



**NATIONAL SECURITIES AND STOCK MARKET  
COMMISSION  
RESOLUTION**

**December 11, 2012**

**City of Kyiv**

**No. 1766**

**Registered with the Ministry of Justice of Ukraine  
on January 2, 2013 under No. 9/22541**

**On Approval of the Rules of Proceedings in Cases Regarding  
Non-Compliance with the Legal Requirements for the  
Prevention of and Counteraction to Legalization (Laundering)  
of Proceeds from Crime, or Financing of Terrorism, or  
Financing of Proliferation of Weapons of Mass Destruction,  
and Imposition of Penalties**

(the title is as worded by the NSSMC  
in its Resolution No. 675, dated May 19, 2015)

As amended and supplemented by  
Resolution No. 675 of the NSSMC  
dated May 19, 2015,

Pursuant to [Articles 2, 5, 6, 14, 23, and 25 of the Law of Ukraine "On Prevention of and Counteraction to Legalization \(Laundering\) of Proceeds from Crime, or Financing of Terrorism", Chapters 1 - 4, 16 - 19, 21 - 25, and 27 of the Administrative Offenses Code of Ukraine, Articles 7 - 9, and 12 of the Law of Ukraine "On State Regulation of the Securities Market in Ukraine,"](#) and seeking to improve the enforcement procedure as required by applicable law, the National Securities and Stock Market Commission

**HAS RESOLVED AS FOLLOWS:**

1. To approve the Rules of Proceedings in Cases Regarding Non-Compliance with the Legal Requirements for the Prevention of and Counteraction to Legalization (Laundering) of Proceeds from Crime, or Financing of Terrorism, or Financing of Proliferation of Weapons of Mass Destruction, and Imposition of Penalties, as attached hereto.

(Clause 1 as worded by the NSSMC  
in its Resolution No. 675 dated May 19, 2015)

2. To declare invalid [Resolution No. 1182 of the Securities and Stock Market State Commission "On Approval of the Rules of Proceedings in Cases Regarding Non-Compliance with the Legal Requirements for the Prevention of and Counteraction to Legalization \(Laundering\) of Proceeds from Crime, or Financing of Terrorism, and Imposition of Penalties"](#), registered with the Ministry of Justice of Ukraine on September 15, 2011, under No. 1092/19830.
3. The Organizational Provision Division (N. Herasymenko) shall arrange for this Resolution to be submitted to the Ministry of Justice of Ukraine for state registration.
4. The External and Internal Communications Unit of the Information Technology, Internal and External Communications Division (Yu. Zhulii) shall arrange for the publication hereof in accordance with applicable law.
5. This Resolution shall come into force and effect from the day of its official publication.
6. Control over the implementation of this Resolution shall be reserved to myself.

**Commission Chairman**

**D. Teveliev**

**AGREED:**

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

**V.P. Zubrii**

**Chairman of the State Service of Ukraine  
for Regulatory Policy  
and Entrepreneurship Development**

**M.Yu. Brodskyi**

Minutes No. 55 of the Commission Meeting  
December 11, 2012

APPROVED BY  
Resolution No. 1766 of the NSSMC  
December 11, 2012

Registered  
with the Ministry of Justice of Ukraine  
under No. 9/22541 on January 2, 2013

**RULES  
of Proceedings in Cases Regarding Non-Compliance with the Legal Requirements  
for the Prevention of and Counteraction to Legalization (Laundering) of Proceeds**

# **from Crime, or Financing of Terrorism, or Financing of Proliferation of Weapons of Mass Destruction, and Imposition of Penalties**

(the title of the Rules is as worded by the NSSMC in its Resolution No. 675, dated May 19, 2015)

## **I. General Provisions**

1. These Rules provide the procedure and timing for the National Securities and Stock Market Commission (hereinafter - the Commission) to consider cases regarding non-compliance of legal entities with the requirements of [the Law of Ukraine "On Prevention of and Counteraction to Legalization \(Laundering\) of Proceeds from Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction"](#) (hereinafter - the Law) and/or regulatory acts that regulate efforts to prevent and counteract legalization (laundering) of proceeds from crime, introduce the procedure for penalizing the legal entities subject to state regulation and supervision by the Commission in accordance with [Clause 2, part one of Article 14 of the Law](#), and the procedure for making administrative offense reports and submitting them to courts.

