

**DEPARTMENT OF THE TREASURY****Financial Crimes Enforcement Network****31 CFR Part 1010**

RIN 1506-AB39

**Proposal of Special Measure Against ABLV Bank, AS as a Financial Institution of Primary Money Laundering Concern; Withdrawal****AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.**ACTION:** Withdrawal of finding and notice of proposed rulemaking.

**SUMMARY:** This document withdraws FinCEN's finding that ABLV Bank AS (ABLV) is a financial institution of primary money laundering concern and the related notice of proposed rulemaking seeking to impose the fifth special measure regarding ABLV, pursuant to section 311 of the USA PATRIOT Act (section 311). Because of material subsequent developments that have mitigated the money laundering risks associated with ABLV, FinCEN has determined ABLV is no longer a financial institution of primary money laundering concern that warrants the implementation of a special measure under section 311.

**DATES:** The finding and notice of proposed rulemaking, published at 83 FR 6986 (Feb. 16, 2018), are withdrawn as of September 27, 2024.

**ADDRESSES:** Mail: Global Investigations Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183.

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Resource Center at 1-800-767-2825 or electronically at [frc@fincen.gov](mailto:frc@fincen.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 (the "USA PATRIOT Act"). Title III of the USA PATRIOT Act amended the anti-money laundering provisions of the Bank Secrecy Act (BSA)<sup>1</sup> to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Section 311 of

<sup>1</sup> The BSA, as amended, is the popular name for a collection of statutory authorities that FinCEN administers that is codified at 12 U.S.C. 1829b, 1951-1960 and 31 U.S.C. 5311-5314, 5316-5336, and includes other authorities reflected in notes thereto. Regulations implementing the BSA appear at 31 CFR chapter X.

the USA PATRIOT Act (section 311), codified at 31 U.S.C. 5318A, grants the Secretary of the Treasury (Secretary) authority, upon finding that reasonable grounds exist for concluding that one or more financial institutions operating outside the United State is of primary money laundering concern, to require domestic financial institutions and financial agencies to take certain "special measures". The authority of the Secretary to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.<sup>2</sup>

The five special measures enumerated under section 311 are safeguards that may be employed to defend the U.S. financial system from money laundering and terrorist financing risks. The Secretary may impose one or more of these special measures in order to protect the U.S. financial system from such threats. Through special measures one through four, the Secretary may impose additional recordkeeping, information collection, and information reporting requirements on covered domestic financial institutions and domestic financial agencies—collectively, "covered financial institutions".<sup>3</sup> Through special measure five, to the Secretary may prohibit, or impose conditions on, the opening or maintaining in the United States of correspondent or payable-through accounts by covered financial institutions.<sup>4</sup>

**II. Procedural History and Subsequent Events****A. Finding and Notice of Proposed Rulemaking**

On February 16, 2018, FinCEN issued a notice of proposed rulemaking (NPRM) that (1) set forth FinCEN's finding that ABLV, a commercial bank located in Riga, Latvia, was, at that time, a foreign financial institution of primary money laundering concern and (2) proposed imposing special measure five under section 311, prohibiting covered financial institutions from opening or maintaining in the United States correspondent accounts for, or on behalf of, ABLV.<sup>5</sup>

<sup>2</sup> Pursuant to Treasury Order 180-01, the authority of the Secretary of the Treasury (Secretary) to administer the BSA, including, but not limited to, 31 U.S.C. 5318A, has been delegated to the Director of FinCEN. Treasury Order 180-01 (Jan. 14, 2020).

<sup>3</sup> 31 U.S.C. 5318A(b)(1)-(b)(4).

<sup>4</sup> 31 U.S.C. 5318A(b)(5).

<sup>5</sup> FinCEN, *Proposal of Special Measure Against ABLV Bank, AS as a Financial Institution of Primary Money Laundering Concern*, 83 FR 6986 (Feb. 16, 2018), available at [https://www.fincen.gov/sites/default/files/federal\\_register\\_notices/2018-02-16/2018-03214.pdf](https://www.fincen.gov/sites/default/files/federal_register_notices/2018-02-16/2018-03214.pdf).

