



NATIONAL BANK OF THE REPUBLIC OF MACEDONIA

Pursuant to Article 64 paragraph 1 item 22 of the Law on the National Bank of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" no. 3/2002, 51/2003, 85/2003, 40/2004, 61/2005 and 129/2006) and Article 46 paragraph 4 of the Law on Prevention of Money Laundering and Other Proceeds of Crime and Financing of Terrorism ("Official Gazette of the Republic of Macedonia" no. 4/2008, the National Bank of the Republic of Macedonia Council adopted the following

DECISION
on the manner and the procedure for implementation and application of the bank's
program for prevention of money laundering and terrorist financing
("Official Gazette of RM" No. 83/2009)

I. GENERAL PROVISIONS

1. This Decision sets forth the manner and the procedure for implementation and application of the bank's Program for prevention of money laundering and terrorist financing (hereinafter: Program), which includes, inter alia:

- centralization of the data about the client's identity, holders of rights, proxies, authorized representatives and principals, as well as of the data about the suspicious transactions (hereinafter: centralization of the identification data);
- definition of the tasks and responsibilities of the responsible person for implementation of the provisions of the Law on Prevention of Money Laundering and Other Proceeds of Crime and Financing of Terrorism and the Program (hereinafter: responsible person for money laundering prevention);
- Plan for permanent training of the responsible person for money laundering and of the other employees in the area of prevention of money laundering and terrorist financing (hereinafter: Permanent Training Plan);
- instruments for internal check of the implementation of the measures and actions.

The bank shall establish internal procedures which will enable adequate application of the individual segments of the Program from paragraph 1 of this item.

2. This Decision contains the minimum standards which the banks should apply in order to establish an adequate program, where each bank may include additional elements in its internal acts, depending on the scope and the nature of the activities it performs.

3. The bank shall be obliged to ensure compliance with the measures for prevention of money laundering and terrorist financing in force in the Republic of Macedonia also by its subsidiaries or branches in the country and abroad, to the level permitted according to the regulations of the country where such subsidiary or branch is located.

The Bank shall be obliged to inform the National Bank of the Republic of Macedonia (hereinafter: National Bank) and the Office for prevention of money laundering and terrorist financing (hereinafter: Office), if the respective subsidiary or branch abroad are not in a position to adhere to the regulations pertaining to the prevention of money laundering and terrorist financing, as it is not allowed by the regulations or other measures of the country where that subsidiary or branch is located.

II. CENTRALIZATION OF THE IDENTIFICATION DATA

4. The bank shall be obliged to establish a centralized data base which will enable:

- client due diligence;
- monitoring of certain transactions;
- maintaining data on the transactions and clients who perform those transactions;
- submission of the data to the competent bodies, in accordance with the Law on Prevention of Money Laundering and Other Proceeds of Crime and Financing of Terrorism (hereinafter: the Law).

II.1. Client Due Diligence;

5. The bank shall be obliged to apply client due diligence, at least in the manner determined by the Law and this Decision.

Client due diligence includes:

- identification and verification of the client and the beneficial owner;
- obtaining information on the purpose and intended nature of the business relation; and
- ongoing monitoring of the business relation with the client.

On the basis of the conducted client due diligence according to the provisions of the Law and this Decision, the bank shall be obliged to establish a risk profile for each client with which a business relation is established and/or shall update the business relation within which it determines and monitors the level of risk from money laundering and terrorist financing related to that client. The bank shall be obliged, within its internal acts, to establish at least:

- the manner of establishing the risk profile;
- determining the risk level;
- monitoring the risk level;
- transferring the client from one to another risk level.

6. In the cases when there is higher risk of money laundering and terrorist financing, the bank shall be obliged to enhance the client due diligence.

II.1.1 Identification and verification of the client and the end beneficial owner

Accepting clients

7. The bank shall be obliged to establish and apply client accepting policy by which it will be determined which clients could expose the bank to a risk of money laundering and terrorist financing.

8. The bank shall be obliged to use at least the following data and information on the basis of which it will be able to determine which clients could expose the bank to a risk of money laundering and terrorist financing:

- client's history, if it is an existing client of the bank;
- type of activity it performs;
- geographical location of the client and its most significant business partners;

- relation with political functions or politically exposed persons;
- type of bank products and services it will use; and
- source of funds, according to items 15 and 16 of this Decision.

Identification of the client, the beneficial owner and the proxy

9. The bank shall identify the client, beneficial owner and the proxy, at least by obtaining the documentation and the data determined by the Law, where the bank should ensure that:

- it disposes of accurate sources of information, documentation and data;
- it disposes of data on the basis of which it will be able to determine the identity of the end owner of the client, which includes determining of the real ownership and management structure of the client - legal entity; and
- it disposes of accurate information about the identity of the proxy.

