

18 May 2015

## D E C I S I O N

Nordea Bank AB  
through Chair of Board  
Smålandsgatan 17  
105 71 STOCKHOLM

FI Ref. 13-1784  
Service no. 1

### **Warning and administrative fine**

#### **Finansinspektionen's decision (to be issued on 19 May 2015 at 08.00)**

1. Finansinspektionen issues a warning to Nordea AB (corporate identity number 516406-0120).

*(Chapter 15, Section 1 Banking and Financing Business Act [2004:297])*

2. Nordea Bank AB is to pay an administrative fine of SEK 50 million (50,000,000)

*(Chapter 15, Section 7 Banking and Financing Business Act)*

How to appeal; *see Appendix 1*

### **Summary**

Nordea Bank AB ('Nordea' or 'the Bank') is a joint-stock banking company which is authorised to conduct banking business under the Banking and Financing Business Act (2004:297).

Finansinspektionen has investigated how Nordea has fulfilled the anti-money laundering and terrorism financing regulations, especially with regard to particularly risky categories of customers and business areas. Finansinspektionen has also investigated Nordea's internal governance and control from this perspective.

Finansinspektionen's investigation shows that Nordea, for a number of years, has had large deficiencies in its efforts to counteract money laundering and terrorism financing. The deficiencies have been considerable and of a systematic nature and have been located throughout all of the inspected business areas. Nordea has therefore failed in its responsibility to maintain satisfactory internal governance and control.

These deficiencies are serious. Nordea has taken measures in response to the findings. Finansinspektionen therefore deems it sufficient to issue a warning as well as an administrative fine of 50 million Swedish crowns.

## **1 Background**

### ***1.1 The firm's operation***

Nordea Bank AB (hereafter referred to as 'Nordea' or 'the Bank') has been granted authorisation to conduct banking business under the Banking and Financing Business Act (2004:297) ('LBF') and securities business under the Securities Market Act (2007:528). Nordea is the parent company of the Nordea Group and it is shown by the 2014 Annual Report for the Bank that the Group has over 10 million customers and a balance sheet total of EUR 669 billion. The Group is one of northern Europe's largest finance groups, with over 29,000 employees and a market value of just over EUR 38 billion at the end of 2014.

### ***1.2 The matter***

Finansinspektionen has investigated Nordea's compliance with the Act on Measures against Money Laundering and Terrorist Financing (2009:62) ('the Anti-Money Laundering Act'), Finansinspektionen's Regulations and General Guidelines (2009:1) governing Measures against Money Laundering and Terrorist Financing ('the Anti-Money Laundering Regulations') and also the EU regulations on restrictive measures ('the EU Sanctions Regulations'). The areas investigated are the handling of customers residing outside Sweden who are regarded as politically exposed persons, correspondent banking relationships, private banking customers and customers that are legal persons with a tax domicile outside the Nordic countries. Finansinspektionen examined within the framework of the investigation seven random samples relating to politically exposed persons, 30 random samples relating to respondent banks (ten of the samples related to respondent banks with a domicile within the EEA and 20 related to respondent banks with a domicile outside the EEA), 30 random samples relating to private banking customers and 30 random samples relating to customers that are legal persons with a tax domicile outside the Nordic countries.

The investigation was carried out through Finansinspektionen requesting material from Nordea (desk analysis) with a supplementary on-site visit on 2 September 2013 and a meeting on 25 October 2013, which was initiated by Nordea.

Finansinspektionen has also investigated within the framework of this matter how Nordea's internal governance and control has functioned as regards complying with the money laundering framework for the period 2010 up to the third quarter 2014. Finansinspektionen has had access to the minutes of the Board of Directors as well as minutes from the Board of Director's Audit and Risk Committee. Furthermore Finansinspektionen has had access to reports from the control functions (risk control, compliance and internal audit) addressed to this committee and to the CEO. Finansinspektionen has also had access to the internal audit function's monitoring reports relating to the money laundering framework and also open remarks and observations from and including 2010.

This part of the investigation was performed in the form of a site visit from 1 to 3 December 2014.

Nordea has been afforded an opportunity to express its views on Finansinspektionen's preliminary assessment that the Bank has neglected its obligations. The Bank has subsequently submitted a statement of views to Finansinspektionen.

### ***1.3 Previous investigations and interventions against Nordea***

Finansinspektionen initiated an investigation of Nordea at the end of 2009, which was closed with a 'conclusion letter' in January 2011. Finansinspektionen identified certain deficiencies in the Bank's compliance with the anti-money laundering framework, among other things regarding the monitoring of transactions, and compliance with the EU Sanctions Regulations. Nordea stated in its correspondence with Finansinspektionen that the Bank had already applied, and intended to apply, further measures to address the deficiencies, for example that the Bank had introduced an automatic transaction monitoring system in 2010. Nordea also stated, among other things, that a justification for why a transaction had not been reported to the Financial Intelligence Unit within the Swedish National Police Board would be documented in a logging system, which was introduced after April 2010. Furthermore, Nordea stated that since December 2008 the Bank has had automatic checks for outgoing SWIFT<sup>1</sup> transactions against the EU Sanctions Regulations.

Finansinspektionen's overall assessment of the matter was that the measures applied by Nordea or that were ongoing would adequately remedy the deficiencies identified.

In 2012 Finansinspektionen investigated how Nordea had satisfied the EU Sanctions Regulations. Finansinspektionen also investigated Nordea's measures to prevent the Bank from being used for money laundering and terrorist financing in an individual case. Finansinspektionen found that Nordea did not have adequate internal governance and control over the risk of funds or economic resources being made available to or for the benefit of the natural or legal persons, entities or bodies listed in the EU Sanctions Regulations. Nordea had also failed in its obligation to immediately notify Finansinspektionen about 58 transactions in accounts that were frozen in accordance with the EU Sanctions Regulations. In relation to individual customers, Finansinspektionen found among other things that the Bank had failed in its obligation to apply sufficient measures to ensure customer due diligence.

Finansinspektionen could observe that several breaches were of a serious nature and had continued for some time, despite Nordea already having been aware a long time beforehand of the existence of these deficiencies. Moreover Nordea had not clearly explained how it had come about that the Bank had failed to

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<sup>1</sup> SWIFT (Society for Worldwide Interbank Financial Telecommunication).

address the deficiencies of which the Bank had been made aware through Finansinspektionen's previous investigation. The Bank was consequently issued a remark in April 2013 combined with an administrative fine of SEK 30 million.

#### ***1.4 Starting points for the investigation***

Finansinspektionen has investigated how Nordea deals with particularly risky customer groups and areas from the perspective of money laundering and terrorist financing. Nordea's size, complexity and international presence means that it is extremely important that the Bank deals with the risks of money laundering and terrorist financing in an adequate way.

Banks are to identify, measure, govern, internally report and have control over the risks associated with their activities, such as the risk of a bank being used for money laundering and terrorist financing. This means that banks are to maintain satisfactory internal control. This means that it is ultimately the task of the board of directors to establish and continually evaluate the efficiency of a bank's internal control.

##### ***1.4.1 The risk-based approach in the anti-money laundering framework***

The purpose of the anti-money laundering framework is to prevent a financial activity being used for money laundering or terrorist financing, and to make it difficult for criminals to misuse the financial system for this kind of activity. A bank must manage risks related to money laundering and terrorist financing in an appropriate way. If this is not done, this may lead to a lack of confidence in the individual bank and eventually in the entire Swedish financial market, both among Swedish consumers and among stakeholders in other countries that do business with or via Swedish financial institutions. It may also result in Sweden being increasingly used as a transit country for cross-border transactions linked to criminal activity; something that in its turn may ultimately lead to the impairment of Sweden's reputation.

