

## THE BOARD OF THE NATIONAL BANK OF UKRAINE

### RESOLUTION

№ 316 dated 12 May 2015

#### About application of sanctions to the non-bank financial institutions

On the realization of Articles 3, 14 Paragraph 5 Section X of the Law of Ukraine “On prevention and countermeasure of legalization (laundering) of proceeds of crime, terrorism financing and spread of weapons of mass destruction financing”, according to Articles 7, 15, 56 of the Law of Ukraine “On National Bank of Ukraine” the Board of the National Bank of Ukraine decides:

1. To confirm the Regulation on appliance by the National Bank of Ukraine sanctions for violation of legislation regarding prevention and countermeasure of legalization (laundering) of proceeds of crime, terrorism financing and spread of weapons of mass destruction financing, that is attached.
2. To declare to be no longer in force:

The Resolution of the Board of the National Bank of Ukraine № 192 “On confirmation of the Resolution on appliance by the National Bank of Ukraine sanctions for violation of legislation regarding prevention and countermeasure legalization (laundering) of proceeds of crime, terrorism financing” of 15 June 2011. It is registered in the Ministry of Justice of Ukraine on 11 July 2011 under the № 836/19574;

The Resolution of the Board of the National Bank of Ukraine № 213 “On amendments being made to some laws and regulations of the National Bank of Ukraine” of 07 June 2013. It is registered in the Ministry of Justice of Ukraine on 02 July 2013 under the № 1106/23638;

Paragraph 2 of the Resolution of the Board of the National Bank of Ukraine № 696 “On amendments being made to some laws and regulations of the National Bank of Ukraine” of 31 October 2014.

3. To the Financial Monitoring Department (Butkovska T.P.) to inform territorial administrations of the National Bank of Ukraine about the content of this Resolution. Also to realize its placement on the page of the Official Internet-Representation Office of the National Bank of Ukraine.
4. To entrust the control for execution of this Resolution on the First Deputy Chairman of the National Bank of Ukraine Pysaruk O.V.
5. The Decision becomes valid on the next day after its official publication.

**Executive Chairman**

**O.V. Pysaruk**

**CONFORMED BY:**

**Executive Chairman of the  
State Financial Monitoring  
Service of Ukraine**

**V.P. Zubrii**

**CONFIRMED:**

Resolution of the Board of the National Bank of Ukraine

№ 316

12 May 2015

**Regulation**  
**on appliance by the National Bank of Ukraine sanctions for violation of legislation regarding**  
**prevention and countermeasure legalization (laundering) of proceeds of crime, terrorism**  
**financing and spread of weapons of mass destruction financing**

**I. General regulations**

1. This Regulation is developed in accordance with the Laws of Ukraine “On legalization (laundering) prevention and countermeasure of proceeds of crime, terrorism financing and spread of weapons of mass destruction financing” (further – the Law), “On the National Bank of Ukraine” and other legislative acts of Ukraine.

The act of this Regulation is extended to non-bank financial institutions – residents. They are payment organizations and/or members or participants of payment systems, in a part of provision by them of a financial service by the transfer of means on the ground of appropriate licenses, including the National Bank of Ukraine. It is except mail service operators in a part of making by them of the transfer of means. The government control and supervision over them in the area of prevention and countermeasure of proceeds of crime, terrorism financing and spread of weapons of mass destruction financing (further – in the area of legalization prevention) is realized by the National Bank of Ukraine (further – the National Bank).

2. This Regulation determines the order:

- 1) Application of sanctions to the financial institutions by the National Bank, which are foreseen by Article 24 of the Law (further - sanctions);
- 2) Making of demands by the National Bank according to Article 14 of the Law on execution of legislation by the financial institution in the area of legalization prevention (further - request in writing);
- 3) Realization of the control and monitoring by the National Bank over performance by the financial institutions of decisions about application of sanctions, requests in writing to them by the National Bank.

Applied in this Regulation terms and concepts are used with the meanings, determined by the Law, other legislative acts of Ukraine, laws and regulations of the National Bank.

3. Decision about application of sanctions to the financial institutions (further – the Decision) is made by the Board of the National Bank (further – the Management) or authorized body, to which the Board delegated such power (further - authorized body of the National Bank).