10. The bank shall be prohibited to have anonymous accounts, including numerical accounts or accounts opened in fictitious names.

11. When identifying a client, beneficial owner, or proxy from abroad (non-resident), the bank shall adequately apply the rules that are being applied to domestic clients.

Verification of client's identity

12. The bank shall be obliged to verify the client's identity according to the Law.

The bank shall be obliged to undertake appropriate activities regarding verification of the beneficial owner's identity.

Beside the manner of verification determined by the Law, the bank may verify the identity also by some of the following independent sources of data:

- determining the permanent address by using other sources of data (telephone bills, electricity bills, etc., data that are at disposal of the Info Service 188, etc.);
- contacting the client and the beneficial owner by phone, letter or e-mail;
- contacting the embassy (consulate, liaison office) of the country the foreign client comes from;
- obtaining the latest financial statement on the operations of the client - legal entity, audited by an independent auditor, if possible;
- using of the data that are at disposal of the public registries (Central Registry, Central Securities Depository, etc.);
- visiting the client and the beneficial owner, if possible; and
- assessment of the status of the client and the beneficial owner, whether a bankruptcy or liquidation procedure was initiated.

II.1.2 Ensuring information on the purpose and the intended nature of the business relation

13. The bank shall ensure data and information on the basis of which the purpose and the intended nature of the business relation with the client can be identified, and they shall include data on the nature of its activities, the financial situation, sources of funds and the most important business partners.

14. The bank can determine the sources of funds of the client - natural person by obtaining data on the: amount of the monthly wage, other additional sources of funds, the property ownership etc., that can show the nature of the business relation more clearly.

II.1. 3 Ongoing monitoring of the business relation and the transactions undertaken within the business relation

15. The bank shall conduct ongoing monitoring of the business relation with the client and the transactions performed within the business relation in order to confirm that such transactions are in accordance with the purpose and the intended nature of the business relation and the source of funding of the client.

16. The monitoring of the business relation with the client shall imply also a regular update of the data and information which are available to the bank for the client. The bank shall determine the moment of updating of data within its internal procedures.

II.1. 4 Enhanced client due diligence

17. The bank shall perform enhanced client due diligence as specified by the Law and item 6 of this Decision, and it shall pertain at least to the following types of clients:

- politically exposed persons;
- clients who use private banking services;
- correspondent banks;
- clients not being physically present at the moment of concluding or performing the business relation; and
- clients coming from countries which do not apply or apply inadequately the recommendations from the Financial Action Task Force (hereinafter referred to as: FATF) in the area of prevention of money laundering and terrorist financing.

The bank's responsible person for money laundering prevention shall be notified on the establishment of the business relation with the persons specified in paragraph 1 of this item, as soon as possible.

Politically exposed persons

18. Undertaking additional measures, specified by the Law, for the politically exposed persons shall imply:

- establishment of an adequate system for precise identification of the politically exposed persons;
- assessment of the risk that the politically exposed person implies for the bank;
- the decision on establishment of business relation with the client shall be adopted by a person with special rights and responsibilities responsible for the operating of the adequate organizational unit in the bank. In cases when the current client or beneficial owner becomes politically exposed persons, the bank shall adopt a decision on (non)continuing the business relation with such client/beneficial owner, adopted by the adequate person with special rights and responsibilities;
- determination of the source of funds of the client, in accordance with the items 15 and 16 of this Decision; and
- ongoing monitoring of the business cooperation with such persons.

Private banking

19. The banks shall perform enhanced due diligence in case of performing transactions of so called private banking, due to which the bank can be exposed to higher risk.

The private banking shall include financial services to natural persons which invest most often considerable amount of deposits or other types of assets with the banks. The services that are offered shall not be a part of the regular manner of offering products and retail services, and the business relation between the bank and the client shall be established directly, in person, through the employees in the bank who are authorized to perform such services (personal banker, private banker etc).

20. Business relation which implies performance of private banking can be established only on the basis of a decision adopted by the person with special rights and responsibilities in the bank, who is responsible for cooperation with such type of clients.

21. The bank shall ensure efficient identification and monitoring of the clients and their operating, as well as to enable this type of business relation to be a subject of internal audit and control performed by the responsible person for money laundering prevention.

Correspondent banks

22. In order to establish and continue the business relation with the correspondent bank which is a subject of enhanced due diligence, the bank shall undertake the additional measures prescribed by the Law. In that process, the following data shall be taken in consideration:

- for the persons who would use the account of the correspondent bank opened with a bank in the Republic of Macedonia;
- for the measures and actions for prevention of money laundering and terrorist financing and data on the manner of performing supervision in the country of the correspondent bank;
- for the system of control of the prevention of money laundering and terrorist financing, as well the manner of audit with the correspondent bank;
- assessment on the adequacy of the intensified analysis performed by the correspondent bank for the clients representing exposure to higher risk from prevention of money laundering and terrorist financing;
- assessment whether the correspondent bank operates with shell banks and (does not) allows operating with shell banks; and
- the regulations which regulate the possibility for exchange of data required for undertaking the measures and actions for prevention of money laundering and terrorist financing.

