

Disclosure of information on measure imposed on credit institution

Supervisory measure against SKB banka d.d., Ljubljana owing to breaches identified in the area of anti-money laundering and combating the financing of terrorism (hereinafter: AML/CFT)

Information regarding person responsible for breach	
Business name and registered office of legal person	SKB banka d.d., Ljubljana, Ajdovščina 4, 1513 Ljubljana (hereinafter: the bank)
Information on breach	
Description of circumstances and conduct entailing a breach of the Prevention of Money Laundering and Terrorist Financing Act (Official Gazette of the Republic of Slovenia, No. 48/22; hereinafter: the ZPPDFT-2)	<p>Banka Slovenije conducted an inspection of the bank's operations in the area of AML/CFT between 17 January 2022 and 28 February 2022. A comprehensive review of the bank's operations was conducted with the aim of verifying whether the bank upholds the requirements under the ZPPDFT-2 (and the previously valid ZPPDFT-1) in its operations.</p> <p>Breaches of the ZPPDFT-2 were identified based on the inspection, for which reason Banka Slovenije issued the bank an order on the rectification of breaches in accordance with the first paragraph of Article 164 of the ZPPDFT-2 in connection with the first paragraph of Article 279 of the ZBan-3. The bank lodged an objection to the aforementioned order. Banka Slovenije rejected that objection in full.</p>
Nature of identified breaches	The breaches relate to the systematic arrangement of the area of AML/CFT, and to the deficient implementation of prescribed measures in connection with customers with whom the bank has entered into a business relationship.
Operational part of order on rectification of breaches	
<p>1. On the basis of an inspection of SKB banka d.d., of Ajdovščina 4, 1513 Ljubljana (hereinafter: the bank) conducted between 17 January 2022 and 28 February 2022 in the area of anti-money laundering and combatting the financing of terrorism (hereinafter: AML/CFT), Banka Slovenije finds that the bank breached the following provisions of the ZPPDFT-2:</p> <p>a) the third indent of the first paragraph of Article 86 of the ZPPDFT-2 in connection with the fourth paragraph of the same article and the first paragraph of Article 84 of the ZPPDFT-2 (or the third indent of the first paragraph of Article 79 of the Prevention of Money Laundering and Terrorist Financing Act (Official Gazette of the Republic of Slovenia, Nos. 68/2016, 81/2019, 36/2020 [ZIUOPOK], 49/2020 [ZIUZEOP], 61/2020 [ZIUZEOP-A] and 91/2020; hereinafter: the ZPPDFT-1) in connection with the fourth paragraph of the same article and the first paragraph of Article 77 of the ZPPDFT-1 in force at the time of the inspection), by:</p> <ul style="list-style-type: none">- failing to ensure, with its positioning of the AML/CFT officer in the Security Department, that the AML/CFT officer is able to perform tasks as an independent organisational unit directly answerable to the management board that is functionally and organisationally segregated from other organisational units;- failing to provide for stable personnel of the requisite expertise to perform tasks in the area of AML/CFT, because of the frequent replacement of employees in the AML/CFT team, the hiring of less-experienced personnel and deficient deputisation, thereby failing to ensure adequate personnel conditions of work for the AML/CFT officer;- appointing a person without the requisite experience of performing the tasks of an	

AML/CFT officer to the position of AML/CFT officer;

- b) the first paragraph of Article 20 of the ZPPDFT-2 in connection with the third indent of the second paragraph of Article 17 of the ZPPDFT-2 (or the first paragraph of Article 15 of the ZPPDFT-1 in connection with the third indent of the second paragraph of Article 12 of the ZPPDFT-1 in force at the time of the inspection), by failing to put in place adequate policies for the effective mitigation and management of ML/TF risks.

