly inform the PSU about the progress and timing of the suspended payment. The Bank of Lithuania also recommends that, to the extent consistent with the requirements of the LPMLTF, PSUs should be promptly provided with information on the restrictions imposed on their payment account and/or payment transaction and the possibilities of lifting such restrictions.

**3.2. Informing the PSU of the refusal to execute a payment transaction.** Pursuant to Article 43(1) of the Law of the Republic of Lithuania on Payments (hereinafter – *the Law on Payments*), if the FI refuses to execute a payment order or to initiate a payment transaction, the PSU will be notified thereof, stating the reasons for the refusal and the manner in which the errors that led to the refusal to execute the payment order are to be corrected, unless such notification is technically not possible or is prohibited by other legal acts.

The refusal to execute a payment order that has been duly formulated and submitted may only be given if prohibited by other legislation, such as the LPMLTF. The Bank of Lithuania has observed cases where a payment transaction is refused in accordance with the requirements set out in the LPMLTF, but the PSU is not informed about the refusal to execute the payment transaction. According to the assessment of the Bank of Lithuania, the fact that the payer's FI is not entitled to disclose to the payer the actual reasons for the refusal to execute the submitted payment order in the cases set out in the LPMLTF does not exempt the payer's FI from the obligation to inform the payer of the fact of the refusal and the legal basis for the refusal (e.g. to indicate the relevant provision of the framework agreement, the relevant legal act or similar).

**3.3. Providing responses to complaints submitted to the PSUs regarding the suspension of payment transactions and/or restrictions on the use of payment services to the PSUs.** The actions of the FIs restricting the rights of PSUs in the use of payment services must in all cases be proportionate to the objectives pursued and should not unreasonably restrict the rights of PSUs unless there is an objective need to do so. Thus, in the absence of a legitimate justification, an FI is not entitled to unreasonably restrict or otherwise infringe the rights and legitimate interests of PSUs, or to fail to comply with the mandatory requirements laid down in the Law on Payments or in other legal acts. The relevant restrictions must be lifted as soon as the circumstances which gave rise to the restrictions no longer exist. It is also important to note that any restrictions impose a corresponding obligation on the FI itself to address the situation promptly and to actively gather information, bearing in mind that

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<sup>5</sup> <https://www.lb.lt/lt/naujienos/lietuvos-bankas-mokejimu-patikrinimai-igyvendinant-sankcijas-turi-trukti-iki-triju-savaiciu-klientai-turi-buti-tinkamai-informuojami>

it is necessary to ensure the enforcement not only of the LPMLTF, but also of the Law on Payments and of other laws.

The Bank of Lithuania, analysing the complaints of PSUs submitted to the Bank of Lithuania, noted that the responses provided by FIs to PSUs' complaints related to the suspension of payment transactions or application of restrictions on the use of payment services do not comply with the requirements set out in Article 90(1) of the Law on Payments, or are not provided to PSUs at all. Please note that in accordance with Article 90(1) of the Law on Payments, the FI is obliged to investigate a written complaint from a PSU and to provide the PSU with a detailed, reasoned and documented response within 15 working days from the receipt of the complaint at the latest. It should be noted that the fact that the legislation prohibits an FI from providing information of a relevant nature (e.g. under Article 23(3) of the LPMLTF it is prohibited to inform the customer or other persons that information on the customer's monetary operations or transactions, or any other information, has been provided to the Financial Crimes Investigation Service under the Ministry of the Interior or to any other supervisory authority), to disclose to the PSU the actual reasons for the suspension of the execution of the payment transactions or the application of the restrictions, does not give an FI a right to ignore the PSUs' complaints. FIs are obliged to respond to PSUs by providing them with as much information as is legally permissible, while maintaining a balance between the different interests protected by the law. Responses relating to the restrictions on the use of payment services must, without prejudice to other legal requirements, indicate the reasons and legal basis for the application of restrictions, when the restrictions are planned to be lifted, the time limit for the lifting of the restrictions, the steps to be taken by the PSU to lift the restrictions, etc.

