

BOARD OF THE NATIONAL BANK OF UKRAINE

RESOLUTION

of July 24, 2017 N 66

On approval amendments to the Regulation on the procedure for organizing and conducting inspections in the area of prevention and counteraction to legalization (laundering) of proceeds from crime, terrorism financing and financing proliferation of weapon of mass destruction

In accordance with Articles 7, 15, 55, 56 of the Law of Ukraine «On the National Bank of Ukraine», Articles 3, 14 of the Law of Ukraine «On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime, Terrorist Financing and Financing of the Proliferation of Weapon of Mass Destruction», Articles 63 and 66 of the Law of Ukraine «On Banks and Banking Activity», in order to increase the effectiveness of the implementation by the National Bank of Ukraine of supervision over compliance by banks, branches of foreign banks, non-bank financial institutions - residents, which are a payment organizations and/or members or participants of payment systems, in terms of providing by them financial services for the transfer of funds on the basis of relevant licenses, in particular the National Bank of Ukraine (except for postal operators in terms of transferring funds by them), the requirements of the Ukrainian legislation governing relations in the area of prevention and counteraction to the legalization (laundering) of the proceeds from crime, the financing of terrorism and the financing of the proliferation of weapons of mass destruction, the Board of the National Bank of Ukraine **enacts to:**

1. To approve Amendments to the Regulation on the Procedure for organizing and conducting inspections in the area of prevention and counteraction to legalization (laundering) of proceeds from crime, terrorist financing and financing of the proliferation of weapons of mass destruction, approved by the Resolution of the Board of the National Bank of Ukraine dated June 20, 2011 No. 197, registered in the Ministry of Justice of Ukraine on July 13, 2011 under No. 852/19590 (in the wording of the Resolution of the Board of the National Bank of Ukraine dated July 31, 2015, No. 499) (as amended)
2. The Department of Financial Monitoring (I. Bereza) shall bring the content of this Resolution to the attention of banks and financial institutions after its official publication.
3. Control over the implementation of this Resolution shall be placed on the Deputy Chairman of the National Bank of Ukraine K. Rozhkova.
4. The Resolution shall enter into force on the day following the day of its official publication.

Acting Chairman

Y. Smolii

APPROVED:

**Head of the State Financial Monitoring Service of
Ukraine**

I. Cherkaskyi

APPROVED

The Resolution of the Board of the
National Bank of Ukraine
dated July 24, No. 66

**Amendments to the Regulation on the Procedure for organizing and conducting
inspections in the area of prevention and counteraction to legalization
(laundering) of proceeds from crime, terrorist financing and financing of the
proliferation of weapons of mass destruction**

1. Subparagraph 9 of paragraph 2 of section I after the words “Deputy Chairman of the National Bank, or the Head” shall be supplemented with the words “/ Deputy Head.

2. In section II:

1) paragraph 4 shall be deleted;

2) paragraphs 7, 11 shall be worded as follows:

“7. The Plan includes on-site inspections of banks/institutions, the list of which is determined by the Department on the basis of a risk-based approach, including following the results of the National Bank’s assessment of the risks of using the services of banks/institutions for the legalization of criminal proceeds or terrorist financing”;

“11. The National Bank may, on reasonable grounds, decide on an unscheduled on-site inspection of a bank/institution. These grounds are as follows:

1) information/documents received in the course of an off-site supervision and/or in case of an on-site inspection on financial monitoring (including analysis of statistical reporting and/or other documents that can indicate the signs of the implementation by bank/institution of risk activity);

2) information received from other units of the National Bank, state bodies, foreign state supervisory bodies on facts which may indicate a violation of the requirements of the legislation on financial monitoring and/or currency legislation of Ukraine, including regulations of the National Bank (hereinafter – the currency legislation), the presence of signs of risk activities;

3) the results of generalization of materials of on-site inspections, off-site supervision of individual banks/institutions;

4) the results of off-site (office) inspections on compliance with the requirements of epy currency legislation”;