To rectify the aforementioned breaches, the bank shall:

- a) ensure the proper organisation of the AML/CFT function, such that it is organised as an independent organisational unit directly answerable to the management board that is functionally and organisationally segregated from other organisational units, in the manner that other key functions at the bank (e.g. compliance, internal audit) are organised. The bank shall also put in place appropriate measures to ensure a stable team with the requisite expertise to work in the area of AML/CFT, including the provision of an AML/CFT officer who meets all the conditions prescribed by law;
- b) adopt its own umbrella policy for the area of AML/CFT, in which procedures and rules for the adequate management of ML/TF risks are defined at the level of the bank. In the aforementioned policy the bank shall clearly define the system of internal governance in the area of AML/CFT, including a definition of the powers and responsibilities at the level of the bank as a whole in connection with the performance of individual tasks in the area of AML/CFT, and a definition of reporting lines and the system of internal controls. In the aforementioned policy the bank shall also take account of the requirements defined at the level of the parent bank and the group. If the bank treats individual areas more stringently, this shall be evident from the umbrella policy and also from the operational instructions. With the aim of reducing the large number of bylaws in the area of AML/CFT, the bank shall ensure the review, optimisation and mutual compliance of the existing bylaws.

- 2. On the basis of the review of the sample of customers Banka Slovenije finds the bank to have also breached the following provisions of the ZPPDFT-2:

- a) point 3 of the first paragraph of Article 21 in connection with the second paragraph of Article 53 and point 4 of the first paragraph of Article 150 of the ZPPDFT-2 (or point 3 of the first paragraph of Article 16 in connection with the first paragraph of Article 48 and point 4 of the first paragraph of Article 137 of the ZPPDFT-1 in force at the time of the inspection), by failing to ensure, when obtaining the legally prescribed information about the customer's activities and the purpose and intended nature of the business relationship, that the information was obtained in a scope and in a manner such that it is understandable to the bank. The aforementioned breach was identified in respect of seven (7) customers in retail banking (customer designations: 050947, 392218, 380948, 038360, 395291, 056899 and 334608), and three (3) customers in corporate banking (customer designations: 065382, 035943, 067062);
- b) the second and seventh paragraphs of Article 18 of the ZPPDFT-2 (or the second and fourth paragraphs of Article 13 of the ZPPDFT-1 in force at the time of the inspection) in connection with the Banka Slovenije guidelines on the assessment of ML/TF risks (section 2.3 of the current guidelines adopted on 5 May 2022, or section 4 of the previous version of the guidelines adopted on 5 November 2019), by failing to define appropriate customer risk assessments that reflect the specific attributes of the customer and their transactions in respect of five (5) customers (customer designations: 067062, 039491, 391856, 109732 and 025972);
- c) the second paragraph of Article 19 in connection with the second and fourth paragraphs of

Article 64 of the ZPPDFT-2 (or the second paragraph of Article 14 in connection with the second and fourth paragraphs of Article 59 of the ZPPDFT-1 in force at the time of the inspection), by failing to conduct enhanced customer due diligence in respect of eight (8) customers (customer designations: 392218, 362172, 380948, 605832, 473374, 548849, 800898 and 391856) that the bank assessed as posing an increased risk of money laundering or terrorist financing in accordance with the internal risk assessment;

- d) the first and sixth paragraphs of Article 54 of the ZPPDFT-2 (the first and sixth paragraphs of Article 49 of the ZPPDFT-1 in force at the time of the inspection), by failing to do the following in its ongoing monitoring of business activities:
- ensure that the information and documentation obtained about the customer are updated as appropriate in respect of seven (7) customers (customer designations: 473374, 362172, 391856, 548849, 800898, 334608 and 605832),
 - examine whether the customer's transactions accord with the purpose and intended nature of the business relationship and whether the customer's transactions are in line with the usual scale of its transactions in respect of three (3) customers (customer designations: 396738, 368168 and 041308); and
- e) the first paragraph of Article 55 of the ZPPDFT-2 (or the first paragraph of Article 50 of the ZPPDFT-1 in force at the time of the inspection), by failing, in the case of complex and unusually large transactions or transactions that have an unusual composition, do not have a clear economically or legally justified purpose or do not comply with the customer's usual transactions, to provide for in-depth analysis of flagged deviations in respect of eight (8) customers (customer designations 380948, 605832, 396738, 074025, 036902, 473374, 109732 and 25972), and consequently failing to examine the background and purpose of the transactions and to establish the source of funds.

