

# **Guidelines for prevention of money laundering and terrorist financing (2024)**

## **1. Introduction**

The TELA Advisory Committee for Legal Affairs appointed experts to update the TELA guidelines for the prevention of money laundering and terrorist financing.

The TELA Board of Directors has approved these guidelines on [19 March 2024]. With these recommended guidelines, the earnings-related pensions sector wants to demonstrate its adherence to the best and uniform practices for preventing the risks of money laundering and terrorist financing inherent to earnings-related pension insurance. The guidelines also state general matters pertaining to statutory earnings-related pension insurance. Each TELA member decides independently how to consider the guidelines in its operations.

The guidelines are part of the pension insurance providers' self-regulation.

All pension insurance providers may apply the guidelines insofar as they apply to money-laundering legislation.

## **2. Regulatory background**

The main elements of a partial reform of the Act on Preventing Money Laundering and Terrorist Financing 444/2017 (hereinafter the Money Laundering Act), 444/2023, entered into force on 31 March 2023. Some of the amendments include a year-long transitional provision, which saw them enter into force on 1 March 2024. Pension insurance companies (as entities authorized and supervised by the Finnish Financial Supervisory Authority and thus bearing a reporting obligation under the Money Laundering Act) also fall within the scope of the Act.

The Government Decree on Customer Due Diligence Procedures and Risk Factors in Preventing Money Laundering and Terrorist Financing 929/2021 (hereinafter the Money Laundering Decree) entered into force on 1 January 2022.

The purpose of the partial reform of the Money Laundering Act was to fulfil the obligations of the EU directive on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (2018/843) (fifth anti-money-laundering directive).

Bodies which provide official guidance include the European supervisory authorities (ESAs) and the Finnish Financial Supervisory Authority (hereinafter Fiva). The new Fiva Regulations and Guidelines on the prevention of money laundering and terrorist financing 2/2023 (hereinafter Money Laundering R&G) entered into force on 26 June 2023.

The risk management of pension insurance companies is regulated by the Fiva regulations and guidelines 2/2017 Pension insurance companies' administration (Risk Management, Chapter 10, Section 15). Regarding know your customer (KYC) and the related risk-

management systems, the regulations refer to Chapter 6, Section 13 of the Insurance Provider Act (2008/521). Under the Act, a pension insurance company must have sufficient risk assessment and management systems to evaluate the risks of money laundering and terrorist financing its customers present for its operations. This obligation does not depend on whether a simplified due diligence applies to the insurance policy.

### **3. Assessment of the risks of earnings-related pensions**

#### **3.1 Description of the earnings-related pension system**

The Finnish earnings-related pension system is one aspect of statutory social security. All companies, corporations and individuals operating in Finland must take out earnings-related pension insurance. Pension benefits are defined in the relevant Acts (Employees' Pensions Act, Self-employed Persons' Pensions Act or Public Sector Pensions Act).

Implementation of the earnings-related pension system is decentralized among a number of pension insurance providers. Statutory pension provision is managed by both private-sector operators: pension insurance companies, specialized pension providers, industry-wide pension funds and company pension funds, as well as and public-sector pension providers.

A pension insurance company's duty is to conduct the statutory pension insurance business which is part of social security through statutory pension provision and by managing the assets the provider has accumulated for this purpose in a manner that achieves the benefits encompassed by the insurance policies. Pension insurance companies may not engage in any other business (Act on Earnings-related Pension Insurance Companies (354/1997) Section 2).

In statutory insurance operations, the features common to pension insurance companies pertain to customers, products and services (the nature of business), the geographical area and distribution channels. For this reason, pension insurance companies consider it justified to regard them as one assessment object, or cluster, in the prevention of money laundering.

According to the guidelines for monitoring issued by the authorities, a group of companies that do not constitute an economic entity but have similar characteristics in terms of their money-laundering risk can be treated as one cluster by the authorities.

#### **3.2 Principal definitions**

##### **Services provided by a pension insurance company**

Services provided by a pension insurance company for its customers mean statutory insurance services referred to in the Employees' Pensions Act (TyEL) and the Self-employed Persons' Pensions Act (YEL) (insurance services), credit or financing services, and the leasing of premises for business and residential purposes (other services), where the pension insurance company acts as a financier or a lessor.

