24 May 2023

Decision

Finansinspektionen
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My Change Scandinavia AB
Attn: Board of Directors

FI Ref. 22-23
Notification No. 1

Sent only by email to: mychangeab@outlook.com

Injunction to cease operations

Decision by Finansinspektionen

1. Finansinspektionen is issuing an injunction to My Change Scandinavia AB, CIN 556881-8537, to cease its currency exchange operations no later than 24 August 2023.

(Section 11 of the Certain Financial Operations (Reporting Duty) Act (1996:1006))

2. The decision set out in point 1 shall enter into force immediately.

(Section 18 of the Certain Financial Operations (Reporting Duty) Act (1996:1006))

For information on how to appeal, see the appendix.

Summary

My Change Scandinavia AB (My Change or the firm) is a registered currency exchanger pursuant to section 2 of the Certain Financial Operations (Reporting Duty) Act (1996:1006). Finansinspektionen has investigated My Change's compliance with the Anti-Money Laundering and Counter-Terrorist Financing Act (2017:630) (Anti-Money Laundering Act). The investigation was limited to the firm's general risk assessment and risk assessment of customers, as well as its customer due diligence procedures, guidelines, and measures.

My Change is a small currency exchange firm that conducts currency exchange transactions in cash. The products the firm offers are associated with a high risk of money laundering and terrorist financing.

Overall, the investigation shows that My Change has committed severe, repeated and systematic violations within all of the areas subject to investigation. It is Finansinspektionen's assessment that the firm has not implemented in its operations any meaningful measures to meet the requirements of the Anti-Money Laundering Act.

My Change's violations relate to the most fundamental requirements in the Anti-Money Laundering Act. The firm has had insufficient policy documents in the form of deficient procedures and guidelines and completely lacked a general risk assessment. In addition, My Change has not assessed its customers' risk profiles or taken due diligence measures for any of the transactions that Finansinspektionen reviewed. My Change has not introduced any meaningful measures into its operations to fulfil the requirements of the Anti-Money Laundering Act's requirements or to mitigate the risk of money laundering and terrorist financing in its operations. Finansinspektionen therefore makes the assessment that there is a high risk that My Change may be used by criminals with the intention of laundering illicit gains or terrorist financing.

The violations are of such a nature that Finansinspektionen considers there to be grounds on which to intervene against My Change. The severity of the violations and My Change's inability to fulfil the requirements of the Anti-Money Laundering Act going forward mean that Finansinspektionen has decided to issue an injunction to My Change to immediately cease its currency exchange operations.

1. Background

1.1 The firm and its operations

My Change was registered as a currency exchange firm on 19 December 2012 pursuant to the Certain Financial Operations (Reporting Duty) Act. In addition, the firm has been registered as an agent for the payment institution Ria Payment Institution EP SA. According to My Change, its currency exchange operations solely target private individuals, and its operations are carried out exclusively at a store in Uppsala. The firm also conducts some sales of precious metals and jewellery. This part of its operations does not need to be

registered with Finansinspektionen. The investigation therefore only refers to the firm's currency exchange operations.

According to its most recently adopted annual report for the 2021 financial year, My Change reported operating revenues of approximately SEK 2.3 million and a balance sheet total of SEK 1.7 million. My Change has reported that the firm does not have any employees that work with the currency exchange operations other than the firm's representative.

1.2 High risk of money laundering and terrorist financing in currency exchange activities

The Anti-Money Laundering Act aims to prevent financial operations from being used for money laundering or terrorist financing. Money laundering is a criminal activity where criminals use financial firms such as currency exchange businesses to make illegal proceeds available for consumption and investments. Currency exchange with the aim of laundering money can occur by either exchanging SEK for foreign currency or exchanging between different Swedish denominations. Terrorist financing can occur by a criminal collecting, providing or receiving money either to use the money themselves or with the knowledge that another person will use the money for example for a terrorist act.

The Anti-Money Laundering Act adopts a risk-based approach. This means that an obliged entity must identify the risks of money laundering and terrorist financing to which its business is exposed and implement measures that are proportionate to this risk. The work that a financial institution needs to do to prevent its operations from being used for money laundering and terrorist financing consist of several concurrent parts that are dependent on one another.

The Anti-Money Laundering Act sets forth that an obliged entity initially must assess how the products and services its business offers can be used for money laundering and terrorist financing and how large the risk is of this happening (general risk assessment). The general risk assessment is a key component that enables an obliged entity to efficiently design its work to prevent money laundering and terrorism financing. This assessment must serve as a basis for the business's procedures, guidelines and other measures in the area.

The Anti-Money Laundering Act furthermore requires that an obliged entity have sufficient knowledge about its customers to be able to manage the risk of money laundering or terrorist financing that can be associated with the

customer relationship. The obliged entity must also assess the risk of money laundering or terrorist financing potentially associated with each customer (assessment of the customer's risk profile). The obliged entity must assess the customer's risk profile based on the general risk assessment and the obliged entity's knowledge of the customer.

