79 th Element sp z oo
Adam Slomski
Kobierzycka 10
52-317 Wroclaw
Poland

SVERIGES RIKSBANK
Redemption invalid banknotes
103 37 Stockholm

Tel: 08-7870000

registratorn@riksbank.se
www.riksbank.se

DNR 2017-00041
/2005.0832, 2003.8045

30 January 2017

ESTABLISHED 1668

Decision on redemption of invalid banknotes

The Riksbank's decision

The Riksbank rejects your request for the redemption of invalid Swedish banknotes.

Reasons for the Riksbank's decision

Pursuant to Chapter 5, Section 4, second paragraph of the Sveriges Riksbank Act (1988:1385), the Riksbank has the right to redeem invalid banknotes if there are special reasons to do so. The Riksbank has stated more precisely in its internal regulations what conditions apply for such redemption. The Riksbank thus redeems invalid banknotes if there is no reason to assume that the banknotes were acquired by criminal means or that the redemption procedure may conceal the fact that someone has profited from criminal activity. See Section 4 of the Riksbank's regulations on the redemption of banknotes and coins (RBFS 2015:1).

The preliminary work for the Sveriges Riksbank Act does not contain precise instructions as to which situations should apply for the Riksbank to approve a request to redeem invalid banknotes. The provision in the Sveriges Riksbank Act has been designed to give the Riksbank a large degree of discretionary freedom to determine in which cases to redeem banknotes (see the Administrative Court of Appeal in Stockholm’s decision on 4 October 2007 in case no 3971-07. In 2009, the Riksbank specified the conditions for redemption of invalid banknotes in its internal regulations. These regulations then concur with the duty of care specified in the criminal law on money laundering, see the Act on penalties for money laundering offences (2014:207). The stipulation in the Sveriges Riksbank Act that there shall be special reasons for redeeming invalid banknotes is therefore now evinced in the investigation work necessary for the Riksbank to meet the duty of care requirements in criminal law. As the redemption of an invalid banknote in accordance with the Sveriges Riksbank Act cannot be regarded as an unconditional right, the burden of proof regarding circumstances relevant for the Riksbank to be able to approve a request to redeem banknotes lies with the applicant, unlike what applies in, for instance, criminal cases where the burden of proof is placed on the prosecutor.

The Riksbank's regulations entail that a banknote, if it is to be redeemed, must have no connection to a crime or to criminal activity of any kind. This includes, for instance, general economic crimes such as theft, robbery and embezzlement, as well as preparation and funding of certain crimes of violence. The regulations also cover crimes or criminal activities that have entailed a financial gain (crimes of evasion), which is the case with regard to tax and customs crimes, for instance (bill 2013/14:121 p. 53 onwards).

Section 4 of the Riksbank's regulations states clearly that redemption is prescribed as the principal rule. However, the circumstances of an individual case may be such that the banknotes can with some degree of probability be assessed as deriving from a crime or criminal activities. An important question when making the assessment is what circumstances could typically indicate a link to crime. Moreover, one must take into account what significance these circumstances should be given in the individual case. These questions shall be discussed below, one by one.

What circumstances might indicate that the banknotes stem from a crime or criminal activities?

One circumstance that indicates the banknotes derive from a crime or criminal activities is that the person submitting the notes lacks a credible explanation for holding these banknotes. The same applies if the explanation is not consistent and free of contradictions. Another such circumstance is that the person submitting the banknotes is not able to prove their explanation with some form of documentation. This is particularly important in cases where the explanation is such that documentation is normally available or easy to obtain. The size of the amount is also relevant. The reduced number of 1,000-krona notes indicates that it is becoming less common to use this denomination as a form of savings, although it can be quite legitimate to hold savings in cash. It is not unusual for cash to be used by parties wishing to avoid taxation of various kinds. See, for example, report 2014:10 from the Swedish National Council for Crime Prevention (BRÅ), p.30. The greater the amount, the stricter the demands that must be placed upon explanation and documentation in accordance with the above.

What standards of proof are acceptable?

The significance attached to the presence or absence of certain conditions is actually a matter of the *standards of proof* to be applied if the Riksbank is to approve an application for redemption. According to the applicable regulations, there shall be "no reason to assume" that the banknotes were acquired by criminal means. This is a relatively low standard of proof. In other words, a particularly strong suggestion that the banknotes are linked to criminal activity is not required for the Riksbank to refuse redemption. This should be considered in view of the penal provisions for money laundering offences and the financing of criminal activities previously mentioned and thereby in view of society's interest in combating such criminality. The Riksbank is not able to apply the regulations on redemption more generously than a commercial bank would be able to under the same circumstances.

Investigation of the case

On 13 June 2016 and 16 September 2016, the Riksbank received applications from 79th Element Sp, through Adam Slomski, for the redemption of invalid banknotes in a total nominal value of SEK 85,145.

According to the explanation given at the application, the company buys old, damaged and invalid banknotes via its website. AML/KYC (anti money laundering/know your customer) routines have been attached to the applications as well as background material regarding the current transactions from which the banknotes derive. The information on the transactions shows the amount, the customer's account and an annotation regarding the explanation given by the customer in connection with the transaction. The annotation was made by Adam Slomski.

The Riksbank requested further information about the customers behind each transaction. As a result, Adam Slomski replied that there was no further information, that he uses common sense when running his business.

The Riksbank requested as further information to know how the company verifies the customers' identities (KYC) given that all of the transactions are made by wire. Furthermore, information was requested regarding the origins of the banknotes per customer. The Riksbank referred to the directives applying to dealers in banknotes and coins when redeeming invalid banknotes at the Riksbank. Adam Slomski was informed that if no further background data was received by the Riksbank no later than 5 December 2016, the bank would make a decision based on the existing documents.

The response was that the company observes the applicable legislation in Poland and that identity and the origin of the banknotes are controlled through talking to the customer. The information received is noted on the transaction document, which the Riksbank has received. The customer must also supply a bank account number.

The assessment of the Riksbank

In accordance with what is stated above, the absence of documentation that could support your explanation of the source of the money indicates that the money was acquired by criminal means.

Despite the Riksbank requesting background data on repeated occasions, to show the origins of the banknotes, no such data has been received by the Riksbank. The background data that has been received has not contained all of the information the Riksbank has requested given the bank's routines for redeeming banknotes from currency dealers. The data has not included information on the seller and where the seller has received the money from.

The absence of the requested information has relevance, as mentioned above, in the assessment of whether the banknotes are linked to crime or criminal activities. This also applies in cases where the redemption of invalid banknotes is part of the regular activities of the person submitting the banknotes and regardless of whether this person has relied on being able to redeem invalid banknotes at the Riksbank.

When applying the low evidence requirement applying for the Riksbank to reject redemption of banknotes, the Riksbank has reason to assume that the banknotes

- derive from crime or criminal activities or that the banknotes are being redeemed to hide the fact that they derive from crime or criminal activities. The Riksbank has therefore decided that the banknotes will not be redeemed. In accordance with the provisions of the application for redemption, the Riksbank shall retain the submitted banknotes.

How to appeal

An appeal against this decision can be lodged with the administrative court in accordance with Section 3, paragraph 2 of the Administrative Procedure Act (1986:223). Appeals shall be made in writing. Refer to the Riksbank's reference number (see above) and state how you would like the decision to be changed. The written appeal shall be addressed to the Stockholm Administrative Court but handed in or sent care of the Riksbank (see the address above). It must reach the Riksbank within three weeks of the date on which you were informed of the decision.