### **Pension insurance company's customer**

In accordance with Fiva's Money Laundering R&G, pension insurance companies define a customer as a natural person or a legal person to whom the pension insurance company provides its services. Recipients of pensions or benefits and insured persons are thus not considered pension insurance companies' customers as intended by money-laundering regulation.

The words "regular customer relationship" refer to a relationship of a permanent nature or to a customer relationship that, at the time of signing the contract, is assumed to become permanent. An example of the establishment of such a customer relationship is the signing of an insurance contract (contract customers).

For insurance services, an occasional customer relationship is rarely applied in practice. Typical occasional customers in earnings-related pension insurance are temporary employers who have no permanent employees to insure (such as households). A temporary employer must conclude an insurance contract when the criteria of the law are met; these criteria are met before the minimum sum of EUR 10,000 specified in the Money Laundering Act.

### **Risk-based approach**

The risk-based approach means a procedure where pension insurance companies identify, assess and understand the risks of money laundering and the terrorist financing to which they are exposed, and take measures that are proportionate to the risks. In addition, the pension insurance company must ensure it knows, for the duration of the customer relationship, the potential risks its customers may cause. Insofar as the procedures are concerned, the companies can use their discretion.

### **Risk assessment**

Pension insurance companies must draw up their own risk assessment to identify and evaluate the risks of money laundering and terrorist financing. The risk assessment must be documented and the need for updates assessed regularly. The nature, volume and extent of operations must be considered when drawing up the risk assessment.

## **3.3 Know Your Customer (KYC) and risk-based assessment**

The legislative history of the Money Laundering Act (Government Bill 228/2016) concluded that earnings-related pension insurance involves a low risk of either money laundering or terrorist financing. This has been raised in connection with the simplified Know Your Customer (KYC) obligation. The explanatory statement to the Government Bill states that when the implementation of statutory earnings-related pension insurance or a self-employed person's pension insurance are managed as part of social security, it is possible to comply with a simplified KYC obligation. Accordingly, Section 4 of the Money Laundering Directive also considers statutory earnings-related pension insurance low-risk insurance products. The simplified procedure does not exempt the pension insurance company from the risk classification of the customer and the risk-based KYC obligations pursuant to the Money Laundering Act.

The KYC obligation means varying measures determined according to the risk-based assessment. The KYC measures must be observed throughout the customer relationship. When a pension insurance company assesses its customer relationships in terms of the risks of money laundering and terrorist financing, it must take account of new and existing customers, new, developing and existing products, services and transactions (the nature of business), distribution channels and technologies, as well as countries and geographical regions (risk-based assessment).

A pension insurance company's insurance products are statutory and mandatory. Pension insurance companies are the only insurance companies that may grant pension insurance policies pursuant to the Employees' Pensions Act and the Self-employed Persons' Pension Act. As a distribution channel, pension insurance companies can use insurance intermediaries, who must have sufficient professional competence to offer earnings-related pension insurance products. The company acting as the policyholder cannot withdraw or transfer to itself the insurance coverage included in the pension insurance or otherwise have an influence over a benefit paid.

From the beginning of 2019, the earnings-related pension system joined the national Incomes Register as a user of income data. Owing to the Incomes Register, the earnings-related pension insurance system can shift from annual contributions to real-time premium payment.

All of the above factors reduce the risk of money laundering and terrorist financing.

In addition, each pension insurance company makes its own risk assessment. The company must document its assessment so it can demonstrate to Fiva that the methods applied to KYC and constant monitoring of customers are sufficient in view of the risk of money laundering and terrorist financing.

### **3.4 Identification, verification of identity, procurement of identification information, constant monitoring and information procurement obligation of customer and customer's representative**

A sufficient level of KYC required by the Money Laundering Act when establishing customer relationships is identification of a customer using the information provided by the customer themselves, unless there is a justified reason for doubting the integrity of the information. A customer and a person acting on their behalf must identify themselves and prove their identity when establishing a permanent customer relationship (before signing an insurance contract) and in certain other situations cited in other Acts where the customer relationship is occasional, a transaction is suspicious, or the reliability or sufficiency of the authentication information of a previously verified customer is suspect (Money Laundering Act Chapter 3, Section 2). The practical steps are determined by each company's internal operating principles and operating methods.