The National Risk Assessment of Money Laundering and Terrorist Financing has identified the currency exchange sector as being particularly vulnerable to money laundering since transactions are cash-intensive, which limits traceability. The risk of money laundering is also high since the transactions are often carried out over the counter and immediately.[1]

The Swedish Police Authority has identified in particular illicit gains from drug trafficking as probably the area where there is the greatest risk of illicit gains being laundered through currency exchange operations. The Swedish Police Authority has also noted that currency exchange operations could be used as an important part of the criminal infrastructure for large-scale commercial money laundering and that it is likely that criminal individuals and groups are taking advantage of this possibility.[2]

1.3 The case

Finansinspektionen opened an investigation on 5 January 2022 into My Change's compliance with the Anti-Money Laundering Act. The investigation was limited to how the firm's currency exchange operations comply with the requirements set out in the Anti-Money Laundering Act with regard to the general risk assessment, the risk assessment of customers, customer due diligence procedures and guidelines, and customer due diligence measures.

Finansinspektionen held a meeting with My Change at the firm's premises on 18 February 2022 and asked the firm's representative questions.

Finansinspektionen sent a so-called verification letter to My Change on 16 June 2022, in which the authority presented its observations and preliminary assessments. My Change replied to the verification letter on 8 August 2022.

[1] National Risk Assessment of Money Laundering and Terrorist Financing in Sweden 2020/2021, p. 53.
[2] Penningtvätt via växlingskontor (Money Laundering via Currency Exchange Offices), Swedish Police Authority, National Operative Department, November 2021, p. 17.

During the autumn of 2022, Finansinspektionen requested supplementary material from My Change for the period June–November 2022.

Finansinspektionen decided on 14 November 2022 to open an assessment of intervention against My Change. On 15 November 2022, Finansinspektionen informed the firm of this decision. My Change was given the opportunity on 21 December 2022 to submit a statement regarding Finansinspektionen's observations and preliminary assessments as well as the authority's considerations to intervene against the firm. My Change submitted its statement on 18 January 2023.

1.4 Scope of the investigation

Finansinspektionen's investigation covers the period 1 January 2021–31 December 2021 (the investigation period). Finansinspektionen has also reviewed material from the period June–November 2022.

Finansinspektionen requested and reviewed as part of the investigation the following material, including appendices, from My Change that was in effect during the investigation period: guidelines and instructions for measures to combat money laundering and terrorist financing (the guidelines), 61 customer files that contain documented information about a number of customers who made specific transactions, a list of all transactions made by the firm during the period July 2021–December 2021, and the firm's customer due diligence form.

Finansinspektionen also requested My Change's general risk assessment. However, the firm did not have a general risk assessment during the investigation period.

Finansinspektionen furthermore requested and reviewed the following material that was in effect after the investigation period: the firm's general risk assessment that was adopted by the firm's Board of Directors in January 2022, the firm's updated guidelines and instructions for measures to combat money laundering and terrorist financing, 20 customer files, and a list of all 493 transactions made by the firm during the period 10 August–10 September 2022.

2. Finansinspektionen's observations and assessments

In this section, Finansinspektionen describes its observations and assessments of My Change's general risk assessment, risk assessment of customers, and customer due diligence procedures, guidelines and measures.

2.1 No general risk assessment

2.1.1 Applicable provisions

Pursuant to Chapter 2, section 1, first paragraph of the Anti-Money Laundering Act, an obliged entity shall assess how the products and services that are provided in the operations can be used for money laundering or terrorist financing and how large the risk is that this could occur (general risk assessment).

2.1.2 Observations and assessment of general risk assessment

During the investigation period, My Change had not conducted any general risk assessment of how the products and services provided by the firm could be used for money laundering or terrorist financing, which the firm also confirms. My Change confirms that the Anti-Money Laundering Act's requirement on performing a general risk assessment is unconditional but takes the position that the general risk assessment does not have any value on its own and at best serves as theoretical support for the operations. My Change takes the position that it is fully possible to meet the objective in the Anti-Money Laundering Act without having a general risk assessment as long as the firm, through its operational measures for, among other things, customer due diligence, manages the actual risks in the operations. The firm has prepared a general risk assessment after the end of the investigation period.

In a general risk assessment, an obliged entity must assess how the products and services it provides can be used for money laundering or terrorist financing and how large the risk is that this will occur. A general risk assessment, pursuant to Chapter 2, section 2 of the Anti-Money Laundering Act, must also serve as a basis for the obliged entity's procedures, guidelines and other measures to combat money laundering and terrorist financing. The requirement on performing a general risk assessment is thus of fundamental importance since it aims for the obliged entity to be able to both identify and manage the risks of money laundering and terrorist financing that are present in its operations. The general risk assessment, in other words, is not a theoretical

support but rather the opposite – it is important for an obliged entity's work to combat money laundering and terrorist financing.

Without a general risk assessment, the firm lacks an overview about which risks of money laundering and terrorist financing require the firm to take additional customer due diligence measures. The firm thus does not have the opportunity to apply and follow the risk-based approach required by the Anti-Money Laundering Act. The lack of a general risk assessment furthermore leads to an obvious increase in the risk of the firm being used for money laundering and terrorist financing. Finansinspektionen makes the assessment that My Change's lack of a general risk assessment during the investigation period means that the firm did not meet the requirement set out in Chapter 2, section 1 of the Anti-Money Laundering Act.

