



**MINISTRY OF FINANCE OF UKRAINE
FOREIGN INTELLIGENCE SERVICE OF UKRAINE
MINISTRY OF DEFENSE OF UKRAINE
MINISTRY OF INTERNAL AFFAIRS OF UKRAINE**

ORDER

December 1, 2015

Kyiv

No. 1112/426/678/1533

Registered with the Ministry of Justice of Ukraine
on December 17, 2015 under 1583/28028

On Approving the Procedure for Provision of Case referrals to Intelligence Agencies of Ukraine

Pursuant to the Laws of Ukraine “On Preventing and Countering Legalization (Laundering) of Proceeds of Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction”, “On Intelligence Agencies of Ukraine”, “On Operative Investigative Activities”, and “On Combating Terrorism” and in order to establish the procedure for provision of case referrals by the State Financial Monitoring Service of Ukraine to the intelligence agencies of Ukraine

WE HEREBY ORDER:

1. Approve the attached Procedure for Provision of Case referrals to Intelligence Agencies of Ukraine.
2. Declare null and void the joint Order of the Ministry of Finance of Ukraine, Foreign Intelligence Service of Ukraine, Ministry of Defense of Ukraine, Administration of the State Border Guard Service of Ukraine of May 16, 2012, No. 549/123/332/340 “On Approving the Procedure for Provision of Case referrals to Intelligence Agencies of Ukraine” registered with the Ministry of Justice of Ukraine on June 6, 2012 under No. 915/21227.
3. The Department of Tax, Customs Policy, and Accounting Methodology of the Ministry of Finance of Ukraine (Chmeruk M.O.) and the Financial Investigation Department of the State Financial Monitoring Service of Ukraine (Khylyuk V.P.) shall duly submit this Order for state registration to the Ministry of Justice of Ukraine.
4. Heads of the corresponding structures and territorial divisions of the Foreign Intelligence Service of Ukraine, Main Intelligence Directorate of the Ministry of Defense of Ukraine, Intelligence Directorate of the Administration of the State Border Guard Service of Ukraine, and the State Financial Monitoring Service of Ukraine shall inform their staff of this order and establish control of its implementation in accordance with the requirements of the legislation of Ukraine.

5. Heads of the Foreign Intelligence Service of Ukraine, Main Intelligence Directorate of the Ministry of Defense of Ukraine, Intelligence Directorate of the Administration of the State Border Guard Service of Ukraine shall appoint authorized officers for organization of permanent interaction with the State Financial Monitoring Service of Ukraine on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction.

6. This order shall become effective on the day of its official publication.

Minister of Finance of Ukraine

N. Jaresko

**Head of the Foreign Intelligence
Service of Ukraine**

V. Gvozd

Minister of Defense of Ukraine

S. Poltorak

**Minister of Internal Affairs of
Ukraine**

A. Avakov

CONCURRED:

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

I. B. Cherkaskyi

**Head of the State Border Guard
Service of Ukraine**

V. Nazarenko

APPROVED

Ministry of Finance of Ukraine,
Foreign Intelligence Service of
Ukraine, Ministry of Defense of
Ukraine, Ministry of Internal
Affairs of Ukraine Order
December 1, 2015,
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Procedure for Provision of Case referrals to the Intelligence Agencies of Ukraine

I. General provisions

1. This Procedure establishes the form, structure, and content of the State Financial Monitoring Service of Ukraine case referrals, as well as the mechanism and system for:

 submittal of case referrals by the State Financial Monitoring Service of Ukraine to the Foreign Intelligence Service of Ukraine, Main Intelligence Directorate of the Ministry of Defense of Ukraine, Intelligence Directorate of the Administration of the State Border Guard Service of Ukraine (hereinafter, “the intelligence agencies of Ukraine”);

 registration and review of case referrals by the intelligence agencies of Ukraine;

 receipt of information by the State Financial Monitoring Service of Ukraine on the status of the case referrals review and taking relevant measures based on the results of their review by the intelligence agencies of Ukraine;

 preventing disclosure of information contained in the case referrals.

2. The terms and concepts used in this Procedure shall be used in the meaning provided in 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”), Laws of Ukraine “On Intelligence Agencies of Ukraine”, “On Operative Investigative Activities”, “On Combating Terrorism”.