If the customer is not present when being identified and their identity is being verified (remote identification), additional documents or information must be obtained from a reliable source to verify their identity to reduce the risk of money laundering and terrorist financing.

The pension insurance company must monitor the customer relationship for abnormal or unusual transactions related to the insurance activities. The customer must be identified, and the customer relationship must be monitored sufficiently to form a view of the customer's activities and to ensure that it matches the experience and knowledge the pension insurance company has of its customer and its activities. Particular attention must be paid to transactions whose structure and size differ from usual transactions. The same approach must be taken if the transactions lack a clear financial purpose or if they do not match pension insurance company's experience or knowledge of has about the customer and its activities. If necessary, the origin of the customer's funds must be ascertained. Entities with reporting obligation are obliged to do this throughout the customer relationship.

Detection of abnormal transactions triggers the obligation to obtain information and, unless the suspicion can be thus excluded, the reporting obligation to the competent authorities.

### **3.5 Abnormal situations related to insurance operations**

Consideration of money-laundering regulation is part of the pension insurance companies' risk management.

The national money-laundering and terrorist financing risk assessment of 2021 did not specifically name risks related to statutory earnings-related insurance. Rather, it treated pension insurance companies in the same insurance sector classification generally with insurance companies and insurance representatives. This classification includes various actors and a range of insurance products. In its own risk assessment, Fiva has not yet identified risks inherent to the pension insurance companies. In the Fiva supervisory strategy, earnings-related pension insurance is classified among the lowest overall risk sectors on the basis of supervisory risk evaluation. In light of the foregoing, earnings-related pension insurance is generally not considered to carry significant money-laundering risk.

There have been small numbers of "ghost insurance" situations, and the sums insured in these cases have been small. The situations could have involved insurance of non-existent business operations, or reporting a larger than actual number of employees, thus enabling money laundering through payment refunds. However, this risk has been reduced since the introduction of the Incomes Register.

In self-employed persons' pension insurance, it could be possible to launder money by claiming an exaggerated income for pension insurance purposes and paying excessively high pension premiums. Under Section 112 of the Self-employed Persons' Pension Insurance Act, the pension insurance company must confirm an income for pension insurance purposes which matches the self-employed person's labour contribution. In doing so, it establishes the grounds for seemingly large payments, observes possible abuses, and can intervene in them. In addition, on the basis of the Act, the pension insurance company initiates a review of the self-employed person's income for pension insurance purposes every three years.

Another suspicious situation would be one in which cash was offered to pay for pension premiums. The pension insurance companies do not accept cash, thus reducing the money-laundering risk.

Here, examples of situations related to earnings-related pension insurance are presented in a general fashion. These situations must be identified. They may carry an elevated risk. Each pension insurance company has arranged oversight, operating principles and procedures for monitoring, which it considers in its operating methods.

- 1) In general, all customer transactions of unusual or abnormal structure or size or which are unusual or abnormal in relation to the customer's scope and sector.
- 2) Remote identification

If the contract is concluded by telephone, email or via an agent, the customer's identity must be verified from a reliable source. In addition, the origin of a business-related payment from a financial institution's account or the payment of it to an account which was previously opened in the customer's name must be ensured. Alternatively, the customer's identity can be verified using strong electronic authentication and using a means of identification or electronic signature with a qualified certificate intended by the Act on Strong Electronic Identification and Electronic Trust Services (617/2009), or another electronic identification technology which is data secure and verifiable. Such an identifier may include a bank-issued online banking key ("strong electronic identification").

- 3) Refunds of premiums, such as in conjunction with retroactive closure, particularly high refund amounts and bank accounts to which refunds are paid.

When issuing refunds, particular attention must be paid to high and/or repeated refund amounts or otherwise suspicious refunds. In this case, the reasons for high refund amounts are always established.

Regarding refunds, particular attention must be paid to a new bank account number provided by a contractual party to an insurance policy. In this case, it must be established, if necessary and when possible, whether the bank account belongs to the entitled refund recipient. At the time of writing, current regulations prevented pension insurers from receiving information from the custodian organization transmitting the payment (bank) about the owner of the customer's notified payment account. A customer is always asked for an account number in writing, unless one already exists in the customer system.