4. Sending to the financial institution of the copies of the Decision and of the original of the request in writing is realized according to the procedure established by this Regulation/National Bank.

The National Bank for violation (non-fulfilment / improper fulfilment) by the financial institutions of the requirements of the Law and/or laws and regulations of the National Bank, which regulate activity (realization of total or separate actions) in the area of legalization prevention (further - laws and regulations), which were set due to examinations (field examination, off-site management regarding financial monitoring), in accordance with the established by this Regulation procedure uses sanctions to them within 6 months from

the date of identification by the National Bank. But in any case within 3 years from the date of commitment of violation, to which relate:

- 1) fine sanctions;
  - 2) cancellation of a license for special activities of the financial institution;
  - 3) dismissal of the person in charge of financial institution from office.
6. The day of detection of violation of the Law and/or laws and regulations by the National Bank (further – the day of detection) is a date of preparation:
- 1) Certificates of field check of financial institution (of its separate division);
  - 2) Act on results of off-site management in the matter of financial monitoring of the financial institution.
7. The National Bank has the right to apply on the ground of results of control and supervision to the financial institutions sanctions for the non-fulfilment by them of the Decisions / requests in writing / demands of this Regulation / documents of the National Bank within six months from the next day after the end of the term. This term is established by the National Bank / by this Regulation for their execution.
8. Determined by the month term runs out in the corresponding date of the term's last month.
9. Among other things the Decision has to contain information about facts, that witness about commitment of violation by financial institutions, with reference to concrete regulations of the Law and/or laws and regulations, and also documents of the National Bank, if necessary.
10. The National Bank can invite for explanations a manager (managers) of the financial institution, a worker of the financial institution, who is responsible for execution of the financial monitoring (further – responsible worker of the financial institution), to the session of authorized body of the National Bank, which will discuss application of sanctions to the financial institution.

An invitation should be sent via e-mail of the National Bank or in written form not later than two working days before the date of meeting arranging of the authorized body of the National Bank.

Nonappearance of invited persons of the financial institution on the meeting isn't a reason to delay consideration of the question about application of sanctions.

11. The National Bank sends to the financial institution a certified copy of the Decision / original document of the request in writing by registered letter with recorded delivery with guarantee of the confidentiality.
12. The Decision enters into force from the date of its acceptance. It is obligatory for action, and it can't be stopped with cassation.
13. Application of sanctions to the financial institution for violation of the Law and/or laws and regulations doesn't dispense from administrative responsibility of persons in charge of the financial institution and other persons, who are guilty of violation commitment.

The National Bank has the right to apply to the financial institution prescribed by the Law sanctions independently from instituting administrative action against persons in charge of the financial institution or other persons, who are guilty of the Law violation commitment and/or laws and regulations.

## **II. Imposition of penal sanctions**

1. The National Bank imposes fine sanctions adequately to the committed violation against the financial institution in the amounts, provided by the Part 3 of Article 24 of the Law.
2. A repeated violation is a violation by the financial institution of requirements of the Law and/or laws and regulations, executed within 3 years after the day of detection by the National Bank of analogous violation (violation of the same provision of the Law or regulatory legal act). For it the National Bank decided to apply to the financial institution a sanction, according to the Law. It also provokes imposition of a fine in the amount, provided by the Part 4 of Article 24 of the Law.

3. In the case of commitment by the financial institution two or more violations (including repeated violations) of requirements of the Law and/or laws and regulations, the fine sanctions are imposed within the bigger size of fine, established for the committed kind of violation.
4. Decision of the National Bank to apply to the financial institution fine sanctions is an implementation document and it has to correspond to the requirements, provided by Article 18 of the Law of Ukraine “On Concerning Enforcement Proceedings”.
5. Decision of the National Bank to apply to the financial institution fine sanctions has to be executed within 15 working days starting with its receipt.

The financial institution has to inform the National Bank about payment of a fine not later than the next business day upon fine payment via email of the National Bank. It is also necessary to send on the same day to the National Bank a certified copy of a payment document about fine payment by registered letter with recorded delivery.

6. In the case of non-fulfilment at the stated time of the Decision of the National Bank about appliance of fine sanctions by the financial institution, the National Bank transfers it to the State Enforcement Service Bodies for compulsory execution.
7. An appeal of the Decision of the National Bank about appliance of fine sanctions to the financial institution, provided by the Law, should be realized through the courts only for the purpose of establishment of legitimacy to make such Decision and doesn't stop an execution of applied sanction by the National Bank.

