

Financial monitoring in Ukraine under the conditions of martial law

The essence of the concept of "financial monitoring" was considered. Analyzed Recommendations of FATF for use by the governments of countries in order to effectively fight against "dirty" money laundering and terrorist financing. It were investigated measures to improve financial monitoring in Ukraine under martial law conditions and to fulfill the conditions of the European Commission regarding Ukraine's application for membership in the EU.

Financial monitoring refers to activities related to the prevention of legalization (laundering) of proceeds obtained through crime, the financing of terrorism, and the proliferation of weapons of mass destruction.

The key international organization that developed and constantly renews the Recommendations on a set of measures for countries that consistently implement a policy of struggle with criminal activity is FATF - Financial Action Task Force on Money Laundering. FATF recommendations are recognized as an international standard by many countries, not only by those that are its members. Mechanism of implementation of FATF standards is formed by each country on the basis of legal, administrative and operational features, specific features of its own financial and criminal justice systems [1].

Recommendations of FATF "1-4" refer to the requirements for the existence in countries of criminal responsibility for money laundering; the need to reflect in national legislation the methods of handling property and funds obtained at the expense of criminal activity; not hindering the laws on the protection of commercial activity, including bank deposits, implementation of these recommendations.

Recommendations of FATF "5-12" contain the following requirements: prohibition the creation of anonymous accounts in financial institutions; identification of clients; additional measures during contacts with representatives of political circles who are their clients; verification of international financial transactions.

Recommendations of FATF "13-16" provide for the presence in the legislation of countries of requirements for reporting by financial institutions to Financial Intelligence Units about suspicions or proven facts regarding funds obtained through criminal means; creation of an appropriate system of legal protection of the personnel of the institution reporting such transactions.

According to the Recommendations of FATF "17-19", in the case of ignoring the legislation on money laundering, individuals and legal entities should be responsible; a system of computer information of the state body regarding compliance of foreign exchange transactions with the established level should be introduced.

In the Recommendations of FATF "21-24" stipulates the need for constant analysis of transactions with institutions of those countries that do not follow FATF

recommendations, and appropriate response to such events; implementation by the relevant state bodies of monitoring requirements for struggle with criminal activity by financial and non-financial institutions.

The FATF Recommendations "26-33" contain requirements for the governments of countries to provide financial monitoring bodies with appropriate powers and the necessary material base, to create conditions for free access to the information base for the prevention of criminal activity.

Following FATF Recommendations "35-40" involves the implementation of international legal documents in countries and the activation of cooperation between the bodies of different countries engaged in the combating against money laundering and terrorist financing.

The FATF Recommendations were renewed once again for stricter conditions regarding beneficial ownership were added to Recommendation "24", the application of a multifaceted approach to the creation of an information base regarding this ownership due to the accumulation of all data obtained from various sources (from companies, state authorities and etc.) in a single register in 2023. The purpose of the renewal of Recommendation "24" is to increase the access of relevant authorities to complete information about the true owners of companies and to strengthen preventive measures against the criminal intentions of individuals or groups to hide their illegal activities by creating shell companies [2].

In Ukraine the issues of financial monitoring became particularly acute in the conditions of martial law, which led to the introduction of legislative changes that simplified the procedure for informing about the ultimate beneficial owners and the ownership structure of legal entities [3]. First of all, an electronic, non-queuing method of providing information by legal entities regarding ultimate beneficiary owner (UBO) in the USR was introduced; reduced list of cases of such informing and specified procedures for its implementation; the mandatory notarization of copies of documents was canceled in the case of confirmation of the identity of the UBO. Penalties are also provided in cases of non-notification or untimely informing about UBO.

At the same time during the period of martial law, taking into account the provisions of Law No. 2115, which protect the interests of entities that submit reports and other documents at this time [4], special deadlines for informing about the UBO are defined: for those legal entities that registered before the entry into force of the provisions concerning the form and content of the ownership structure, as well as the methodology of identification by the legal entity of the UBO (if this happens for the first time) - within 6 months after their entry into force, but not earlier than 90 days from the moment of termination or cancellation of martial law in our country.

Law of Ukraine No. 2736 also introduced a number of changes in the field of financial monitoring, the purpose of which is to strengthen the protection of the national financial system in the conditions of aggressive armed actions against Ukraine: citizens of russia and/or belarus are prohibited from taking part in management and management subjects of primary financial monitoring (SPFM); extended list of clients belonging to the high-risk group; provides for the reporting of the SPMF to the State Financial Monitoring in the case of threshold transactions

amounting to UAH 400,000 or more and relating to entities connected to Russia and/or Belarus. In addition, norms were implemented that correspond to the recommendations of the European Commission on the harmonization of legislation with FATF standards [5].

The State Financial Monitoring Service of Ukraine monitors financial transactions related to the legalization of dirty funds: in 2022 it handed over to law enforcement agencies about a thousand materials worth UAH 75.7 billion; financial transactions of a criminal nature were blocked in the amount of UAH 7.7 billion. State financial monitoring reveals the channels through which collaborators/traitors are financed; law enforcement agencies received 342 materials with well-founded suspicions in 2022.

However, it is obvious that further activation in the field of financial monitoring is due to the need to fulfill the seven requirements for the candidate for EU membership, which Ukraine undertook in the summer of 2022. The demands relate to: the selection of judges of the Constitutional Court, the continuation of judicial reform, strengthening the work of anti-corruption bodies, the combating against money laundering, the implementation of anti-oligarchic reform and reform in the media sphere, legislation on national minorities.

The recommendations of the EC regarding the combating against money laundering relate to ensuring compliance of Ukrainian legislation with FATF standards and the adoption of a comprehensive strategic plan for reforming the law enforcement sector as an important component of Ukraine's security.

According to the experts, significant progress is being made in the combating against money laundering (6 points out of 10), although a significant increase in efforts is needed. Specialists are concerned about the weakening of financial monitoring of public figures, which is already legislated and does not meet FATF standards and EU Directive 2015/849 requirements.

Conclusions

Improvement of financial monitoring in Ukraine, especially in the conditions of martial law, requires special attention, which is possible under the conditions of the development of a methodical, organizational, regulatory and institutional framework for the creation of an effective mechanism for countering the legalization of funds obtained through criminal means and the financing of terrorism. Further harmonization of domestic legislation with FATF standards is important and the implementation of the recommendations contained in the Conclusion of the European Commission regarding Ukraine's application for EU membership.

References

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