- 4) Ungrounded self-employed person's pension insurance
- 5) The customer has a link to a state whose money-laundering and terrorist finance prevention and investigation system forms, in the view of the European Commission, a significant risk to the EU single market or which does not fulfil international obligations.
- 6) The customer works in a sector which is considered in international risk assessment, for example, to carry a high risk.

### 3.6 Identification of beneficial owner

The pension insurance companies may, when so permitted by the money-laundering risk assessment, apply a simplified procedure to their KYC obligations in cases where, in their risk evaluation, it is assessed that the customer relationship or individual transaction carries a minor risk of money laundering or terrorist financing.

A simplified procedure must also include all actions related to identifying the customer, but they may be conducted in a simplified fashion. For example, this means that a pension insurance company must identify a customer's beneficial owners, but the beneficial owners' identity need only be verified in an enhanced authentication situation, that is, when on the basis of the risk-based assessment the customer carries an elevated risk of money laundering or terrorist financing.

Each company defines the identification procedures for beneficial owners individually on the basis of the company's own risk assessment.

### 3.7 Enhanced KYC obligation for politically exposed persons (PEP)

In the interpretation of Fiva (Money Laundering R&G 6.6.2., point 182), within the framework of the risk-based procedures intended by Chapter 3, Section 13, Sub-section 1 of the Money Laundering Act, the politically exposed person (PEP) status of a customer or their beneficial owner does not need to be established when the insurance product is of a type other than the life and other investment insurance policies intended by Chapter 3, Section 5 of the Money Laundering Act. However, Chapter 3, Section 13, Sub-section 2 of the Money Laundering Act requires PEP status of a customer and their beneficial owner to be established in relation to these products also, if the customer relationship or individual transaction carries a higher risk of money laundering or terrorist financing than usual.

Earnings-related pension insurance must be issued to all, regardless of the person's status.

### 3.8 Investment

In investment, the pension insurance company is usually in the customer's role, in which case the company is subject to the identification and KYC obligations.

The customer of the pension insurance company's investment activities means the body that acquires the pension insurance company's other services (see definition). It must be noted that in investment activities, the pension insurance company invests its own assets. Legislation prohibits it from investing on others' behalf. It must also be noted that no capital can be channelled into a pension insurance company for investment purposes. The only gain that can be attained is the amount of the share capital or guarantee capital portions and a reasonable return calculated on that amount.

In its own risk assessment, the pension insurance company assesses the risk defined in the Money Laundering Act when this risk is associated with other services given to the customer besides insurance services.

When conducting transactions, pension insurance companies identify their contractual partners. As responsible actors and investors, pension insurance companies monitor the counterpart's activities and acquire information on their contractual partner over a wide range.

In credit and financing services or in other services (e.g. leasing), the customer is not usually met in person. The customer may also be identified by a body other than a pension insurance company (e.g. a bank), or the customer has already been identified at an earlier stage when the customer relationship was established. The pension insurance company ensures that it has access to the information about how the customer is known, if a third party has met the KYC obligations on its behalf. In this situation, the pension insurance company is not exempted from the responsibilities specified in the Money Laundering Act.

### **3.9 Establishment and maintenance of customer relationship**

Statutory earnings-related pension insurance is part of obligatory insurance: as a rule, earnings-related pension insurance must be issued to applicants when the conditions for insuring them are met.

The key obligations of the Money Laundering Act are identification of the customer and customer's representative, verification of identity, establishment of competence, KYC, constant customer monitoring, and the risk-based approach.

In earnings-related pension insurance, the customer must be identified, both from the perspective of the fulfilment of requirements for insurance and the obligations under the Money Laundering Act.

The pension insurance company monitors the customer constantly and asks them to submit any outstanding information concerning the customer.

### **3.10 Reporting obligation**

The pension insurance company must ensure that it has the necessary internal processes and procedures to fulfil its reporting obligation.

If the pension insurance company observes an abnormal customer transaction, and is after fulfilling its obligation obtain information unable to exclude abnormal activity or any suspicion, must immediately inform the National Bureau of Investigation's money-laundering investigation centre.

This notification is not a report of a crime but the observation of an entity with reporting obligation of an unusual transaction or arrangement. The threshold for money-laundering suspicion notifications should be kept low. The punishable threshold for the dishonesty of a debtor is much higher than the threshold for reporting suspected money laundering. The form and content of a report are regulated by the Money Laundering Act, and the money-laundering investigation centre provides guidance.