2.2 Deficient assessment of the customer's risk profile

2.2.1 Applicable provisions

Chapter 2, section 3, first paragraph of the Anti-Money Laundering Act states that an obliged entity must assess the risk of money laundering or terrorist financing that may be associated with the customer relationship (the customer's risk profile). The customer's risk profile should be determined based on the general risk assessment and the obliged entity's knowledge of the customer.

Chapter 1, section 8, point 4 of the Anti-Money Laundering Act defines a customer to be a person who has entered into or is about to enter into a contractual relationship with an obliged entity.

2.2.2 Observations and assessment of My Change's assessment of the customer's risk profile

In the initial stages of the investigation, My Change told Finansinspektionen that the firm did not consider itself to have customers within the meaning of the Anti-Money Laundering Act. However, later in the process, My Change agreed with the authority's assessment that all persons exchanging money at the firm should be considered customers under the Anti-Money Laundering Act since they enter into, or are about to enter into, a contractual relationship with an obliged entity.

The investigation shows that My Change has not had procedures during the investigation period for how the firm should determine the customer's risk profile. After the end of the investigation period, My Change prepared and

submitted policy documents in which the firm describes when and how the firm will assess the customer's risk profile. Finansinspektionen notes that the updated policy documents state that different risk factors should be assigned differing levels of significance in the risk assessment. However, the policy documents do not specify which significance each risk factor should be assigned during the assessment. The updated guidelines also do not provide guidance on how different risk factors relate to the two risk classes the firm applies.

Furthermore, My Change stated that the firm, despite it not considering it to have any customers, has assessed the risk profile of every person who wanted to exchange money at the firm, but admits that there is no documentation supporting that the assessments were performed. Based on all of the customer files that Finansinspektionen requested, related to both during and after the investigation period, there is no documentation that supports the assertion that My Change has assessed the risk of any of the persons who have exchanged money at the firm.

My Change has not been able to show that the firm has performed any actual assessment of its customers' risk profiles. Finansinspektionen therefore makes the assessment that, during the investigation period, My Change has not fulfilled its obligation to assess its customer's risk profile pursuant to Chapter 2, section 3 of the Anti-Money Laundering Act, and this deficiency persisted even after the investigation period.

2.3 Inadequate procedures and guidelines for customer due diligence

2.3.1 Applicable provisions

Pursuant to Chapter 2, section 8 of the Anti-Money Laundering Act, an obliged entity must have documented procedures and guidelines for its customer due diligence measures. The procedures and guidelines must be continually adapted to new and changed risks of money laundering and terrorist financing. The scope and content of the procedures and guidelines must be determined based on the obliged entity's size and nature and the risks of money laundering and terrorist financing that have been identified in the general risk assessment.

In the preparatory work for the Anti-Money Laundering Act, the legislator states that the obliged entity's procedures and guidelines are very important. They must provide clear and detailed rules of conduct that can be understood

and are adapted to both the operations and various situations that may arise. An obliged entity's procedures and guidelines largely replace in practice detailed provisions in laws and regulations regarding clear and detailed rules of conduct.[3]

The aim of the procedures and guidelines is for the obliged entities to have risk-based and operationally adapted rules for how they will fulfil the requirements set out in the Anti-Money Laundering Act and manage the various situations and assessments that arise when applying the regulatory framework. The areas for which the obliged entity must have procedures and guidelines correspond in part to the requirements set out in Chapter 3 of the Anti-Money Laundering Act on customer due diligence, including customer due diligence in business relationships and individual transactions.[4]

Chapter 1, section 8, point 1 of the Anti-Money Laundering Act states that a "business relationship" means a business relationship which, once contact is established, is expected to last some time.

2.3.2 Observations and assessment of customer due diligence procedures and guidelines

As presented above, it is very important for the obliged entity to design internal procedures and guidelines to aid the operations in efforts to combat money laundering and terrorist financing. This applies in part to procedures and guidelines for customer due diligence measures and rules of conduct to investigate and establish when an obliged entity enters into a business relationship with a customer. Without sufficient customer due diligence, it is difficult for the obliged entity to understand the customer's activities and transactions. This means that the obliged entity will find it more difficult to both identify and prevent suspected money laundering and terrorist financing.

Finansinspektionen noted that, during the investigation period, My Change did not have sufficient detailed and documented procedures and guidelines for the firm's customer due diligence measures. My Change's guidelines contained a list of customer due diligence measures the firm should take. However, the guidelines had no instructions for *how* the firm should gather the information and document the customer due diligence measures other than a procedure for verifying the customer's identity and a reference to the firm's customer due

[3] Bill 2016/17:173 p. 212.
[4] Bill 2016/17:173 p. 515.

diligence form. Furthermore, My Change has not had any documented procedures for assessing if and when the firm establishes a business relationship or documented procedures for verifying if a customer is established in a high-risk third country.

