



MINISTRY OF FINANCE OF UKRAINE

ORDER

12/28/2015

Kyiv

No. 1200

Registered with the Ministry of Justice of Ukraine
on January 22, 2016 under 123/28253

On Approving the Procedure for the State Financial Monitoring Service of Ukraine Decision Making on Suspension of Financial Transactions

Pursuant to Clauses 17, 18, Part 2, Article 6, Part 2, 3, 5, Article 17, and paragraph 3, Part 3, Article 23 of 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”, with the aim of determining the procedure for suspension of financial transactions regarding which there are reasonable grounds to believe that the financial transaction or its participants, their activities or asset origins are related to legalization (laundering) of proceeds of crime or financing of terrorism, or related to committing of another socially dangerous act which is defined as a crime in the Criminal Code of Ukraine, or which entails international sanctions (if the types and conditions of sanction application envisage suspension of or ban on financial transactions), or if its participant or a financial transaction beneficiary is a person included on the list of persons related to terrorist activities or financing of proliferation of weapons of mass destruction,

I HEREBY ORDER:

1. Approve the attached Procedure for the State Financial Monitoring Service of Ukraine Decision Making on Suspension of Financial Transactions
2. Declare null and void the Ministry of Finance of Ukraine Order of September 14, 2012, No. 992 “On Approving the Procedure for the State Financial Monitoring Service of Ukraine Decision Making on Suspension of Financial Transactions” registered with the Ministry of Justice of Ukraine on October 5, 2012 under No. 1694/22006.
3. The Department of Tax, Customs Policy, and Accounting Methodology of the Ministry of Finance of Ukraine (Romanyuk Yu.P.) together with the Financial Investigation Department of the State Financial Monitoring Service of Ukraine (Khylyuk V.P.) shall duly ensure submittal of this Order for state registration to the Ministry of Justice of Ukraine.
4. This order shall become effective on the day of its official publication.

5. Control of this order implementation shall be imposed on the Deputy Minister of Finance of Ukraine, Makeyeva O.L., and the Deputy Head of the State Financial Monitoring Service of Ukraine, Zubriy V.P.

Minister

N. Jaresko

CONCURRED:

**Minister of Internal Affairs of
Ukraine**

A.B. Avakov

**Head of the State Regulatory Service
of Ukraine**

K.M. Lyapina

**First Deputy Head
of the National Bank of Ukraine**

O.V. Pysaruk

**Minister of Economic Development
and Trade of Ukraine**

A. Abromavičius

**First Deputy Head of the Security
Service of Ukraine**

V. Trepak

**Head of the National Securities and
Stock Market Commission**

T.Z. Khromayev

**Head of the State Commission for
Regulation of Financial Services
Markets**

I. Pashko

**Head of the State Communications
and Data Protection Service of
Ukraine**

L.O. Yevdochenko

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

I.B. Cherkaskyi

APPROVED
Ministry of Finance of Ukraine
Order
of December 28, 2015, No. 1200

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**Procedure
for the State Financial Monitoring Service of Ukraine Decision Making on
Suspension of Financial Transactions**

I. General provisions

1. This Procedure has been developed to implement Clauses 17, 18, Part 2, Article 6, Part 2, 3, 5, Article 17, and Part 3, Article 23 of 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”).

2. For the purposes of this Procedure, the term “financial transaction monitoring” shall mean a combination of measures taken by a primary financial monitoring subject and aimed at providing information on a relevant person's financial transaction to the State Financial Monitoring Service of Ukraine (hereinafter “the SFMSU”) in the form of a report about a financial transaction with a relevant financial transaction indicator stipulated by the Law.

Other terms used in this Procedure shall be used in the meanings provided in the Law.

