

*Section: Finance, Insurance and Stock Exchanges: Innovative Investment
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**FOUNDATION OF ELEMENTS OF A BANK'S SYSTEM FOR
PREVENTION AND COUNTERACTION OF THE MONEY
LAUNDERING**

The risks of legalization of criminal incomes are a significant threat to the sustainable development of the economy, therefore, the issue of prevention and counteraction to money laundering has a permanent relevance among both scientists and practitioners. The systematic use of anti-laundering measures increases the effectiveness of preventing legalization and requires a well-balanced approach to the formation of the system. Nevertheless, despite the significant importance of building of anti-legalization systems on various levels, the system of prevention and counteraction of the legalization of proceeds from crime, terrorist financing and financing of the proliferation of weapons of mass destruction is recognized and exists in Ukraine only on the state level. The first mention of the functioning of this system found in the Art. 21 of the Law of Ukraine "On Prevention and Counteraction of Legalization (Laundering) of Proceeds from Crime, Terrorist Financing and Financing of the Proliferation of Weapons of Mass Destruction" [2]. Much more often in the legislation and in the scientific literature there is the notion of "system of financial monitoring". For a clearer idea concerning above-mentioned terms and to correct use of them, it is necessary to determine their correlation.

Using the definition of the concept of financial monitoring provided in the

Law of Ukraine "On Prevention and Counteraction of Legalization (Laundering) of the Proceeds from Crime, Terrorist Financing and Financing the Proliferation of Weapons of Mass Destruction" [2] it can be argued that the financial monitoring system and the system of prevention and counteraction of the legalization of proceeds from crime, terrorist financing and financing of the proliferation of weapons of mass destruction are synonymous concepts (Fig. 1).

