

Act on Measures against Money Laundering (1993:768)

Swedish Code of Statutes
SFS 1993:768

Unofficial translation of: Lag om åtgärder mot penningtvätt

Promulgated 6 October 1993

Omtryck: SFS 1999:162

Introductory provisions

Section 1. For the purposes of this Act, money laundering is defined as any measure relating to property acquired through crime which may lead to the concealment of this characteristic of the property or enable the perpetrator to evade legal sanctions or impede the recovery of the property, or any measure involving the disposal, acquisition, possession or use of the property.

Money laundering is also defined as any measure involving property other than those set out in paragraph 1 if the purpose of such measures is to conceal the fact that a person has enriched himself from a criminal act.

Scope

Section 2. The provisions of this Act are applicable to undertakings conducting:

1. banking services and other activities that involve borrowing from the public and granting credits,
2. life insurance business,
3. business operations of the type specified in Chapter 1, Section 3 of the Securities Business Act (1991:981).
4. business operations subject to supervision by the Financial Supervisory Authority and which chiefly involve one or more of the activities referred to in Chapter 3, Section 1, paragraphs 2–13 of the Financial Business Act (1992:1610),
5. business operations requiring notification to the Financial Supervisory Authority under the Currency Exchange and Money Transmission Act (1996:1006), and
6. business operations of the type defined in Section 1 of the Insurance Brokers Act (1989:508).

The Act applies only to those customer-targeted business operations defined in paragraph 1 which are conducted from a permanent place of business in Sweden. The obligation to submit information in the case of certain other undertakings is regulated by the provisions in Section 9a.

Prohibition from taking part in certain transactions

Section 3. The actions referred to in Section 1 may be punishable under the provisions relating to the crimes of money-related receiving and petty money-related receiving in Chapter 9, Sections 6a and 7a of the Penal Code.

Nor may an undertaking as defined in Section 2, paragraph 1 knowingly take part in transactions where there are grounds for assuming that the transactions constitute money laundering.

Identity verification

Section 4. An undertaking shall check the identity of those who wish to enter into a business relationship with it.

Identity checks shall also be carried out in cases involving others than those re-referred to in paragraph 1 with regard to transactions which exceed 110,000 crowns. The same applies if the transaction does not exceed this limit, but where there are grounds for assuming that the transaction is linked to another transaction and the combined amount will exceed the said limit. If the total amount is not known at the time of a transaction, an identity check must be carried out as soon as the total sum of the transactions exceeds the said limit.

Identity checks are not required in the case of undertakings conducting business operations of the type referred to in Section 2, paragraph 1 if the undertaking is based in the European Economic Area (EEA). This also applies to transactions to an account held by someone whose identity has been previously checked in accordance with the provisions of this Act.

Section 5. Life insurance undertakings and undertakings conducting business operations of the type referred to in Section 1 of the Insurance Brokers Act (1989:508) need not carry out identity checks in connection with insurance contracts for which the annual premium does not exceed 7,000 crowns or 18,000 crowns in the case of a single premium. Nor is an identity check required where payment is made from an account held by an undertaking of the type referred to in the first sentence of Section 4, paragraph 3.

Section 6. If there are grounds for assuming that someone wishing to enter into a business relationship with an undertaking, or carry out a transaction of the type referred to in Section 4, paragraph 2, is not acting on his own behalf, the undertaking shall take appropriate steps to establish the identity of the party on behalf of whom he is acting.

The provisions of paragraph 1 do not apply in cases covered by Section 4, paragraph 3, or where there are special grounds for concluding that a check is not necessary.

Section 7. Although an identity check may not be required under the terms of Sections 4–6, a check of the kind specified in these sections must always be performed if the company in question has grounds for assuming that a transaction may constitute money laundering.

Conservation of records

Section 8. Documents or information used in connection with an identity check shall be kept in accordance with criteria laid down by the Government or, if the Government so decides, by the Financial Supervisory Authority for a minimum period of five years after the date on which the business relationship came to an end.

Obligation to examine and report

Section 9. The undertaking shall examine any transaction which can be assumed on reasonable grounds to constitute money laundering.

The undertaking shall report any circumstances that may be indicative of money laundering to the National Police Board or other police authority designated by the Government. Once a report has been made, the undertaking shall, if the authority so requests, supply additional information required in connection with the investigation into money laundering.

Once information has been supplied by an undertaking in accordance with paragraph 2, undertakings referred to in Section 2, paragraph 1 must also provide such information as the authority requires to conduct the money laundering investigation.

Section 9a. If requested to do so by the National Police Board or other authority designated by the Government, anyone engaged in business involving the sale or purchase of antiques, works of art, precious stones, metals, scrap or transportation services, real estate or tenant-owner property agency, or a lottery or gambling business, shall supply any information deemed by the authority to be of importance to an investigation into money laundering.

Section 10. An undertaking that supplies information under the terms of Section 9 shall not be held liable for breach of professional confidentiality if the undertaking had grounds for assuming that the information should have been provided. Nor shall an undertaking that supplies information in obedience to the provisions in Section 9a be held liable for breach of professional secrecy. The above provisions also apply to any member of the undertaking's board of directors or to any employee who supplies information on behalf of the undertaking.

Disclosure of information relating to an examination

Section 11. An undertaking, its board of directors or its employees shall not make known to a customer or any outside party that an examination has been carried out or that information has been passed on in accordance with Sections 9 or 9a, or that the matter is under investigation by the police.

Obligation of the Financial Supervisory Authority to report

Section 12. If the Financial Supervisory Authority should, in the course of inspecting an undertaking or in some other way, learn of transactions which may be deemed to constitute money laundering, it shall inform the National Police Board or a police authority designated by the Government of the said transactions.

Internal procedures and training

Section 13. An undertaking shall adopt and apply procedures aimed at preventing it from being used for money laundering. The undertaking shall ensure that its employees receive information and training appropriate for this purpose.

The Government, or if the Government so decides, the Financial Supervisory Authority, may issue additional instructions on the procedures to be implemented and the kind of training and information to be provided.

Sanctions

Section 14. A fine shall be imposed on anyone who intentionally or through gross negligence

1. fails to comply with its obligation to conduct checks and supply information in accordance with the provisions of Section 9, or
2. contravenes the provisions prohibiting the release of information set out in Section 11.

Transitory provisions

1. This Act comes into force on 1 July, 1999.
2. Transactions conducted before the Act comes into force shall be subject to the provisions in Section 9 in its earlier form and not to those in Section 14 in its present form.1§ hmhmhm