The anti-money laundering framework imposes requirements on banks to apply measures commensurate with the risks of money laundering and terrorist financing to which they are exposed. This is usually expressed as banks needing to have a risk-based approach. For a bank to be able to manage the risks of money laundering and terrorist financing, it must conduct an appropriate risk assessment adapted to its activity. The individual bank must thus identify, understand and assess the risks of the activity being used for money laundering or terrorist financing.

There must be a clear link between the risk assessment and the measures applied by a bank to prevent the risks of money laundering and terrorist financing identified. Although a number of requirements are specified in the anti-money laundering framework, such as certain customer due diligence measures, the extent of the customer due diligence and monitoring measures that a bank should apply are not normally specified in detail. Instead the individual bank is

responsible for determining which measures are deemed appropriate considering the risk based on its risk assessment. A bank must apply enhanced measures in the event of a high risk of money laundering and terrorist financing. Procedures and processes, adapted to the bank's own activity and based on the individual bank's risk assessment, should be produced to prevent the risks identified. The risk assessment and procedures must be reviewed on an ongoing basis and revised if necessary.

It is consequently a fundamental requirement that a bank conducts an appropriate risk assessment adapted to its activity to be able to manage the risks of money laundering and terrorist financing. A deficient risk assessment has negative consequences for the individual bank's prioritisation of resources and structuring of procedures for, among others, customer due diligence and the monitoring of transactions. For this reason it is not possible to view the various components as independent as they are dependent on each other.

The scope and emphasis of a bank's measures will also vary depending on the money laundering and terrorist financing risks with which the individual bank's activity is associated. A large bank with many customers may, for example, need to buy in or develop a relatively advanced transaction monitoring system to ensure that the obligation to monitor transactions to identify suspicious transactions is addressed in a satisfactory way.

As indicated above, this investigation of Nordea's measures against money laundering and terrorist financing has focused on the areas of politically exposed persons, correspondent banking relationships, private banking customers and customers that are legal persons with a tax domicile outside the Nordic countries.

Both politically exposed persons and correspondent banking relationships are presumed to pose a high risk of money laundering and terrorist financing under the Anti-Money Laundering Act. Private banking is often also generally deemed to involve a high risk of money laundering. One of the reasons is that these customers may have a complex account structure spread across several countries and institutions, which makes it more difficult for a bank to assess the purpose and nature of the business relationship and also the reasonableness of the transactions carried out. For these customers it may, for instance, be difficult for a bank to differentiate tax violations from tax planning.

Risk management for legal persons differs from risk management for private individuals. For example, for legal persons a bank must investigate and understand the ownership and control structure of the customer and also verify the identity of the beneficial owner. There is a risk that the beneficial owner and the origin of the assets may be concealed behind a complex control structure that is difficult to understand. Another risk indicator for legal persons with a tax domicile outside the Nordic countries, and with businesses in Sweden, may be rapid transfers of large amounts between several different jurisdictions, if these are unusual transactions for the individual bank in question. The risk of money

laundering also typically increases for certain customer types, for instance companies in tax havens and customers from high risk countries.

Finansinspektionen's investigation has thus covered customer categories and business relationships where the risk of money laundering and terrorist financing may generally be expected to be high.

## **2 Applicable provisions**

See *Appendix 2* for an account of the applicable provisions.

## **3 Finansinspektionen's assessment**

This section provides an account of Finansinspektionen's observations and assessments as regards Nordea's compliance with the anti-money laundering framework. In Sub-sections 3.1 to 3.4 a detailed description is provided of the Bank's deficient risk assessment of customers, the Bank's deficient customer due diligence, the Bank's deficiencies in its monitoring obligation and its deficiencies in complying with the EU Sanctions Regulations. Deficiencies in the Bank's internal governance and control of the money laundering area are dealt with in Sub-section 3.5.

### ***3.1 Deficient risk assessment of customers***

Measures in respect of customer due diligence and monitoring applied by a bank are to be based on the risk of money laundering and terrorist financing posed by the customer based on the individual bank's risk assessment of the customer's activities. In order to be able to apply adequate measures for a specific customer, it is vital that an assessment be made of the risks posed by the customer in question. Various factors must be considered when assessing the risk of a specific customer such as, for example, geographical area, products and services requested, the customer's control and ownership structure and transaction volumes.

Nordea stated at the on-site visit on 2 September 2013 that the Bank regarded all private banking customers as posing a high risk of money laundering and terrorist financing. However, the investigation shows that the Bank first assessed the risk of the private banking customers examined in August and September 2013 by ascribing them with the designation 'enhanced customer due diligence', although the requirement for risk-based customer due diligence entered into force in March 2009. According to Finansinspektionen, it is serious that Nordea first assessed the risk of their private banking customers in August and September 2013. Furthermore, Finansinspektionen can conclude that Nordea's general assessment that all private banking customers are to be regarded as posing a high risk of money laundering and terrorist financing is not reflected in the measures applied by the Bank in respect of customer due diligence and the monitoring of transactions. Nordea stated that since April 2014 the Bank has had a new model to assess the risk of customers within the business

area of private banking. This entails the Bank conducting an individual risk assessment for each customer. It is thus indicated by the investigation that Nordea has now deviated from the principle of regarding all private banking customers as posing a high risk of money laundering and terrorist financing.

As regards the customers examined that comprise respondent banks and legal persons with a tax domicile outside the Nordic countries, the investigation shows that Nordea at the time of Finansinspektionen's investigation had not yet assessed the risk of some of the customers examined. In those cases where Nordea had assessed the risk of money laundering and terrorist financing, this assessment had only been conducted during the period 2012 to 2013 (in all cases but four). The customers who had been risk assessed had, in all cases but one, entered into a business relationship with Nordea a long time before the Bank had assessed the risk of the specific customer. In the opinion of Finansinspektionen, it is serious that Nordea only initiated more systematic work to assess the risk of its customers from a money laundering and terrorist financing perspective during the period 2012 to 2013. It is also remarkable that the assessments of the specific risks of the customers in question were not reflected in the measures applied by the Bank in respect of customer due diligence and the monitoring of transactions.

The investigation indicates that for a long time Nordea has only had manual procedures to identify politically exposed persons within certain business areas. The investigation also indicates that certain other business areas have had no procedures at all for identifying politically exposed persons. The question of why automatic screenings of customers were not being performed against the commercial lists of politically exposed persons had already been raised at the time of Nordea's internal audit in 2011. The investigation indicates that Nordea at the time of Finansinspektionen's notification of the investigation in February 2013 had still not introduced system support for checking the customer data base against commercial lists of politically exposed persons. Nordea had identified seven politically exposed persons at the time of Finansinspektionen's request in March 2013. When Nordea conducted its first provisional check on 18 April 2013, using the system support, against a commercial list of politically exposed persons, there were a further 43 customers who were regarded as such people. On 26 August 2014, Nordea had identified a total of 62 politically exposed persons among its direct customers and beneficial owners using the system support. In addition, there were 2,432 politically exposed persons among the board members and authorised signatories of legal persons.