My Change's internal guidelines, which are mentioned above, state that the firm must take customer due diligence measures for all customers. However, My Change has stated that the firm has only taken measures for transactions that have amounted to or exceeded SEK 20,000. The firm also stated that it applied some procedures, for example, to how many times per year a customer may return, but these procedures have not been documented.

My Change acknowledged that there was a discrepancy between the firm's customer due diligence guidelines and the measures the firm has applied in practice. My Change considers this discrepancy to have been rectified since the firm, after the investigation period, prepared new clearer procedures and planned to perform independent compliance checks.

Finansinspektionen notes that the new procedures and guidelines are more detailed and extensive than previously. They state, for example, that the firm must obtain information and document customer due diligence measures for all customers and how this should be done. However, My Change's procedures do not contain rules of conduct as required by the Anti-Money Laundering Act to assess if and when the firm is establishing a business relationship. They also do not state when My Change considers a customer relationship to shift from a temporary business relationship to a permanent customer relationship within the meaning of the Anti-Money Laundering Act. My Change stated that the firm has not entered into any business relationships since the firm considers currency exchange to be a temporary interaction.

The Anti-Money Laundering Act is based on a risk-based approach, and the legislator attaches considerable importance to detailed rules of conduct that are adapted to the operations and the various situations that may arise. During the investigation period, My Change has not had documented procedures and guidelines for how the firm should collect and document customer due diligence measures. The firm also did not assess when a business relationship arises both during and after the investigation period. An essential part of My Change's customer due diligence procedures thus have not been documented. Given this background, Finansinspektionen makes the assessment that, during the investigation period and in relation to these areas, My Change did not have such documented procedures and guidelines for customer due diligence

measures as required under Chapter 2, section 8 of the Anti-Money Laundering Act and that this arrangement persisted even after the firm implemented measures to rectify the matter.

2.4 Inadequate customer due diligence measures

2.4.1 Applicable provisions

Chapter 3, section 1 of the Anti-Money Laundering Act states that an obliged entity may not establish or maintain a business relationship or execute occasional transactions if the obliged entity does not have sufficient knowledge of the customer to enable it to manage the risk of money laundering and terrorist financing that may be associated with the customer relationship and monitor and assess the customer's activities and transactions pursuant to Chapter 4, sections 1 and 2.

Chapter 3, section 4 of the Anti-Money Laundering Act states that an obliged entity must take customer due diligence measures when a business relationship is established. If the obliged entity does not have a business relationship with the customer, customer due diligence measures must be taken for occasional transactions corresponding to EUR 15,000 or more or transactions that are less than an amount corresponding to EUR 15,000 and that the obliged entity realises or should realise are linked to one or several transactions that together amount to at least this amount.

Pursuant to Chapter 4, section 1 of the Anti-Money Laundering Act, an obliged entity must monitor ongoing business relationships and assess individual transactions to identify activities and transactions that

1. deviate from what the obliged entity has cause to expect, based on the knowledge it has of the customer;

2. deviate from what the obliged entity has cause to expect based on the knowledge it has about its customers, the products and services it provides, the data submitted by the customer and other circumstances; or

3. do not deviate as described in points 1 or 2, but can be assumed to be linked to money laundering or terrorist financing.

The focus and scope of the monitoring must be determined by taking into account the risks that have been identified in the general risk assessment, the risk of money laundering and terrorist financing that may be associated with the customer relationship, and any other information about the approach to money laundering or terrorist financing.

Chapter 4, section 2 of the Anti-Money Laundering Act states that if any deviations or suspicious activities or transactions are detected pursuant to Chapter 4, section 1 or in any other way, an obliged entity must apply enhanced customer due diligence measures pursuant to Chapter 3, section 16 and other necessary measures to assess whether there are reasonable grounds on which to suspect that it involves money laundering or terrorist financing or that property otherwise derives from criminal activity.

The requirement to apply enhanced customer due diligence measures to deviations or suspicious transactions applies in accordance with the preparatory works of the Anti-Money Laundering Act also to transactions amounting to less than EUR 15,000.[5]

Chapter 3, section 16 of the Anti-Money Laundering Act states that if the risk of money laundering or terrorist financing that may be associated with the customer relationship is assessed as being high, much more extensive checks, assessments and investigations must be carried out pursuant to Chapter 3, sections 7, 8 and 10–13. In such a case, the measures must be supplemented with the enhanced measures that are required to combat the high risk of money laundering or terrorist financing. These measures may refer to obtaining additional information about the customer's business operations and financial situation and data about where the customer's financial resources come from.

2.4.2 Observations and assessment of customer due diligence measures

The guidelines for customer due diligence that applied to My Change during and after the investigation period state that the firm must always take basic customer due diligence measures and also take enhanced measures if the transaction is unusually larger or performed in an unusual manner. My Change stated that the firm has taken customer due diligence measures when such an obligation has arisen pursuant to the Anti-Money Laundering Act, i.e., when occasional or related transactions together have amounted corresponding to EUR 15,000. My Change also stated that the firm in some cases has taken customer due diligence measures even when it considers such an obligation not to have arisen by law. However, the firm has not specified what these measures were.

[5] Bill 2016/17:173 p. 291.