To rectify the aforementioned breaches, the bank shall:

- a) when entering into new business relationships, ensure that better-quality information is obtained about the customer's business activities and the purpose and intended nature of the business relationship, in a scope and a manner that is understandable to the bank in the sense of KYC and understanding the customer's transactions; within the framework of the regular updating of the information and documentation obtained about the customer, the bank shall assess in respect of existing customers whether the information obtained about the customer's business activities and the purpose and intended nature of the business relationship is understandable to the bank, updating it appropriately if it is not;
- b) when defining the customer risk assessment, consistently apply the criteria defined in the bank's bylaws, and take account of any additional guidance provided by the AML/CFT officer;
- c) in respect of customers defined as high-risk on the basis of the risk assessment, ensure the consistent implementation of additional measures envisaged in bylaws to meet the KYC standard, which is a prerequisite for managing increased AML/CFT risks in connection with an individual customer;
- d) as part of its ongoing monitoring of the customer's business activities ensure the consistent updating of the information and documentation obtained about the customer, and in so doing devote particular attention to examining whether the customer's transactions accord with the purpose and intended nature of the business relationship and whether the customer's transactions comply with their usual scale; in its ongoing monitoring the bank shall also

devote particular attention to the comprehensive treatment of the customer, which means that in the case of transactions between related parties it diligently reviews and verifies the background of the executed transactions (e.g. transfers of funds between the customer's personal account and the business account of an undertaking where the customer acts as the founder or the statutory representative, assuming that both accounts are held with the bank);

- e) in the event of flagged deviations from usual transactions conduct in-depth analysis of the transactions, with the aim of establishing the background and purposes of the executed transactions, including the establishment of the source of funds, which *inter alia* includes the collection of relevant evidence, such as contracts and invoices, and later must also ensure critical assessment of the clarifications and evidence obtained.

The bank shall embark without delay on activities to rectify the breaches cited in points 1 and 2 of the operational part of this order on the rectification of breaches (hereinafter: the order). The deadline for the rectification of the breaches referred to in point 1 of the order is 30 December 2022, while the bank shall rectify the breaches referred to in point 2 of the order by 31 March 2023. The bank shall also submit a written report to Banka Slovenije within 10 days of each deadline on the measures taken to rectify the breaches, as set out by Article 281 of the ZBan-3.

3. In connection with the activities to rectify the breaches cited in points 1 and 2 of this order, the bank shall draft an action plan clearly defining the activities for the rectification of the breaches, and shall submit it to Banka Slovenije by 31 August 2022.
4. In connection with the activities to rectify the breaches cited in points 1 and 2 of this order, the bank shall designate the persons at the bank responsible for rectifying the identified breaches, and shall report their names to Banka Slovenije by 31 August 2022.
5. The breaches identified in this order also constitute misdemeanours pursuant to the penal provisions of the ZPPDFT-2, and Banka Slovenije will therefore initiate misdemeanours proceedings against the bank and the responsible persons.
6. In accordance with Article 176 of the ZPPDFT-2, in connection with the imposed supervisory measures Banka Slovenije shall publish the following information on its website after the imposed measure becomes final, and shall submit it to the competent European supervisory authorities:
 - the business name and registered office of the legal person or the name of the natural person;
 - a description of the circumstances and conduct that constitute a breach of the aforementioned law or require the enforcement of the ordered measure;
 - the nature of the identified breaches or the type of deficiencies for which the measure was ordered;
 - the operational part of the decision by which the proceedings are legally completed; and
 - any rectification of a breach or implementation of an ordered measure.

Information on any rectification of breach or implementation of ordered measure

The bank submitted an action plan for the rectification of breaches to Banka Slovenije by the stated deadline, communicating the names of the persons at the bank responsible for rectifying the identified breaches in so doing. The deadline for the rectification of breaches had not yet passed.

The bank reported on rectifying the breaches within the stated deadline. Based on submitted report on rectifying breaches and conducted follow-up inspection Bank of Slovenia concluded that bank has rectified the breaches stated in first point, second a) and second d) points of the order. However the

breaches stated in second b), second c) and second e) points were not rectified so the Bank of Slovenia has escalated the measure by imposing Order with additional measures for more effective rectification of breaches (remark: information on rectification of breaches was updated on the basis of measures imposed on 19. October 2023).

Information as to whether judicial review proceedings have been initiated against the decision in accordance with the ZBan-2

Judicial review proceedings have not been initiated, and the decision is *res judicata*.