Finansinspektionen considers that in light of this it has been established that Nordea's manual procedures to identify politically exposed persons had been virtually non-existent or at least sub-standard. Nordea has had a significant need for a supplementary system support to identify such persons, which was also identified during the Bank's internal audit. Nordea has consequently had a large number of business relationships for many years that involve politically exposed persons without the Bank being aware of this. This means that Nordea has not had any control of the high risk that these customers are presumed to present under the Anti-Money Laundering Act. Nordea should have realised that it was highly likely that the Bank had direct customers and beneficial owners in its



activity who were politically exposed persons. It is serious that for several years Nordea neither had systems nor sufficient manual procedures to identify politically exposed persons in spite of this.

As regards the risk assessment of the seven people identified as politically exposed persons by Nordea in March 2013, the investigation shows that five of these were direct customers at the Bank and that two were beneficial owners in three business relationships with legal persons. As regards the five direct customers, Nordea had assessed these as posing a 'higher risk' of money laundering and terrorist financing. However, the investigation does not indicate when this assessment was conducted. Finansinspektionen can also conclude that the risk assessment of these five customers was not reflected in the measures applied by the Bank as regards customer due diligence and the monitoring of transactions. As regards the three other business relationships, Finansinspektionen also considers that there is cause to question Nordea's handling of these customers as they, among other things, had not been assessed to pose a high risk of money laundering and terrorist financing. According to Finansinspektionen, Nordea's handling of customers and beneficial owners who are politically exposed persons was not satisfactory.

In light of what transpired from the investigation, Finansinspektionen considers that Nordea has not been identifying high-risk customers for some time. There has thereby been a risk of Nordea not having had sufficient or appropriate information about its customers. This has meant, among other things, that the Bank's work to observe abnormal behaviour and suspicious transactions had at best been jeopardised and at worst been futile. Finansinspektionen finds that Nordea may have been used for money laundering and terrorist financing through having been deficient in its assessment and analysis of the risks posed by its customers, which is serious. Nordea has not satisfied the requirements of Chapter 5, Section 1 and Chapter 2, Section 1 of the Anti-Money Laundering Act and Chapter 2, Section 3 and Chapter 3, Section 2, second paragraph of the Anti-Money Laundering Regulations.

### ***3.2 Deficient customer due diligence***

Under the Anti-Money Laundering Act, a bank shall apply measures to ensure customer due diligence. These measures are to be adapted to the risk of money laundering and terrorist financing that the individual bank considers are posed by a customer. Basic measures are to be applied if the risk is considered to be low to normal. Basic measures to ensure customer due diligence include checking the customer's identity, checking the beneficial owner's identity and obtaining information about the purpose and nature of the business relationship.

The beneficial owner is the person who either directly or indirectly controls the customer. A bank must investigate the customer's ownership and control structure. The individual bank may also need to ask additional questions to understand a complex ownership or control structure to enable the bank to assess the risk associated with the customer in question. The individual bank may also

need to check whether the beneficial owner is to be regarded as a politically exposed person in order to correctly assess the risk in question for the business relationship.

It is also necessary to obtain information about the nature and purpose of the business relationship to enable a bank to follow up the business relationship on an ongoing basis and monitor transactions in a satisfactory manner.

Enhanced customer due diligence measures are to be applied in the event of a high risk of money laundering and terrorist financing. These measures are to be more comprehensive than the basic measures. A bank shall also continuously monitor ongoing business relationships by checking and documenting that the transactions carried out correspond with the knowledge that the party engaged in activities has concerning customers, their business and risk profiles and, if necessary, where the customer's financial resources come from. Documents, data and information concerning checks shall be kept up-to-date. Ongoing monitoring is part of the customer due diligence process and cannot be fulfilled without sufficient and updated documentation about the business relationship.

Finansinspektionen's investigation shows that Nordea in all random samples for all areas examined – that is, politically exposed persons, respondent banks outside the EEA, private banking customers and legal persons with a tax domicile outside the Nordic countries – has not obtained adequate basic customer due diligence information or that this information has been obtained very late, often not before 2013. This in spite of all customers examined, but one, having been customers of the Bank before 2013. Ensuring adequate basic customer due diligence information requires sufficient checks of the customer's identity and that sufficient information has been obtained about the purpose and nature of the business relationship. If relevant, an adequate check of the identity of the beneficial owner must also be made. These requirements entered into force in March 2009. The majority of the random samples examined have deficiencies in respect of all of these components. Obtaining basic customer due diligence information is absolutely necessary to enable a bank to satisfy the requirements imposed. Inadequate information about the nature and purpose of the business relationship means, for example, that a bank cannot follow up the business relationship on an ongoing basis and monitor transactions in a satisfactory manner. If a bank cannot identify the beneficial owner in a correct way, nor can it assess the risk of money laundering and terrorist financing associated with the customer in question in an adequate way.

Finansinspektionen's assessment is that Nordea had significant deficiencies of a systematic nature relating to basic customer due diligence information for the customers examined.

According to the anti-money laundering framework, the scope of the measure to ensure customer due diligence shall be adapted to the assessed risk of the activity being used for money laundering and terrorist financing. However, it has been shown by the random samples examined in the investigation for all areas that Nordea has not applied enhanced measures in respect of customers assessed to

pose a high risk of money laundering and terrorist financing. Alternatively, the Bank has applied enhanced measures very late, often only in 2013. Finansinspektionen regards it as a significant deficiency that it is not indicated by the random samples examined that adequate enhanced customer due diligence measures have been applied for customers designated as posing a high risk.

In 86 of 89 of the random samples relevant in this context for all areas there was also no ongoing follow-up at all or the follow-up had not been implemented prior to 2013, despite the business relationships often having been ongoing for several years. The fact that Nordea has not followed up its business relationships to such a large extent, and thereby has not kept its customer due diligence information up-to-date and current, means that the risks within the framework of the business relationships may have changed without the Bank having being aware of this. This further increases the risks for Nordea being used for money laundering or terrorist financing. In the opinion of Finansinspektionen, Nordea's virtually non-existent ongoing follow-up indicates serious deficiencies of a systematic nature as regards the customer due diligence measures applied by the Bank.

It is otherwise indicated by the investigation in respect of respondent banks that Nordea had updated its procedures in 2010, when deficiencies were identified in the Bank's internal audit in 2009. The Finnish supervisory authority conducted an investigation in 2011 and 2012 that showed, according to the Bank, that the Bank had not fully complied with the requirements of the anti-money laundering framework in respect of correspondent banking relationships. In Finansinspektionen's investigation, Nordea has admitted that the procedures from 2010 did not satisfy the requirements of the anti-money laundering framework. As the updated procedures from 2010 transpired to be insufficient, Nordea initiated a project for measures in 2012 which resulted in new procedures which were applied from January 2013. Finansinspektionen has examined the random samples for respondent banks outside the EEA based on both the customer due diligence obtained in accordance with the procedures from 2010 (see above) and 2013. The investigation shows that there were still deficiencies in certain respects in the customer due diligence information obtained concerning the respondent banks, in accordance with the procedures from 2013.

In light of Nordea's serious deficiencies of a systematic nature in terms of the collection of customer due diligence and ongoing follow-up, Finansinspektionen does not consider that the Bank has satisfied the requirements to apply risk-based customer due diligence measures. Nordea has admitted in this matter that there have been deficiencies in the Bank's measures against money laundering and terrorist financing. The deficient customer due diligence information has jeopardised Nordea's work in respect of becoming aware of abnormal behaviour and suspicious transactions. This means that Nordea may have been used for money laundering and terrorist financing. According to Finansinspektionen, Nordea has failed in its obligation under Chapter 2, Section 3 of the Anti-Money Laundering Act, to apply basic measures to ensure customer due diligence. The Bank has also failed in its obligation under Chapter 2, Section 6 of the Anti-

Money Laundering Act, to apply enhanced measures to ensure customer due diligence. Furthermore, Nordea has failed in its obligation under Chapter 2, Section 10 of the Anti-Money Laundering Act, in respect of the ongoing follow up of business relationships.