3. This Procedure determines relevant decision making and issuing of relevant instructions by the State Financial Monitoring Service of Ukraine, namely:

on the primary financial monitoring subject's suspension/resumption of monitoring or ensuring monitoring of a relevant person's financial transaction(s) in response to a request from an authorized foreign agency, pursuant to paragraph 3, Part 4, Article 23 of the Law;

on further suspension of a financial transaction(s), pursuant to Part 2, Article 17 of the Law;

on suspension of withdrawal financial transactions, pursuant to Part 3, Article 17 of the Law;

on continued suspension of a relevant financial transaction(s) (withdrawal financial transactions), pursuant to paragraph 3, Part 5, Article 17 of the Law;

on cancellation of its decision on further suspension of a relevant financial transaction(s), pursuant to paragraph 2, Part 5, Article 17 of the Law;

on cancellation of its decision on suspension of withdrawal financial transactions, pursuant to paragraph 2, Part 5, Article 17 of the Law.

4. State Financial Monitoring Service of Ukraine decisions and instructions, stipulated in Clause 3 of this Section, shall be made (provided) by the Head of the State Financial Monitoring Service of Ukraine or a person acting for him/her.

Such decisions and instructions shall be made in writing on the official State Financial Monitoring Service of Ukraine letterhead per the form provided in the attachment to this Procedure.

5. The State Financial Monitoring Service of Ukraine shall make decisions or provide relevant instructions on the following grounds:

if receiving a request from an authorized foreign agency, pursuant to paragraph 3, Part 3, Article 23 of the Law;

if receiving a report(s) on a financial transaction(s) suspended pursuant to Part 1, Article 17 of the Law, in accordance with Part 2, Article 17 of the Law;

arising suspicions, pursuant to Part 3, Article 17 of the Law;

availability of a motivated suspicion, pursuant to paragraph 3, Part 5, Article 17 of the Law.

If, following a check, the indicators of legalization (laundering) of proceeds of crime or financing of terrorism, or commitment of another crime specified in the Criminal Code of Ukraine are not confirmed, decisions are made pursuant to paragraph 2, Part 5, Article 17 of the Law.

6. The State Financial Monitoring Service of Ukraine shall make relevant decisions or provide relevant instructions regarding the following financial transactions:

financial transaction(s) containing an indicator(s) stipulated by Article 15 and/or 16 of the Law, pursuant to Part 2, Article 17 of the Law;

money debiting or crediting financial transactions resulting from actions which have indicators of a crime specified in the Criminal Code of Ukraine, pursuant to Part 2, Article 17 of the Law;

financial transaction(s), if its participant or beneficiary is a person included on the list of persons related to terrorist activities or subjected to international sanctions (if the types and conditions of sanction application envisage suspension of or ban on financial transactions), pursuant to Part 2, Article 17 of the Law;

withdrawal financial transactions, pursuant to Part 3, Article 17 of the Law;

financial transaction(s) on which a request was received from an authorized foreign agency, pursuant to paragraph 3, Part 3, Article 23 of the Law.

7. State Financial Monitoring Service of Ukraine decisions and instructions on suspension of a financial transaction(s) or withdrawal financial transactions are to

be immediately implemented by the primary financial monitoring subject starting with the moment of their receipt.

Decisions and instructions may be provided to the primary financial monitoring subject in the electronic or paper form.

8. The State Financial Monitoring Service of Ukraine shall inform law enforcement agencies authorized to fully and legally make decisions pursuant to the Code of Criminal Procedure of Ukraine on decisions made regarding suspension of a financial transaction(s) or withdrawal financial transactions.

9. Financial transaction(s) shall be suspended and resumed according to the procedure established by state financial monitoring subjects which perform state regulation and supervision over the activities of primary financial monitoring subjects within their competences.

Reports on a financial transaction(s) and/or attempts at their performance shall be submitted to the State Financial Monitoring Service of Ukraine in the cases stipulated by the Law and this Procedure, with a relevant financial transaction indicator established by legislation at the moment of such report submittal.

10. If a primary financial monitoring subject receives a relevant State Financial Monitoring Service of Ukraine decision and/or instruction after close of business, the arrival day (moment of receipt) shall be the subject's next work day.

In such case the primary financial monitoring subject shall ensure implementation of the relevant decision and/or instruction, starting with the moment of receipt until the day of expiration of suspension of the financial transaction(s) stated in the relevant State Financial Monitoring Service of Ukraine decision and/or instruction.

