



NATIONAL BANK OF THE REPUBLIC OF MACEDONIA

Pursuant to Article 47 paragraph 1 item 6 of the Law on the National Bank of the Republic of Macedonia (Official Gazette of the Republic of Macedonia No. 158/10, 123/12, 43/14, 153/15 and 6/16) and Article 68 paragraph 1 item 8 of the Banking Law (Official Gazette of the Republic of Macedonia No. 67/07, 90/09, 67/10, 15/15, 153/15 and 190/16) and Article 91 paragraph 5 of Law on Anti-Money Laundering and Terrorist Financing (Official Gazette of the Republic of Macedonia No. 130/14, 192/15 and 27/16), the National Bank of the Republic of Macedonia Council adopted the following

DECISION on the Methodology for managing the risk of money laundering and terrorist financing (“Official Gazette of the Republic of Macedonia” No. 78/18)

I. GENERAL PROVISIONS

1. This decision prescribes the methodology for the minimum standards for managing the risk of money laundering and terrorist financing and complying with the measures for anti-money laundering and terrorist financing.

2. The bank shall ensure compliance with the measures for anti-money laundering and terrorist financing that are valid in the Republic of Macedonia and by its subsidiaries or branch offices abroad.

The provisions of this Decision shall also apply to savings houses and branch offices of foreign banks in the Republic of Macedonia.

II. DEFINITIONS

3. The terms used in this Decision shall denote the following:

- 3.1. “Risk of money laundering and terrorist financing” shall denote the bank’s risk of being misused for money laundering and terrorist financing (hereinafter referred to as: “MLTF”) or that a particular business relation, transaction or product will be directly or indirectly used for MLTF.
- 3.2. “Measures for anti-money laundering and terrorist financing” shall denote measures and activities stipulated in the Law on anti-money laundering and terrorist financing (“Official Gazette of the Republic of Macedonia No. 130/2014, 192/2015 and 27/2016), (hereinafter referred to as: “AMLTF Law”).
- 3.3. “Inherent risk for MLTF” shall denote the initial level of the risk which arises from and is associated to the client type and its country of origin, nature of business relationship that shall be established, products or services and distribution channels, without taking into account any control mechanisms established in the bank which aim to reduce the probability of the risk’s occurrence and impact.

- 3.4. "Aggregate risk for MLTF" shall denote the risk of MLTF after the bank has applied an adequate internal control system which shall reduce the probability and impact to the inherent risk level for MLTF.
- 3.5. "Anti-MLTF Department" shall denote the organizational unit that the bank shall form, pursuant to the AMLTF Law. It can be formed as an independent unit or its activities can be performed within the organizational unit competent for controlling the compliance of the bank's operations with the regulations.
- 3.6. "Authorized person" shall denote the person or the head of the Anti-MLTF Department i.e. organizational unit competent for controlling the compliance of the bank's operations with the regulations, who is responsible for implementing the measures and activities for anti-money laundering and terrorist financing.
- 3.7. "Geographic risk" shall denote the risk arising from the country or territory where the client is based or the beneficial owner's address i.e. the country in which the person with whom the client or its beneficial owner performs the transaction is located.
- 3.8. "Offshore financial center" shall denote the country or territory which provides financial services to non-residents to the extent which is disproportional with the size and financial power of the national economy. In doing so, the bank shall at least take into account the IMF and OECD list of offshore financial centers.
- 3.9. "Occasional transactions" shall denote cash transactions carried out outside the business relationship.
- 3.10. "Unusual transaction" shall denote a transaction or activity that does not comply with the transactions, operations or professional profile and/or economic profile of the person concerned or beneficial owner, or has no obvious economic, business or personal motive.

For the anything not defined with this Decision, the meaning of the terms defined in the Banking Law, AMLTF Law as well as the bylaw acts adopted based on these laws adopted by the National Bank Council and which also regulate the prevention of money laundering and terrorist financing are applied.