(Clause 1, Section I, as worded by the NSSMC in its Resolution No. 675 dated May 19, 2015)

2. Proceedings for legal offenses committed on the territory of Ukraine shall be carried out in accordance with these Rules.

3. The objective of proceedings in legal offense cases shall be to establish timely, exhaustively, and objectively the circumstances of a case, resolve it in accordance with applicable law, ensure the fulfillment of the delivered decision, and identify the causes and conditions encouraging such violations and prevent any potential legal offenses.

4. The structural unit of the Commission under these Rules shall be a department, division, or unit of the Commission's central or regional office that regulates a specific activity area.

The authorized unit of the Commission under these Rules shall be a department, division, unit of the central or a regional office of the Commission that performs law enforcement functions.

5. Proceedings in legal offense cases shall be carried out exclusively by authorized persons of the Commission (hereinafter - the authorized person) within the powers vested in them.

6. Acting within the powers vested in them, the authorized persons shall, in every case of breach detected, take every measure necessary to document the fact of breaching, thoroughly, fully and objectively investigate the factual background of the case, and timely apply penalties provided by the Law.

The decision in the case shall be lawful and justified. The decision shall be based only on the evidence examined during the proceedings.

Evidence in a legal offense case shall be any legally collected factual data indicating the presence or absence of a legal offense and other circumstances that are important for proper resolution of the case.

7. If a legal offense does not fall within the jurisdiction of the Commission, the authorized person shall refer the case materials to the state authorities within whose jurisdiction the given case falls.

8. Legal offense cases shall be processed by the authorized persons on whose territory of jurisdiction the offense was detected or the imputed offender stays.

Administrative offense cases shall be processed as applicable law requires.

9. If an offense is a result of joint actions by several legal entities, the cases against these entities shall be assigned to one authorized person to consider them as a single case.

10. If the offense is committed by a standalone unit of a legal entity (a branch, representative office, etc.), the offense case against this legal entity shall be processed by the authorized persons in the location of this standalone unit.

11. To ensure comprehensive, exhaustive, and objective case resolution, offense cases against legal entities may be joined together for the same proceedings, and one case against a legal entity may be singled out for separate proceedings.

A dedicated resolution is required to join together cases for the same proceedings and single out one case for separate proceedings.

12. The resolution initiating a legal action for an offense, offense report, resolution on proceedings in a case of legal offense, resolution on suspending the proceedings in a case of legal offense, resolution resuming the proceedings in a case of legal offense, resolution imposing penalties for an offense, resolution closing the case of legal offense, resolution closing the proceedings in a case of legal office, resolution on correction of textual errors, demand to remedy the violations of the legislation on the prevention of and counteraction to legalization (laundering) of proceeds from crime or financing of terrorism shall be deemed sent (handed in) to the legal entity which is facing liability, if served to the CEO or representative of this legal entity against the signature or delivered by registered mail, requesting an acknowledgment receipt from the location registered in the Uniform State Register of Legal Entities and Private Entrepreneurs, signed in confirmation thereof by the appropriate official.

The person who refuses to accept the resolution initiating a legal action for an offense, offense report, resolution on proceedings in a case of legal offense, resolution on suspending the proceedings in a case of legal offense, resolution resuming the proceedings in a case of legal offense, resolution imposing penalties for an offense, demand to remedy the violations of the legislation on the prevention of and counteraction to legalization (laundering) of proceeds from crime or financing of terrorism shall be deemed properly notified of the initiated legal action; the date, time, and place of the offense report; date, time, and place of the case hearing; suspension and resumption of the proceedings in the case; imposed penalty; and deadline set for implementing the demand to remedy the violations of the legislation on the prevention of and counteraction to legalization (laundering) of proceeds from crime or financing of terrorism.

If the recipient refuses to accept the said documents, the person who delivered them shall make the appropriate mark and certify it with his personal signature.

## **II. Authorized Persons Who Try Offense Cases and Their Powers**

1. Offense cases against legal entities shall be tried by the following authorized persons within their respective powers:

Commission chairman;

Commission members;

officials authorized by the Commission.

2. An offense case may be considered on the instruction of the Commission chairman by three commission members collectively.

