

## FAQ – Foreign Correspondents

Prior to the establishment of (cross-boarder) correspondent banking relationships it is necessary for the financial institutions in question (unless the relationship is within the European Union) to obtain information on the other financial institution involved to ensure sufficient understanding of the nature of the respondent's business, including information regarding assessment of the respondent's anti-money laundering and anti-terrorist financing controls, the quality of supervision, etc.

As a part of this process, we are frequently addressed by correspondent banks with questions to ensure that SPARBANK has adequate anti-money laundering and anti-terrorist financing controls.

On that background we have (below) provided answers to most Frequently Asked Questions in respect of Danish anti-money laundering law and SPARBANKs anti-money laundering and anti-terrorist financing programme and procedures.

-o-oo-o0o-oo-o-

## INFORMATION ON LAWS AND PROCEDURES TO PREVENT MONEY LAUNDERING AND FINANCING OF TERRORISM

### A. LEGISLATION

#### 1. Has Denmark established laws designed to prevent money laundering and financing of terrorism - and is your institution subject to such law?

Act No. 442 of May 11, 2007 on Measures to Prevent Money Laundering and Financing of Terrorism (in the following referred to as "the Act") contains provisions to prevent money laundering and financing of terrorism. The majority of the provisions of the Act came into force on March 1, 2006 and the remaining provisions on January 1, 2007.

The Act implements the EU 3<sup>rd</sup> directive, directive 2005/60/EC of The European Parliament and of The Council of October 26, 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (in the following referred to as "the Directive").

A translation of the Act (from Danish into English) can be found on the website of The Danish Financial Supervisory Authority, the Danish FSA (in Danish "Finanstilsynet"), ([www.finanstilsynet.dk](http://www.finanstilsynet.dk) or [www.dfsa.dk](http://www.dfsa.dk)).

([www.dfsa.dk/graphics/Finanstilsynet/Mediafiles/newdoc/Oversaettelser/Act442\\_11May2007.pdf](http://www.dfsa.dk/graphics/Finanstilsynet/Mediafiles/newdoc/Oversaettelser/Act442_11May2007.pdf))

The EC Regulation No. 1781/2006 of the European Parliament and of the Council of November 15, 2006 on information on the payer accompanying transfers of funds (in the following referred to as "the Regulation") applies in Denmark (without any implementing legislation).



SPARBANK is subject to the provisions of the Act, the Directive as implemented by the Act, and the Regulation.

## B. SUPERVISION

### 2. Please name the regulatory body which supervises your institution.

The Danish Financial Supervisory Authority, the Danish FSA (in Danish "Finanstilsynet"), office address: Århusgade 110, 2100 København Ø, Denmark.

"Finanstilsynet" is an agency under the Ministry of Economics and Business Affairs, but is not overseen by independent Councils.

## C. INTERNAL POLICIES, PROGRAMMES ETC.

### 3. Has your institution established written policies designed to combat money laundering and financing of terrorism?

According to the provisions of the Act SPARBANK has an obligation to prepare adequate written internal rules about customer due diligence, reporting, record-keeping, internal control, risk assessment, risk management, management controls and communication as well as training and instruction programme for our employees in order to forestall and prevent money laundering and financing of terrorism.

Written internal rules complying with the above provisions of the Act are established in SPARBANK.

### 4. Does your institution have an established employee training programme to teach employees about money laundering and financing of terrorism and to assist them in identifying any suspicious activities?

According to the provisions of the Act SPARBANK has an obligation to prepare training and instruction programmes for our employees in order to forestall and prevent money laundering and financing of terrorism. Furthermore, SPARBANK has an obligation to ensure that our employees know of the obligations stipulated in the Act.

In accordance with the provisions of the Act SPARBANK has established employee training programmes to ensure sufficient training of our employees in detecting activities having relation to money laundering and financing of terrorism and to ensure sufficient knowledge of our obligations of the Act.

### 5. Does your institution have an established audit and compliance review function to test the adequacy of anti-money laundering and anti-terrorist financing policies and procedures?

According to article 25 of the Act SPARBANK shall appoint a person at management level to ensure that SPARBANK complies with its obligation under the Act.



In accordance with this provision SPARBANK has appointed Compliance Officer Søren Juhl Wenøe to ensure that SPARBANK complies with its obligations under the Act, including the obligation to have adequate anti-money laundering and anti-terrorist financing policies and procedures. Contact information concerning Søren Juhl Wenøe: Email: [swe@sparbank.dk](mailto:swe@sparbank.dk); Phone: 96 16 10 06.

**6. Does your institution have a written policy to ensure that reasonable measures are taken to obtain information about the true identity of customers so as to ensure legitimate activities – and in the affirmative what is the principal contents of such policy?**

According to the provisions of the Act SPARBANK shall require that our customers provide proof of identity when establishing a business relationship with said customers, including the opening of an account or a custody account. Furthermore, SPARBANK has an obligation to obtain information about each customer's objective regarding the business relationship and the intended extent hereof.

Moreover, SPARBANK has, according to the provisions of the Act, an obligation to take reasonable steps to ascertain the customer's (if the customer is an undertaking) ownership and control structure and the customer's beneficial owners shall be identified. (However, this provision does not apply if the customer is an undertaking of which the securities have been admitted to trading on a regulated market).

If SPARBANK has knowledge or presumption that a person other than the one we are in contact with is the beneficial customer, SPARBANK shall also demand to be informed of the identity, etc., of the beneficial customer in accordance with the provisions of the Act.