III. MANAGING THE RISK OF MONEY LAUNDERING AND TERRORIST FINANCING

4. Managing the risk of MLTF is part of the overall risk management system in accordance with the requirements of the Banking Law, AMLTF Law and Risk Management Regulation of the National Bank of the Republic of Macedonia (hereinafter referred to as: the "National Bank").

5. For adequate management of the risk of MLTF, the bank shall:
 - adopt and apply a Policy and a Programme for the Anti-MLTF, and
 - establish appropriate organizational structure for managing the risk of MLTF.

Policy and Programme for Anti-MLTF

6. The Policy and Programme for Anti-MLTF stipulate the rules and procedures for implementing the measures and activities for the Anti-MLTF which at least include:

- definition of the clients acceptable for the bank;
- client and transaction due diligence when establishing and monitoring the business relationship with that client;

- mandatory identification of the client’s beneficial owner and verification of its identity depending on the risk level;
- determining the risk category, pursuant to the criteria and risk analysis elements from Chapter V of this Decision;
- identification and verification of the client’s identity who is a PEP, its beneficial owner and identification and verification of the client/legal entity in whose ownership structure the PEP occurs;
- identification of unusual transactions;
- identification of transactions with suspected MLTF;
- keeping data and documents and submitting reports to the FIU;
- plan for ongoing training for the bank’s employees in the AMLTF area;
- data on the authorized person;
- internal audit for the implementation of measures and activities.

For each activity from paragraph 1 of this Decision, the bank shall define data and/or documentation that will enable the application of measures for Anti-MLTF, proportional to the MLTF risk the which the bank is exposed.

7. The rules and procedures for the activities from item 6 paragraph 1 of this Decision may be developed as separate documents (internal acts) which are an integral part of the Policy or Programme for the Anti-MLTF.

Organizational structure

8. Appropriate organizational structure for managing the risk of MLTF shall denote:

- defined competences and lines of accountability of the bank’s bodies;
- clearly defined responsibilities of the authorized person, i.e. the AMLTF Department;
- defining the responsibilities of all bank’s employees and
- cooperation and exchange of information between the authorized person i.e. the AMLTF Department, bank’s bodies and bank’s employees on managing the risk of MLTF.

9. In terms of managing the risk of MLTF, the bank’s Supervisory Board shall at least perform the following activities:

- adopt the Policy and Programme for Anti-MLTF, monitors its implementation, assesses its appropriateness and conducts regular audits and
- review the reports for MLTF risk to which the bank is exposed.

10. In terms of managing the risk of MLTF, the Risk Management Board shall at least perform the following activities:

- assess the established process for managing the risk of MLTF;
- analyze reports that the Anti-MLTF Department submits at least once a year and suggests measures and activities for protection from the risk of MLTF and
- monitor the efficiency and functionality of the internal control systems in managing the risk of MLTF.

11. In terms of managing the risk of MLTF, the bank’s Supervisory Board shall perform at least the following activities:

- establish the process for managing the risk of MLTF;
- manage and monitor the procedures for managing the risk of MLTF;
- establish an appropriate reporting system;

- provide appropriate technical and personnel resources for the Anti-MLTF Department.

12. The authorized person shall be held liable for its operation and the operation of the Anti-MLTF Department (if established) before the bank's Management Board, and shall have access to the members of the bank's Supervisory Board and notify them for significant weaknesses, shortcomings or risks that are identified while performing their operations.

13. Bank's Management Board shall ensure smooth operation of the bank and complete independence of the authorized person/employees in the Department, through:

- providing sufficient human and material resources for an independent, objective and efficient performance of work tasks;
- separation of the activities for Anti-MLTF from the other bank activities that are not related to the activities for Anti-MLTF and compliance control;
- the right of unhindered access to electronic data bases and unhindered and timely access to all the information and employees that are necessary for efficient performance of the work tasks;
- establishing manner of remuneration of the authorized person/Department for Anti-MLTF which is not related to the success of the activities subject to their control.