If an offense case is considered collectively by three Commission members, all documents pertaining to this case shall be signed by each authorized person who considered the case.

3. If the Commission chairman or a Commission member is absent (on a business trip, on a leave, on the sick list, etc), another commissioner shall consider the offense case on the relevant instruction.

If the official authorized by the Commission is absent (on a business trip, on a leave, on the sick list, etc), the person who performs his duties shall consider the offense case.

4. The Commission chairman shall have the right to request any offense case under review from one authorized person and pass it to another authorized person, or accept it for his own review.

5. If in considering an offense case the official authorized by the Commission considers it necessary to impose a penalty that lies beyond his official powers, this authorized official shall have until the next working day to send the offense case file for review to the authorized unit in the central office of the Commission. The authorized unit of the central office of the Commission shall have five working days after receiving the offense case file to forward it to the commissioner whose duties include consideration of such offense cases, according to the official distribution of duties and/or written instruction of the Commission chairman.

### **III. Proceedings in Legal Offense Cases against Legal Entities**

1. An offense case may be initiated only if there are sufficient data pointing to a legal offense.

2. A legal offense case may not be initiated and an already initiated case shall be closed if: there is no fact of committed offense; no material elements of an offense; the case is not subject to review by the Commission; there is a valid resolution of the authorized person on the same fact, or a court decision; or a record has been made in the Uniform State Register on state registration of dissolution of the legal entity against which the offense case has been instituted, or this legal entity has been declared bankrupt; or a record has been made in the Uniform State Register about a court decision dissolving the legal entity; or the legal act establishing liability for the committed offense has been abolished; or there is already an offense case initiated against the entity that is facing liability; the period of limitation for the case has expired as of the date of case review.

A legal entity may not be held liable for any actions that have already been objects of a probe that found no violation.

3. The authorized person shall consider an offense case and deliver a decision in the case as prescribed by applicable law and evaluate evidence based on a comprehensive, exhaustive, and objective examination of the factual background.

4. Proceedings in offense cases shall be suspended if: there is another case under review in the Commission, judicial bodies or other public authorities, the decision on which shall be taken into account when deciding the case; or an expert examination is needed, or an additional investigation, or appropriate opinions; or there is no information about the whereabouts of the legal entity against whom the given case has been initiated; or there is no information confirming the proper notification of the legal entity of the date, place and time of the offense case hearing.

To suspend proceedings in a case, the authorized person shall pass a resolution on suspension of proceedings in the legal offense case.

When suspending proceedings in a legal offense case, the proceedings term shall be deemed suspended from the date of the relevant resolution.

5. The proceedings in a legal offense case shall be resumed after all the circumstances that caused the suspension have been clarified and the authorized person passes a resolution on resumption of the proceedings in the legal offense case.

The proceedings term shall continue from the date of the resolution resuming the proceedings in the offense case, including the time elapsed before the suspension.

6. The resolution suspending proceedings in a legal offense case and the resolution resuming the proceedings in the legal offense case shall be sent within three working days from the date thereof to the legal entity against which the case has been initiated.

If proceedings in an offense case have been suspended because there is no information about the whereabouts of the legal entity against which the offense case has been initiated, the resolution suspending the proceedings in the legal offense case shall not be sent to the legal entity against which the case has been initiated; it shall be sent in a package with the resolution resuming the proceedings in the legal offense case.

7. If proceedings in a legal offense case are suspended on the basis of Clause 4 of this section, the authorized person shall send the case materials to the authorized unit of the Commission, which shall arrange for the measures provided in the resolution suspending the proceedings in the offense case to be implemented.

8. If any errors are identified (which, however, do not affect the essence of the committed offense) in the resolution initiating a legal action for an offense, offense report, or resolution on the case consideration results, the authorized person who prepared this report or issued the resolution on its own initiative or at the request of the legal entity who is the subject of this report (or resolution) may decide to make corrections thereto.

In this case, the authorized person shall make an error correction resolution and send it within three working days from the date thereof to the legal entity who is the subject thereof.

#### **IV. Institution of Legal Offense Cases against Legal Entities**

1. If a legal offense is detected, the authorized person shall pass a resolution initiating a legal offense case.

A legal offense case shall be initiated from the date of the resolution initiating the legal offense case.