3) paragraph seven of clause 15 should be worded as follows:

"A list of information, materials (including in electronic form in the specified structure and format) and documents (their copies and/or extracts thereof) and documents (their copies and/or extract thereof) which bank/institution is obliged to prepare and to provide to the National Bank in terms, volumes, manner and on information media [including on such removable media as: CDs, DVDs, flash drives, etc. (hereinafter referred to as the media)] specified in the notification may be sent to the bank/institution together with the notification in the form of an annex to it in order to ensure the conduct of the on-site inspection";

4) in clause:

Paragraph one should be worded as follows:

"16. The head or deputy head of the inspection team during the on-site inspection shall have the right to submit to the bank/institution written requests for the provision of information, materials (including in electronic form in a definite structure, format, stored on specified carriers), documents (copies thereof and/or extracts therefrom), and written explanations regarding the conducted financial transactions and other issues related to the activities of the bank/institution (hereinafter - the request of the inspection team) required for the on-site inspection";

clause after paragraph three should be supplemented with three new paragraphs of the following content:

"In order to conduct the on-site inspection on financial monitoring, the National Bank has the right to request from the bank/institution information (including in electronic form in specified volumes, format, structure, order, terms and means of information), documents (copies thereof and/or extracts therefrom) and written explanations regarding the conducted financial transactions and on specific issues of the bank/institution's activities by submitting a request electronically, signed by the head of the National Bank and sent by means of electronic communication oh the National Bank (hereinafter – the request in electronic form).

The date and time of receipt by the bank/institution of the request in electronic form shall be the date and time of receipt by the bank/institution the corresponding files at the National Bank's e-mail node.

In case of need for obtaining additional information/documents pertaining to the on-site inspection, the National Bank has the right to request information from the bank/institution (including in electronic form in specified volumes, format, structure, order, terms and carriers of information), documents (copies thereof and/or extracts therefrom) and written explanations by submitting a request in electronic form before handing (sending) to the bank/institution the certificate of the on-site verification."

In this regard, the fourth paragraph shall be considered as the seventh paragraph;

paragraph seventh shall be worded as follows:

"The bank/institution is obliged, in a timely manner and in full, to provide in a specified order, format, structure, form, stored on certain carriers the information upon request of the inspection team/request in electronic form reliable information, materials, documents (copies thereof and/or extracts therefrom), in which it is possible to read all the information contained therein, as well as not to obstruct the conduct of the inspection, and to provide at first demand access to the head and

members of the inspection team to all originals of documents, materials and information, including to those containing restricted information with a secret-law-protected information, in particular banking, commercial, secret of financial monitoring, other secrets, and confidential information necessary for inspection, to the system of automation of banking transactions, resources of automated banking systems/automated systems ensuring implementation financial monitoring of the bank/institution, information resources, to all premises of the bank/institution”;

5) paragraphs 17 to 19 shall be worded as follows:

“17. The request of the inspection team shall be drawn up in the name of the head of the bank/institution in duplicate, signed by the head or deputy head of the inspection team, with mandatory determination of the information, materials, documents (copies thereof and/or extracts therefrom), written explanations that shall be provided, the term, form, type, order of their provision and the information media on which they should be provided. Each request of the inspection team is subject to mandatory registration at the bank/institution.

If the inspection team request is made up of two or more sheets, the signature of the head or deputy head of the inspection team shall be affixed to each sheet.

18. The head of the bank/institution is obligated to ensure that the request of the inspection team/request in electronic form is carried out in the volumes, format, structure, form, order and terms, the information media specified in it.

Information, documents (copies thereof and/or extracts therefrom), including in electronic form on specified media, written explanations prepared by the bank/institution at the request of the inspection team/request in electronic form, shall be provided with a cover letter.

The head or deputy head of the inspection team ensures fixing the date and time of receipt by the inspection team provided by the bank/institution at the request of the inspection team/request in electronic form information, materials, documents (copies thereof and/or extracts therefrom), explanations.