14. The Management Board may regulate the cooperation process between the authorized person i.e. Anti-MLTF Department and other organizational units of the bank for the purposes of prescribing the obligations for applying the measures for Anti-MLTF to all bank's employees.

15. The authorized person/Anti-MLTF Department shall at least perform the following activities:

- analyze the risk of MLTF to which the bank is exposed.
- collect and analyze data, prepare written reports and decide whether a certain unusual transaction submitted to other organizational units or other employees in the Anti-MLTF Department has suspicious transaction characteristics i.e. decide the level of (non)reporting it to the Financial Intelligence Unit (hereinafter referred to as: "FIU").
- provide information and documentation for all transactions reported to the FIU, as well as for all unusual transactions which were decided not to be reported to the FIU, also including the reasons for adopting such a decision;
- follow the novelties in regulations and international standards for Anti-MLTF and give recommendations for revisions and improvement of the internal acts, as well as assesses the level of its compliance with the regulations regarding Anti-MLTF.
- define categories, criteria and elements for managing the risk of MLTF, pursuant to Chapter V of this Decision;
- control the operation of certain organizational units in the bank from whose operation the risk of MLTF may arise in terms of controlling the implementation of measures and activities for Anti-MLTF;
- regularly report to the Management and Supervisory Board on its operation;
- advise bank's bodies for measures that shall be taken in order to comply to the regulations from the Anti-MLTF area;
- prepare an annual training plan in the Anti-MLTF;

- organize ongoing training of the employees, including the members of the Management Board for all aspects significant for appropriate implementation of the process for Anti-MLTF in the bank and establish guidelines and instructions for adequate implementation of the regulations from this area;
- maintain regular contacts with other bodies and institutions included in the activities for Anti-MLTF (the FIU, the National Bank, other banks, etc.).

16. The authorized person and other employees of the Anti-MLTF Department shall possess high professional standards and appropriate knowledge of bank's activities causing exposures to the risk of MLTF.

IV. RISK BASED APPROACH

17. The process of managing the risk of MLTF and its scope shall correspond to the nature, size and complexity of bank's financial activities, as well as to the risk level of MLTF determined by the bank, pursuant to the regulations in this Decision. When determining the risk level, the bank shall take into account the results from the conducted national assessment for the risk of MLTF.

18. The process of managing the risk of MLTF from item 17 of this decision shall give the bank's aggregate risk level of MLTF, taking into account the risk categories of all clients, products, services and transactions carried out in the bank.

The bank should update its aggregate risk level from paragraph 1 of this item at least once a year.

19. The authorized person shall at least once a year prepare a Report for the aggregate risk level of MLTF to which the bank is exposed and shall submit it to the bank's Supervisory Board.

V. CLIENT DUE DILIGENCE AND CLIENT'S RISK LEVEL ASSESSMENT

20. When establishing a business relationship, the bank conducts a procedure for client due diligence provided by the AMLTF Law.

21. Client due diligence includes identification and verification of client's identity, the authorized person and beneficial owner of the client while establishing, providing information for the purpose and intent of the business relationship and monitoring the business relationship with the client.

22. At least once a year, the bank shall update the documents and data necessary for monitoring the business relationship with high risk clients. For other clients, the bank shall with an intern act prescribe the update frequency, given the client risk level of MLTF.

On the update date, the documentation necessary for monitoring the business relationship with the client shall not be older than three months for client/legal entity i.e. six months for its beneficial owner.

23. The scope of client due diligence depends on the risk assessment of:
- client/bank's business relationship with the client;
 - performed transactions;
 - products used by the client;

- client's country of origin;
- channels of distribution.

24. The risk assessment from item 23 of this Decision is conducted while establishing the business relationship with the client called static profiling of client's risk i.e. determines the inherent risk level of the client.

While determining the risk assessment of the client/business relationship, transactions, products and client's country of origin, the bank shall at least take into account the indicators for determining the risk level given in Annex 1 of this Decision.

