

CABINET OF MINISTERS OF UKRAINE

RESOLUTION

of July 29, 2015 No. 537

Kyiv

On Approving the Provision on the State Financial Monitoring Service of Ukraine

The Cabinet of Ministers of Ukraine **resolves**:

1. Approve the attached Provision on the State Financial Monitoring Service of Ukraine.
2. Declare null and void the [Cabinet of Ministers of Ukraine Resolution of September 17, 2014, No. 455 “On Approving the Provision on the State Financial Monitoring Service of Ukraine”](#) (Official Bulletin of Ukraine, 2014, No. 77, Art. 2180).

Prime Minister of Ukraine

A. YATSENYUK

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APPROVED

by the Cabinet of Ministers of Ukraine
Resolution
of July 29, 2015 No. 537

PROVISION on the State Financial Monitoring Service of Ukraine

1. The State Financial Monitoring Service of Ukraine (SFMSU) is a central executive authority, the operation of which is guided and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Finance and which implements the state policy on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction.
2. In its operation, the SFMSU shall be governed by the [Constitution](#) and laws of Ukraine, President of Ukraine Decrees and Verkhovna Rada of Ukraine Resolutions adopted under the Constitution of Ukraine and laws of Ukraine, Cabinet of Ministers of Ukraine Acts, and other legislative acts.
3. The SFMSU main objectives shall be:
 - 1) implementation of the state policy on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

2) submitting proposals for the Minister of Finance review related to ensuring development of the state policy on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

3) gathering, processing, and analysis (operational and strategic) of information on the financial transactions subject to financial monitoring, other financial transactions, or information which may be related to legalization (laundering) of proceeds of crime or financing of terrorism, or financing of proliferation of weapons of mass destruction;

4) ensuring operation and development of a unified state information system on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

5) performing national risk assessment;

6) establishing cooperation, interaction and information exchange with state authorities, National Bank, competent foreign authorities and international organizations on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

7) duly ensuring representation of Ukraine in international organizations on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

4. In accordance with its responsibilities, the SFMSU shall:

1) summarize the practices of applying legislation on the issues within the Service competence, develop proposals on improvement of legislative acts, President of Ukraine and Cabinet of Ministers of Ukraine acts, regulatory and legal acts of ministries, and duly submit them to the Minister of Finance;

2) submit to officials, state authorities (except for the National Bank), including law enforcement authorities, public prosecution authorities and courts, local government agencies, State Executive Service agencies, enterprises, institutions, organizations requests on obtaining of information (including copies of documents) required, under the law, to discharge the SFMSU tasks;

3) cooperate with executive authorities, National Bank, other state authorities, included in the system of preventing and countering legalization (laundering) of proceeds of crime or financing of terrorism, or financing of proliferation of weapons of mass destruction;

4) where there are sufficient grounds to believe that a financial transaction or a combination of related financial transactions may be related to legalization (laundering) of proceeds of crime or financing of terrorism, or financing of proliferation of weapons of mass destruction, submit summarized materials (additional summarized materials) to the law enforcement agencies authorized to make decisions in accordance with the [Code of Criminal Procedure of Ukraine](#), as well as to intelligence authorities for taking operative-detective actions and obtain from them information on the status of their review;

5) where there are sufficient grounds to believe that a financial transaction or a client is related to committing a socially dangerous act defined in the [Criminal Code of Ukraine](#) as a crime unrelated to legalization (laundering) of proceeds of crime or financing of terrorism, submit information to the relevant law enforcement or intelligence agency as summarized materials or additional summarized materials;

6) take part in international cooperation on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction, specifically:

take part, upon the Cabinet of Ministers of Ukraine instruction, in drafting of the relevant international treaties of Ukraine;

pursue international cooperation with the relevant foreign authorities and international organizations involved in preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction.

ensure cooperation with international intergovernmental organizations, whose operation aims at ensuring international cooperation on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction, including with the Financial Action Task Force (FATF), Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), EU, World Bank, International Monetary Fund, Egmont Group of Financial Intelligence Units, UN;

7) analyze methods and financial schemes used for legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

8) annually summarize the information on the status of preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction in the country;

9) duly concur the state financial monitoring subjects' draft regulatory-legal acts on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

10) ensure due registration and deregistration of the primary financial monitoring subjects;

11) require from the primary financial monitoring subjects compliance with the requirements of the legislation governing relations on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction and, where violations of the legislative requirements are identified, take law-stipulated actions and notify the relevant state financial monitoring subjects which under the [Law of Ukraine "On Preventing and Countering Legalization \(Laundering\) of Proceeds of Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction"](#) (hereinafter "the Law") discharge the functions of state regulation and supervision over the primary financial monitoring subjects;

12) undertake typological research on countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

13) ensure coordination of the state authorities' activities on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

14) duly ensure organization and coordination of the work on advanced training and professional development of the state authorities specialists on financial monitoring and responsible employees of the primary financial monitoring subjects, as well as the staff involved in the financial monitoring related to countering legalization (laundering) of proceeds of crime, financing of

terrorism, and financing of proliferation of weapons of mass destructions at the relevant educational institution which belongs to the SFMSU management sphere;

15) provide, pursuant to legislation, to the state financial monitoring subjects information to enhance the efficiency of supervising the primary financial monitoring subjects' compliance with the requirements of the legislation on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