**B. Subsequent Developments**

In light of significant developments since FinCEN issued that NPRM, FinCEN has now determined that ABLV is no longer a financial institution that is of primary money laundering concern.

**1. ABLV Lost Its License, Ceased Banking Operations, and Is Undergoing Irrevocable and Supervised Liquidation**

On February 23, 2018 (one week after FinCEN issued its NPRM), the European Central Bank (ECB) determined that ABLV—as well as its subsidiary ABLV Bank Luxembourg—was failing or likely to fail, noting that, following issuance of FinCEN's NPRM, ABLV had experienced an abrupt wave of deposit withdrawals and increasing lack of access to U.S. dollar funding.<sup>6</sup> As a result, the ECB instructed the Latvian supervisory authority, the then-named Financial and Capital Markets Commission (FCMC),<sup>7</sup> to impose a moratorium on ABLV in order to provide the bank time to stabilize operations. A similar moratorium was placed upon ABLV's subsidiary in Luxembourg.<sup>8</sup> In addition, on July 11, 2018, ECB formally withdrew ABLV's banking license.<sup>9</sup>

As a consequence of the ECB's determination and subsequent action by relevant national authorities, ABLV and its subsidiary began winding up shortly afterwards. On June 12, 2018, ABLV—with the approval of FCMC—entered irrevocable liquidation, formally changing its name to ABLV Bank-in-Liquidation.<sup>10</sup> By July 12, 2018, ABLV no longer operated as a depository institution. On January 29, 2019, Luxembourg's main financial regulatory authority, the Commission de Surveillance du Secteur Financier (CSSF), issued a fine against ABLV Bank Luxembourg of €250,000, the maximum

<sup>6</sup> See ECB, Press Release, *ECB determined ABLV Bank was failing or likely to fail* (Feb. 24, 2018), available at <https://www.bankingsupervision.europa.eu/press/pr/date/2018/html/ssm.pr180224.en.html>.

<sup>7</sup> In January 2023, the FCMC was integrated into the Bank of Latvia. Latvijas Banka, Press Release, *As of 1 January, the FCMC will be integrated into Latvijas Banka* (Dec. 28, 2022), available at <https://www.bank.lv/en/news-and-events/news-and-articles/press-releases/16285-as-of-1-january-the-fcmc-will-be-integrated-into-latvijas-banka>.

<sup>8</sup> See *id.*

<sup>9</sup> See Nasdaq, *ECB Withdraws Credit Institution's License of ABLV Bank, AS in Liquidation* (July 12, 2018), available at <https://view.news.eu.nasdaq.com/view?id=bd5ccbdd7886f3040713f0c5eb9193353&lang=en>.

<sup>10</sup> See Reuters, *Latvian bank regulator approves liquidation of ABLV Bank* (June 12, 2018), available at <https://www.reuters.com/article/business/latvian-banking-regulator-approves-liquidation-of-ablv-bank-idUSKBN1J82E0/>.

allowable by law, on the finding that, *inter alia*, ABLV had failed to comply with obligations established under Luxembourg's AML/CFT legal requirements.<sup>11</sup> Shortly afterward, the Luxembourg courts ordered ABLV Bank Luxembourg dissolved.<sup>12</sup>

Significantly, since July 2018, ABLV-in-Liquidation has undergone a strictly supervised liquidation process, closely monitored by the Government of Latvia, which ensures AML/CFT compliance. Throughout the process (which is at an advanced stage), Latvian authorities have kept FinCEN apprised of ABLV's liquidation with updates on the authorities' role in: (1) supervising the liquidation; (2) approving updates to the liquidation methodologies for verifying creditors and ensuring AML/CFT and sanctions compliance; (3) reviewing the liquidators' submitted reports; and (4) monitoring ABLV creditors' claims.<sup>13</sup>