### ***3.3 Deficiencies in the monitoring obligation***

A bank is to monitor transactions to identify such transactions that they suspect or have reasonable grounds to suspect constitute a step in money laundering or terrorist financing. The individual bank is to also document measures and decisions when monitoring suspicious transactions. A precondition for a bank to deal with the monitoring and reporting obligation is that other measures have been applied correctly, for example that a risk assessment of the bank's operation has been conducted and appropriate measures to ensure customer due diligence applied. The monitoring of transactions is to be adapted to the assessed risk in the same way as customer due diligence procedures. Consequently, for example, customers and products posing a high risk of money laundering or terrorist financing should be monitored more carefully than those posing a low risk. Functional monitoring and reporting of suspicious transactions to the Financial Intelligence Section within the Police Authority<sup>2</sup> is important for achieving the purpose of the anti-money laundering framework, that is, to prevent money laundering and terrorist financing and also to maintain confidence in and the integrity of the financial system.

Nordea stated in the investigation that the Bank acquired a transaction monitoring system in 2008 so that they had an automated solution for meeting the various requirements imposed in respect of measures against money laundering and terrorist financing. According to Nordea, the system was technically fully introduced in 2010 and at that time covered three scenarios. Nordea has stated that two of the three original scenarios only covered the automatic monitoring of certain cash transactions. According to the Bank, the third covered rapid movements of funds that exceeded certain thresholds and included electronic transfers, trading in securities, subscription and redemption of mutual funds shares and cash transactions. The introduction of further scenarios for the transaction monitoring system only started in November 2013. Nordea has also stated that it was only at this point in time that correspondent banks and correspondent bank transactions started to be covered by the automatic transaction monitoring system. The investigation also showed that Nordea's internal audit (2011 to 2012) had already drawn attention to the risk assessment not having been considered to a sufficient extent for transaction monitoring and that this means that there was no enhanced monitoring for high-risk customers. It was indicated by the investigation that Nordea had certain manual monitoring procedures. However, Nordea admitted that the Bank's manual monitoring procedures within the various business areas was insufficient.

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<sup>2</sup> 'Financial Intelligence Unit' prior to January 2015, a section of the Criminal Intelligence & Investigation Division at the National Bureau of Investigation, which in its turn belonged to the Swedish National Police Board (RPS)

Nordea has also stated that the transaction monitoring system is being continuously developed and that the Bank supplemented the original three scenarios with a further eight during the period November 2013 up to and including the end of 2014. Nordea plans to develop seven to ten new scenarios in 2015 and further scenarios thereafter. Finansinspektionen considers that it is surprising that Nordea failed over a period of three years to develop the three original scenarios and to introduce further scenarios into the transaction monitoring system. Finansinspektionen consequently finds that there are grounds to question Nordea's statement that the transaction monitoring system was continuously being developed.

Nordea is Sweden's largest bank, with over 10 million customers. An automatic transaction monitoring system, which can take account of the risk posed by various customers and transactions, is required in view of the size, complexity and international presence of the Bank to enable Nordea to implement risk-adapted monitoring of transactions. In addition the transaction monitoring system is required to have several implemented scenarios that, for example, are based on different limits, transaction history and patterns based on Nordea's risk assessment of customers, products, services and geographical areas, etc. Finansinspektionen considers that it has been established that Nordea has not had a sufficiently efficient system and procedures to monitor transactions for several years. Nordea's sub-standard monitoring of transactions together with the Bank's deficient risk assessment of customers and its unsatisfactory customer due diligence information has meant that in all likelihood suspicious transactions could have passed through the Bank's operation unnoticed. In other words, Nordea could have been used for money laundering and terrorist financing, without the Bank having been aware of this.

It is also shown by Finansinspektionen's investigation that in December 2014 Nordea's automatic transaction monitoring system still did not take any account of the customer's level of risk, that is, the risk that the customer posed in those cases where the bank had allocated the customer such a level. This means that the Bank in its monitoring scenarios and in its parameter setting for these scenarios only captures the customers considered to pose a high risk of money laundering or terrorist financing to a limited extent, as customers with different risks are not differentiated from each other in the transaction monitoring system. It may be mentioned as an example that Nordea in the spring of 2015 still had no scenarios for the automatic monitoring of transactions carried out by customers regarded as politically exposed persons. This means that high-risk transactions or transactions carried out by customers that pose a high risk are not monitored more carefully than, for example, low risk transactions carried out for customers posing a low risk.

As regards the measures applied and decisions taken as a result of monitored transactions, Finansinspektionen's investigation shows that when Nordea monitored and subsequently dismissed an alarm, the Bank documents this using standardised expressions such as 'no hit', 'irrelevant alarm' or 'nothing to report'.

As the alarms generated by the monitoring system have been dismissed without any detailed documented analysis or justification, this makes it more difficult to identify abnormal behaviour and patterns and also future suspicious transactions. Nordea has admitted that the Bank needs to improve the documentation of the alarms examined.

In summary, Finansinspektionen considers that Nordea's monitoring has not been adapted to the risk, in light of the Bank for a long time having had sub-standard systems and procedures to identify such transactions that constitute a step in money laundering or terrorist financing. The inadequate monitoring of transactions has, together with Nordea's deficient risk assessment of customers and sub-standard customer due diligence information, resulted in the possibility of suspicious transactions in all likelihood having passed through the Bank's operation without having been identified. This has meant that Nordea could have been used for money laundering and terrorist financing without the Bank having been aware of this. Finansinspektionen finds this to be extremely serious. Nordea thus does not satisfy the requirements under Chapter 3, Section 1, first paragraph and Chapter 5, Section 1 of the Anti-Money Laundering Act. Nordea has also been deficient in documenting measures and decisions when monitoring suspicious transactions under Chapter 5, Section 3 of the Anti-Money Laundering Regulations.

### ***3.4 Deficiencies in compliance with the EU regulations on restrictive measures***

The EU Sanctions Regulations, for example Council Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria, includes provisions that, among other things, mean that all funds and economic resources belonging to, owned, held or controlled by the natural or legal persons, entities and bodies listed in the annexes to the regulations shall be frozen.

No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of the natural or legal persons, entities or bodies listed in the annexes to the Sanctions Regulations.

According to LBF, a credit institution shall govern, internally report and have control of the risks associated with its business. Banks must thereby be able to govern and control the risk that funds or economic resources are made available, directly or indirectly, to or for the benefit of the natural or legal persons, entities or bodies listed in the EU Sanctions Regulations.

It is extremely important that banks have satisfactory procedures for checks against the EU Sanctions Regulations. The EU Sanctions Regulations may be changed on a daily basis. This means that it is important for financial firms to have procedures that can pick up any changes to these regulations.

The investigation shows that up until November 2013 Nordea only checked two kinds of SWIFT message against the EU Sanctions Regulations. After that Nordea has gradually, particularly in 2014, introduced the possibility of checking



further SWIFT messages against the EU Sanctions Regulations. Nordea now has the facility to check just over 30 different kinds of SWIFT message and check SEPA Credit Transfers against the EU Sanctions Regulations. Nordea admits that checking just two kinds of SWIFT message was insufficient.