II. Suspension or resumption of monitoring or ensuring monitoring of a relevant person's financial transaction(s) pursuant to a State Financial Monitoring Service of Ukraine instruction in response to a request from an authorized foreign agency, pursuant to paragraph 3, Part 3, Article 23 of the Law

1. If the State Financial Monitoring Service of Ukraine receives a request from an authorized foreign agency on suspension or resumption of monitoring or ensuring monitoring of a relevant person's financial transaction(s), the indicated information shall without delay be processed and analyzed by the State Financial Monitoring Service of Ukraine.

2. Based on the analysis of the request received from an authorized foreign agency, the State Financial Monitoring Service of Ukraine shall without delay consider suspension or resumption of monitoring or ensuring monitoring of a relevant person's financial transaction(s).

3. The State Financial Monitoring Service of Ukraine instruction on suspension of monitoring or ensuring monitoring of a relevant persons' financial transaction(s)

shall be submitted to the primary financial monitoring subject, but no later than the next work day of its signing.

The content of the instruction shall be formulated by the State Financial Monitoring Service of Ukraine depending on the nature of the request from the authorized foreign agency.

The time for suspension of monitoring or ensuring monitoring of such financial transactions shall be established by the State Financial Monitoring Service of Ukraine in accordance with the time stated in the request from the authorized foreign agency.

4. If by the moment of receiving the State Financial Monitoring Service of Ukraine instruction, the financial transaction has already been completed, the primary financial monitoring subject shall without delay, but no later than the next work day, ensure monitoring of such a relevant person's financial transaction and other financial transactions, which need to be specified or are suspicious, and/or in relation to which suspicions arise.

5. If an authorized foreign agency submits information (a request) on resumption of a financial transaction, it shall be without delay considered by the State Financial Monitoring Service of Ukraine.

The State Financial Monitoring Service of Ukraine instruction on resumption of a relevant persons' financial transaction shall be submitted to the primary financial monitoring subject no later than the next work day of its signing.

6. The primary financial monitoring subject shall renew the financial transactions suspended in response to a relevant request of an authorized foreign agency pursuant to paragraph 8, Part 5, Article 17 of the Law.

III. Further suspension of a financial transaction under the State Financial Monitoring Service of Ukraine decision pursuant to Part 2, Article 17 of the Law

1. If the State Financial Monitoring Service of Ukraine receives a report on suspension of a financial transaction(s) from a primary financial monitoring subject pursuant to Part 1, Article 17 of the Law, the said information shall be processed and analyzed without delay.

2. Based on review of this information, the State Financial Monitoring Service of Ukraine, pursuant to Part 2, Article 17 of the Law, may decide on further suspension of such a financial transaction(s) for the period of up to five days.

The State Financial Monitoring Service of Ukraine shall decide on further suspension of such a financial transaction(s) no later than the next work day of receiving the report from the primary financial monitoring subject and without delay provide its decision to the primary financial monitoring subject.

3. If the State Financial Monitoring Service of Ukraine decides to further suspend a financial transaction(s), it shall, pursuant to Part 2, Article 17 of the Law,

without delay upon making such a decision inform the law enforcement agencies authorized to make a decision under the Code of Criminal Procedure of Ukraine.

4. If a decision on further suspension of a financial transaction(s) is not made pursuant to Part 2, Article 17 of the Law, the State Financial Monitoring Service of Ukraine shall in case of suspicions decide on suspension of withdrawal financial transactions pursuant to Part 3, Article 17 of the Law.

5. If, following a check, the indicators of legalization (laundering) of proceeds of crime or financing of terrorism, or commitment of another crime specified in the Criminal Code of Ukraine are not confirmed, the State Financial Monitoring Service of Ukraine shall without delay decide to cancel its decision on further suspension of a financial transaction(s).

The State Financial Monitoring Service of Ukraine shall without delay provide the decision adopted to the primary financial monitoring subject, having sent him the relevant decision.