#### **3.4. Unilateral termination of the business relationship at the initiative of the**

**FI.** Despite the fact that Article 15(7) of the Law on Payments does not specify the circumstances under which an FI providing payment services may unilaterally terminate a framework agreement, the right set out in the aforementioned provision should only be exercised by the FI in the event of compelling reasons, when further performance of the framework agreement is no longer feasible (e.g. the provision of such services and/or its own activities is discontinued by the FI, the customer is in material breach of the framework agreement and the information available to the FI leads the FI to reasonably believe that the customer will not remedy such breaches and/or cease such breaches), or it is not appropriate (e.g. if the payment account is inactive and the information available to the FI leads the FI to reasonably believe that the customer does not intend to use such payment account in the foreseeable future, etc.). It should be noted that the grounds for termination must be clearly defined in the framework agreement.

In the opinion of the Bank of Lithuania, termination of the business relationship with customers on the basis of the LPMLTF is considered to be an extreme measure to manage the ATM/CFT risk, and therefore it should only be applied in cases where financial institutions are unable to manage this risk by other means, i.e. FIs should follow a consistent approach - from the application of the measures that have a minimal impact on the availability of financial services (e.g. restriction of certain payment services) to the most severe ones (termination of the business relationship). Measures taken by FIs to manage the AML/CFT risks and to ensure the fulfilment of the other requirements of the LPMLTF and its implementing legislation must not only be consistent with the objectives of the LPMLTF, but must also be adequate and proportionate in order to achieve those objectives.

It should be stressed that the termination of the business relationship (as a last resort) or any restriction on the provision of payment services to customers is a particularly sensitive and difficult issue. Therefore, when such measures are necessary, FIs must ensure appropriate, timely and professional communication with their customers. Recently, the Bank of Lithuania has been receiving quite a number of complaints from customers of FIs stating the circumstances of inadequate communication between FIs and their customers. Therefore, in response, the Bank of Lithuania recommends that the reasons for the decision taken by the FI, as well as the contractual and legal framework, should be stated as accurately and in detail as possible in the communications (information messages) to the FI's customers regarding the termination of business relationships with them. It is important to note that the FI has to assess each situation individually, having gathered the evidence and arguments to support its decision, and not just refer to the provisions of the Law on Payments and/or the LPMLTF in a general



way, without being able to substantiate the provisions of these laws with the relevant specific evidence. The late submission of information by the PSU to the FI should not be sufficient grounds for the FI to immediately apply the last resort of termination of the business relationship. In such a case, it should first be established that the PSU specifically refuses and/or fails to provide the information requested by the FI after repeated requests, and not due to any other circumstances (e.g. failure to see and/or receive the email requesting such information, missing the deadline for providing the information due to other circumstances beyond the PSU's control (e.g. illness, etc.).

It should also be noted that Article 15(7) of the Law on Payments lays down a mandatory requirement which the FI, as a payment service provider, has to comply with when informing about the decision to unilaterally terminate the payment service agreement (the framework agreement) concluded with the customer, including the payment account agreement, i.e. it lays down the obligation to inform the customer about the termination of the framework agreement at least 60 days prior to the actual termination of the framework agreement. The financial institution is entitled to apply a shorter notice period than the one provided for in Article 15(7) of the Law on Payments only if such right/obligation is provided for in the Law on Payments and/or in other legal acts.

**3.5. Not establishing and/or terminating a business relationship due to the de-risking policy.** The Bank of Lithuania conducted a de-risking study<sup>6</sup> in 2021 and pays close attention to monitoring the risk aversion situation in Lithuania in order to ensure that the AML/CFT measures taken by the FIs supervised by the Bank of Lithuania do not limit the availability of payment and other financial services to honest PSUs. Accordingly, to ensure that FIs do not apply unreasonable de-risking policies by refusing to enter into and/or terminating business relationships, i.e. by limiting the availability of financial services, instead of seeking solutions and measures to manage the risks involved. The AML/CFT risk management measures applied by FIs must be proportionate to the objective pursued and must not increase the risk of financial exclusion of legitimate businesses or of individuals or groups of individuals. FIs must ensure that legitimate businesses have access to basic payment services and are not unduly denied financial services. The Bank of Lithuania has expressed its opinion<sup>7</sup> that termination of the framework agreement at the initiative of the payment service provider should only be carried out in case of compelling reasons (as a last resort), including that the grounds for termination set out in the framework agreement must be realistic, justified and in line with the imperative requirements of the legislation.