### **III. Request in writing**

1. The National Bank has the right to demand from the financial institution realization (elimination and/or accomplishment of measures required for further non-admission of violation activity) of legislative requirements in the area of prevention of legalization by presenting to it a request in writing.
2. A request in writing is compiled on a pre-printed form of the National Bank. In the request in writing are pointed out the document title “Request in writing”, full name and location of the financial institution, to which it should be sent, violations that the financial institution has made and if necessary it takes specific actions to eliminate a violation in the designated by the National Bank period.
3. The financial institution is obliged, in the case if the National Bank determine the terms to take measures, to file in the National Bank not later than five working days from the date of:
  - 1) receiving of the request in writing – actions plan, that it agrees that it will take at the stated by the National Bank time to eliminate violations (further – the violations elimination plan);
  - 2) termination of term, determined in the request in writing – report on performance of the violations elimination plan, and documents that confirm their elimination.

The National Bank has the right during one month from the day of receiving of the violations elimination plan to file offers and remarks, which the financial institution is obliged to take into account.

### **IV. Cancellation of a license**

1. The National Bank in the case of detection of two or more repeated violations, that the financial institution has made, in addition to the fine sanction provided by Part 4 of Article 24 of the Law, can cancel:
  - 1) license for transfer of means in the native currency without opening of an account (further – license);
  - 2) General license for fulfilment of currency operations (further – general license).
2. The financial institution, to which the National Bank decided to apply sanctions like cancellation of a license / general license, has to cease transfer of means and to return the originals of the appropriate

licenses to the National Bank in the manner and at the time, that the legislation defines, by sending it by registered letter with recorded delivery or with delivery service.

3. The financial institution, that is a payment organization of the payment system, within 3 working days of the day of receipt of decision of cancellation of a license / general license informs:
  - 1) Members / participants of the intrastate payment system, that it created about applying to it sanctions by the National Bank in the form of cancellation of a license;
  - 2) Members / participants of the international payment system, that it created, including those, who act in the territory of other state, and the supervision body of the correspondent foreign state about application to it of a sanction by the National Bank in the form of cancellation of a general license.

The financial institution, that is a member / participant of a payment system, within 3 working days from the day of receiving of the decision of a license cancellation / general license informs a payment organization of the correspondent payment system about applying to it sanctions by the National Bank in the form of cancellation of a license / general license.

## **V. Removal from office of the person in charge of the financial institution**

1. The National Bank has the right temporary until violation elimination to remove from post the person in charge of the financial institution, in the case if this person brakes the Law and/or laws and regulations, and/or demands of this Regulation / documents of the National Bank.
2. The National Bank has the right to remove from post such persons in charge of the financial institution as:
  - 1) The chief (chiefs) of the financial institution;
  - 2) Accounting manager of the financial institution;
  - 3) Executive official of the financial institution;
  - 4) The chief of separate division of the financial institution.
3. The decision of the National Bank about removal from office of the person in charge is sent to the financial institution not later than the next working day from the day of making of such decision.
4. The financial institution informs via email the National Bank, not later than 3 working days from the day of receiving of decision of the National Bank about removal from office of the person in charge, about the person in charge, who will temporary perform duties of the removed from post the person in charge, specifying the requisites of accepted decision (decisions) by the authoritative body (person in charge) of the financial institution.
5. The person in charge of the financial institution, who was removed from post according to the decision of the National Bank, can be reinstated in position only upon the decision of the National Bank about granting permission on reinstatement in office of the person in charge of the financial institution.
6. Authorized body of the National Bank discusses granting permission on reinstatement in office of the person in charge of the financial institution, who was removed from post according to the decision of the National Bank, in the case of corresponding request of the financial institution on condition if it represents documents, that confirm the violation elimination.
7. Granting permission on reinstatement in office of the person decides an authorized body of the National Bank, which decided to remove this person from post, or other authorized body.

Assistant Manager – Head of Department  
of the System Analysis of the Financial  
Monitoring Department

T.P. Butkovska

**CONFORMED BY:**  
**First Deputy Chairman of the**  
**National Bank of Ukraine**

**O.V. Pysaruk**