II. Preparation of Case referrals for Submittal to Intelligence Agencies of Ukraine

1. The information on the financial transaction or a combination of related financial transactions subject to financial monitoring, as well as about the client duly

received by the State Financial Monitoring Service of Ukraine shall be processed and analyzed for sufficiency of grounds:

to believe that a financial transaction or combination of related financial transactions may be related to legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

to suspect that a financial transaction or a client is related to an act defined in the Criminal Code of Ukraine as not related to legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction.

If the above grounds are identified, the State Financial Monitoring Service of Ukraine shall submit corresponding case referrals to the intelligence agencies within the time specified in this Procedure.

2. The State Financial Monitoring Service of Ukraine shall prepare case referrals in a written and/or electronic form.

3. Summarized and additional case referrals, pursuant to the requirements of the Law, shall be assigned a restricted-access label.

If case referrals have attachments containing restricted-access information, a corresponding record shall be made in the case referrals and additional case referrals.

4. Structure of case referrals:

contents;

preamble;

descriptive sections;

summary;

motivated conclusion;

attachments (if available).

5. Case referrals shall contain the following information:

mandatory:

1) registration number, date, working name, signature of the State Financial Monitoring Service of Ukraine authorized official;

2) description of the essence of the financial transaction or combination of related 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, including the date and amount of the financial transactions, their location and circumstances, relations and connections between the persons involved, or:

description of the essence of the financial transaction or combination of related financial transactions which may be related to socially dangerous acts which

preceded legalization (laundering) of proceeds of crime, including the date and amount of the financial transactions, their location and circumstances, relations and connections between the persons involved:

description of the essence of the financial transaction or combination of related financial transactions which give grounds to suspect that a financial transaction or a client is related to committing a socially dangerous act defined in the Criminal Code of Ukraine as not related to legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction, including the date and amount of the financial transactions, their location and circumstances, relations and connections between the persons involved;

3) description of sufficient grounds to believe that financial transactions or combination of related financial transactions may be related to legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction, or:

3) description of sufficient grounds to believe that financial transactions or combination of related financial transactions may be related to a socially dangerous act which is defined in the Criminal Code of Ukraine as preceding legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

3) description of sufficient grounds to suspect that a financial transaction or a client may be related to a socially dangerous act which is defined in the Criminal Code of Ukraine as a crime not related to legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

4) a scheme of the financial transaction or combination of related financial transactions;

5) a motivated conclusion to the effect that the financial transactions may be effected for legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction or may be effected to commit another socially dangerous act defined in the Criminal Code of Ukraine as not related to legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

if available:

1) description of indicators by which the primary financial monitoring subject detected the financial transactions subject to financial monitoring;

2) bank code (MFO - BIC), bank name, and identification numbers of accounts through which the financial transaction was effected;

3) information on identification and examination of residents:

for a natural person – surname, first name, and patronymic, birth date, Ukraine citizen's passport number (and series if available) (or another identification document which under Ukraine's legislation may be used in Ukraine for legal

transactions), date of issuance and the issuing authority, place of residence or stay, taxpayer's account card registration number (or identification number from the State Register of Individual Taxpayers and Other Mandatory Payments) or the Ukraine citizen's passport number (and series if available), which has a stamp on refusal to accept the Ukrainian taxpayer's account card registration number, or the number of a passport with a record on refusal to accept the Ukrainian taxpayer's account card registration number on an electronic contactless medium;

for an individual entrepreneur – surname, first name, and patronymic, birth date, Ukraine citizen's passport number (and series if available) (or another identification document which under Ukraine's legislation may be used in Ukraine for legal transactions), date of issuance and the issuing authority, place of residence or stay, taxpayer's account card registration number (or identification number from the State Register of Individual Taxpayers and Other Mandatory Payments) or the Ukraine citizen's passport number (and series if available), which has a stamp on refusal to accept the Ukrainian taxpayer's account card registration number, or the number of a passport with a record on refusal to accept the Ukrainian taxpayer's account card registration number on an electronic contactless medium; date and number of the entry in the Unified State Register of Legal Entities and Individual Entrepreneurs on the state registration; details of the bank where the account was opened, account number (if available);

for a legal entity – full name and location; date and number of the entry in the Unified State Register of Legal Entities and Individual Entrepreneurs on the state registration, information on the executive body; identification data on the persons who have the right to administer accounts and/or property, data that allow establishing the end beneficiary owners (controllers); identification code according to the Unified State Register of Enterprises and Organizations of Ukraine; bank details where the account was opened and the current account number;