Given the statements made by My Change, the design of the firm's policy documents, and that only 2.9 per cent of the firm's transactions exceeded SEK 20,000 during the investigation period, it is Finansinspektionen's assessment that My Change, both during and after the investigation period, has considered that transactions greater than SEK 20,000 deviate to such an extent compared to the transactions in general that the firm must take enhanced customer due diligence measures. My Change has not objected to Finansinspektionen's assessment, with the addition that the amount threshold of SEK 20,000 is one of several risk indicators that the firm considers in its assessment of the customer and the transaction. The firm has also stated that a certain amount threshold is not the only determining factor, but rather that a smaller transaction can also be risky.

None of the customer folders that Finansinspektionen has reviewed show that My Change has taken any customer due diligence measures other than to gather information about the customer's identity, regardless of the transaction's size.

My Change acknowledged that there was a discrepancy during the investigation period between the firm's documented procedures and the customer due diligence measures the firm has applied in practice. My Change considers the firm to have rectified the deficiency by preparing new, more concise procedures and using independent compliance controls.

My Change's updated internal guidelines contain a list of behaviours and activities that constitute high-risk factors and that the firm should react to as suspicious. The general risk assessment that My Change has prepared after the investigation period states that the majority of the firm's transactions amount to between SEK 2,000-3,000, which the firm considers to be normal for a person who exchanges money to travel abroad and for a person who has travelled abroad to exchange to SEK. The general risk assessment also contains information about the threshold for how large of an amount a single customer may exchange. The threshold is set at EUR 2,000 or the equivalent for an individual transaction and EUR 4,000 or the equivalent for total transactions for a single customer. In other words, according to its own guidelines, My Change may not conduct transactions that exceed these amounts.

Finansinspektionen notes that My Change provides conflicting thresholds in its own guidelines since it prepared a general risk assessment. On the one hand, transactions larger than SEK 20,000 in general are not allowed, but on the

other hand My Change must take enhanced customer due diligence measures for transactions that exceed this amount.

Finansinspektionen has reviewed 20 customer files about transactions My Change has carried out during the period 10 August–10 September 2022, i.e., since the firm implemented rectification measures. The review shows that My Change did not take any other customer due diligence measures for any of these transactions other than obtaining information about the customer's identity. Finansinspektionen also notes that My Change, during this period, carried out a total of seven transactions that exceeded the threshold of the equivalent of EUR 2,000 as the firm specified in its general risk assessment. My Change thus has not considered its own ban on transactions exceeding EUR 2,000 or taken customer due diligence measures that the firm should have taken – neither during or after the investigation period. This means that My Change has not identified these transactions as deviations. Finansinspektionen makes the assessment that this is a violation of the requirement to assess occasional transactions with the aim of identifying activities and transactions that deviate from what the obliged entity has cause to expect pursuant to Chapter 4, section 1of the Anti-Money Laundering Act.

The fact that My Change has conducted transactions that exceed the amount threshold in the firm's general risk assessment furthermore entails, in Finansinspektionen's opinion, that the transactions require enhanced customer due diligence measures pursuant to Chapter 4, section 2 of the Anti-Money Laundering Act. Since My Change has not taken customer due diligence measures for any transactions other than obtaining information about the customer's identity, Finansinspektionen makes the assessment that My Change has not taken the enhanced customer due diligence measures that must be taken pursuant to Chapter 4, section 2 and Chapter 3, section 16 of the Anti-Money Laundering Act in conjunction with deviating transactions, either during or after the investigation period.

Taken together, this means, in Finansinspektionen's assessment, that My Change neither during nor after the investigation period has had the knowledge of the customer that is required to manage the risk of money laundering and terrorist financing in the customer relationship. My Change has conducted occasional transactions both during and after the investigation period without having sufficient knowledge about the customer as set out in Chapter 3, section 1 of the Anti-Money Laundering Act.

Finansinspektionen also makes the assessment that My Change's rectification measures in the form of new, clearer procedures have not had a practical impact on how the firm works to take customer due diligence measures.

3. Considerations for the intervention

3.1 Applicable provisions

Pursuant to section 10 of the Certain Financial Operations (Reporting Duty) Act, Finansinspektionen may intervene against a financial institution that, after registration pursuant to section 2, violates a provision in the Anti-Money Laundering Act or regulations issued pursuant to this act.

Pursuant to section 11 of the Certain Financial Operations (Reporting Duty) Act, Finansinspektionen, in conjunction with a violation pursuant to section 10 of the Certain Financial Operations (Reporting Duty) Act, may order a financial institution to make a correction or, where violations are negligible, decide on an administrative fine. In the event of severe, repeated or systematic violations, Finansinspektionen may order a financial institution to cease its activities.