**Reporting to the Bank of Lithuania.** Pursuant to Resolution No. 03-10 of the Board of the Bank of Lithuania of 21 January 2019 on the Approval of the Rules on Operational or Security Incident Reporting to the Bank of Lithuania and Information Submission Templates,<sup>8</sup> credit institutions are obliged to submit to the Bank of Lithuania a notification (REJECT template) of the decision taken by the credit institutions to refuse to open a payment account for a payment and electronic money institution, to restrict the use of the payment account, or to close it. This information must be provided to the Bank of Lithuania no later than within 5 working days from the date of adoption of the relevant decision, by completing the REJECT template and also attaching additional information, should it be relevant or important.

Taking into account the fact that under the current legal regulation, the obligation to submit the REJECT template to the Bank of Lithuania is not applicable to all financial institutions, but only to credit institutions, the Bank of Lithuania would consider as an example of good practice the cases when other FIs (not only the ones to which this obligation is imposed by the legislation) on their own initiative voluntarily provide the Bank of Lithuania with the information on the decisions taken not to commence and/or terminate the business relationship with the customer due to the unacceptable AML/CFT risk for the FI. It should be noted that the initiative of such FIs to notify the Bank of Lithuania should cover not only cases where the customers are payment and electronic money institutions, but all customers (natural persons, legal persons, non-profit organisations, etc.) where the business relationship is terminated or refused to be commenced specifically due to the AML/CFT risk that is unacceptable to the FI.

<sup>6</sup> <https://www.lb.lt/en/news/survey-payment-service-providers-do-not-abuse-de-risking-but-there-is-room-for-improvement>

<sup>7</sup> <https://www.lb.lt/lt/naujienos/lietuvos-bankas-patvirtino-mokejimo-paslaugu-teikimo-gaires> (Subparagraph 7.3.2.)

<sup>8</sup> <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/0e705c901e8111e9bd28d9a28a9e9ad9?ifwid=1azz9b1d0q>

**II. On the cancellation/tracking procedures for payment orders.** The cancellation/tracking of payment transactions is regulated in Articles 44 and 51 of the Law on Payments.<sup>9</sup>

It is considered good practice for FIs to follow the procedures for cancellation/tracking of payment orders in compliance with the position of the Supervision Service of the Bank of Lithuania on the procedure for tracing a payment transaction in case of an incorrect unique identifier approved by Decision No. 241-178 of the Director of the Supervision Service of the Bank of Lithuania of 22 December 2014<sup>10</sup> and the Guidelines for the Provision of Payment Services approved by Decision No. V 2021/(34.3.E-3400)-419-30 of the Director of the Financial Market Supervision Service of 15 February 2021<sup>11</sup>.

The Bank of Lithuania notes that there are uncertainties for PSUs regarding the procedures for cancellation/tracking of payment instructions applied by FIs. The Bank of Lithuania, when examining complaints from individuals and disputes between consumers and FIs, has found that the most frequently received complaints are related to the cancellation/tracking procedures of payment orders and actions of FIs:

- insufficient information on the relevant procedures, including information on how and within what time frames they can be applied for, whether there is a fee for such procedures carried out by FIs, as well as incomprehensible information (or no information at all) on the cancellation of the reservation of the funds in the account;
- failure to react and/or react promptly to the PSU's request due to a discrepancy between the payee details on the payment order and the information held by the FI on the payee indicated in the payment order;
- limited possibilities to cancel payment transactions initiated/executed on the payment account at the request of the PSU, including the reservation of funds for such payment transactions;
- inefficient response to PSUs' requests;
- unacceptable pricing and/or conditions for the use of such procedures.

The Bank of Lithuania has also observed cases where PSUs have not heard about the possibilities of tracing/cancelling payment orders. In the opinion of the Bank of Lithuania, it is of particular importance that each PSU using the services of an FI should be aware of the procedures for tracing/cancelling payment orders or at least of the existence of such procedures.

Taking into account the above-mentioned problems faced by PSUs, the Bank of Lithuania encourages FIs to take the following actions to be considered as good practice:

1. Make information on the procedures for tracing/cancelling payment orders as clear, comprehensible and visible as possible, with a particular focus on increasing the functionality of familiarisation with this information (e.g. for PSUs to have the possibility to additionally click on "I have read"; "I confirm that I am aware of this information", etc.). This information should include the cases discussed in a clear and plain language when and in what order the cancellation of the reservation of funds is possible and when payment service providers are not obliged and/or cannot do so.
2. Improve procedures and standards for PSUs by allowing PSUs to submit a request (with an immediate response, e.g. without waiting for the start of the FI's business day) for tracing/cancellation of a payment order on a priority basis.
3. During the interaction with the customer, the FI would take the initiative to find out what the PSU is seeking (to cancel/trace the payment transaction), provide the PSU with relevant information to enable the PSU to decide on the next steps, etc.
4. Consider on a case-by-case basis the possibility of cancelling a payment order even after the consumer's FI is deemed to have received the payment order but has not yet executed it, if technically feasible to do so.
5. Immediately contact the payee's payment service institution and/or correspondent banks to trace/cancel the payment order and proactively communicate in the process of tracing/cancelling the payment order.
6. Clearly and concisely state to the PSU the specific reasons and grounds why the

