

# CRITICAL FINANCIAL SECTOR SERVICES

WHAT ARE THEY  
AND HOW WILL  
THEY AFFECT ME?

If you are reading this, it means that **you have questions** regarding the use of such terms as “critical financial sector services”, “critical personnel”, “threats to national security”. It is a normal human reaction – questions help us understand what is happening, whereas answers we receive – make us informed and confident. You must know that the bank you work for is recognized a financial services provider whose **operations are of critical importance**.

It means that in case of a threat to national security the bank **must be ready to provide** local population with critical financial services. The fact that the bank has been granted with this status stands for the **quality and reliability** of its operations what would be impossible without professional staff. Nevertheless, the new status imposes certain obligations to the bank **and the bank’s staff** engaged in the provision of critical financial services. In order to give **an explanation** of critical financial sector services the Finance Latvia Association in collaboration with banks – critical service providers have prepared answers to **vital questions** that could be of importance for you. The bank’s HR department and Risk Management team will also answer other questions you might have in this regard and **organize training**.

## 1 The bank has not been affected by any such events for several years already – what has changed?

You have probably never before heard such a term “critical financial sector service provider”. However, you might be part of the bank’s **business continuity** staff whose task is to ensure provision of banking services in different crisis situations. The provision of critical financial sector services in case of a **threat to national security** is somehow similar to this. Due to recent amendments to the National Security Law<sup>1</sup> the Financial and Capital Market Commission has adopted Regulations regarding Management of Critical Financial Sector Services<sup>2</sup>, that were enacted to **ensure uninterrupted access** to critical financial services in case of national security threats. These regulations are applicable to your bank as well.

## 2 Why has the bank been granted with the status of a critical financial sector services provider?

The bank is included on the list of critical service providers because the number of bank accounts opened with it comprises at least 5% of the total **number of payment accounts** opened with credit institutions and the domestic **household savings** constitute at least 5% of the total domestic household savings deposited with credit institutions. The **decision** on bank’s conformity with these criteria is taken by the Financial and Capital Market Commission **on annual basis**. Considering the fact that your bank satisfies these criteria, it is recognized a critical financial sector services provider and it is important for the national economy and its population.

## 3 What are threats to national security?

National security threats are a **concept** that may comprise various events faced nationwide, for example, a state of exception or emergency. State of exception is a **special legal regime** that is declared by the Cabinet of Ministers and approved by the Saeima (the Parliament) if the State is **threatened by an external enemy** or in case **internal disturbances** have arisen or are likely to arise in the State or any part of it. Emergency situation is also a **special legal regime** that is declared by the Cabinet of Ministers and approved by the Saeima in case the State faces the threats caused by **natural disasters**, critical infrastructure threats or in case there are significant **threats** to the safety of the State, society, environment, economic activity, health or human lives. During the Covid-19 pandemics Latvia had repeatedly declared emergency threatening the life of the nation. Banks, on its turn, may be hit by e.g. cyberattacks that may adversely affect financial stability or cause rumours on the stability of the national financial system or individual **banks**. All these events **may present national threats** and to avoid them banks are modelling potential risks that may affect their operations and draft appropriate action plans accordingly.

## 4 What are critical financial sector services?

Critical financial sector services are cash and non-cash **payment services** that are provided to the customers of critical financial sector service providers, including **credit transfers in EUR** among critical financial sector service providers, **card payments** and **cash withdrawals from ATMs**. In case of a threat to national security, other non-critical services **are not given priority** and considering the given circumstances, the provision of such services may be **restricted or completely suspended**.

## 5 What are critical financial sector services personnel?

Critical financial sector services personnel comprise those bank’s employees who operate and **are critically important** for the bank **to be able to ensure** uninterrupted provision of critical financial sector services. Automated solutions and digital services are excellent assistants however their functioning and monitoring **require human mind and presence** and thus the availability of such specialists at critical moments is of vital importance for the bank – this is also what critical financial sector services staff is made of, namely, employees critical for the provision of specific banking services to the local population.

## 6 Why am I being informed on critical staff selection?

When drafting the critical financial sector services operational continuity plan, **the bank is obliged** to determine and identify staff that could ensure performance of critical functions in accordance with the Law on Emergency Situation and State of Exception Article 17(1)(23)<sup>3</sup>, Mobilisation Law Article 14(2)<sup>4</sup> and the Cabinet of Ministers Regulations of 6 July 2021 No 507 Procedures for the Application of Exceptions to the Conscription of Citizens into Active Service and Mobilisation of Residents, Paragraph 4<sup>5</sup>. When selecting specific positions and the quantity of critical staff required for ensuring critical functions, **the bank identifies and**

**notifies** each of the employees engaged in the performance of critical functions. For the purpose of such eligibility assessment and identification the bank also considers **your professional qualities, knowledge and skills** that can significantly contribute to overcoming the crisis situation.