According to the Act SPARBANK has an obligation to pay special attention to customers' activities which, by their nature, could be regarded as being particularly likely to be associated with money laundering or financing of terrorism. This applies in particular to complex or unusually large transactions and all unusual patterns of transactions in relation to said customer. The purpose of such transactions shall, as far as possible, be investigated. The results of such investigation shall be recorded and kept.

The Act provides that the customer relationship shall be monitored on a regular basis. Transactions undertaken throughout the course of said relationship shall be monitored to ensure that the transactions being conducted are consistent with SPARBANK's knowledge of the customer and the customer's business and risk profile, including, where necessary, the source of the funds. Documents, data or other information about the customer shall be kept up to date.

SPARBANK has established written policies and internal procedures to ensure compliance with the Act in respect of the above requirements.

**7. Does your institution maintain records on customer identification and account files for a specified period of time and cooperate with local authorities so as to permit investigation of suspicious activities as well as to provide information, if necessary.**

According to the provisions of the Act SPARBANK shall store identity information for not less than five years after the customer relationship has been terminated. Documents and records concerning transactions shall be stored for at least five years after the



performance of the transaction. This obligation also applies to notes made by SPARBANK in respect of the purpose of customers' activities which, by their nature, could be regarded as being particularly likely to be associated with money laundering or financing of terrorism, as well as to notes made on the result of investigations made to clarify said purposes.

The Danish Bookkeeping Act also contains provisions as to obligations in respect of registration and keeping documentation, preservation of accounting records, etc. According to the Danish Bookkeeping Act all transactions of SPARBANK shall be entered accurately having regard to the nature and size of our businesses. Transactions shall be entered as soon as possible following the events which form the basis for the entries. According to the Danish Bookkeeping Act SPARBANK has an obligation to preserve the accounting records appropriately for five years from the relevant financial year. Our accounting records shall be preserved in such a way that it is possible independently and precisely to retrieve the relevant accounting records during the entire preservation period. The Danish Bookkeeping Act provides that a public authority may, in as far as it is entitled pursuant to other Danish legislation to request inspection of the accounting records of SPARBANK.

SPARBANK has established internal rules which fulfil the legislative requirements as to maintaining records on customer identification and accounting files.

Subject to the provisions of the Act, the Danish Data Protection Act and other Danish legislation we, SPARBANK cooperate with the Public Prosecutor for Serious Economic Crime (in Danish "Statsadvokaten for Særlig Økonomisk Kriminalitet") regarding notifications made subject to the provisions of the Act.

**8. Does your institution have a policy of not opening accounts for a foreign institution that does not have a physical presence in any country (i.e. a foreign shell bank)?**

According to the provisions of the Act, SPARBANK may not enter into or continue a correspondent banking relationship with a shell bank and SPARBANK is obliged to take reasonable measures to avoid a connection with a credit institution which is known to permit shell banks to use its accounts.

SPARBANK complies with said provisions.

**9. Is your institution subject to (any other) anti money laundering provisions when it comes to international money transfers which are routed through you?**

The Regulation contains provisions as to information on the payer to accompany transfers of funds for the purposes of the prevention, investigation and detection of money laundering and terrorist financing.

According to the provisions of the Regulation, SPARBANK shall ensure that (international) transfers of funds are accompanied by complete information on the payer. However, where also the other payment service provider is situated within the Community, transfers of funds shall be required to be accompanied only by the account number of the payer or a unique identifier allowing the transaction to be traced back to the payer.



If SPARBANK (as payment service provider for the payee) becomes aware, when receiving transfers of funds, that information on the payer required is missing or incomplete, we shall either reject the transfer or ask for complete information on the payer.

Where a payment service provider regularly fails to supply the required information on the payer, we shall take steps, which may initially include the issuing of warnings and setting of deadlines, before either rejecting any future transfers of funds from that payment service provider or deciding whether or not to restrict or terminate our business relationship with that payment service provider. We have an obligation to report such facts to the authorities responsible for combating money laundering or terrorist financing.

**10. Is there an established method at your institution for reporting suspicious activities and transactions to the appropriate authorities?**

The Act provides that if there is a suspicion that a customer's transaction or enquiry is or has been associated with money laundering or financing of terrorism, SPARBANK shall investigate the transaction or enquiry in more detail. If the suspicion relates to offences punishable by imprisonment of more than one year and this suspicion cannot be disproved, the Public Prosecutor for Serious Economic Crime (in Danish "Statsadvokaten for Særlig Økonomisk Kriminalitet") shall be informed immediately.

SPARBANK has established adequate procedures and methods as to communication and reporting to comply with our reporting obligation referred to above.

**11. Does your institution have a policy of protecting employees if they report, in good faith, any suspicious transactions?**

The Act provides that neither SPARBANK nor any employee or management member of SPARBANK shall incur any liability in respect of notifications and information disclosed in good faith pursuant to the provisions of the Act. Disclosure of information in connection with this shall not be considered as a breach of any duty of confidentiality.

As described under point [10] above, SPARBANK has established procedures and methods as to communication and reporting in respect of our obligation to report suspicious activities and transactions to the authorities. These procedures ensure adequate processing of such suspicions. However, these procedures also aim to protect the employee having the main responsibility for the customer relationship as the procedures contain provisions as to which department and person having the responsibility to report and to communicate with the authorities regarding the issue subject for the information.

**12. Do the anti-money laundering policies applicable to your head office also apply to your foreign branches and majority owned subsidiaries?**

SPARBANK foreign branches and majority owned subsidiaries established within the European Union are subject to the Directive as implemented in the country where the branch or subsidiary is established.

According to the provisions of the Act, SPARBANK shall ensure that our branches and subsidiary undertakings established in countries outside the European Union with which the Community has not entered into an agreement for the financial area have customer