The preparatory works for section 11 of the Certain Financial Operations (Reporting Duty) Act states that Finansinspektionen, when determining the intervention against a financial institution that has committed severe, repeated or systemic violations, should conduct a forward-looking assessment. If corrective measures have been taken and there is cause to assume that the continued operations will be conducted in accordance with the provisions set out in the Anti-Money Laundering Act, an administrative fine can be decided to take a stance against the violations. If corrective measures have not been taken, or if for some other reason it can be assumed that the financial institution will not comply with the Anti-Money Laundering Act, the authority should consider issuing an injunction to cease operations.[6]

Section 13 of the Certain Financial Operations (Reporting Duty) Act states that when determining the intervention, Finansinspektionen must take into consideration the severity of the violation and its duration. Special consideration must be taken of any damages incurred and the degree of responsibility. Whether the institution previously committed a violation or whether the natural person in the institution's management previously has

[6] Bill. 2016/17:173 s. 590.

caused such a violation should be considered an aggravating circumstance. Whether the institution, or the natural person in the institution's management, to a significant extent has facilitated Finansinspektionen's investigation through active cooperation should be considered a mitigating circumstance. Whether the institution quickly ended the violation or whether the natural person in the institution's management quickly took action to end the violation since the violation was reported or identified by Finansinspektionen should also be considered a mitigating circumstance.

The preparatory works for section 13 of the Certain Financial Operations (Reporting Duty) Act state that the starting point of the assessment is to consider all relevant circumstances. The provision's first paragraph includes circumstances that are typically relevant and may impact the determination of the intervention in both an aggravating and mitigating way.[7] The circumstances listed in section 13 of the Certain Financial Operations (Reporting Duty) Act are not exhaustive.

Section 18 of the Certain Financial Operations (Reporting Duty) Act states that an injunction pursuant to section 11 of the Certain Financial Operations (Reporting Duty) Act may be combined with a fine and that Finansinspektionen may decide that an injunction shall go into effect immediately.

3.2 My Change's position

My Change has basically admitted the deficiencies noted by Finansinspektionen, noting in addition that it is unfortunate that the firm's documentation of customer due diligence measures has been inadequate. When it comes to My Change's noted lack of a general risk assessment during the investigation period, My Change said that a general risk assessment lacks value on its own and at best it serves as a theoretical support. My Change takes the position that it is fully possible to meet the objective the Anti-Money Laundering Act without having a general risk assessment as long as the firm, through its operational measures for, among other things, customer due diligence, manages the actual risks in the operations.

My Change furthermore stated that it has insight into the important role the firm holds in preventing money laundering and terrorist financing and takes a

[7] Bill 2016/17:173 p. 591.

serious view on the deficiencies Finansinspektionen has noted. The observations Finansinspektionen made have led to the firm taking certain improvement measures, for example clarifications of procedures and guidelines and training in the work to prevent money laundering and terrorist financing.

My Change considers that, after having taken these improvement measures, it has very good possibilities for following the Anti-Money Laundering Act going forward. My Change also says that the firm's representative has considerable experience in the currency exchange business and good knowledge about suspicious behaviour and transactions and would like Finansinspektionen to take this into consideration when deciding in this matter.

3.3 The violations require intervention

A currency exchange business is subject to a registration requirement under the Certain Financial Operations (Reporting Duty) Act, but otherwise is only subject to anti-money laundering supervision. The Anti-Money Laundering Act, like its underlying directive[8], takes a risk-based approach, under which a currency exchange firm must take measures that are proportionate to the risks of money laundering and terrorist financing to which it is exposed. The higher the risks in a business, its products and services or in relation to its customers, the more important it is for the business to both analyse the inherent risks and take actual measures to manage and mitigate the risk.

Currency exchange businesses have considerable exposure to cash, which due to its limited traceability leads to a particularly high risk for money laundering and terrorist financing. Exchanging cash makes it more difficult to follow the money, thus enabling the laundering of money from illicit gains such as the sale of narcotics.[9]

During the investigation period, My Change has not met the requirement set out in Chapter 2, section 1 of the Anti-Money Laundering Act to conduct a general risk assessment. Finansinspektionen furthermore makes the assessment that My Change has also not fulfilled its obligations pursuant to the rules on

[8] Directive 2015/849/EC of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (Fourth Anti-Money Laundering Directive).
[9] National Risk Assessment of Money Laundering and Terrorist Financing in Sweden 2020/2021, p. 52 and Penningtvätt via växlingskontor (Money Laundering via Currency Exchange Offices), Swedish Police Authority, National Operative Department, November 2021, p. 15.

risk assessment of customers set out in Chapter 2, section 3 of the Anti-Money Laundering Act, customer due diligence procedures and guidelines set out in Chapter 2, section 8 of the Anti-Money Laundering Act, and customer due diligence measures set out in Chapter 3, section 1; Chapter 3, section 16; Chapter 4, section 1; and Chapter 4, section 2 of the Anti-Money Laundering Act.

Finansinspektionen's investigation thus shows that overall, throughout the entire investigation period, there have been considerable inadequacies in My Change's compliance with the Anti-Money Laundering Act. My Change has not only completely lacked a general risk assessment and had inadequate procedures and guidelines, but the firm has also not followed the guidelines the firm itself has prepared. Except for obtaining information about its customers' identity, My Change has not taken any effective customer due diligence measures at all or assessed its customers' risk profiles.