<sup>9</sup> <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.89775/asr>

<sup>10</sup> [https://www.lb.lt/uploads/documents/docs/552\\_e592b349e6a7eecebb837a4c23578ed.pdf](https://www.lb.lt/uploads/documents/docs/552_e592b349e6a7eecebb837a4c23578ed.pdf)

<sup>11</sup> <https://www.lb.lt/lt/naujienos/lietuvos-bankas-patvirtino-mokejimo-paslaugu-teikimo-gaires>



PSU's request to cancel the submitted payment order cannot and will not be granted in a particular case.

**III. On the safe use of electronic payment services.** Taking into account the current situation and observing the growth in the number (scale) of frauds, the Bank of Lithuania seeks to increase the resilience of consumers of financial services and FIs to frauds. The objectives of this direction include, inter alia, ways to raise consumer awareness of the risks of fraud in the e-space and consumer knowledge of how to use the payment instruments issued to them.

The Bank of Lithuania aims to increase consumers' financial literacy, and thus their ability to use payment services safely, especially in the e-space, as well as the awareness of market participants and the need to prioritise fraud prevention by investing in both consumer education initiatives and improved authorisation and payment transaction monitoring tools and more secure IT systems.

When dealing with disputes and complaints between consumers and FIs regarding payments made as a result of a fraudulent attack, the Bank of Lithuania notes that PSUs:

- are only formally informed (i.e. by including relevant provisions in the framework agreements) about how to safely use electronic payment instruments and payment services;
- there is a lack of user-friendly, plain language information on how to adequately protect the personalised security data of their payment instruments before they start using the payment services provided by the relevant FI. Accordingly, PSUs lack knowledge and understanding of why it is important to protect personalised security data of their payment instruments, as well as how to do it properly, in particular when using e-payment services;
- payment service providers are reluctant to compensate consumers for losses incurred by payment transactions carried out as a result of fraudulent attacks (as a consequence thereof). The experience in examining complaints and disputes shows that payment service providers in such cases base their lack of liability in respect of payment transactions disputed by consumers on the fact that such payment transactions, i.e. payment transactions executed as a result of a fraudulent attack and subsequently disputed by consumers, are, in the assessment of payment service providers, considered to be duly authorised, without taking into account the individual circumstances of the initiation and execution of such payment transactions, as well as of the PSU's own behaviour that led to the execution of the disputed payment transaction.

In light of the above, the Bank of Lithuania urges FIs to consider the following actions:

1. To inform, not only formally through the provisions of the framework agreement and information on the website but also individually, customers and consumers about their obligations as PSUs in relation to the use of e-payment instruments and e-payment services
2. Provide information in a clear and user-friendly, understandable language on why, how and what personalised security data of payment instruments must be stored in order to ensure the safe use of e-payment services, and to indicate, by way of examples, what actions in the contractual relationship are deemed to constitute the granting of consent to payment.
3. Make publicly available information on potential/known fraud schemes so that PSUs can identify them and protect themselves from potential losses.
4. Consider on a case-by-case basis all possibilities to compensate the amounts of unauthorised payment transactions resulting from fraud attacks as losses to the PSUs, subject to the relevant PSU request. Not to automatically conclude, without an individual assessment of the situation, that the disputed payment transaction was authorised simply because the formal approval of the payment transaction was in accordance with the consent procedure agreed between the PSU and the FI, or that the PSU was grossly negligent, without assessing the specific behaviour of the customer in isolation, as a basis for refusing to refund the amount of the unauthorised payment transaction. It should be recalled that pursuant to Article 37(1) of the Law on Payments, if the payer denies having authorised a payment transaction or claims that a payment transaction has been executed improperly, it is for his/her payment service provider to prove that the payment transaction was authenticated, accurately recorded, entered into accounts and not affected by a technical breakdown or some other deficiency of the service provided by the payment service provider. It should also be noted that the mere fact that the use of the payment instrument used by the payer to initiate a payment transaction is registered in the systems used by the payment service provider and/or a third party is not necessarily sufficient proof that the payer authorised the payment transaction or acted in bad faith or