If the grounds provided in Clause 2, Section III hereof are detected after the resolution initiating a legal offense case has been issued but before the offense report prepared, the authorized person shall pass a resolution closing the proceedings in the case.

2. If an offense is committed, the authorized person shall draw up an offense report.

The legal entity against which the offense case has been initiated shall be notified of the date, time, and place of preparation of the offense report no later than five working days before the report date.

The offense report shall be drawn up and signed within 20 working days after the date of the resolution initiating an offense case.

3. The following persons shall be authorized within their respective powers to draw up offense reports:

the Commission chairman, commission members, and officials authorized by the Commission.

4. The offense report shall contain: the number, date and place of its preparation; position, surname, name and patronymic of the person who prepared the offense report (if the powers to make such reports are granted on a power of attorney, the essential particulars of the latter document shall be provided); full name of the legal entity, its location, USREOU code, bank details, contact details; description of the circumstances of the offense; reference to the legal act whose provision has been violated; information about any repeat offense committed by the legal entity against which the offense report was made; any other information needed to resolve the offense case.

If the legal entity against which the offense report has been made presents explanations, these explanations shall be deemed an integral part of the offense report and attached thereto as an annex.

The offense report shall be signed by the person who prepared it and the CEO or representative of the legal entity with regard to which this document has been made.

If the CEO or representative of the legal entity refuses to sign the offense report, the authorized person shall make a record on the report about this refusal to sign the document.

5. Before the offense report is signed, the authorized person shall decide as follows: whether or not any additional materials are needed; whether or not there are grounds specified in Clause 2, Section III hereof, and whether or not any motions by the legal entity against which the offense case is instituted may be satisfied.

6. Given a substantiated written request from the CEO or representative of the legal entity that is facing liability, the authorized person may decide prior to making an offense report to postpone the date of signing the offense report within the period of time set by paragraph three, Clause 2 of this section.

The legal entity that is facing liability shall be notified in writing of the postponement of the date of signing the offense report.

7. If the CEO or representative of the legal entity that is facing liability fails to appear for signing the offense report, the report shall be prepared on the same day the legal entity was invited, provided that the legal entity was timely notified of the place and time of the report preparation, and an appropriate record about this failure to appear for signing shall be made on both copies of the report.

8. One signed copy of the offense report shall be given to the CEO or representative of the legal entity against which this document is made. If the CEO or representative of the legal entity fails to appear for signing the offense report, one copy of the report shall be sent to this legal entity along with the resolution on proceedings in a legal offense case.

9. Once prepared, the offense report shall be sent within three working days in a package with the explanations and other case materials to the authorized person within whose jurisdiction the given case falls for preparing the case for consideration.

10. Provided that the CEO or representative of the legal entity is present and at his written request, the authorized person who has the authority to consider offense cases may try the given offense case immediately after the offense report is ready.

## **V. Preparation of Legal Offense Cases against Legal Entities for Consideration**

1. When preparing a legal offense case for consideration, the authorized person shall answer the following questions: whether or not the given case falls within his jurisdiction; whether or not all necessary additional materials have been obtained; whether or not there are grounds specified in Clause 2, Section III hereof; and whether or not any motions by the persons who take part in the consideration of the case may be satisfied.

2. If, when preparing the case for review, the authorized person establishes the grounds provided in Clause 2, Section III hereof, the offense case may be closed before its review date is determined, which shall be reflected in a relevant resolution to be sent within three working days of its date to the legal entity charged with the committed offense in the closed case.

3. If, when preparing a case for review, the authorized person establishes the grounds provided in Clause 4, Section III hereof, the proceedings in the case may be suspended, pending clarification of the circumstances that served as grounds for suspending the offense case.

4. The authorized person shall decide the issues envisaged in Clause 1 hereof, set the offense case consideration date, pass a relevant resolution and send it to the legal entity against which the case has been instituted at least five working days prior to the case consideration date.

5. If necessary, the authorized person may request additional materials, findings, explanations, and other evidence, without which it is impossible to decide the case.

The case consideration process may involve specialists, experts, and third parties, as well as their written opinions and explanations concerning the offense case.