The bank can obtain the data specified in paragraph 1 of this item from the correspondent bank (questionnaires, letters etc.) or through using public media (specialized literature, internet etc.).

Clients not being physically present at the moment of concluding or performing the business relation

23. The banks shall apply additional measures of intensified analysis for the clients not being physically present at the moment of concluding or performing the business relation (hereinafter referred to as: clients not being physically present), according to the Law.

Clients not being physically present shall be the clients with whom the bank realizes the business relation through internet, mail, phone or other means of communication.

24. The bank shall perform the additional measures, prescribed by the Law, for operating with clients not being physically present, through the following actions:

- ensuring and verification of the additional documentation, according to the Law;
- organizing meetings with the client;
- using data from other institutions which have an adequate information on the client, but also an adequate systems for prevention of money laundering and terrorist financing on their disposal, if prescribed by the regulations in the country and abroad; and
- using data available through the public media (specialized literature, internet etc.).

Clients coming from countries which do not apply or apply the FATF recommendations inadequately

25. The bank shall pay special attention to the business relations and transactions with clients from the countries which do not apply the FATF recommendations, or perform it inadequately.

If the business relation or the transactions have no evident economic or other evident legal purpose, the bank shall determine the purpose and the intended nature of the business relation.

26. The employees in the bank who operate directly with the clients specified in item 25 of this decision shall inform the responsible person for money laundering prevention for each transaction performed with such clients.

In the situations specified in item 25 paragraph 2 of this Decision, the responsible person shall prepare written report on the purpose and the intended nature of the business relation, on the basis of the information obtained by the adequate organizational parts and other employees in the bank.

II.2 Monitoring of certain transactions

27. In order to submit the data to the Office on time, the bank shall establish and apply system for identification and monitoring of cash transactions, suspicious transactions and connected cash transactions, according to the Law.

The system specified in paragraph 1 of this item shall be in line with the nature and the size of activities performed by the bank.

II.2. 1 Identification of suspicious transactions

28. For the purpose of efficient identification of the suspicious transactions, the bank shall be required to identify the unusual transactions with the client. Unusual transactions shall be deemed all transactions which are uncommonly larger, the character of which fails to correspond to the type of activities the client performs, while the client gives no acceptable explanation for the reason why that transaction has been executed (for example amounts that fail to correspond to the client's regular manner of operating, large turnover on the client's account, failing to correspond to the size of its balance sheet etc.).

The bank shall be required to determine the purpose and the intended nature of the unusual transactions, about which the responsible person shall prepare a written report, on the basis of the information obtained from the respective organizational units and other bank's employees.

29. On the basis of the client's risk profile and the written report on the unusual transactions, the responsible person shall adopt a decision whether it is a suspicious transaction, i.e. whether there is a suspicion that the client, the transaction, or the beneficial owner are related to money laundering and terrorist financing.

As suspicious transactions are considered at least those transactions which are executed, or which were intended to be executed through the bank, for which the bank knows, doubts, or it has a reason to suspect that the transaction:

- includes assets acquired on the basis of committed criminal acts;
- is carried out with an intention to hide, or to disable the assets or the property acquired on the basis of committed criminal acts, or to avoid any regulation, including the Law, as well.

30. The bank shall be required to define at least the following elements in its internal acts:

- list of indicators for identification of suspicious transactions;
- documentation which it has to possess with respect to the transactions which were decided not to be reported;
- deciding on withholding, rejection or execution of certain transaction;
- manner of reporting to the bank's managing bodies for the transactions that were reported to the Office and the transactions which were decided as non-suspicious.

II.3 Recordkeeping and submission of data

31. The bank shall be required to keep the information and the data obtained during the identification, verification and monitoring of the client and the transactions it performs at least in the manner and within deadlines set forth in the provisions of the Law pertaining to the recordkeeping.

The requirement under paragraph 1 of this item shall refer also to the risk profile, the analyses and the written reports prepared in conformity with the Law and this Decision and the reports submitted to the responsible person, the bank's bodies, the Office, the National Bank and to other authorized bodies.

III. RESPONSIBLE PERSON FOR MONEY LAUNDERING PREVENTION

32. In conformity with the Law, the bank shall be required to appoint responsible person, or to establish separate organizational unit which will be competent for the implementation of the Program.

Responsible person for money laundering prevention can be the person who is responsible for performing compliance function in the bank or the person who manages with the department responsible for performing compliance function.