intentionally or with gross negligence failed to comply with the requirements for the use of the payment instrument (Article 37(3) of the Law on Payments). The Bank of Lithuania points out that, according to the provisions of the Law on Payments, all losses caused by unauthorised payment transactions are borne by the payer only if both of the following conditions are fulfilled: the payer not only fails to fulfil one or more of the obligations set out for him in the Law on Payments, but also commits it by acting in bad faith or with intent or with gross negligence. At the same time, we would like to remind you that in cases where the FI does not require a more secure authentication, the PSU is only liable for the losses caused by the unauthorised payment transactions if he/she has acted in bad faith (Article 39(4) of the Law on Payments).

**IV. On customer service in physical locations.** The Bank of Lithuania sees that some customers prefer to receive payment services quickly and efficiently via digital channels, therefore, the efforts of FIs to educate PSUs on the use of digital solutions, providing information on how to obtain services remotely, and expanding the range of remotely provided services are welcome. However, for other customers, the possibility to be served by contact at physical locations is important. It has been observed that FIs serving customers in physical locations prefer to provide contact-based services only if customers have registered in advance<sup>12</sup>, which poses challenges for customers. Therefore, FIs should, to the extent possible, take into account the needs of their customers regarding the most appropriate service model, seek to reconcile the expectations of different customers and, above all, respond to the needs of the most vulnerable social groups.

In the light of the above, the following recommendations are made to FIs serving customers in physical locations:

1. Provide customers with access to relevant information by telephone.
2. Ensure that, in the case of advance registration, it is possible to register for a visit by telephone, online or at the customer service desk (FIs may encourage some form of pre-registration, but it is good practice for PSUs to allow all forms of advance registration to be available).
3. In case of unforeseen situations and/or urgency, or where the relevant service is provided only in the customer service unit, ensure that the appointment is made no later than 2 working days from the date of registration (depending on the opening hours of the relevant customer service unit where the PSU wishes to be served), otherwise no later than 5 working days, or for a later date if the PSU has agreed/expressed a preference for a later date.
4. Provide full information to a PSU who arrives at the customer service unit without registration (if such registration is mandatory for accessing a financial service) on the procedure and means of advance registration (including, inter alia, the availability of the relevant services remotely by telephone and/or via the internet) and, if the PSU so wishes, make it possible to be registered at the customer service unit (e.g. by having the PSU registered by a member of staff of the customer service unit, by offering the PSU to use of the self-service area of the customer service unit, etc). For PSUs who have not registered themselves in advance, to ensure that PSUs are serviced in the customer service unit on a 'live queue' basis by providing information on the priorities applied (e.g. indicating that priority is given to registered customers, etc.).
5. Priority for unregistered PSUs seeking services at the customer service unit must be given to persons belonging to socially vulnerable groups, in case of emergencies and/or urgent situations, as well as in cases where the relevant service is only available at the customer service unit, and in cases where PSUs do not have the possibility to access the service remotely, or where their access is limited (lack of a qualified access tool, lack of internet access, lack of internet skills, etc.). Customers must be informed about the priorities applied.
6. Apply separate customer service procedures, special requirements for those PSUs who, for objective reasons, are unable to use any of the above options (e.g. persons with disabilities), allowing them to access the service in other ways.

**V. On the compliance with the expectations of PSUs.** We would like to remind you that Paragraph 21 of the Rules for the Handling of Complaints Received by Financial Market Participants (hereinafter the Rules), approved by Resolution No. 03-105 of the Board of the Bank of Lithuania of 6 June 2013 on the Approval of the Rules for the Handling of Complaints

<sup>12</sup> <https://www.lb.lt/lt/naujienos/lietuvos-bankas-ivertins-klientu-aptarnavima-komerciniu-banku-padaliniuose>

Received by Financial Market Participants, stipulates that FIs are obliged to continuously assess the results of the complaint handling process in order to identify their shortcomings and potential legal or operational risks. In this context, it is considered good practice not only when FIs ensure compliance with the above mentioned provision and make improvements in their operations taking into account the expectations of PSUs expressed during the complaint settlement procedures, but also when they hear them during the day-to-day operations of the FIs (e.g. analysis of feedback in the public domain, collection of observations and opinions in the day-to-day customer service, surveys on the compliance of the FIs' provision of payment services with the expectations of the PSUs, etc).

