

## TRANSFORMING THE SIGNS OF LEGALIZING (LAUNDERING) OF PROCEEDS OF CRIME IN BANKING MARKET

The actual problem of legalizing (laundering) of proceeds of crime is becoming more and more significant in the current conditions of international tension. The banking sector is that very component of the global financial system which is used as an acceptable tool for money-laundering, which can be either aimed at supporting the activities of terrorist groups or be included in the legal monetary circulation in the future.

In accordance with Article 4 of the Law of Ukraine "On Prevention and Counteraction to legalization (Laundering) of the proceeds of crime, Terrorist Financing, as well as Financing Proliferation of Weapons of Mass Destruction" legalizing (laundering) of proceeds of crime includes any actions connected with carrying out a financial transaction or a transaction with assets obtained as a result of a crime, as well as executing actions aimed at concealing or disguising the illegal origin of these assets or possessing them, the rights for these assets, the sources of their origin, their location, movement, the change of their form (conversion), as well as purchasing, possessing or using the assets obtained as a result of a crime [1].

The issue of counteraction to money laundering and the use of banking system in order to legalize "dirty" money is an urgent problem for Ukraine, since "dirty" money laundering poses a serious threat to its economic, social and political growth (decrease of tax revenues, expansion of the shadow economy, destabilization of banks' and other financial intermediaries' activity, which may lead to a banking crisis, etc.). Taking effective measures aiming at solving this problem will enhance both strengthening the positive image of Ukraine and ensuring the necessary conditions for further development of national economy.

The practical experience of Meyer Lansky, who used the Swiss Banking Act adopted in 1934 in his illegal activity, is worth to be mentioned. Using his own bank and benefiting from a corruption regime in Cuba, he organized a transnational criminal group for transferring "dirty" money from the United States, Switzerland to Havana, where it was laundered under the guise of obtaining legal income from foreign investment. Thus, M. Lansky was one of the pioneers who organized an illegal scheme of money laundering, where the banking system plays a key role.

Due to the variety of financial services and types of financial instruments, its client base and the

accumulation of raised funds, the banking sector is likely target for fraudulent schemes [4].

Political trends are changing, the vectors of economic development of national economies are transforming, but the distinguished feature of "dirty" money is that it doesn't appear accidentally, but as a result of deliberate actions or intentional plans. In this case the subject of "laundering" is characterized by the criminal origin of these funds.

One can consider it as a motto that proves the fact that the whole world has come to an agreement that fighting with money laundering, in the banking sector has gained an exceptional importance [2].

Domestic banks are subjects of initial financial monitoring. The essence of the stages of financial monitoring, the nature of their procedures implies that a bank initially studies a client's operation, and if having certain doubts in its legality, economic feasibility, additionally requires a client to give explanations and provide supporting documents. Once the authorized financial monitoring authority receives and examines the documentation, they ask a bank for additional information (a client's data or documents themselves) that a bank provides itself or requests from a client in case they have suspicions related to a transaction and its reference to legalizing of criminal proceeds or financing terrorism. Then, if necessary, a client, their other operations are subject to check, and in case of detecting a criminal scheme, detention of a client and subsequent investigation and judicial proceedings take place.

There are two types of financial monitoring – public and internal. The list of operations that are subject to compulsory state financial monitoring obligatory "... includes capital-account financial transactions of an individual in a bank, either the amount of money equals or exceeds UAH 150 000, equals or exceeds the amount in foreign currency, bank metals, other assets equivalent to UAH 150,000 "and has one or more of the following characteristics [1]:

- 1) purchasing or selling foreign currency;
- 2) withdrawing from a cash account or making a cash deposit on the account with a further transfer;
- 3) purchasing securities, cashing a foreign bearer check, exchanging banknotes of one face value to another one;
- 4) purchasing or cashing traveler's checks;
- 5) paying out insurance coverage or insurance premium;
- 6) enrolling or transferring funds from countries / to countries included in the list of countries that do not

comply with the requirements of the FATF – an intergovernmental organization dealing with counteraction to legalizing criminal proceeds and financing terrorism (in particular, they are offshore zones);

7) opening a bearer deposit or in favor of a third person, transferring funds to a foreign deposit or crediting a return of a foreign deposit;

8) paying out lottery winning, cash prizes, making a cash deposit for participation in gambling, giving or receiving interest-free loans, receiving or transferring charitable aid; some other operations.

The following transactions are subject to internal financial monitoring in a bank [1]:

1) a financial transaction or a number of interconnected financial transactions that do not have an obvious economic sense or an obvious legal purpose, or those which are intricate or unusual;

2) a financial transaction that doesn't comply with the nature and essence of a client's activity;

3) revealing the facts of repeated financial transactions, whose nature gives grounds for considering the purpose of their implementation as the one to avoid mandatory financial monitoring or identification procedures;

4) any transactions, which generate suspicions regarding their relation to legalizing criminal proceeds and financing terrorism.

In 2017, according to the results of inspections on prevention and counteraction to legalizing (laundering) of proceeds of crime, the National Bank applied measures of influence to 40 banks in the form of 37 written warnings, 15 fines totaling UAH 67,6 million (fully paid), and one termination of certain transactions carried out by a bank. [3].

A bank is obliged to prove that there are no signs of carrying out risk activities in the actions of a client or a bank.

If the analysis of documents (information) on financial transactions and their participants gives a reason to a bank to consider the signs of implementation of risk activities as real and to provides grounds to believe that the nature or consequences of financial transactions can create a real or a potential danger of using an authorized bank for money laundering, financing terrorism or financing proliferation of weapons of mass destruction, the National bank of

Ukraine recommends banks to refuse to do business or carry out a financial transaction. Taking into account the practical aspects of banks' activities in the context of compliance with the requirements of financial monitoring, in our opinion, it is necessary to develop a system of measures that involves finding a solution to the problem of balancing the costs-effectiveness for organizing financial monitoring of the activity of primary monitoring entities that implies establishing a clarifying system of classification based on the high and low risk of money laundering.

The implementation of this approach requires the development of practical methodological recommendations for developing the list of risk-oriented features aimed at early detection and control of the activity of primary monitoring entities regarding existing money laundering threats. In modern conditions, the list of possible signs proves a trend towards changes and becomes a sort of "certain mimicry."

As Ukraine is just on the stage of initially introducing a risk-based approach to a system of money laundering, it is important to develop theoretical, methodological and practical tools in this area with a view to further implementation of international FATF standards, in particular, recommendations for introducing a risk-oriented approach in the field of financial monitoring.

## References

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