Finansinspektionen considers that it is a significant deficiency that Nordea only checked two kinds of SWIFT message against the EU Sanctions Regulations for a long time. By just checking two kinds of SWIFT message, Nordea has risked breaching the prohibition in the EU Sanction Regulations that funds or economic resources are made available, directly or indirectly, to or for the benefit of the natural or legal persons, entities or bodies listed in the Sanctions Regulations. Finansinspektionen therefore considers that the risk to which Nordea was exposed, by not checking more kinds of SWIFT message against the Sanctions Regulations, means that the Bank neglected its obligation to govern and control the risk that funds or economic resources are made available, directly or indirectly, to or for the benefit of the natural or legal persons, entities or bodies listed in the EU Sanctions Regulations. This is not compatible with Nordea's obligation under Chapter 6, Section 2 LBF to govern and have control of the risks associated with the activity.

### ***3.5 Deficiencies in the Bank's internal governance and control as regards compliance in the area of money laundering and terrorist financing***

A bank is obliged to identify, measure, govern, internally report and have control of the risks associated with its business. The individual bank shall thereby ensure that its internal control is satisfactory. It is the task of the board of directors to establish and continually evaluate the efficiency of a bank's internal control. The board of directors is also responsible for a bank complying with the applicable framework. In order to establish good internal control, a bank should have a risk control function, a compliance function and an independent monitoring function (internal audit).

It is indicated by Finansinspektionen's investigation that Nordea's internal control for compliance with the anti-money laundering framework, during the period examined, comprised a risk control function, a compliance function and an internal audit function. Up until the separation that took place in 2014, Nordea's compliance function formed part of Group Operational Risk and Compliance (GORC). GORC was subordinated to the Bank's Chief Risk Officer. The CEO was responsible for developing and maintaining effective measures against money laundering and terrorist financing under the Bank's internal rules for dealing with money laundering and terrorist financing applicable for the period 2010 to 2012. Furthermore, the Chief Risk Officer was responsible for ensuring that the necessary resources and procedures were available for combatting money laundering and terrorist financing. GORC had been mandated by the Board of Directors to report on how appropriate and effective the risk management framework was at consolidated level. The reporting to the CEO and Board of Directors was to take place regularly and at least annually. The party responsible for the compliance function had, among other things, a mandate to coordinate support within compliance for the management in order to monitor

compliance risks at consolidated level and report these to the CEO and Board of Directors. This was in accordance with the Bank's internal rules for the period 2010 to 2014.

The investigation shows that GORC noted deficiencies in compliance with the anti-money laundering framework during the period 2010 to 2014. Examining the reports that GORC submitted to the Board of Directors shows that the reports contain information about deficiencies in compliance with the anti-money laundering rules. At the same time, GORC has described in its reports that these compliance risks were dealt with in an adequate way. For example, the person responsible for the compliance function in 2012 stated that the Bank's primary risks related to compliance with the anti-money laundering framework probably corresponded to the compliance risks that existed at other banks. It was also stated in the reports that various initiatives had already been taken or were planned to remedy the deficiencies. This was consequently at the same time as Nordea had, among other things, sub-standard procedures and measures for the risk assessment of customers, customer due diligence and the monitoring of transactions.

Nordea's internal audit function reported quarterly to the Board of Director's Audit Committee and biannually to the Board of Directors. According to the Bank's internal rules, the internal audit function's reporting should be objective and highlight deficiencies in risk management, control and governance procedures. Furthermore, the internal audit function should notify the Board of Director's Audit Committee without delay of the results of reviews considered to be critical and measures to address the deficiencies that were considered to be insufficient. Finansinspektionen's investigation shows that during the period 2010 to 2014 the function continuously reviewed compliance with the anti-money laundering rules and at that time observed deficiencies that were in many cases assessed as critical in its review reports, that is, deficiencies of the most serious nature. The internal audit function's review reports have described deficiencies and the measures required to address these deficiencies. The review reports also indicate which people received the review reports and who were responsible for remedying each deficiency and also the deadline for when the measures were to have been implemented. Depending on the review area, recipients of the review reports were different officers responsible for business and functions within the operation. The result of the individual reviews were then compiled and summarised in the internal audit function's reporting to the Board of Director's Audit Committee, or the Board of Directors respectively. The reporting to the Board of Directors also included a description of the measures applied or planned by the management to address the deficiencies found. Finansinspektionen's examination shows that the deadline for when the deficiencies should have been remedied had passed for a large number of measures, in some cases from reviews where the deficiencies were assessed as critical. In many cases this involves delays of two to three years. Information about, among other things, delayed measures were presented to the Board of Director's Audit Committee in the form of 'status log' just once a year and then in an overall way. The internal audit function's review reports for the period 2010



to 2014 continuously shows new deficiencies in compliance with the anti-money laundering framework and the Bank's inability to organise and follow up the intervention work to address the deficiencies previously identified within this area.

Nordea has stated that the measures applied by the Bank in 2013 and 2014 to establish governance, risk management and control to ensure that the requirements of the anti-money laundering framework were satisfied and the fact that the Bank has been able to implement significant parts of the action plan drawn up for deficiencies in the money laundering area testifies that the Bank's control in this area was satisfactory and that the Bank has applied measures in an adequate way. The Bank has also reported on how the control functions have reported to, among others, the Board of Director's and the Board of Director's Audit Committee. As regards the status log of, for example, delayed measures, the Bank has stated among other things that it is not the only tool used to inform affected parties of the measures to deal with the deficiencies identified. Regular written reporting together with the verbal presentation of this report are the main reporting lines for the parties affected. The Bank has also admitted that the status log can be reported more frequently and that the Bank will ensure that this is done in the future. The Bank has also reported that there has been regular reporting to the Board of Directors' Audit Committee from the Group AML<sup>3</sup> Project, which was initiated in 2012 (referred to as 'the AML Programme' since May 2013). The Programme was led by the Bank's Chief Risk Officer and its purpose was to ensure that procedures and processes for measures against money laundering and terrorist financing had been complied with and to survey and remedy deficiencies in compliance with the anti-money laundering framework. The Bank has stated that it was subsequently realised that the complexity and scope of the necessary efforts to implement the AML Programme in practice had been underestimated. However, the Bank considers that they reacted quickly when the measures applied transpired to be insufficient.

As stated in Sub-sections 3.1 to 3.4, Finansinspektionen found that Nordea up until 2013 was shown as having serious deficiencies of a systematic nature in compliance with the anti-money laundering framework. Finansinspektionen considers that GORC's written and verbal information to the Bank's Board of Directors was too broad and general. Finansinspektionen thus considers that GORC had not provided Nordea's Board of Directors with an objective and comprehensive representation of the risks involved in respect of inadequate compliance with the anti-money laundering framework. The same applies in respect of the representation that GORC gave the Board of Directors regarding the appropriateness and efficiency of the Bank's risk management framework and of the operation's incapacity to remedy deficiencies in time. It is Finansinspektionen's understanding that the primary reason for this was that for a long time GORC had no overall picture of the deficiencies in compliance with the anti-money laundering framework and thus also the risk that the Bank could be used for money laundering and terrorist financing. In view of this, nor could

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<sup>3</sup> Anti-Money Laundering.