6. Provided that the CEO or representative of the legal entity facing liability is present and at his written request, the authorized person may decide in favor of early proceedings in the case. This fact shall be reflected in a note written on the resolution on proceedings in a legal offense case, under which the authorized person who decided in favor of early proceedings in the case shall put his signature, followed by the signature of the CEO or representative of the legal entity facing liability to certify that the signatory has been notified of the case consideration date.

## **VI. Consideration of Legal Offense Cases against Legal Entities**

1. An offense case against a legal entity shall be considered in the presence of the CEO and/or representative of this legal entity that is facing charges.

The powers of the representative of the legal entity facing liability shall be certified with a power of attorney, whose original or copy shall be enclosed in the case file.

If the CEO or representative of the legal entity is absent, the case may still be considered, provided that the legal entity has been timely notified of the case consideration venue and time as required by Clause 4, Section V of these Rules.

2. The CEO or representative of the legal entity shall have the right to: be heard, provide explanations, present evidence, make motions, and contest the decision of the authorized person in the case.



The CEO or representative of the legal entity against which an offense case is instituted and tried shall have the right to speak in his native language and use the services of an interpreter if he does not understand the language of the proceedings.

The proceedings shall be held in the official language.

3. A staff member of the authorized unit of the Commission and other staff of the Commission's organizational units may take part in the proceedings.

A staff member of the authorized unit of the Commission may provide legal assistance to ensure observance of the proceeding procedure, take part in the examination of evidence, offer to the authorized person his proposals regarding compliance with applicable law when delivering the decision in the offense case, and ensure that the delivered decision is documented and communicated to stakeholders.

A staff member of an organizational unit of the Commission may take part in the examination of evidence, express his opinions, and provide additional data needed to make the decision.

## **VII. Resolution in a Legal Offense Case against Legal Entities**

1. Having considered an offense case, the authorized person shall deliver a decision in the case.

This decision of the authorized person shall be formalized as a resolution.

2. The resolution shall consist of the introductory, descriptive, reasoning, and resolute parts.

The introductory part of the resolution shall contain: the resolution number; hearing date and venue; position, surname, name and patronymic of the authorized person who passed the resolution; the document on which this person is acting; and information about the legal entity which is the subject of the case (full name of the legal entity, its registered location, USREOU code, bank and contact details).

The descriptive part shall contain the established factual background of the case and a reference to the violated legal act.

The reasoning part shall provide references to evidence proving the offense fact and guilt of the legal entity, or facts indicating no legal offense, and reference to the relevant legal act which provides for liability for the given offense, as well as the arguments that dismissed motions or evidence provided by the legal entity.

The resolute part shall contain the decision delivered in the offense case.

The resolution in an offense case shall include a guideline explaining the procedure for appealing against it and the period of limitation for appeals.

The resolution in an offense case shall be signed by the authorized person who reviewed the case and have the official seal affixed thereto.

3. The authorized person shall make either of the following decisions:

1) to impose a penalty for the offense;

2) to close the case.

4. The authorized person shall make a decision within 90 working days after receiving the offense report and documents concerning the case.

5. The resolution in an offense case shall be made public immediately after the proceedings are over.

A copy of the resolution shall be presented to the legal entity which is the subject thereof (which fact shall be reflected in a record made on the resolution original enclosed in the case file), or sent by mail within five working days from its date.

(paragraph two, Clause 5, Section VII, as amended pursuant to  
Resolution No. 675 of the NSSMC  
dated May 19, 2015)

If a legal offense case is closed due to an entry made in the Uniform State Register canceling state registration of the legal entity that is the subject of the legal offense case, a copy of the resolution closing the legal offense case shall not be mailed to the legal entity which is the subject thereof.

6. All and any additional materials that were provided during the consideration of an offense case shall be included in the case file.

7. Control over the fulfillment of a decision instructing the authorized person of the central office of the Commission to impose a penalty shall be assigned to the authorized unit in the central office of the Commission.

A copy of the resolution in the offense case considered in the location of a regional office of the Commission shall be sent to the authorized unit in the central office of the Commission within five working days for the record.

Control over the fulfillment of a decision instructing the authorized person of a regional office of the Commission to impose a penalty shall be assigned to the head of this regional office.

8. The resolution delivered upon the results of consideration of an offense case may be appealed against in court under the procedure established by applicable law.