## **VI. On payment orders executed through correspondents.**

**1. Responsibility for the execution of payment transactions.** The Law on Payments regulates the time limits for the execution of payment transactions to payment accounts as well as the liability of FIs for non-execution, improper or late execution of payment transactions. According to Article 51(1) of the Law on Payments, where a payment order is directly initiated by the payer, the payer's FI is liable towards the payer for the proper execution of the payment transaction, unless the payer's FI is aware of, and is in a position to certify to both the payer's FI and the payee's FI, that the payee's FI has received the amount of the payment transaction.

The Bank of Lithuania draws attention to the fact that a payment order is considered executed only when the funds are received by the payee's FI. This means that the payer's FI is in all cases liable to the payer for the proper execution of the payment order, irrespective of the fact that he/she has used an intermediary (e.g. a correspondent bank) to execute the payment order, except for the cases set out in the Law on Payments, where the payer's FI may be exempted from such liability (e.g. where the payer's FI is able to prove that the non-execution of the payment order or the inadequate execution of the payment order is due to the circumstances that are within the control of the payee's FI).

The Bank of Lithuania additionally notes that in accordance with Article 51(2) of the Law on Payments, when the payer's FI is liable under Article 51(1) of the Law on Payments, he/she must immediately return to the payer the amount of the payment transaction that has not been executed or that has been executed improperly, restore the balance of the payment account from which the amount has been debited to the amount that would have existed had the payment transaction not been executed improperly, and ensure that the payer does not incur any loss due to interest payable to, or receivable from the FI.

The Bank of Lithuania, when examining complaints from PSUs, has noticed an increase in the number of cases where the funds of a payment transaction initiated by a PSU do not reach the payee, i.e. the funds of the payment transaction are held by the correspondent involved in the execution of the payment order. In such cases, the following malpractice has been identified:

1. FIs transfer payment orders initiated by PSUs to a correspondent appointed by themselves (not by the payee) and consider them to have been duly executed, i.e. FIs mistakenly believe that they are not responsible for the actual execution of such payment order in the manner foreseen in the Law on Payments;

2. the FI makes minimal efforts (e.g. without the constant urge from the PSU, it fails to communicate with its intermediary, etc.) to trace the payment transaction after the PSU's funds have been 'stuck' with the correspondent FI and have not reached the payee;

3. the PSU is directed to the correspondent FI for the tracing of payment funds initiated by the PSU, although no contractual legal relationship exists between the correspondent FI and the PSU;

5. the FI does not return the amount of the payment transaction that has not been executed or has been executed incorrectly to the payer and does not restore the balance on the payment account from which the amount has been debited to the balance that would have existed if the incorrectly executed payment transaction had not been executed.

In addition, please note that, in accordance with Article 51(1) of the Law on Payments, a FI may not charge a commission to the payer by taking measures to trace a payment transaction and notifying the payer of the results of the search.

**2. Commissions charged by FI correspondents.** The Bank of Lithuania notes the practice applied by FIs, where the FIs provide information on commissions applied by

correspondents in price lists and do not inform PSUs separately about possible charges of this type. As a result, PSUs often face dissatisfaction with the failure to inform them of the fee and its amount when they are faced with the commission for an international transfer. It should be noted that FIs, in the course of their activities, must comply, inter alia, with the principles of performance of contracts (contribution to and co-operation with the other party) set out in Article 6.200 of the Civil Code of the Republic of Lithuania. This means that it is considered good practice for a FI to voluntarily provide additional information of a general nature to the PSU on the possible commissions of other FIs and the preliminary possible levels or ranges of levels (if such information is known to the FI).

**We hereby kindly ask you to once again draw the attention of the management and responsible persons of the FI to the requirements of the above-mentioned legal acts and the recommendations of the Bank of Lithuania and to take the appropriate measures to ensure that the expectations of the Bank of Lithuania set out in this letter are met, so as to ensure that the FI is in compliance with the requirements of the legal acts governing its activities and the best practice examples.**

**Please note that this letter from the Bank of Lithuania does not require a response from the FI.**

**Please note that the responsibility for the proper implementation of the requirements set out in the legislation governing the activities of FI rests in all cases with the FI itself.**

Director

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