33. The responsible person shall be held liable for their operating to the bank's Board of Directors.

34. For the purpose of efficient implementation of the competencies of the responsible person for money laundering prevention, the following conditions shall be fulfilled at minimum:

- separation of the activities of the person from other business activities of the bank, which are not related to the control of the prevention of money laundering and terrorist financing and control of the harmonization of the operations with the regulations;
- precise defining of the relationship with other organizational units in the bank;
- right of timely access to all information necessary for the implementation of the tasks and responsibilities; and
- establishing direct communication line with the Board of Directors, or the persons responsible for risks management.

35. The responsible person for money laundering prevention shall perform at least the following activities:

- analyze the risks of money laundering and terrorist financing;
- collect all unusual transactions submitted by different organizational units in the bank, analyze, prepare written reports and adopt decision whether those transactions have characteristics of a suspicious transaction, i.e. adopt decision on their (non)reporting to the Office;
- provide information and documentation on all reported transactions to the Office, as well as on all transactions for which it was decided not to be reported to the Office, including also the reasons for such a decision;
- give recommendations for changing the bank's program, for its revision and improvement, as well as determine the degree of its harmonization with the regulations, which pertain to the prevention of money laundering and terrorist financing;
- report to the Board of Directors (on a monthly basis) and the Supervisory Board (on a quarterly basis). The reporting shall obligatory include the data on the concluded business relations with the persons under item 17 of this decision;
- advise the management bodies on the measures that have to be undertaken in order to adhere to the regulations from the area of prevention of money laundering and terrorist financing, including also monitoring of all amendments to these regulations;
- organize ongoing training of the employees for all aspects significant for appropriate implementation of the process of prevention of money laundering and terrorist financing in the bank and establish guidelines and instructions for adequate implementation of the regulations from this domain; and
- maintain regular contacts with other bodies and institutions included in the activities for prevention of money laundering and terrorist financing (Office, National Bank, other banks and etc.).

IV. PERMANENT TRAINING PLAN

36. The bank shall be obliged to determine and to implement permanent training plan for the responsible persons for money laundering prevention, as well as the employees who are directly or indirectly included in the operations with clients or in the execution of transactions, on annual basis.

37. The organization of the training shall be within the direct competence of the responsible person for money laundering prevention, who shall make estimation of the needs for training of the employees and on that basis to prepare an annual training program. The

responsible person for money laundering prevention shall be obliged to keep a record on the type of the training and the persons included in the training

38. The training of the bank employees shall include at least the following:

- informing of the employees on all regulations from the area of prevention of money laundering and terrorist financing;
- informing on the bank's program for prevention of money laundering and terrorist financing;
- informing of the employees on the internal acts within the domain of prevention of money laundering and terrorist financing (recommendations of the Basel Committee of Banking Supervision, FATF and documents issued by this organizations, recommendations from the reports of the Council of Europe Committee and etc.);
- practical training referring to the implementation of the international standards for combat against prevention of money laundering and terrorist financing;
- practical training for identification of the suspicious transactions;
- practical training for enhanced client due diligence within the domain of their identification, verification and monitoring.

The plan for the training of the employees should be updated regularly in order to encompass all internal and external changes (business strategy, regulations and etc.), as well as to include the new employees in the bank.

The trainings of the new employees in the bank should be carried out immediately after the employment (maximum during the first six months).

V. INSTRUMENTS FOR INTERNAL VERIFICATION OF THE IMPLEMENTATION OF THE MEASURES AND ACTIVITIES

39. The establishment of the instruments for internal verification of the implementation of the measures and activities for prevention of money laundering and terrorist financing shall denote establishment and implementation of adequate internal audit of the process for prevention of money laundering and terrorist financing.

40. The internal audit of the process of prevention of money laundering and terrorist financing shall be carried out by the Internal Audit Department, in conformity with the annual operating plan of the Department.

The Internal Audit Department shall be required to make regular audit on the implementation of the Program, for the purpose of determining of the adequacy and the efficiency of that program and the operating of the responsible person.

41. The bank shall be required to ensure suitable staffing of the Internal Audit Department with persons having adequate experience in the prevention of money laundering and terrorist financing system and to enable their adequate training for all novelties related to the international techniques for prevention of money laundering and terrorist financing.

42. The bank shall be obliged to establish and to apply procedures for employment of new persons in the bank, thus enabling employment of persons with appropriate ethic norms.

VI. TRANSITIONAL AND CLOSING PROVISIONS

43. The provisions of this Decision shall be applied adequately to the foreign banks' branch offices in the Republic of Macedonia, as well.

44. This Decision shall enter into force on the eighth day from the day of its publishing in the "Official Gazette of the Republic of Macedonia".

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Skopje

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and President
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