Further, under liquidation, ABLV has engaged in minimal ongoing activity, continues to exist as a legal entity to solely conclude liquidation, and is conducting, and subject to, ongoing efforts to identify additional past illicit activity. Notably, the ongoing efforts to identify additional past illicit activity—comprised of administrative and criminal investigations by relevant Latvian authorities into the activities of the bank and its shareholders—underscore the gravity with which Latvian authorities are treating the matter. Of note, those investigations have already resulted in criminal charges against the owners and senior managers of ABLV,<sup>14</sup> ensuring that any potential future application for a bank license in Latvia or other EU member states by these individuals would elicit the heightened scrutiny established by the relevant EU rules.<sup>15</sup>

<sup>11</sup> See CSSF, *Administrative penalty imposed on the credit institution ABLV Bank Luxembourg S.A.* (Jan. 29, 2019).

<sup>12</sup> See CSSF, *Dissolution and judicial liquidation: ABLV Bank Luxembourg S.A.—Appointment of liquidators* (July 2, 2019).

<sup>13</sup> Notably, Latvian authorities ultimately confirmed that, having reviewed the bank's records, they found evidence to support FinCEN's findings in the NPRM concerning the complicity of ABLV owners, shareholders, and senior leadership in the use of the bank for money laundering purposes.

<sup>14</sup> OCCRP, *Latvian Prosecutors Charge Bankers with Laundering 2.1B Euro* (July 29, 2022), available at <https://www.occrp.org/en/news/latvian-prosecutors-charge-bankers-with-laundering-2-1b-euro>.

<sup>15</sup> European Bank Authority, *Final Report on Joint ESMA and EBA Guidelines* (July 2, 2021), pp. 38–40, available at [https://www.eba.europa.eu/sites/default/files/document\\_library/Publications/Guidelines/2021/EBA-GL-2021-06%20Joint%20GLs%20on%20the%20assessment%20of%20suitability%20\(fit&propoeer\)/1022127/Final%20report%20on%20joint%20EBA%20and%20ESMA%20GL%20on%20the%20assessment%20of%20suitability.pdf](https://www.eba.europa.eu/sites/default/files/document_library/Publications/Guidelines/2021/EBA-GL-2021-06%20Joint%20GLs%20on%20the%20assessment%20of%20suitability%20(fit&propoeer)/1022127/Final%20report%20on%20joint%20EBA%20and%20ESMA%20GL%20on%20the%20assessment%20of%20suitability.pdf).

Given the revocation of ABLV's licenses, significant efforts to identify and address past illicit activity, and the advanced stage of liquidation of ABLV, ABLV-in-Liquidation is no longer a financial institution of primary money laundering concern.

## 2. Marked Systemic Improvements to the Latvian AML/CFT Regime and Oversight

In parallel with targeted efforts relating to ABLV, the Government of Latvia has also made notable progress with a series of meaningful legal and regulatory reforms in its financial sector since issuance of FinCEN's NPRM that have substantially reduced non-resident deposit activity, a principal source of FinCEN's money laundering concern, and strengthened both its AML/CFT authorities and institutional capacity. In particular, in April 2018, the Government of Latvia took the first of many actions to remediate AML/CFT regime weaknesses and compliance failures by prohibiting most transactions with shell companies.<sup>16</sup> Shortly afterwards, in November 2018, the Government of Latvia reorganized the Financial Intelligence Unit (FIU) from under the Prosecutor General's Office, granting the FIU independence and autonomy.<sup>17</sup> Finally, in 2019, the Government of Latvia adopted a series of legal and regulatory reforms to its AML/CFT regime. Those reforms extended the scope of the financial regulator—formerly the FCMC, which was absorbed by the Bank of Latvia in January 2023<sup>18</sup>—to increase AML/CFT supervision in the financial and capital markets sectors. The Government of Latvia also amended the Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing in several ways, including: (1) introducing a fit-and-proper-person test for banking senior management and compliance employees; (2) requiring termination of the pending business relationship for any customer who fails due diligence; (3) prohibiting the opening and maintaining of anonymous accounts; (4) expanding the definition of “beneficial ownership” to include indirect control; (5) clarifying Know Your Customer (KYC) and Customer Due Diligence (CDD) requirements