### **VIII. Demand to Remedy Violations of the Legislation on the Prevention of and Counteraction to Legalization (Laundering) of Proceeds from Crime, or Financing of Terrorism, or Financing of Proliferation of Weapons of Mass Destruction**

(the title of Section VIII as worded by the NSSMC  
in its Resolution No. 675 dated May 19, 2015)

1. A demand to remedy violations of the legislation on the prevention of and counteraction to legalization (laundering) of proceeds from crime, or financing of terrorism, or financing of proliferation of weapons of mass destruction (hereinafter - the violation remedy demand) shall be issued by the authorized person upon the results of considering an offense case simultaneously with a resolution imposing a penalty for the offense if the offense is still not remedied.

(Clause 1, Section VIII, as worded by the NSSMC  
in its Resolution No. 675 dated May 19, 2015)

2. A violation remedy demand shall be presented to the legal entity for which it has been issued (which fact shall be reflected in a record made on the demand original enclosed in the case file), or mailed within five working days from its date.

(Clause 2, Section VIII, as amended pursuant to  
Resolution No. 675 of the NSSMC  
dated May 19, 2015)

3. A violation remedy demand shall contain: its number, date and place of issue; position, surname, name and patronymic of the authorized person who issued this violation remedy demand; information about the legal entity to which the demand is addressed; case background; reference to the legal act whose provision has been violated; the time allowed for remedying the violations of the legislation on the prevention of and counteraction to legalization (laundering) of proceeds from crime, or financing of terrorism; and the date by which the "violations cleared" notification shall come to the authorized person.

A violation remedy demand shall be signed by the authorized person who issued it and have the official seal affixed thereto.

4. Before the expiration of the violation remedy demand and at a written request of the offender, the authorized person who issued the demand may decide to extend the time allowed for complying with this demand, and this decision shall be formalized as a new demand to remedy the violations and sent to the offender within five working days.

(Clause 4, Section VIII, as amended pursuant to  
Resolution No. 675 of the NSSMC  
dated May 19, 2015)

5. A violation remedy demand may be reviewed by the authorized person who issued it, at the request of the offender or at its own initiative before the expiration of the term of this violation remedy demand. Upon reviewing the violation remedy demand, the authorized person may decide to either cancel or uphold it.

The results of review of the violation remedy demand shall be communicated to the subject of the demand.

6. Control over compliance with a violation remedy demand shall be assigned to the organizational unit of the Commission indicated in the demand.

7. Failure to comply with the violation remedy demand shall result in the liability provided for the responsible official of the legal entity to which this demand has been issued.

8. A violation remedy demand may be appealed against in court under the procedure prescribed by applicable law.

## **IX. Proceedings in Administrative Offense Cases**

1. The proceedings in administrative offense cases, consideration of administrative offense cases, procedure for imposing administrative penalties and enforcement of resolutions shall be carried out as prescribed by the Administrative Offenses Code of Ukraine.

2. If a legal offense is identified on the part of an official, the authorized person shall draw up an administrative offense report (hereinafter - the offense report).

3. The following persons shall be authorized within their respective powers to draw up administrative offense reports:

Commission chairman and members;

officials authorized by the Commission.

4. Once prepared, the administrative offense report and other case materials shall be sent to the court within three working days.

## **X. Compliance with Offense Penalty Resolutions**

1. An offense penalty resolution is an executive document.

(Section X has been supplemented with new Clause 1 pursuant to Resolution No. 675 of the NSSMC, dated May 19, 2015, thus Clauses 1 - 4 shall be read as Clauses 2 - 5 respectively)

2. The legal entity shall pay the fine within 15 working days after the date of its receipt of the resolution.

(Clause 2, Section X, as worded by the NSSMC in its Resolution No. 675 dated May 19, 2015)

3. Legal entities shall pay fines by bank transfers to the state budget.

4. The document confirming the payment of a fine shall be sent to the authorized unit of the Commission within five working days.

5. If the legal entity fails to comply with an offense penalty resolution within the set period of time, the authorized unit of the Commission shall refer this resolution to the state enforcement service for enforcing the compliance.

(Clause 5, Section X, as worded by the NSSMC in its Resolution No. 675 dated May 19, 2015)

**Head  
of Organizational Provision Division**

**N. Herasymenko**

