We are referring to the notice of proposed rulemaking to impose a special measure against the joint stock company VEF Banka and the joint stock company Multibanka as financial institutions of primary money laundering concern (RIN 1506-AA81 and RIN 1506-AA82).

The Control Office for the Prevention of Legalization of Proceeds from Criminal Activity ("Control Office"), a part of the Prosecutor General's Office, fulfills the role of Latvia's Financial Intelligence Unit. The Financial and Capital Markets Commission ("FCMC") is a consolidated financial services supervisory authority in the Republic of Latvia. "Control Office" and "FCMC", hereinafter referred to as "we". We have reviewed the contents of proposed designations in both documents, and have the following comments.

1. We very much appreciate the relationship we have developed with FINCen, in particular the recent information exchange between FINCen and the Latvian Control Office on suspicious activity reports (SARs) involving VEF Banka and Multibanka. In the spirit of our cooperation, we look forward to receiving additional information referred to in the letter by the Control Office of May 11, 2005 as to the which particular SARs served as a basis for the examples referred to in both reports on imposition of special measures against the two banks.

2. On page 8 (of both reports) it is stated: "*Of particular concern is that many of Latvia's institutions do not appear to serve the Latvian community, but instead serve suspect foreign private shell companies."*

We would like to underline the fact that foreign deposits have always been a permanent feature in the banking system of Latvia, which is considered a regional financial center. Around 25 % of the total non-resident deposits are from companies registered in the United States. This reflects upon Latvia's role as an international transit trade hub between the countries of the former Soviet Union and the West in the trade of oil, commodities and consumer goods. For the purposes of legitimate tax optimization, companies involved in international trade often structure trade transactions in such a way that they involve companies registered in jurisdictions with low taxation. However, such companies cannot be characterized as "suspect private shell companies" unless there is credible evidence to support such an allegation. All banks have an obligation to conduct adequate know-your-customer policies and customer due diligence: they have to know beneficial ownership of such companies and to have a sufficient understanding of the underlying nature of the business. In doing customer due diligence on their customers, the banks are also required to be able to distinguish between legitimate tax optimization and possible tax fraud, and in the latter case they are obliged to immediately file a suspicious activity report with the Latvian FIU, as well as to refrain from any transactions which may involve proceeds of crime.

3. On page 8 (of both reports) it is stated. "*In addition, suspicious activity reporting thresholds remain high, at nearly 40,000 LATS (about $80,000 dollars) for most transactions, which fails to capture significant activity below this threshold*."

We would like to clarify that this particular suspicious activity reporting threshold is only one of more that 20 criteria, which should trigger a suspicious activity report. In addition to suspicious activity reporting based on uniform, numerical criteria established by the Regulation No.127 "On Unusual

transactions" issued by the Cabinet of Ministers of the Republic of Latvia, financial institutions are obliged to report any other suspicious activity, even if it does not match any of the 20 criteria.

In establishing their own internal procedures for reporting unusual and suspicious transactions, financial institutions are guided by best international practice, such as FATF 40+9 recommendations, as well as Latvian regulations, primarily the "Guidelines for the Formulation of an Internal Control System for the Prevention of Laundering of Proceeds Derived from Criminal Activity and Financing of Terrorism" issued by the FCMC. We cannot find much empirical support for the argument that significant suspicious activity below the 40 thousand LATS threshold is unreported.
In cases where banking institutions fail to implement adequate know-your-customer policies or conduct adequate due diligence, the FCMC as a banking sector regulatory authority has consistently applied adequate and proportionate sanctions. An overview of enforcement actions is available online at http://www.fktk.lv/fcmc/publications/other_publications/article.php?id=22066.

4. On page 9 (of both reports) it is stated. "*FinCEN has additional reason to believe that certain Latvian financial institutions allow non-citizens to open accounts over the Internet, and offer anonymous ATM cards with high or no withdrawal limits*".

Irrespective of the technical means accepted by the bank for communication with its customers, all financial institutions have uniform rules for customer identification, outlined in Article 6 of the "Law on Prevention of Laundering of Proceeds Derived from Criminal Activity". It states:
"*The persons referred to in Section 2, Paragraph two of this Law have the right to open an account or accept financial resources or other valuables for safe keeping, requesting client identification documents in which the following information is provided:*

1) regarding a natural person:

a) regarding a resident – given name, surname, personal identity number, or

b) regarding a non-resident – given name, surname, date of issue and number of the personal identification documents, and the authority which issued the documents; and

2) regarding a legal person/business entity – the legal basis for the founding or legal registration, address, as well as the given name, surname, date of issue and number of the personal identification documents, and the authority which issued the documents of the authorized person, as well as the authorizations of such natural person and status, and if necessary – the given name and surname of the manager or the highest official of the administrative body of the legal person."

Article 10^1 of the "Law on Prevention of Laundering of Proceeds Derived from Criminal Activity" states:
"*(1) Any of the persons referred to in Section 2, Paragraph two of this Law in commencing transaction relations or in conducting transactions with a client who has not personally appeared before such persons, shall perform measures which allow the ascertainment of the veracity of the identification data of the client. For this purpose additional documents may be requested, checks made of the identification data and various types of certifications received.*

(2) The special measures referred to in Paragraph one of this Section, shall be determined by the relevant internal regulatory enactments of the authorized administrative body of the persons referred to in Section 2, Paragraph two of this Law."

Therefore, opening accounts over the Internet could not be considered as illegitimate action in itself, as the above requirements of the law apply in all such cases.

Best regards,

Viesturs Burkāns
Head of Control Office
Republic of Latvia

Uldis Cērps
Chairman
Financial and Capital Markets Commission
Republic of Latvia