<sup>16</sup> Cabinet of Ministers Republic of Latvia, *Saeima Imposes the Ban on Servicing Shell Companies* (Apr. 27, 2018), available at <https://www.mk.gov.lv/en/article/saeima-imposes-ban-servicing-shell-companies>.

<sup>17</sup> Office for Prevention of Laundering of Proceeds Derived from Criminal Activity, *Annual Report for 2018* (Mar. 31, 2019), available at [https://fid.gov.lv/uploads/files/English%20version/Annual\\_Report\\_2018\\_EN.pdf](https://fid.gov.lv/uploads/files/English%20version/Annual_Report_2018_EN.pdf).

<sup>18</sup> See *supra* note 7.

through adding additional industries subject to KYC/CDD and introducing ongoing monitoring and verification of source of wealth; (6) requiring the State Revenue Service to provide information on politically exposed persons, their relatives, and close associates; (7) mandating Enhanced Due Diligence (EDD) for customers from high-risk jurisdictions; (8) expanding requirements for suspicious transaction reports; and (9) authorizing the FCMC (now Bank of Latvia) to revoke banking licenses or otherwise suspend economic activity.<sup>19</sup>

In 2021, the Government of Latvia implemented further changes to its Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing, including: (1) expanding the scope of AML/CFT regulations and oversight to cover additional types of businesses and legal entities; (2) including real estate agents and brokers as entities obligated to follow AML/CFT requirements; (3) requiring continuous and ongoing training for those entities with AML/CFT obligations; (4) requiring that beneficial owners cannot have been convicted of international crimes or crimes against the state; (5) expanding upon the risk assessment triggers used by financial institutions; and (6) adopting new tools and software to assist with due diligence and the filing for suspicious transaction reports.<sup>20</sup>

The Government of Latvia and the ECB have also added additional rules to assess the suitability of individuals to own or run a bank (*i.e.*, fit-and-proper person tests).<sup>21</sup> These rules now consider whether criminal charges have been filed against prospective bank officials and owners, irrespective of final verdict, and how such allegations might affect the bank's reputation.

As a result of these and other efforts by the Government of Latvia, the share of non-resident deposits in Latvia's financial sector—one of the principal risk factors in Latvia's private sector that existed at the time of publication of the

<sup>19</sup> Cabinet of Ministers Republic of Latvia, *Latvian Financial Sector Update, No. 15 27 June 2019* (June 27, 2019), available at <https://www.mk.gov.lv/en/media/1678/download>.

<sup>20</sup> Anti-Money Laundering and Terrorism and Proliferation Financing Act, available at <https://likumi.lv/ta/id/178987#p3>.

<sup>21</sup> Regulation on the Assessment of the Suitability of the Executive and Supervisory Board Members and Key Function Holders, available at [https://www.bank.lv/images/pielikumi/tiesibu-akti/Normativie\\_noteikumi\\_nr\\_94\\_ENG\\_Regulation\\_on\\_the\\_Assessment\\_of\\_the\\_Suitability\\_of\\_MB\\_KFH\\_FCMC\\_No94.pdf](https://www.bank.lv/images/pielikumi/tiesibu-akti/Normativie_noteikumi_nr_94_ENG_Regulation_on_the_Assessment_of_the_Suitability_of_MB_KFH_FCMC_No94.pdf); ECB, *Guide to fit and proper assessments* (Dec. 2021), pp. 14–22, available at [https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm:fit\\_and\\_proper\\_guide\\_update202112-d66f230eca.en.pdf](https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm:fit_and_proper_guide_update202112-d66f230eca.en.pdf).