The date and time of receipt of the response to the National Bank from the bank/institution in electronic form upon request in electronic form is the date and time when the National Bank received the relevant files at the National Bank’s e-mail node.

The head or deputy head of the inspection team fixes the fact of non-providing by the bank/institution at the request of the inspection team/request in electronic form, indicated in the request for information documents (copies thereof and/or extracts therefrom), written explanations, access to the system of automation of banking transactions, resources of automated banking systems/automated systems, which ensure the financial monitoring of a bank/institution, information resources, in a timely manner in full, in a certain format, structure and form by making corresponding record on the requests for their provision (for instance, on a copy stored by the head/deputy head of the inspection team) or composes a certain act.

The head or deputy head of the inspection team shall have the right, on the basis of the request of the inspection team/request in electronic form to demand (if necessary) the bank/institution to produce copies of documents in the presence of the member of the inspection team.

19. The head of the inspection team or the head of the structural unit of the Department conducting on-site inspections of banks/institutions, in the presence of reasons that may indicate the impossibility of completing the on-site inspection program in full and within the established time

limits, submits to the head of the National Bank a substantiated application for amending the program of on-site inspection, extension of the period subject to the on-site inspection, term, cancellation or pre-termination of the initiated on-site inspection. The certificate of the on-site inspection in the event of cancellation (pre-termination) of the initiated on-site inspection is made in accordance with the requirements of clause 22 of section II of this Regulation in case of detecting a violation by the bank/institution of legislation on financial monitoring issues, requirements and restrictions on the activities of banks, fact(s), that can testify to the risk activities of the bank.

The head of the National Bank may, on the basis of a substantiated application, adopt a decision to amend the program of the on-site inspection, extend the period subject to the on-site inspection, term, cancellation or pre-termination of the on-site inspection initiated. The term for which the on-site inspection is to be extended shall not exceed 60 working days”;

6) the first paragraph of clause 22 shall be worded as follows:

“22. On the basis of the results of the scheduled or unscheduled on-site inspection of the bank/institution, a certificate on the on-site inspection, signed by the head of the inspection team and the deputy head of the inspection team (one of them in the case of a temporary absence of another), shall be drawn up in triplicate”;

7) the first, fourth and sixth paragraphs of clause 23 shall be worded as follows:

“23. The materials of the on-site inspection shall be all documents (copies thereof and/or extracts therefrom), including in electronic form, on certain information media, written explanations and information provided by the bank/institution upon the request of the National Bank/inspection team in paper copies, copies of documents withdrawn by the inspection team for the purpose of on-site inspection, other documents received by the National Bank in accordance with the procedure established by the legislation (in particular, from official sources, during the implementation of the off-site supervision/on-site inspection of other bank/institution, from state bodies, business entities, individuals), documents drawn up by the inspection team/the National Bank (acts, descriptions, etc.) If the document is available only in electronic form, then the bank/institution, upon the request of the inspection team/the request in electronic form, is obliged to provide a copy thereof (extract therefrom) on a paper carrier”;

“Documents, information and written explanations prepared by the bank/institution upon the request of the inspection team/request in electronic form shall be submitted with the signature of the head [the compliant officer for financial monitoring (hereinafter – the compliant officer)] of the bank/institution, affixed with a stamp imprint of the bank/institution stamp indicating the date of submission. Copies of documents, extracts therefrom provided upon request of the inspection team/request in electronic form, shall be certified by the signature of the head (the compliance officer) affixed by the stamp imprint of the bank/institution indicating his position, initials and surname, date of certification and putting the inscription “According to the original”, or otherwise specified in the request of the inspection team/requests in electronic form”;

“In addition to the certification stamp, the bank/institution shall indicate on copies of documents/extracts therefrom explanatory inscriptions in the order specified in the request of the inspection team/request in electronic form”;