GORC sufficiently analyse the development of the risks emanating from deficient compliance and assist with ensuring that measures commensurate with the scope of the deficiencies were applied on time. Finansinspektionen also considers that the Bank's initiative to survey and remedy the deficiencies through the Group AML Programme was not applied in time as the programme was only initiated in 2012, several years after the entry into force of the current Swedish anti-money laundering framework. As regards the reporting of the internal audit function, Finansinspektionen concludes that the reporting to the Board of Directors assuredly included information about the deficiencies and of the measures applied and planned by the management to address these deficiencies. However, the reporting did not provide an adequate picture of the insufficiency of the measures applied by the management to address the deficiencies. Finansinspektionen can thus conclude that this was not dealt with in accordance with the internal audit rules established by the Board of Directors.

In summary, Finansinspektionen considers that the overall reporting from the control functions to the Board of Directors has not conveyed a clear, current and reliable overall picture of the deficiencies in compliance with the anti-money laundering framework and that the work to remedy this was insufficient. Finansinspektionen considers that the Bank's Board of Directors has not managed to establish internal controls for identifying, assessing and reporting on time the deficiencies in compliance with the anti-money laundering framework and the efficiency of the measures. Taken together this has resulted in the Board of Directors not having ensured that it was informed about and understood the scope and severity of the deficiencies so that the Board of Directors, as the body ultimately responsible for the operation, was able to act in time to remedy the deficiencies. Nordea thus had no control of the risk of the Bank being used for money laundering and terrorist financing. Finansinspektionen therefore finds that Nordea has breached its obligation to identify, measure, govern, internally report and have control of the risks associated with its operation, and thereby ensure that it has satisfactory internal control under Chapter 6, Section 2 LBF.

## **4 Consideration of intervention**

### ***4.1 Applicable provisions***

New rules about sanctions entered into force on 2 August 2014 (Swedish Code of Statutes – SFS 2014:982). The new rules mean, among other things, that Finansinspektionen may decide on a significantly higher administrative fine than previously. According to a transitional provision to the new rules, however, older provisions shall apply to breaches that took place prior to entry into force. As the breaches reported above occurred before the statutory amendments, the provisions were applied with their former wording, with the exception of a provision that may result in a more moderate assessment. These provisions are described below. References to the provisions contained in Chapter 15 LBF in this section thus refer to its wording prior to 2 August 2014.

Finansinspektionen shall, under Chapter 15, Section 1 LBF, intervene when a credit institution has neglected its obligations under this Act, other statutory provisions that regulate the institution's activity, the articles of association of the institution, statutes, by-laws or internal instructions based on statutory provisions that regulate the institution's activity. According to the same provision, Finansinspektionen may intervene, among other things, by ordering a credit institution to take action to address a certain situation or by issuing a remark to the credit institution. If the violation is serious, the credit institution's authorisation shall be revoked or, if sufficient, a warning issued. In Chapter 15, Section 1 LBF it is also prescribed that Finansinspektionen may refrain from intervention if a breach is petty or excusable, if the institution undertakes rectification or if another public authority has applied measures against the institution and these measures are considered to be sufficient.

Finansinspektionen may combine a remark or warning with an administrative fine under Chapter 15, Section 7 LBF. Under Chapter 15, Section 8 of the same Act, the administrative fine is to be set at a minimum of SEK 5,000 and at most SEK 50 million. The fine may not exceed ten per cent of the institution's turnover for the immediately preceding financial year. Nor may the fine be so large that the institution thereafter does not fulfil the requirements for solvency and liquidity under Chapter 6, Section 1 LBF. Under Chapter 15, Section 9 LBF, special consideration shall be taken of how serious the breach is that has led to the remark or warning and how long the breach has lasted.

Chapter 15, Section 1 b LBF includes a provision involving a more moderate assessment. It is stated in the second paragraph that consideration shall be taken when choosing a sanction of whether the credit institution has significantly facilitated Finansinspektionen's investigation through active cooperation and quickly ceased the breach after it was reported to or drawn attention to by Finansinspektionen.

#### ***4.2 The Bank's measures***

Nordea stated in its statement of views of 15 January 2015, among other things, that the Bank has extensive work underway as regards measures to prevent money laundering and terrorist financing. The work focuses on remedying the deficiencies already observed and that have been noted by Finansinspektionen, and also on developing an action plan to ensure that the Bank works in accordance with applicable rules, both now and in the future. The action plan includes just over 500 action points and several different business areas.

As regards Nordea's internal governance and control for the money laundering area, the Bank has, among other things, described the measures applied in 2013 and 2014 to strengthen internal governance and control. Nordea has stated that the Bank has decided to further intensify its work, during 2015, to, among other things, evaluate and develop controls to ensure that the Bank's control system is effective and appropriate. In order to strengthen the control and follow-up of the action plan, Nordea also intends in 2015 to allocate further resources for the

compliance function and give it a special mandate to check and monitor the implementation of the action plan on an ongoing basis. The Board of Directors, Audit Committee and group management will also carefully follow up in the future that sufficient measures have been applied to ensure that Nordea's compliance with the anti-money laundering framework corresponds with applicable requirements. The Board of Directors and Audit Committee will also have these as a standing item in their agendas until decided otherwise.

#### ***4.3 Assessment of breaches***

Finansinspektionen's investigation shows that for several years there have been major deficiencies in Nordea's work to prevent money laundering and terrorist financing. These deficiencies have been serious and of a systematic nature and also found in all of the areas examined by Finansinspektionen, that is, customers residing outside Sweden who are regarded as politically exposed persons, correspondent banking relationships, private banking customers and customers that are legal persons with a tax domicile outside the Nordic countries. The deficiencies relate to central areas within the anti-money laundering framework, such as the risk assessment of customers, the Bank's customer due diligence measures and the Bank's monitoring of transactions.

Nordea is Sweden's largest bank, with over 10 million customers. It is very serious that a bank of this size, complexity and international presence lacked or at best had sub-standard procedures and measures to assess the risk of customers, customer due diligence and monitoring of transactions up until 2013. This particularly as Finansinspektionen's examination covered customer categories and business relationships where the risk of money laundering and terrorist financing may generally be expected to be high. For example, Nordea had not even identified high-risk customers for a long time, which among other things was illustrated by the large number of business relationships that involved politically exposed persons which the Bank had for many years without having been aware of this. This means that Nordea has not had any control over the high risk posed by these customers. Nordea has also had serious deficiencies of a systematic nature as regards both the customer due diligence information collected by the Bank and its ongoing follow-up of customers. Another clear example is that for several years Nordea's transaction monitoring system had not been sufficiently able to identify suspicious transactions as it only covered three scenarios. The inadequate monitoring of transactions, together with Nordea's deficient risk assessment of customers and sub-standard customer due diligence information, resulted in the possibility of suspicious transactions in all likelihood having passed unnoticed through the Bank's operation. This has meant that Nordea could have been used for money laundering and terrorist financing without the Bank having been aware of this. Nordea's comprehensive and complex operation as well as its international presence means that it is extremely important that the Bank has effective procedures and measures to prevent its operation being used for money laundering and terrorist financing.

The Board of Directors is responsible for the Bank's activities. It is therefore also the Board of Directors that must ensure that the Bank controls the risk of its activity being used for money laundering or terrorist financing. Nordea's inadequate compliance with the provisions of the anti-money laundering framework and the EU Sanctions Regulations shows that the Bank's Board of Directors has not been capable of organising the operation so that the Bank could manage these risks.