25. During the entire duration of the business relationship of the bank, a dynamic profiling of client's risk is done with the client, based on the risk elements specific for a particular client, business relationship or transaction and thus the aggregate risk level of the client is determined.

26. Based on the risk elements, the determined inherent risk level is revised and an aggregate risk level by client/business relationship, transaction, product is obtained.

Risk elements from paragraph 1 include:

- Client's characteristics (ownership and/or management structure of the client, frequent changes in the ownership structure, activity, financial situation, form of a trade company, status - resident or non-resident, country of the client etc.);
- purpose and intention of establishing a business relationship;
- types of products and services used by the client, their size (scope) and utilization frequency; and
- activities and transactions of the client for duration of the business relationship.

27. Based on the risk assessment from item 23, and pursuant to the provisions from items 24 and 25 of this Decision, the bank shall classify its clients into low, medium or high risk level of MLTF.

28. Based on the determined risk level of MLTF, the bank shall in the process of accepting the client and its further monitoring perform:

- general or standard due diligence;
- simplified due diligence and/or
- enhanced due diligence.

29. The bank may apply more simplified due diligence in cases when for the client i.e. business relationship, performed transactions or product used by that client or country of its origin has a low risk level of MLTF.

30. The bank may apply general or standard due diligence in cases when for the client i.e. business relationship, performed transactions by the same or product used by that client or country of its origin has a medium risk level of MLTF.

31. The bank may apply enhanced due diligence in cases when for the client i.e. business relationship, performed transactions by the same or product used by the client or country of its origin has a high risk level of MLTF. The following are assessed with a high risk of MLTF:

- PEP's;
- clients who are absent when the business relationship is established;
- correspondent relations with banks and
- transactions and business relationships with the natural persons and legal entities from countries which did not or have insufficiently implemented the measures for anti-money laundering and terrorist financing.

32. The bank shall establish a system for identifying PEP clients and/or their beneficial owners, as well as clients/legal entities in whose ownership structure PEP's occur and shall define measures and activities that will undertake to monitor the business relationship with these clients.

The client who has previously been a PEP, and no longer is, remains a high risk client until the client's due diligence does not change the risk level.

33. When the bank establishes correspondent relations with other banks while conducting due diligence, it shall take the following elements into account:

- the country where the correspondent bank is based;
- the group in which the correspondent bank is a member, if it is a member of a group;
- information on the management and ownership structure of the correspondent bank, its reputation, financial activities;
- implementation of supervisory standards in the country of the correspondent bank;
- policies and programmes of the correspondent bank regarding Anti-MLTF.

34. The banks shall pay special attention when establishing a business relationship and performing transactions with citizens' associations and foundations.

In the procedure of client due diligence that are citizens' associations and foundations, the bank shall at least determine: client's activity, client's headquarters, client's activities, source of financing and method of spending the funds.

Also, if the association is required to prepare annual accounts, the bank shall provide annual financial statements or whether it was formed in order to perform a certain project, it shall provide data for the actual project and phases of its completion.

Using third party services for conducting due diligence

35. In cases when the bank entrusts the client due diligence to a third party, it shall, by the third party ensure that the contents and structure and the client due diligence comply with the requirements of the AMLTF Law.

Third parties from paragraph 1 of this item may be:

- a financial institution in the Republic of Macedonia which has obtained a founding and operating license issued by the competent authority and has established adequate measures for Anti-MLTF;
- a financial institution from a European Union Member State which is established and operates in accordance with the EU legal regulations;
- financial institutions from third countries where the regulations provide for at least identical requirements for taking measures for Anti-MLTF as requirements stipulated by the AMLTF Law;

The bank shall request and receive the internal acts of the third party for clients due diligence, data keeping and internal programs for Anti-MLTF and based on these it shall determine whether the third party meets the requirement of AMLFT Law for performing client due diligence.

When selecting a third party, the country risk shall be taken into consideration (for offshore financial centers of the OECD, IMF, etc.).

The third party must not be a shell bank or another similar financial institution which does not perform or is not allowed to perform activity in the country where it is registered.