8) in clause 25:

in the first paragraph, the word “third” shall be replaced by the word “seventh”;

clause shall be supplemented with a new paragraph of the following wording:

“The provision by the bank/institution of objections to the certificate on the on-site inspection does not relieve the bank/institution from the duties the execution of which is related to the fact of receipt by the bank/institution the certificate on the on-site inspection determined by the legislation of Ukraine, including the resulations of the National Bank”;

9) the first paragraph of clause 27 shall be worded as follows:

“27. The owner of the certificate on the on-site inspection of the bank/institution since it’s signing by the head of the inspection team and the deputy head of the inspection team (one of them in the case of a temporary absence of another), annexes thereto (including materials of the on-site inspection) from the moment of their receipt by the National Bank shall be exclusively the National Bank.”

3. In section III:

1) subclauses 4 and 5 of clause 29 should be worded as follows:

“4) to receive from the bank/institution free of charge any information, materials, documents (copies thereof and/or extracts therefrom, including in electronic form on certain media, with the cover letter), explanations (including in written form) regarding his/her activity, to remove copies of documents evidencing a violation of the legislation on financial monitoring, the presence of signs of the bank/institution risk activities in relation to the activities of the bank/institution;

5) to receive from the bank/institution and to take outside it the on-site inspection materials, including copies of documents that evidence/may evidence violations of the legislation on financial monitoring, certified in accordance with the established procedure”;

2) subclause 5 and 6 of clause 30 shall be worded as follows:

“5) to ensure timely submission upon the request of the inspection team/request in electronic form of complete, reliable information, materials, documents (copies thereof and/or extracts therefrom, including in electronic form on certain media, with the cover letter), written explanations in the format, structure, form, order, terms and volumes defined in the request of the inspection team/request in electronic form;

6) to ensure members of the inspection team the demonstration and familiarization with the functional capabilities of automated banking systems/automated systems that ensure the implementation of financial monitoring, systems of automation of banking operations, information resources in the manner established in the request of the inspection team/request in electronic form.”

4. In section IV:

1) subclause 2-4 of clause 31 shall be worded as follows:

“2) data of the statistical reporting of the bank/institution submitted in accordance with the requirements of the Rules for the organization of statistical reporting submitted to the National Bank of Ukraine, approved by the Resolution of the Board of the National Bank of Ukraine dated March 1, 2016, No. 129 (as amended);

3) information, documents (copies thereof and/or extracts therefrom), including in electronic form on specified media, reports received from the bank/institution;

4) information and documents received from the units of the National Bank, state financial monitoring entities, other state bodies, as well as other information and documents received by the National Bank while performing its functions”;

2) the first, third and fourth paragraphs of clause 32 shall be worded as follows:

“32. The National Bank, in order to conduct the off-site supervision on financial monitoring, shall have the right to request from the bank/institution information (including in electronic form in the specified format, structure and information media), documents (copies thereof and/or extracts therefrom) and written explanations regarding the financial transactions performed and on specific issues of the bank/institution’s activity by providing a corresponding request”;

“The head of the bank/institution is obliged to ensure the timely provision upon the request of reliable information, materials, documents (copies thereof and/or extracts therefrom), explanations (including in written form) in the form, structure, volumes, format, order, term and information media.

Documents (copies thereof and/or extracts therefrom), including in electronic form on the specified media, and written explanations submitted by the bank/institution upon the request of the National Bank, shall comply with the requirements established by clause 23 of section II of this Regulation”;

3) in clause 34:

in the third paragraph, the word “three” shall be replaced with the word “seven”;

clause shall be supplemented with the new paragraph as follows:

“The provision by the bank/institution of objections to the act does not relieve the bank/institution from the determined by the legislation of Ukraine, including the regulations of the National Bank, obligations the execution of which is related to the fact of receipt the act by the bank/institution.”

**Director of Department of Financial
Monitoring**

APPROVED:

**Deputy Chairman of the National bank of
Ukraine**

I. Bereza

K. Rozhkova