6. The primary financial monitoring subject shall resume financial transactions pursuant to paragraphs 5-7, Part 5, Article 17 of the Law.

IV. Suspension of withdrawal financial transactions under the State Financial Monitoring Service of Ukraine decision pursuant to Part 3, Article 17 of the Law

1. The State Financial Monitoring Service of Ukraine, in case of suspicions, may decide on suspension of withdrawal financial transactions for the period of up to five work days. The duration of such suspension shall be stated in the State Financial Monitoring Service of Ukraine decision.

The time of suspension of withdrawal financial transactions shall begin from the time and date of the primary financial monitoring subject's receipt of a relevant decision.

2. If such a decision is made, the State Financial Monitoring Service of Ukraine shall without delay send it to the primary financial monitoring subject and without delay inform the law enforcement agencies authorized to make a decision under the Code of Criminal Procedure of Ukraine.

3. In case of suspended withdrawal financial transactions pursuant to Part 3, Article 17 of the Law, receipt transactions shall not be suspended. In this case, the primary financial monitoring subject on the transaction day, but no later than 11.00 of the next work day of the receipt transaction, shall notify the State Financial Monitoring Service of Ukraine of the receipt financial transactions and/or attempted withdrawal financial transactions.

4. If, following a check, the indicators of legalization (laundering) of proceeds of crime or financing of terrorism, or commitment of another crime specified in the Criminal Code of Ukraine are not confirmed, the State Financial Monitoring Service of Ukraine shall without delay decide to cancel its decision on suspension of withdrawal financial transactions.

The State Financial Monitoring Service of Ukraine shall without delay provide the decision adopted to the primary financial monitoring subject, having sent him the relevant decision.

V. State Financial Monitoring Service of Ukraine decision making on further suspension of a relevant financial transaction(s) (withdrawal financial transactions), pursuant to paragraph 3, Part 5, Article 17 of the Law

1. If the State Financial Monitoring Service of Ukraine decides on further suspension of a relevant financial transaction(s) or suspension of withdrawal financial transactions, the State Financial Monitoring Service of Ukraine shall do analytics, gather the required additional information, process, analyze and verify it.

2. If motivated suspicion is confirmed, the State Financial Monitoring Service of Ukraine shall, within the time of further suspension of a relevant financial transaction(s) or suspension of withdrawal financial transactions, prepare relevant summarized materials or additional summarized materials and submit them to the law enforcement agencies authorized to make a decision pursuant to the Code of Criminal Procedure of Ukraine.

In such case, the State Financial Monitoring Service of Ukraine shall extend suspension of the relevant financial transaction(s) starting with the next work day after submittal of the relevant summarized materials or additional summarized materials, provided the total duration of such suspension does not exceed 30 work days.

3. The State Financial Monitoring Service of Ukraine shall inform the relevant primary financial monitoring subject of the expiration date for suspension of the financial transaction(s) by sending a relevant decision.

4. If, following a check, the indicators of legalization (laundering) of proceeds of crime or financing of terrorism, or commitment of another crime specified in the Criminal Code of Ukraine are not confirmed, the State Financial Monitoring Service of Ukraine shall without delay decide to cancel its decision on further suspension of a relevant financial transaction(s).

The State Financial Monitoring Service of Ukraine shall without delay provide the decision adopted to the primary financial monitoring subject, having sent him the relevant decision.

VI. Information exchange between the State Financial Monitoring Service of Ukraine and the primary financial monitoring subjects

1. The State Financial Monitoring Service of Ukraine shall inform the primary financial monitoring subject of adopted decisions and instructions pursuant to this Procedure as follows:

to the bank (foreign bank branch) primary financial monitoring subject – electronically using the National Bank of Ukraine email or on paper by registered mail with a delivery slip, or by express delivery or courier mail. The date and time of informing a bank (foreign bank branch) of the decision and/or instruction shall be

the time and date of bank's (foreign bank branch's) receipt of this file on the National Bank of Ukraine email hub or the time and date stated on the delivery slip, or the time and date indicated by the messenger on both copies of the decision and/or instruction, or by the courier in the register;