4) information on identification and examination of non-residents:

for a natural person – surname, first name, and patronymic (if available), birth date, passport number (and series if available) (or another identification document which under Ukraine's legislation may be used in Ukraine for legal transactions), date of issuance and the issuing authority, place of residence or stay, citizenship;

for a legal entity – full name and location; details of the bank where the account was opened, bank account number; data on governing bodies; identification data on the persons who have the right to administer accounts and/or property, data that allow establishing the end beneficiary owners (controllers). The primary financial monitoring subject shall also be provided with a copy of a legalized transcript from the trade, bank, or court register, or a notarized registration certificate from an authorized foreign agency on registration of the corresponding legal entity;

5) information on the status of the financial transaction participant (active, restoring solvency, bankrupt, liquidated, etc.);

6) copies of the primary documents used as a basis for the financial transactions that became the object of financial monitoring, including the ones that contain restricted access information;

7) copies of applications and other documents used as a basis for opening the accounts through which financial transactions were effected;

8) copies of the person's passport, cards with signature samples and a power of attorney based on which the participant participated in the financial transaction that became the object of financial monitoring;

9) copies of the statutory documents of the legal entities involved in financial transactions;

10) information and copies of documents on monitoring of the turnover of the assets that may be related to legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

11) information received from law enforcement, intelligence, and other government agencies (provided there is a permission from the corresponding law enforcement, intelligence, and other government authorities to provide such information to other law enforcement or intelligence agencies) or formulated in an impersonalized way;

12) information received from financial intelligence units of other countries (provided a permission from other countries' financial intelligence units to provide such information to the law enforcement and/or intelligence agencies is available);

13) information received from open sources (mass media, etc.);

14) information on previously provided case referrals related to these materials;

15) scheme of constituent connections;

If two or more identical indicators of financial transactions, clients are available, their description shall be formulated as a summary (total number of transactions, total amount, most substantial essence of the transaction and the main counterparties). A more detailed information shall be provided in a tabular electronic form, which is an integral addendum to the case referrals.

6. When formulating case referrals for analysis of financial transactions and/or if information needs to be obtained from another country's financial intelligence unit, the State Financial Monitoring Service of Ukraine shall use the documents (information) provided by the intelligence agencies of Ukraine on the financial transactions suspected of being related to legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction, and/or related to the persons subjected to international sanctions.

The State Financial Monitoring Service of Ukraine may use the information received from intelligence agencies of Ukraine only for purposes stipulated in Articles 18 and 22 of the Law.

If the documents (information) of the intelligence agencies of Ukraine contain restricted access information, its processing shall be done in compliance with Ukraine's legislation which regulates the issues of access to such information.

Territorial divisions of the intelligence agencies of Ukraine shall provide information to the State Financial Monitoring Service of Ukraine through relevant structural divisions of the intelligence agencies of Ukraine.

When formulating case referrals for analysis of financial transactions and/or if information needs to be obtained, the State Financial Monitoring Service of Ukraine shall have the right to approach the intelligence agencies of Ukraine with relevant requests.

7. If the State Financial Monitoring Service of Ukraine has additional information related to the case referrals previously submitted to the intelligence agencies of Ukraine, the State Financial Monitoring Service of Ukraine shall develop additional case referrals.

8. Copies of documents which were made available to the State Financial Monitoring Service of Ukraine after submittal of the case referrals to the intelligence agencies of Ukraine and which do not contain information on new financial transactions, may be submitted in a separate cover letter as addenda to the case referrals or to the additional case referrals.

Addenda (if available) to the case referrals or to the additional case referrals shall be their integral part.

III. Submittal of Case referrals by the State Financial Monitoring Service of Ukraine

1. The decision to provide case referrals to the intelligence agencies of Ukraine shall be made by the State Financial Monitoring Service of Ukraine expert commission on review of case referrals and additional case referrals prepared for submittal to the law enforcement and intelligence agencies (hereinafter “the expert commission”), whose composition and powers shall be approved by a separate State Financial Monitoring Service of Ukraine order.