My Change has been in violation of the Anti-Money Laundering Act's most fundamental and central provisions. The violations have fundamentally and greatly impaired My Change's possibilities for effectively working to prevent money laundering and terrorist financing. The violations cannot be considered to be negligible or excusable. The circumstance that My Change has taken some improvement measures and rectified some deficiencies, given the scope of the remaining deficiencies, does not mean that Finansinspektionen should refrain from intervening against the company. Overall, there are grounds for Finansinspektionen to intervene against My Change.

3.4 Choice of intervention

Finansinspektionen may order a financial institution that has violated a provision of the Anti-Money Laundering Act to make a correction or, if the violations are not negligible, decide on an administrative fine. In the event of severe, repeated or systematic violations, Finansinspektionen may order a financial institution to cease operations.

In its choice of intervention, Finansinspektionen shall take into account the severity of the violations and their duration. Finansinspektionen must give special consideration to the damages incurred and the degree of responsibility. However, as presented above, these circumstances are not exhaustive, but rather Finansinspektionen must consider all relevant circumstances in its choice of intervention.

The violation of the requirement set out in Chapter 2, section 1 of the Anti-Money laundering Act to perform a general risk assessment, in Finansinspektionen's assessment, is a severe and systematic deficiency since the risk assessment forms the basis of a firm's work to prevent money laundering and terrorist financing. A business that does not have a general risk assessment at all will find it difficult to identify and manage risks in the business and faces a high risk that it will be used for money laundering and terrorist financing. The Court of Appeal has taken the position in previous rulings that the absence of a suitable general risk assessment constitutes a severe violation of the Anti-Money Laundering Act. The Court of Appeal has ruled that the absence of a general risk assessment constitutes a systematic violation of the Anti-Money Laundering Act.[10] Finansinspektionen makes the assessment that My Change's lack of a general risk assessment is such a severe and systematic deficiency as referred to in section 11 of the Certain Financial Operations (Reporting Duty) Act.

Finansinspektionen has furthermore been able to note that My Change has not met the requirement set out in Chapter 2, section 3 of the Anti-Money Laundering Act to assess the customer's risk profile, which means that the firm does not have the conditions for being able to manage the risk associated with the customer. This means in turn that the there is a risk that it will be possible to use the business for illegitimate purposes such as money laundering or terrorist financing. Finansinspektionen makes the assessment given My Change's structural and practical deficiencies in respect of the requirement set out in Chapter 2, section 3 of the Anti-Money Laundering Act that the violation is to be considered both severe and systematic. Finansinspektionen has furthermore been able to note that the violation occurred continuously during the entire investigation period. Finansinspektionen therefore makes the assessment that My Change also has conducted this part of the violation repeatedly.

My Change has not documented and adapted its procedures and guidelines pursuant to Chapter 2, section 8 of the Anti-Money Laundering Act for customer due diligence measures and an assessment of when the firm enters into a business relationship. Finansinspektionen therefore makes the assessment that there is a risk that My Change will not notice when a business

[10] See the Court of Appeal's case law on the intervention provision set out in Chapter 7, section 11 of the Anti-Money Laundering Act: the Court of Appeal in Stockholm Case No. 2311-21 Ruling 2021-12-16 p. 8; the Court of Appeal in Stockholm Case No. 2334-21 ruling 2021-12-16 p. 7; and Court of Appeal in Stockholm Case No. 2331-21 ruling 2021-12-16 p. 6.

relationship arises or take the customer due diligence measures required by law. This means that My Change cannot manage the risk associated with the business relationship, the customer or the transaction, which in turn can lead to the firm being used for money laundering or terrorist financing. The Court of Appeal has previously ruled that the absence of adapted procedures and guidelines to the business constitutes a severe violation of the Anti-Money Laundering Act. The Court of Appeal ruled in a case that the violation was systematic since the company had designed its procedures and guidelines in a way that enabled the company to evade situations that require customer due diligence measures according to the Anti-Money Laundering Act.[11] My Change's lack of suitable and adapted procedures and guidelines, in Finansinspektionen's assessment, is a severe and systematic violation pursuant to section 11 of the Certain Financial Operations (Reporting Duty) Act.

Finansinspektionen has been able to note that My Change has violated the Anti-Money Laundering Act's requirements on customer due diligence measures since the firm carries out transactions in conflict with its own internal policy documents, does not apply the enhanced customer due diligence measures required by law, and in general conducts transactions without sufficient knowledge of the customer to be able to manage the risk of money laundering and terrorist financing. The violations are extensive and taken together severe and systematic in nature. My Change's failure to comply leads to a concrete and increased risk of the firm being used for money laundering or terrorist financing. Finally, Finansinspektionen makes the assessment that My Change has repeated the violations since they arose throughout the entire investigation period. Overall, Finansinspektionen makes the assessment that the violations of the requirements set out in Chapter 3, section 1; Chapter 3, section 16; Chapter 4, section 1; and Chapter 4, section 2 of the Anti-Money Laundering Act are severe, repeated and systematic.

In summary, My Change has notably violated several fundamental provisions in the Anti-Money Laundering Act. Several of the violations that Finansinspektionen was able to observe are of such a nature that they have a

[11] The Administrative Court of Appeal in Stockholm Case No. 2311-21 Ruling 2021-12-16 p. 8; the Administrative Court of Appeal in Stockholm Case No. 2334-21 Ruling 2021-12-16 p. 7; and the Administrative Court of Appeal in Stockholm Case No. 2331-21 Ruling 2021-12-16 p. 6.

negative impact on the firm's work to prevent money laundering and terrorist financing.