## 7 Can I refuse the status of critical staff?

The applicable laws **oblige the bank** to identify and determine critical financial sector services staff. Your professional skills and competences are of vital importance for ensuring stability of the financial system at bank's level and also nationwide. If, nevertheless, you have **reasonable concerns** for not being able or capable of taking up the duties of critical financial sector staff, you should definitely inform the bank's responsible employees accordingly. We strictly recommend not to **neglect this fact** or leave it without attention. You should definitely **contact** the bank's HR department or the Crisis Management team to clarify your possible removal from the bank's critical staff list. However, please treat this situation with understanding as the bank may also not have the possibility to introduce such changes e.g. where the **number of qualified staff is limited**. Remember that if the number of employees in certain critical positions is reduced, in case of a threat to national security some of your colleagues might have to work in tense working conditions with limited rest time. The bank has high regard for your specific professional capabilities, skills and knowledge and teamwork with your co-workers will make attainment of the set goals easier for all. The **main assignment** of the bank is to ensure critical financial sector services – thus, not only the bank and the colleagues rely on you – so do the **people of Latvia**.

## 8 Will I have to take up new duties as critical staff?

**No, you will not.** The fact of you being identified as a critical staff member does not imply the necessity to take up any new professional duties. In truth, in case there will be no such circumstances that could give rise to national security threats, your everyday duties **will not significantly change**. Depending on the bank's HR policy, you will certainly have to participate in training on how to **ensure** continuity of critical financial sector services, learn about the **measures** to be taken by critical staff and other issues which will be explained to you in more detail by your HR department or Risk Management team. To make the training process more interesting, **the bank may invite** representatives from the Ministry of Defence of the Republic of Latvia who plan and implement the national defence policy. **Please, keep in mind** that in case any national security threats will be in-fact faced and the bank will be obliged to ensure continuity of critical financial sector services, you will have to go to work and perform your everyday duties. Do not worry, you will not have to work 24/7. The bank's team will **schedule the working hours** to ensure that everyone gets proper rest.

## 9 Do I benefit from the critical staff status?

According to the National Security Law, **mobilisation may be announced** in case of emergency or state of exception in order to tackle national security and State defence related issues and to prevent emergency or eliminate its consequences. Such measures are implemented with the aim of preventing and overcoming threats to national security and for attaining the main national objective – protection of the State. Being part of the bank's critical staff, **you are important** for ensuring stability of the national financial system and therefore the national laws foresee **exceptions to the conscription** of critical staff in active service, mobilisation in Civil Defence Units and to implementation of civil defence measures in case there are threats to national security. The bank's HR department and Risk Management team **will definitely inform** you on the exceptions applicable to critical staff and other issues of importance.

## 10 What should I do in case of a threat to national security?

In case of a threat to national security your main assignment as bank's critical staff member is to carry out your **everyday professional duties** to ensure continuity of bank's operations therewith retaining stability and safety of the **financial system** notwithstanding the crisis. You will certainly be informed in case the bank will be facing the obligation to ensure critical financial sector services. The bank's HR department and the Risk Management team **will inform you** on the procedure for ensuring critical financial sector services, provide answers to other questions of concern and **ensure proper training**.

## 11 What are the consequences of me failing to perform my duties in case of a threat to national security?

When the State and its population face a threat and declares a state of emergency or exception, **we all rely** on the ability of the responsible authorities to take proper measures that will guarantee peace and order. The local population equally relies on **stable and safe operation of the financial system**. However, it will be impossible without staff capable of operating in strained circumstances and securing **stability and continuity** of services. To reduce the risk of the responsible authorities, companies or their employees refusing to perform their duties and providing critical functions or services, the State has foreseen penal sanctions. Such sanctions may be of **administrative<sup>6</sup>** or **criminal<sup>7</sup>** nature, depending on the declared legal state and overall situation faced by the country. Moreover, please remember that you as a member of the critical staff have established an employment relationship with the employer and that the refusal to perform employer's **orders** may result in disciplinary action or even termination of the legal employment relationship. The bank's management will take appropriate measures to reduce any hardships or adverse consequences to be possibly faced while **you act for the support** of the bank and the entire national financial system in the event of crisis.

<sup>1</sup>Amendments to the National Security Law

<sup>2</sup>Financial and Capital Market Commission Regulations No.64 "Regulations regarding Management of Critical Financial Sector Services"

<sup>3</sup>Law on Emergency Situation and State of Exception

<sup>4</sup>Mobilisation Law

<sup>5</sup>Cabinet of Ministers Regulations of 6 July 2021 No.507 Procedures for the Application of Exceptions to the Conscription of Citizens into Active Service and Mobilisation of Residents

<sup>6</sup>Law on Emergency Situation and State of Exception Article 21

<sup>7</sup>Criminal Law, Article 225.1