NPRM—has decreased steadily from 2016 to the present.

### III. Withdrawal of the Finding and NPRM

For the reasons set forth above and taking into account the Government of Latvia's significant efforts to reform its AML/CFT regime, FinCEN is satisfied that ABLV no longer poses a money laundering threat to the U.S. financial system. Therefore, FinCEN hereby withdraws its finding that ABLV is of primary money laundering concern and the related NPRM published on February 16, 2018, seeking to impose special measure five regarding ABLV.

**Andrea M. Gacki,**

Director, Financial Crimes Enforcement Network.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2024-0193; FRL-12285-01-R1]

### Air Plan Approval; Connecticut; State Implementation Plan Revisions Required by the 2015 Ozone NAAQS

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Connecticut for the 2015 ozone National Ambient Air Quality Standard (NAAQS). These revisions (1) certify the adequacy of the SIP to satisfy the nonattainment new source review (NNSR) permitting requirements of the Clean Air Act (CAA) for the reclassification of the Greater Connecticut area to moderate nonattainment for the 2015 ozone NAAQS, and (2) certify the emission statement program satisfies the requirements of CAA section 182(a)(3)(B) for the initial nonattainment designations and the reclassification to moderate nonattainment for the 2015 ozone NAAQS. This action is being taken in accordance with the CAA.

**DATES:** Written comments must be received on or before October 28, 2024.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R01-OAR-2024-0193 at <https://www.regulations.gov>, or via email to

[creilson.john@epa.gov](mailto:creilson.john@epa.gov). For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that, if possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

**FOR FURTHER INFORMATION CONTACT:** Bob McConnell, Air Quality Branch, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (Mail code 5-MI), Boston, MA 02109-3912, telephone number (617) 918-1046, email: [mcconnell.robert@epa.gov](mailto:mcconnell.robert@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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## I. Background

On May 22, 2023, the Connecticut Department of Energy and Environmental Protection (CT DEEP) submitted three revisions to its State Implementation Plan (SIP). We are proposing action on two of these revisions in this notice as described below.

### a. NNSR Certification

The first SIP revision certifies the adequacy of the SIP to satisfy the NNSR permitting requirements of the CAA for the reclassification of the Greater Connecticut area to moderate nonattainment for the 2015 ozone NAAQS.

Effective November 7, 2022, the EPA reclassified the Greater Connecticut nonattainment area to moderate nonattainment for the 2015 ozone NAAQS (see 87 FR 60897). Although CT DEEP had previously submitted and EPA had approved a NNSR certification for the 2015 ozone NAAQS initial classification of marginal nonattainment for the Greater Connecticut nonattainment area (see 87 FR 38284, July 28, 2022), EPA's reclassification requires that the state recertify the adequacy of its NNSR program under the moderate nonattainment area requirements. With one exception, explained in more detail below, EPA retained the NNSR requirements for its implementation of the 2015 ozone NAAQS.

The minimum SIP requirements for NNSR permitting programs for the 2015 ozone NAAQS are codified in 40 CFR 51.165. These NNSR program requirements include those promulgated in the “Phase 2 Rule” implementing the 1997 8-hour ozone NAAQS (See 70 FR 71612, November 29, 2005) and the 2008 ozone implementation rule. Additionally, although the 2015 ozone implementation rule included a provision to explicitly allow for inter-pollutant trading for meeting the emissions offset requirement for ozone, this provision was subsequently vacated by *Sierra Club v. Environmental Protection Agency*, 21 F.4th 815 (D.C. Cir. 2021). Under the Phase 2 Rule, the SIP for each ozone nonattainment area must contain NNSR provisions that: set major source thresholds for nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs) pursuant to 40 CFR 51.165(a)(1)(iv)(A)(1)(i) through (iv) and (a)(1)(iv)(A)(2); classify physical changes at a major source if the change would constitute a major source by itself pursuant to 40 CFR 51.165(a)(1)(iv)(A)(3); consider any significant net emissions increase of