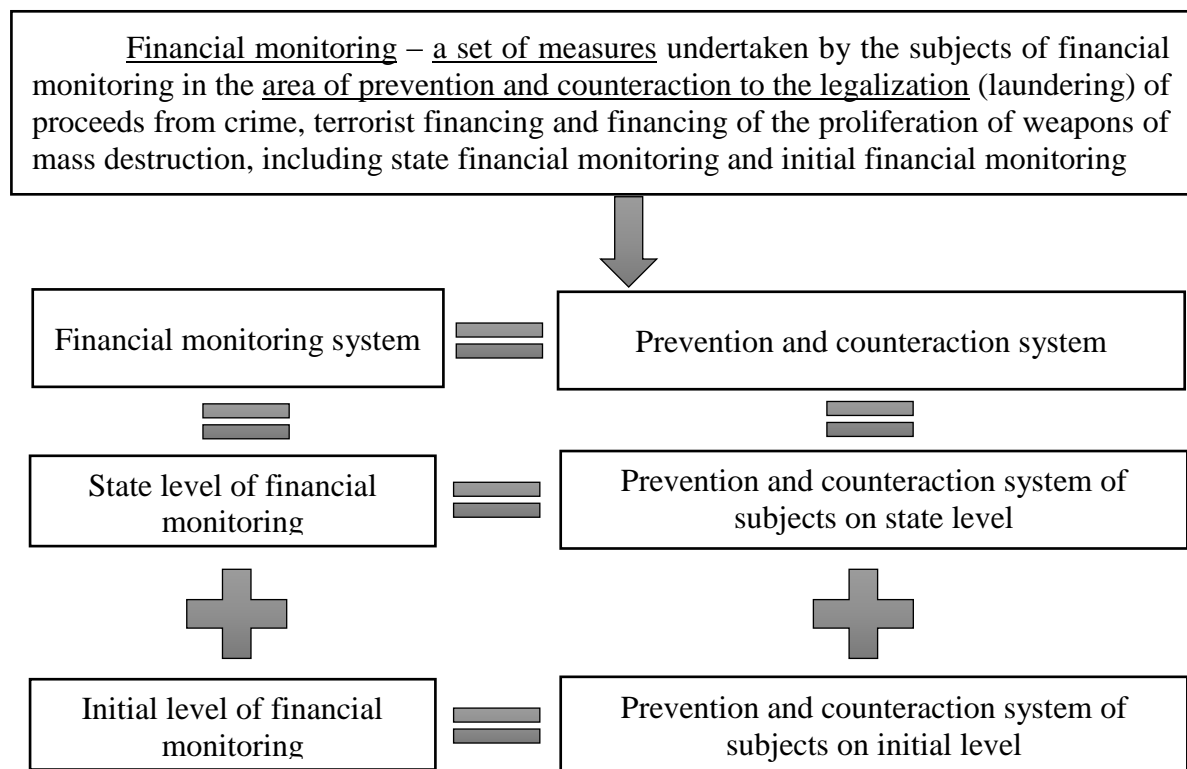


Fig. 1. Justification of the synonymous nature of the concepts of "financial monitoring system" and "system of prevention and counteraction of the legalization of proceeds from crime, terrorist financing and financing of the proliferation of weapons of mass destruction"

Consequently, the data of Fig. 1 shows that the concept of financial monitoring and the system of prevention and counteraction of the legalization of proceeds from crime, terrorist financing and financing of the proliferation of weapons of mass destruction in accordance with the current legislation are

synonymous, and, as well as synonyms, will be used within the scope of this study.

The system of prevention and counteraction of the legalization of proceeds from crime, terrorist financing and financing of the proliferation of weapons of mass destruction consists of two main subsystems – the prevention subsystem and the counteracting subsystem. However, none of the official normative and legal documents gives a definition either to the notion of "prevention", nor to the notion of "counteracting". To formulate the definitions of these concepts, we will analyze the theoretical, normative and legal provision of the activities of banks and classify all aspects of financial monitoring of the bank and, accordingly, carry out the functions, tasks and activities of the bank in prevention or counteraction of the legalization of proceeds from crime, terrorist financing and financing of the proliferation of weapons of mass destruction.

The Academic Explanatory Dictionary of the Ukrainian language provides the following definitions: "prevention – an action by the meaning of "prevent" – preventing, in the beginning, rejecting something unpleasant, undesirable" [4, Vol. 3, 1972, p. 267]; "Counteraction – an action directed against another action, makes impossible to do it " [4, Vol. 8, 1977, p. 317]. Therefore, the main difference between preventing and counteraction is that the counteraction occurs only when there is an action directed to the legalization of proceeds from crime, terrorist financing and financing of the proliferation of weapons of mass destruction.

The main document regulating the activities of banks in Ukraine for preventing and counteracting of the legalization of proceeds from crime, terrorist financing and financing of the proliferation of weapons of mass destruction is the "Provision on the implementation of financial monitoring by banks", approved by the Resolution of the Board of the NBU dated 26 June, 2015, No. 417 [3]. Its analysis and generalization made it possible to highlight the main aspects of prevention and counteraction to money laundering and to attribute them to the prevention or counteraction of the legalization of proceeds from crime, terrorist

financing and financing of the proliferation of weapons of mass destruction. This Provision gives a general idea of the components and functions that the bank must create and perform in order to comply with the requirements of the national regulator. Need to emphasize, that the notion of counteraction to money laundering in the "Provision on the implementation by banks of financial monitoring" [3] occurs only in general phrases, its functional components or individual measures not specified by these provisions (Fig. 2).