The bank shall not accept client due diligence conducted from third parties in the following cases:

- client due diligence is conducted by a subject that does not meet the conditions for being a third party pursuant to the regulations from the AMLTF Law;
- the bank has not received the necessary information and documents of the third party that has conducted the client's due diligence;
- the banks doubts the reliability of the conducted due diligence of a third party.

Introduction of new products and/or new technologies and developing technologies

36. The bank shall identify and assess the risk of MLTF that might arise from introducing new and modern channels of distributions (mobile or internet-banking) of the existing products and services, as well as amid introducing new products or new business practices or new technologies (such as: using prepaid cards, payment services through mobile and telecommunication devices, payment services through the internet etc.).

37. When determining the risk from item 36 of this Decision, the bank shall at least take the following element into account:

- whether the service or product is performed in the absence of the client;
- what are the financing methods (e.g. how to recharge prepaid cards or accounts that are used for payment services through the internet).

38. The banks shall assess the risk of MLTF from item 36 of this Decision prior to introducing new products or new technology and shall undertake measures for reducing the identified risk.

Measures for reducing the identified risk shall at least include determining and establishing limits for payments that users perform through modern channels (e.g. maximum amount of each payment through modern channels, total amount of payments during a certain interval etc.).

Fast money transfer and exchange operations

39. In cases of occasional transactions based on fast money transfer or exchange operations, the bank shall at least take the following factors into account which influence the risk level of the clients that perform these activities, such as:

- client's country;
- client type (if it is a PEP);

- size of transactions (if it is below a certain threshold for reporting it to the FIU or threshold for listing it in the numbered registry, e.g. below the Denar equivalent of Euro 1000 i.e. below the Denar equivalent of Euro 500);
- country to which the cash outflow is directed or the country from which the cash inflow originates;
- type of transaction (whether it is an occasional transaction or the same client during a longer period of time performs transactions thus establishing a business relationship) etc.

40. The due diligence of a client that performs fast money transfer or exchange operations may be full (in cases when the client is being registered in the system) and partial (in cases of performing occasional transactions).

41. Full client due diligence includes identification and verification of client's identity, identification and verification of the authorized person's identity, verification of the purpose and intention of the business relationship and permanent monitoring of the business relationship.

42. Partial client due diligence includes identification and verification of client's identity and verification of client's country of origin. In cases of performing fast money transfer, the partial client due diligence also includes monitoring the transactions in terms of the country to which the cash outflow is directed to or the country from which the cash inflow originates.

VI. REPORTING SYSTEM

43. Reports on the risk of MLTF shall at least include information on:
- the control executed by the authorized person/Anti-MLTF Department in other organizational units of the bank;
 - regular activities for Anti-MLTF;
 - performed trainings by the authorized person, as well as its participation in seminars and trainings;
 - established business relationships with correspondent banks;
 - established business relationships with clients absent at the moment of establishing or performing the business relationship;
 - clients whose business relationship is conducted through utilization of new technologies and developing technologies;
 - establishment or continuation of the business relationship with PEP's;
 - clients who were subject to enhanced due diligence in the reporting period;
 - reported suspicious transactions or activities of clients to the FIO, as well as those which are not reported.

The bank shall in its internal acts prescribe the type of information and frequency of their submission to the bank's bodies.

VII. INTERNAL CONTROL SYSTEM

44. The bank shall be obliged to have adequate internal control procedures which will enable inclusion of the process of managing the risk of MLTF in the overall process of risk management.

45. The internal control of managing the risk of MLTF shall be an integral part of the overall system of internal control, established at the level of the entire bank.

For the needs of the internal control system, regarding managing the risk of MLFT, the bank shall establish:

- compliance of the operations with the regulations and request from the employees to meet high professional standards;
- procedures and rules for monitoring the process for managing the risk of MLTF
- On-going training of the employees;
- internal audit which will test the system functionality.

46. The Internal Audit Department of the bank shall assess the efficient implementation of measures and activities for Anti-MLFT.