The violations, to the extent that Finansinspektionen is aware, have not led to any concrete losses or had an impact on the financial system. However, the violations, given the background of the high risk associated with cash handling and currency exchange business, have posed a high risk that My Change, and thereby the financial system, could have been used for money laundering and terrorist financing.

Finansinspektionen has not previously decided on an intervention against My Change or the firm's representative. The circumstance that My Change has not even had the most fundamental risk management mechanisms in place together with the circumstance the business inherently is associated with a high risk of being used for money laundering and terrorist financing, in Finansinspektionen's assessment, however, is an aggravating circumstance that should be considered pursuant to section 13 of the Certain Financial Operations (Reporting Duty) Act.[12] No mitigating circumstances have been noted, for example that My Change rapidly terminated the violations. The fact that My Change has taken some improvement measures does not mean that My Change rapidly terminated the violations. The measures are furthermore not of such character that they should be considered mitigating circumstances. That the firm has been helpful with information does not mean that the firm has materially facilitated Finansinspektionen's investigation.

Overall, according to Finansinspektionen, there is cause to view the type of violations conducted by My Change seriously. My Change's severe, repeated and systematic violations are to be considered deficiencies that are reprehensible given the central tenets of the Anti-Money Laundering Act.

To decide on an injunction to cease operations is a powerful intervention that has a major impact on the institution, its owners and its employees and may therefore not occur without strong grounds. If, in each individual case, it is shown that a decision on an administrative fine is an adequate measure, Finansinspektionen must instead make such a decision.

When assessing whether Finansinspektionen must decide to issue an injunction to My Change to cease operations or whether an administrative fine is

[12] Bill 2016/17:173 p. 591 states that the starting point of the assessment is to consider all relevant circumstances.

sufficient, Finansinspektionen must perform a forward-looking assessment of whether the firm will be able to comply with the Anti-Money Laundering Act's provisions in the future. My Change has not introduced into its operations any effective or suitable measures at all to mitigate the risk of money laundering and terrorist financing. Neither have the firm's corrective measures resulted in any noticeable change in the firm's work to combat money laundering and terrorist financing. Overall, this shows, in Finansinspektionen's opinion, that the firm does not have a basic understanding of neither the risks in its own business nor the risk-based approach in the Anti-Money Laundering Act. Furthermore, the absence of effective and suitable measures shows that the firm neither has the intention nor ability to follow its own procedures and guidelines going forward.

Finansinspektionen therefore takes the position that My Change, given a forward-looking assessment, will not be able to comply with the provisions of the Anti-Money Laundering Act in the future. The firm therefore is subject to a continued high risk of being used for money laundering and terrorist financing. Finansinspektionen therefore decides to issue an injunction to My Change to cease operations.

Given the severity of the violations, and that it can be assumed that My Change will not be able to comply with the provisions of the Anti-Money Laundering Act in the future, Finansinspektionen deems that there are grounds on which to declare that the decision to cease operations shall be combined with a deadline of three months and apply immediately.

This matter was decided by Executive Director Malin Alpen following a presentation by Legal Counsellor Andréa Amble. Department Director Andreas Heed, Deputy Department Director Malin Schierenbeck, Deputy Director Erik Blommé, Deputy Department Director Petra Bonderud and Supervisor George Lundqvist also participated in the final proceedings.

FINANSINSPEKTIONEN

Malin Alpen
Executive Director Payments

Andréa Amble
Legal Counsellor
Payment Law

This document has been signed digitally.

Notification receipt

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FI Ref. 22-23
Notification No. 1

Injunction to cease operations

Document:
Decision on injunction to cease with operations for My Change Scandinavia AB announced on **24 May 2023**.

I have received the document on this date.

.....	.....
Date	Signature
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	Name in print
	.....
	New address, if relevant
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By signing this notification receipt, you confirm that you have received the document. This is not a certification that you approve the content of the document.

It is important that you send the receipt back to Finansinspektionen as soon as possible. If you do not return the receipt, the notification may be issued in another manner, e.g., via a court officer.

Do not forget to specify the date on which you received the document.

Appendix 1

How to appeal

It is possible to appeal the decision if you consider it to be erroneous by writing to the Administrative Court. Address the appeal to the Administrative Court in Stockholm, but send the appeal to Finansinspektionen, Box 7821, 103 97 Stockholm or finansinspektionen@fi.se.

Specify the following in the appeal:

- Name, personal ID number or corporate ID number, postal address, email address and telephone number
- The decision you are appealing against and the case number
- What change you would like and why you believe the decision should be changed.

If you engage an legal representative, specify the name, postal address, email address and telephone number of the legal representative.

Finansinspektionen must receive the appeal within three weeks from the day you received the decision.

If the appeal was received on time, Finansinspektionen will assess whether the decision will be changed and then send the appeal, the documents in the appealed case and the new decision, if relevant, to the Administrative Court in Stockholm.