In summary, Finansinspektionen finds that the deficiencies observed are very serious and that there is therefore reason to intervene in relation to Nordea.

#### ***4.4 Choice of intervention***

The deficiencies observed are serious and of a systematic nature. Nordea's size, complexity and international presence means that it is of ultimate importance that the Bank manages the risks of money laundering and terrorist financing in an adequate way. There are in light of the scope and severity of the deficiencies, therefore as such preconditions to revoke Nordea's authorisation. The issue is whether it would be sufficient to issue a warning combined with an administrative fine instead.

Revoking authorisation is a stringent intervention and such an intervention may not be used without strong reasons. According to the *travaux préparatoires*, a warning should be issued when the preconditions for revocation exist as such but a warning would seem to be a sufficient measure in that particular case. Factors mentioned that may mean that a warning would seem to be sufficient include there being no risk of the institution repeating the breach and that the prognosis for the institution is therefore good or that the institution for its part did not have any better understanding when the breach occurred (Government Bill. 2002/03:139 p. 381 ff).

In the investigation from 2011 Finansinspektionen was able to identify certain deficiencies in Nordea's compliance with the anti-money laundering framework. Nordea was informed about these deficiencies in conjunction with the conclusion of the investigation.

Finansinspektionen can conclude that the sanction decision from 2013 applied to deficiencies in Nordea's compliance with the anti-money laundering framework and the Bank's checks in relation to the EU Sanctions Regulations that differed from those deficiencies to which attention is drawn in this matter. The sanction decision from 2013 nonetheless confirms the picture of a bank that has had problems with complying with the anti-money laundering framework.

As regards ameliorating circumstances, according to Chapter 15, Section 1 b LBF, account is to be taken among other things of whether a bank has significantly facilitated Finansinspektionen's investigation through active cooperation or has rapidly ceased the breach after it was reported to or drawn attention to by Finansinspektionen. According to the *travaux préparatoires*

(Government Bill 2013/14:228, p. 241) this means that the institution provides important information of its own accord that Finansinspektionen itself has not already had at its disposal or can easily obtain. In the opinion of Finansinspektionen, Nordea's cooperation has been in line with that expected by a bank subject to supervision. However, it has not been of such a nature that Nordea could be deemed to have significantly facilitated Finansinspektionen's investigation through active cooperation. Nor has the Bank, given the scope and complexity of the necessary measures, been able to quickly cease the breach since it was reported to or drawn attention to by Finansinspektionen. There are therefore no ameliorating circumstances that should be taken into account when choosing a sanction under Chapter 15, Section 1 b LBF.

As stated above, when choosing an intervention Finansinspektionen shall also consider, among other things, whether there is any risk of the Bank repeating the breach and whether the prognosis for the Bank is good. Finansinspektionen concludes that Nordea has applied and intends to apply extensive measures to address the deficiencies observed. Nordea has, for example, announced many improvements in the money laundering and terrorist financing area and a comprehensive action plan. As regards the Bank's internal governance and control in relation to compliance with the anti-money laundering framework, Nordea stated that the Bank has applied measures and intends to apply further measures. Finansinspektionen finds that the extensive action plan presented by Nordea shows that the Bank has now realised the scope of the problem and wishes to address the deficiencies. Nordea has also stated that in 2015 the Bank intends to allocate further resources for the compliance function and give it a special mandate to check and monitor the implementation of the action plan on an ongoing basis in order to strengthen the control and follow-up of the action plan. Taken together, Finansinspektionen considers that the prognosis for the bank is good. Finansinspektionen considers that it is therefore sufficient to issue Nordea with a warning.

The warning that Finansinspektionen issues to Nordea is to be combined with an administrative fine. The administrative fine may amount to no more than SEK 50 million or ten per cent of the preceding year's turnover for the Bank. According to the Annual Report adopted, Nordea's annual turnover for 2014 was just over SEK 59.4 billion. The administrative fine should be viewed as a grading of the breaches. When determining the size of the administrative fine, Finansinspektionen should take special consideration of how serious the breach is that has led to the warning and how long the breach has lasted. When assessing the size of the administrative fine, there is in this case reason to consider, as concluded above, that Nordea's breaches are serious and of a systematic nature, as they show that the Bank, among other things, lacked or at best had sub-standard procedures and measures for central areas within the anti-money laundering framework. This has involved a significant risk of Nordea being used for money laundering and terrorist financing. For this reason Finansinspektionen sets the administrative fine at the maximum of SEK 50 million. This administrative fine falls below ten per cent of Nordea's



annual turnover for 2014 and is not large enough to jeopardise the Bank's solvency and liquidity requirements according to Chapter 6, Section 1 LBF.

The administrative fine passes to the State and will be invoiced by Finansinspektionen after the decision has entered into final legal force.

## FINANSINSPEKTIONEN

Sven-Erik Österberg  
*Chair of Board of Directors*

Therese Villard  
*Acting Head of Division*  
Large Banks Banking Law

A decision in this matter has been made by Finansinspektionen's Board of Directors (Sven-Erik Österberg, Chair, Sonja Daltung, Astri Muren, Hans Nyman, Anna Pettersson Westerberg, Gustaf Sjöberg and Martin Noréus, acting Director General of Finansinspektionen) after reporting by Therese Villard (Acting Head of Division). Per Håkansson (Chief Legal Counsel), Martina Jäderlund (Director), Cecilia Ekenbäck and Mattias Olander (Heads of Division), Caroline Moberg Pettersson (Supervisor), Liselott Alström (Senior Legal Counsellor) and Carin Carlsson (Legal Counsellor) also participated in the final processing.

### *Appendices*

Appendix 1 – How to appeal

Appendix 2 – Applicable provisions

Copy: Nordea's CEO

A C K N O W L E D G E M E N T O F S E R V I C E



FI Ref. 13-1784  
Service no. 1

**Finansinspektionen**  
Box 7821  
SE-103 97 Stockholm  
[Brunnsgatan 3]  
Tel +46 8 787 80 00  
Fax +46 8 24 13 35  
finansinspektionen@fi.se  
www.fi.se

**Warning and administrative fine**

Decision regarding warning and administrative fine of **19 May 2015** for  
Nordea Bank AB

I have received this document on this date.

.....  
DATE

.....  
SIGNATURE

.....  
PRINT NAME

.....  
NEW ADDRESS, IF APPLICABLE

.....  
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This acknowledgement shall be returned to Finansinspektionen **immediately**.  
If the acknowledgement is not returned, service may be effected by other  
means, e.g. via a bailiff.

Postage is free if you use the enclosed envelope.

Do not forget to **state the date of receipt**.



*Appendix 1***How to appeal**

You can appeal in writing to the administrative court if you consider this decision to be incorrect. Address the appeal to Stockholm Administrative Court, but send or submit it to Finansinspektionen, Box 7821, SE-103 97 Stockholm, Sweden.

State the following in the appeal:

- Name and address
- The decision you are appealing against and the number of the matter
- Why you consider the decision to be incorrect
- The change sought and why you consider that the decision should be changed.

Remember to sign the document.

The appeal must have been received by Finansinspektionen within three weeks of the date on which you received the decision.

If the appeal is received on time and Finansinspektionen does not itself decide to amend the decision in the manner requested, Finansinspektionen will forward the appeal to Stockholm Administrative Court.