The bank shall provide adequate staffing of the Internal Audit Department with individuals having sufficient knowledge of Anti-MLFT and shall enable their adequate training for all novelties related to the international standards and national regulations for Anti-MLFT.

VIII. CLOSING PROVISIONS

47. Once this Decision enters into force, the Decision on the manner and the procedure for implementation and application of the bank's program for anti-money laundering and terrorist financing (Official Gazette of the Republic of Macedonia No. 103/10 and 60/11) shall become void.

48. This Decision shall enter into force on the eighth day after the date of its publication in the Official Gazette of the Republic of Macedonia, and shall apply from 1 January 2019.

D. No. 02-15/VIII-2/2018
26 April 2018
Skopje

**Governor
and Chairman
of the Council of the National Bank
of the Republic of Macedonia
Dimitar Bogov**

ANNEX 1

Indicators for determining the risk level

1. When determining the risk of MLTF for a client, the bank shall at least take into account the following characteristics of the client or its beneficial owner or the activities it conducts:
 - a) The client shall establish a business relationship or shall perform transaction under unusual circumstances:
 - great or unexpected geographic distance between the client's location and organizational units of the bank where the client opens an account, establishes a business relationship or performs transaction,
 - frequent and unexpected transfers, without clear economic justification of funds from accounts of one bank to another bank account, especially if the banks are located at different geographic locations, except in case of multinational companies or international organizations;
 - clients where, due to the client's form {JSC (Joint Stock Company), LLC (Limited Liability Company); SMLLC (Single Member Limited Liability Company)} or ownership structure of the legal entity (complex ownership structure or frequent changes in the ownership structure), is difficult to determine the identity of its beneficial owner (such as: non-government organizations and foundations, trusts, private investment funds, offshore legal entities with complex ownership structure).
 - b) Client who performs an activity for which large turnover and payment of cash is characteristic, such as restaurants, gas stations, exchange offices, casinos, sport betting shops etc.
 - c) The client that trades goods and services with great value and luxury goods (metals, precious stones, cars, paintings, oil etc.).
 - d) The client that is a legal entity with a disproportionately small number of employees in terms of the scope of operations and activity performed by the legal entity.
2. When determining the transaction risk of MLFT, the bank shall at least take into account the following transactions:
 - transactions that are significantly inadequate in comparison with the client's standard behavior;
 - transactions that are not economically justified (e.g. purchase of securities by placing cash in the account, and after a short period sale of securities at a much lower price; unexpected credit repayment before the deadline or within a short period from the day of approval of the funds etc.);
 - transactions that are conducted in a manner that avoids the standard or common control methods (e.g. transactions in amount lower than the amount prescribed as a limit for which the bank shall submit reports to the FIO);
 - complex transactions involving several participants without clear economic justification, more interconnected transactions that are carried out in a short period;
 - transactions in which the client evidently conceals the legal basis or the reason for executing the transaction;

- payment of counseling, management or advertisement services, as well as other services for which there is not always a market-determined value or price;
3. When determining the transaction risk of MLFT, the bank shall at least take into account the following transactions:
 - cash-settled credit;
 - operations with safes;
 - new products and services on the financial market;
 - providing services to private banking and clients' fund management;
 - E-banking;
 - correspondent banking.
 4. When determining the transaction risk of MLTF, the bank shall at least take into account the following transactions:
 - countries under international sanctions/restrictive measures, embargo or other similar measures of the UN Organization, Council of Europe, Organization for Economic Co-operation and Development (OECD) or other international organizations;
 - countries indicated that do not have adequate regulations for Anti-MLTF by the FATF, Council of Europe or other similar organizations;
 - offshore financial centers;
 - countries indicated by relevant international organizations and institutions that finance or support terrorist activities or where terrorist organizations act;
 - countries indicated by the relevant international organizations and institutions (e.g. World Bank, IMF) as countries that have a significant level of corruption or other criminal activities;
 - non-cooperative countries or territories according to the FATF data.