2. The expert commission meetings may involve authorized representatives of the intelligence agencies of Ukraine appointed by these agencies' executive orders, of which the State Financial Monitoring Service of Ukraine shall be informed.

3. The intelligence agencies of Ukraine shall be provided with the first copy of the case referrals.

4. The time of submitting case referrals to the intelligence agencies of Ukraine shall not exceed five work days from the day of expert commission's corresponding decision.

5. The intelligence agencies of Ukraine shall not be allowed to provide to anybody the information received from the State Financial Monitoring Service of Ukraine in the form of case referrals and additional case referrals, except for cases

of its provision to the law enforcement agencies for decision making in accordance with the Code of Criminal Procedure of Ukraine.

6. The additional case referrals (if available) shall be submitted by the State Financial Monitoring Service of Ukraine to the intelligence agency of Ukraine which is reviewing the case referrals.

If an intelligence agency of Ukraine submits case referrals and/or their review materials to a law enforcement agency, the additional case referrals shall be submitted to the corresponding law enforcement agency.

IV. Registration (Accounting) of Case referrals

1. Registration of case referrals and additional case referrals received from the State Financial Monitoring Service of Ukraine shall be done by the intelligence agencies of Ukraine pursuant to Ukraine's legislation which regulates the procedure for using documents containing restricted-access information.

2. The intelligence agency of Ukraine which received the case referrals or additional case referrals shall, no later than five work days from the moment of its registration (accounting), provide information to the State Financial Monitoring Service of Ukraine on its registration date and number.

3. In all the cases of transferring information by intelligence agencies of Ukraine to the State Financial Monitoring Service of Ukraine on the review of the case referrals and additional case referrals received from the State Financial Monitoring Service of Ukraine, the cover letter shall mandatorily indicate the information on the case referrals, including their registration date and number with the State Financial Monitoring Service of Ukraine.

V. Review of Case referrals

1. Case referrals shall be reviewed according to the procedure stipulated in Ukraine's legislation.

2. The intelligence agencies of Ukraine shall implement the received case referrals within the limits of their competence, using operative investigative measures and means in accordance with the procedure stipulated by the Law of Ukraine "On Operative Investigative Activities".

3. The case referrals containing suspicions that a financial transaction (a combination of financial transactions) or a client is related to legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction shall be used by the intelligence agencies when taking measures to combat terrorism, international organized crime, illegal drug trafficking, illegal trafficking in weapons and its manufacturing technology, illegal migration.

VI. Receiving of Information and/or Documents by the State Financial Monitoring Service of Ukraine on the Status of Case referrals Review

1. The intelligence agencies of Ukraine shall inform the State Financial Monitoring Service of Ukraine on the status of review and corresponding measures based on the review of the received case referrals and additional case referrals within ten work days of adopting a corresponding decision.

2. If case referrals and/or their review materials are provided to a law enforcement agency, the intelligence agencies of Ukraine shall, within five work days of the provision date, inform the State Financial Monitoring Service of Ukraine accordingly indicating the name of the law enforcement agency, its structural or territorial division, case referrals registration data, their working name and details of the cover letter by which the materials were provided to the law enforcement agency.

3. If in need of obtaining information (additional information) on the status of review of the submitted case referrals, the State Financial Monitoring Service of Ukraine shall submit requests to the intelligence agencies of Ukraine.

VII. Measures to Prevent Disclosure of Information Contained in Case referrals

1. The intelligence agencies of Ukraine, the State Financial Monitoring Service of Ukraine shall ensure completeness and integrity of the information received, create and support appropriate conditions for its storage and prevention of unauthorized access.

2. To prevent unlawful disclosure of information contained in the case referrals and additional case referrals, including during transfer and review, its disclosure and protection shall be done by the staff of the intelligence agencies of Ukraine and the State Financial Monitoring Service of Ukraine in accordance with Ukraine's legislation regulating the procedure for the use of documents containing restricted-access information.

**Director of the Department of Tax,
Customs Policy, and Accounting
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M.O. Chmeruk

**Deputy Head of the Foreign
Intelligence Service of Ukraine**

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D.V. Horbas