## *Appendix 2*

### **Applicable provisions**

#### **Deficient risk assessment of customers**

Under Chapter 2, Section 3 of the Anti-Money Laundering Regulations, an undertaking shall assess the risk of the operation being used for money laundering and terrorist financing. The risk assessment shall be made in an appropriate manner taking into consideration the undertaking's size and complexity. It shall contain an analysis of the undertaking's customers, products, services and other relevant factors for the operations, such as distribution channels and geographical areas. Furthermore it is prescribed by Chapter 5, Section 1 of the Anti-Money Laundering Act that a party engaged in activities shall have risk-based procedures to prevent the operation being used for money laundering or terrorist financing. Under Chapter 2, Section 1 of the Anti-Money Laundering Act, a party engaged in activities shall apply measures to ensure customer due diligence. The scope of these measures shall be adapted according to the risk of money laundering and terrorist financing. It is stated in Chapter 3, Section 2, first paragraph of the Anti-Money Laundering Regulations that an undertaking shall have procedures for, among other things, customer due diligence and monitoring. It is stated in the second paragraph of the same section that the undertaking's procedures shall be based on its operations and risk assessment.

#### **Deficient customer due diligence**

It is stated in Chapter 5, Section 1 of the Anti-Money Laundering Act that a party engaged in activities shall have risk-based procedures to prevent the operation being used for money laundering or terrorist financing. Under Chapter 3, Section 2, first paragraph of the Anti-Money Laundering Regulations, an undertaking shall have procedures for, among other things, customer due diligence. It is stated in the second paragraph of the same section that the undertaking's procedures shall be based on its operations and risk assessment. It is prescribed by Chapter 2, Section 3 of the Anti-Money Laundering Act that 'basic measures to ensure customer due diligence' means checking a customer's identity, checking the identity of a beneficial owner and obtaining information about the purpose and nature of the business relationship. Enhanced customer due diligence measures shall be applied under Chapter 2, Section 6 of the Anti-Money Laundering Act if there is a high risk of money laundering or terrorist financing. Such measures shall be more comprehensive than the measures contained in Chapter 2, Section 3 of the Anti-Money Laundering Act. A high risk of money laundering or terrorist financing is presumed to exist, for example, when a business relationship is established with a politically exposed person who resides outside Sweden and for relationships with a credit institution with a domicile outside the EEA. The enhanced measures to be applied in these cases are set out in Chapter 2, Sections 7 and 8 of the Anti-Money Laundering Act.

Under Chapter 2, Section 10 of the Anti-Money Laundering Act, a party engaged in activities shall continuously monitor ongoing business relationships by checking and documenting that the transactions carried out correspond with the knowledge that the party engaged in activities has concerning customers, their business and risk profiles and, if necessary, where the customer's financial resources come from. Documents, data and information concerning checks shall be kept up-to-date. Chapter 4 of the Anti-Money Laundering Regulations includes provisions concerning customer due diligence, among other things how a customer's identity should be verified.

### **Deficiencies in monitoring obligation**

It is prescribed by Chapter 3, Section 1, first and second paragraphs of the Anti-Money Laundering Act, a party engaged in activities shall monitor transactions in order to be able to identify such transactions that they suspect or have reasonable grounds to suspect constitute a step in money laundering or terrorist financing. If, the suspicion remains following closer analysis, information about all circumstances that may indicate money laundering or terrorist financing shall be submitted to the Financial Intelligence Section within the Police Authority without delay (prior to 1 January 2015, the 'Financial Intelligence Unit (FIU)', a section at the Police Criminal Intelligence & Investigation Division at the National Bureau of Investigation (NIB), which in its turn belonged to the Swedish National Police Board (RPS)). Under Chapter 5, Section 3 of the Anti-Money Laundering Regulations, an undertaking shall document measures and decisions when monitoring suspicious transactions under Chapter 3, Section 1, first and second paragraphs of the Anti-Money Laundering Act. Furthermore it is prescribed by Chapter 5, Section 1 of the Anti-Money Laundering Act that a party engaged in activities shall have risk-based procedures to prevent the operation being used for money laundering or terrorist financing. Under Chapter 3, Section 2, item 4 of the Anti-Money Laundering Regulations, an undertaking shall have a system or procedure for the monitoring obligation pursuant to Chapter 3, Section 1 of the Anti-Money Laundering Act and Chapter 5, Section 1 of the Anti-Money Laundering Regulations.

### **Deficiencies in compliance with the EU regulations on restrictive measures**

Under Article 14 of the Syria Regulation, all funds and economic resources belonging to, owned, held or controlled by the natural or legal persons, entities and bodies listed in Annex II and II(a) of the Regulation shall be frozen. Furthermore, no funds or economic resources shall be made available, directly or indirectly, to or for the benefit of the natural or legal persons, entities or bodies listed in these annexes.

## **Internal governance of risk management and control**

Under Chapter 6, Section 2 LBF, a credit institution is obliged to identify, measure, govern, internally report and have control of the risks associated with its business. Furthermore, a credit market undertaking shall ensure that its internal control is satisfactory.

In order to provide credit market companies and other credit institutions with guidance concerning how the provisions contained in Chapter 6 LBF may be applied, Finansinspektionen has issued General Guidelines (FFFS 2005:1) concerning Governance and Control of Financial Undertakings. A credit institution does not have to comply with these general guidelines but in that case should be able to show how it satisfies the requirements of Chapter 6 LBF in some other way.

Under Chapter 5 Section 4 of the General Guidelines concerning Governance and Control of Financial Undertakings, sound control is achieved by, for example, a credit institution producing internal regulations as well as updating these regularly, and also ensuring that information and reporting systems guarantee current and relevant information regarding the institution's operations and risk exposure.

Under Chapter 6, Section 4 b LBF it is the board of a credit institution that is responsible for satisfying the requirement of, among others, Chapter 6, Section 2 LBF. Under Chapter 6, Section 5 LBF, it is also the board that is to ensure that there are written guidelines and instructions to the extent required to satisfy the requirements in Chapter 6, Section 2 LBF. A credit institution should have certain control functions in order to satisfy Chapter 6, Section 2 LBF. It is indicated by Chapters 4 to 6 of the General Guidelines concerning Governance and Control of Financial Undertakings that this involves a risk control function, a compliance function and an independent monitoring function. It is indicated by Chapter 4, Section 3 of the General Guidelines concerning Governance and Control of Financial Undertakings that the credit institution should include a composite function for independent risk control. The function should, among other things, inform the board of directors and management. The information should provide a comprehensive and objective representation of the credit institution's risks and contain analysis of changes in the risks. Under Chapter 4, Section 2 of the General Guidelines, the board of directors should ensure that the credit institution's management of risks and follow-up of risks are satisfactory. For this purpose, internal regulations should be adopted by the board of directors regarding risk management and risk control. Compliance with these regulations should be ensured constantly.

It is indicated by Chapter 5, Section 2 of the General Guidelines concerning Governance and Control of Financial Undertakings that the board of directors should ensure that a function is in place that supports the operations being conducted in accordance with governing regulations. The function should provide information regularly regarding the risks that may arise in the operations as a consequence of deficient compliance. The function should also inform the board of directors and management with respect to compliance

issues. Under Chapter 5, Section 6 of the same General Guidelines the function should be independent in relation to the direct commercially driven operation.

Under Chapter 6, Section 1 of the General Guidelines concerning Governance and Control of Financial Undertakings, the board of directors should ensure that a function is in place which monitors and evaluates the internal control, an independent monitoring function (internal audit). The function should, among other things, possess sufficient resources for its duties.