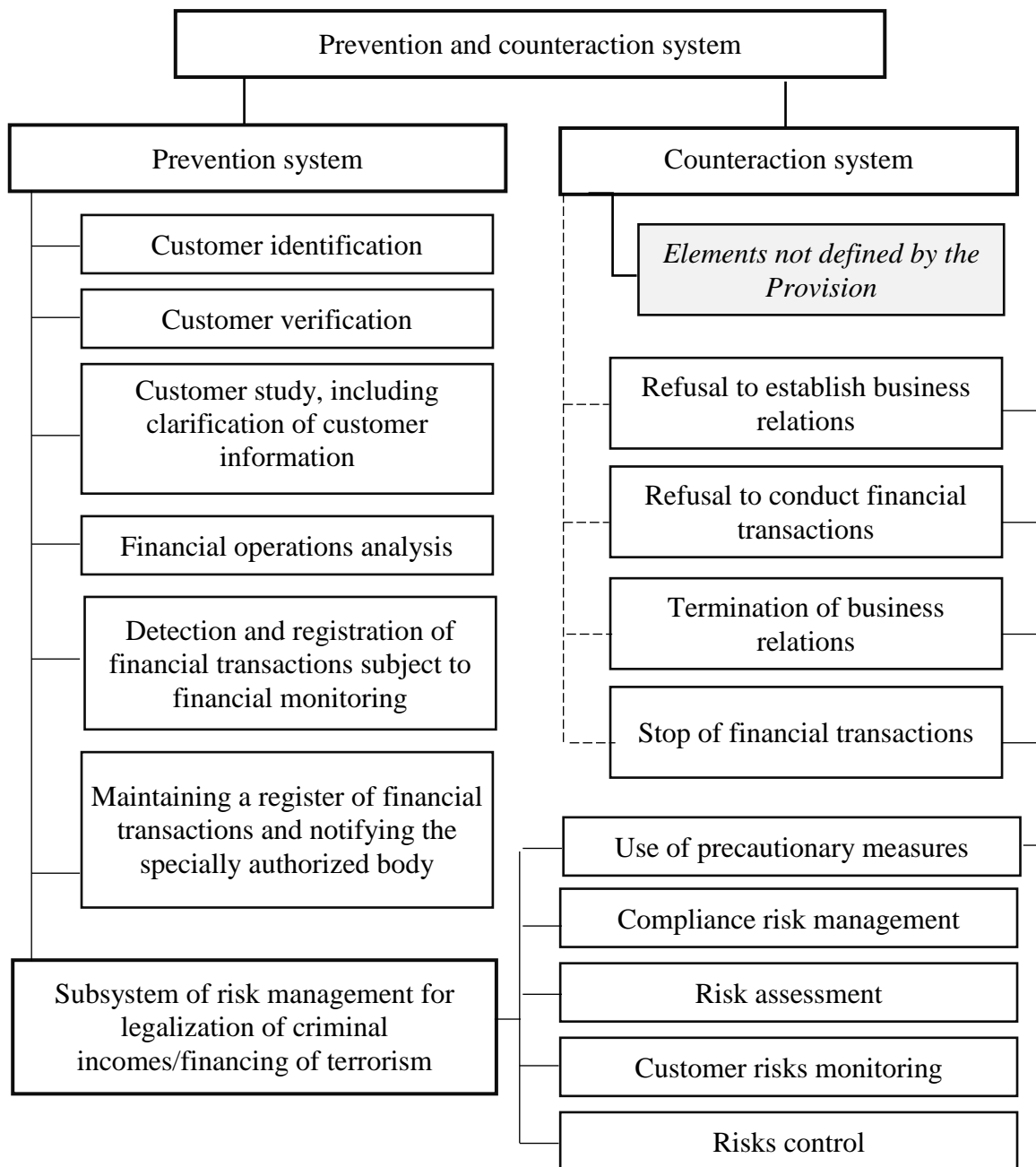


Fig. 2. Components of the system of prevention and counteraction of money laundering and terrorist financing of the bank in accordance with the Provision on the implementation of financial monitoring by banks

Fig. 2 data shows in a generalized form what components has a system for preventing and counteracting of any bank operating in Ukraine. If we analyze the precautionary measures that are part of the risk management subsystem, then it becomes clear that they are consistent with the content of the legalization of proceeds from crime, terrorist financing and financing of the proliferation of

weapons of mass destruction counteraction, since the use of such measures directly impedes the legalization of questionable customer funds. Need to note, that the counteraction to the legalization of proceeds from crime, terrorist financing and financing of the proliferation of weapons of mass destruction in accordance with the current legislation does not have any detailed content, which gives grounds for in-depth analysis and development of the counteraction to the legalization of proceeds from crime, terrorist financing and financing of the proliferation of weapons of mass destruction subsystem in further research.

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