16) inform the primary financial monitoring subject, after receiving information from the courts and law enforcement agencies authorized to make decisions in accordance with the [Code of Criminal Procedure of Ukraine](#), on serving a suspicion note to a person on committing of a criminal offense, dismissal of the criminal proceedings launched on such a subject's notification submitted to the SFMSU pursuant to the requirements of [Articles 6, 10, 12 and 17 of the Law](#), and submit information to it on the decisions passed by courts on such criminal proceedings with a simultaneous submittal of a notification to the relevant state financial monitoring subject;

17) ensure record keeping of the following:

information on the financial transactions that became the object of financial monitoring;

summarized materials and additional summarized materials submitted to the law enforcement or intelligence authorities, as well as procedural decisions resulting from their review;

information on the results of the pre-trial investigation and court decisions passed in the criminal proceedings which used (use) submitted summarized materials and on the number of individuals who committed criminal offenses or are suspected of their committing, as well as individuals convicted for committing of offenses;

information on the confiscated assets and assets arrested in the criminal proceedings which used (use) submitted summarized materials and on the number of individuals in relation to which the court passed a decision on confiscation of assets and whose assets were arrested;

submitted and granted international requests for cooperation on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

primary financial monitoring subjects;

18) ensure operation and development of a unified state information system on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

19) effect, within the law-stipulated competences, regulation and supervision over the primary financial monitoring subjects' operation, namely:

effect supervision in the sphere of preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction over the operation of the relevant primary financial monitoring subjects, specifically by performing scheduled and add hoc audits, including desk top ones;

ensure provision of methodological, procedural, and other assistance to the primary financial monitoring subjects on preventing and countering legalization (laundering) of proceeds of crime,

financing of terrorism, and financing of proliferation of weapons of mass destruction (including provision of explanations on application of the legislation in the sphere);

effect regulation and supervision taking into account risk assessment on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction to determine suitability of the actions taken by the primary financial monitoring subjects for restricting (reducing) risks during their operation;

require from the primary financial monitoring subjects compliance with the legislation which regulates relations in the sphere of preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction, and in the case of identified violations of the legislative requirements, take law-stipulated actions;

verify availability of professional qualifications of executive officials and organization of professional training of other employees of the primary financial monitoring subjects involved in financial monitoring on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

ensure storage of the information received from the primary and state financial monitoring subjects, law enforcement authorities;

take actions, in accordance with the legislation, to verify immaculate business reputation of the individuals who will effect or are effecting management, intend to acquire a significant share (or are end beneficiaries) in the primary financial monitoring subjects;

take actions, in accordance with the legislation, to prevent individuals who have duly unexpunged or unspent convictions for profit-motivated crimes or terrorism from management of primary financial monitoring subjects;

take actions, in the law-stipulated cases, to prevent primary financial monitoring subjects from building up capital using the funds, whose sources of origin cannot be confirmed through official documents or duly certified copies thereof;

20) effect management of state property objects which belong to the management sphere of the Service;

21) review citizens' applications related to the operation of the SFMSU, enterprises, institutions and organizations in the Service's management sphere;

22) ensure interaction with the mass media and the public;

23) exercise other powers provided for in the law.

6. To fulfill its tasks, the SFMSU shall have the right to:

1) duly involve researchers and specialists, employees of the central and local executive agencies, local government agencies, enterprises, institutions, and organizations (subject to their executives' consent) in certain activities and research to review issues within the SFMSU competence;

2) duly obtain free-of-charge information (statements, copies of documents), including restricted-access information required by the SFMSU to discharge its functions, from state authorities, law enforcement authorities, courts, National Bank, local government agencies, enterprises, institutions, and organizations;

- 3) obtain from the primary financial monitoring subject, as required and based on the analysis performed, information on the monitoring of financial transactions which may be related to legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;
- 4) duly obtain information on decease of individuals from the Ministry of Justice;
- 5) duly get access, including automated, to the state authorities' data bases (except for the National Bank) and other state information resources;
- 6) obtain additional requested information from primary financial monitoring subjects;
- 7) develop and submit draft regulatory-legal acts required for discharge of the tasks and functions provided for in [Article 18 of the Law](#) for the Ministry of Finance review;
- 8) duly obtain from the law enforcement and intelligence authorities to which summarized materials (additional summarized materials) were submitted under the Law information on the status of review and relevant actions based on the materials received;
- 9) duly enter into international cooperation treaties of the interagency nature with the relevant agencies of other countries;
- 10) make decisions, in the cases envisaged by the [Law](#), on suspension (further suspension, continued suspension) of financial transaction(s) for the law-stipulated duration;
- 11) participate, subject to consent of the relevant state financial monitoring subjects, which, under the [Law](#), discharge functions on the state regulation and supervision over the primary financial monitoring subjects, in preparation and/or performing of audits of the primary financial monitoring subjects (except for the audits of the primary financial monitoring subjects performed by the National Bank) for compliance with the legislation on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;
- 12) inform the state financial monitoring subjects, which, under the [Law](#), discharge functions on the state regulation and supervision over the primary financial monitoring subjects, on the possible violations by such primary financial monitoring subjects of the requirements of the Law;
- 13) provide information to the state financial monitoring subjects in accordance with the legislation within the scope specified in [Part 3, Article 18 of the Law](#);
- 14) summon meetings, establish commissions and working groups, conduct research conferences, workshops on the issues within the SFMSU competence;
- 15) use the state government communication system and other technical means.