to the non-banking financial institution primary financial monitoring subject which has established electronic exchange of information with the State Financial Monitoring Service of Ukraine – electronically by protected email or on paper by registered mail with a delivery slip, or by express delivery or courier mail. The time and date of informing of the decision and/or institution shall be the time and date of non-banking financial institution's receipt of the said file or the time and date indicated on the delivery slip, or a primary financial monitoring subject's stamp with the time and date of receiving the State Financial Monitoring Service of Ukraine decision or instruction, or the time and date indicated by the messenger on both copies of the decision and/or instruction, or by the courier in the register;

to another primary financial monitoring subject which has electronic exchange of information with the State Financial Monitoring Service of Ukraine – electronically by protected email or on paper by registered mail with a delivery slip, or by express delivery or courier mail. The time and date of informing of the decision and/or institution shall be the time and date of the primary financial monitoring subject's receipt of the said file or the time and date indicated on the delivery slip, or the subject's stamp with the time and date of receiving the State Financial Monitoring Service of Ukraine decision or instruction, or the time and date indicated by the messenger on both copies of the decision and/or instruction, or by the courier in the register.

2. The primary financial monitoring subject after receiving the relevant decision or instruction shall without delay, but no later than 11.00 of the next work day of its receipt, inform the State Financial Monitoring Service of Ukraine of receiving the decision or instruction and include information on ensuring its implementation.

Such a letter shall include the following information:

time and date of receiving the decision or instruction;

ensuring decision or instruction implementation regarding suspension or resumption or ensuring monitoring of financial transactions;

the remaining funds on the client's account, financial transactions (funds) on which were suspended, and in the case of suspended financial transactions on the primary financial monitoring subject's transit accounts – about the remaining funds on such accounts within the amounts added as of the moment of suspension of the financial transactions.

3. A primary financial monitoring subject shall without delay, but no later than 11.00 of the next work day of receiving a request from a client regarding financial transaction(s) suspension, submit such a request (copy) in a letter to the State Financial Monitoring Service of Ukraine.

If a primary financial monitoring subject responds to such a client's request, the subject shall without delay, but no later than 11.00 of the next work day of providing the response, send its copy to the State Financial Monitoring Service of Ukraine.

4. The primary financial monitoring subject shall without delay, but no later than 11.00 of the next work day of resuming the relevant financial transaction(s) or withdrawal financial transactions, send a letter on such resumption to the State Financial Monitoring Service of Ukraine (stating information on the grounds, time, and date for resuming financial transactions).

5. The composition of the details, the structure and description of the files for electronic information exchange shall be determined by: the National Bank of Ukraine – for primary financial monitoring subjects, whose state regulation and supervision is effected by the National Bank of Ukraine pursuant to Clause 1, Part 1, Article 14 of the Law; the Ministry of Finance of Ukraine – for other primary financial monitoring subjects.

**Director of the Department of Tax,
Customs Policy, and Accounting
Methodology**

Yu.P. Romanyuk

Attachment
to the Procedure for the State
Financial Monitoring Service of
Ukraine Decision Making on
Suspension of Financial
Transactions

_____ No. _____
(date)

_____ (city)

Decision/Instruction

(indicate the document type: decision or instruction)

on _____
(decision/instruction name)

(name (surname, first name, patronymic) of a
subject and/or its separated subdivision, Unified
State Register of Enterprises and Organizations of
Ukraine (EDRPOU) identification code or a

taxpayer's account card registration number or passport series and number (for natural persons who on religious grounds refuse to accept a taxpayer's account card registration number and informed the relevant regulatory authority accordingly and have a stamp in the passport));

(legal grounds for making the State Financial Monitoring Service of Ukraine decision/instruction referencing the provision of 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”)

(information on which specific financial transactions are suspended or resumed, or the financial monitoring of which has to be ensured)

(indicate the duration of suspension or monitoring, or the date from which financial transactions are resumed)

(if available, indicate other information which may be related to implementation of this decision or instruction)

**State Financial Monitoring
Service of Ukraine authorized
official**

(signature)

(initials, surname)