



REPORT

ON THE NATIONAL RISK ASSESSMENT

in the field of the prevention and counteraction
of the legalization (laundering) of criminal
proceeds and the financing of terrorism

2019

osce Organization for Security and
Co-operation in Europe
Project Co-ordinator in Ukraine



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ЧОЛОВІЧИ
ЗУСТРІНЕ
СМАКУЮТЬ
КРАЩЕ
ВІДРОСТОВИ



PREFACE

This report is the next (second) risk assessment of money laundering and financing of terrorism at the national level.

In order to ensure a sustainable and progressive AML/CFT system, Ukraine has taken important steps to implement and comply with international standards for combating ML/FT, including in identifying, analyzing and assessing national ML/FT risks.

Identifying, assessing and understanding ML/FT risks are important components of the process of establishing and developing an effective national AML/CFT system.

The risk assessment system is intended for law enforcement, financial intelligence unit, financial institutions, and helps better understand whether current legislation achieves its purpose of preventing new threats and whether there are adequate methods for monitoring, enforcement and judicial protection.

The NRA is an important step towards defining a common vision of the risk base, as well as understanding what risks should be taken into account, mitigated, offset and/or transferred (transposed to a supranational level). The NRA contributes to the development of recommendations and priorities for strengthening the integrity and sustainability of certain types of economic activity, sectors, enterprises, institutions, organizations.

In the course of the NRA, recommendations of the fifth Round of Mutual Assessment of Ukraine by The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) were taken into account.

It should be noted that the NRA report is a collaborative effort of national AML/CFT system participants aimed at identifying weaknesses in the national antilegalization financial monitoring system and continuing to develop the plan of action to ensure its effective operation.

We would like to express our sincere gratitude to each participant of the NRA for their involvement in the research and for their significant contribution to the development and improvement of the national AML/CFT system.



Igor Cherkasky,
Head
of the State Financial
Monitoring Service of Ukraine



ABOUT THE NATIONAL RISK ASSESSMENT

Countries' responsibility for identifying, assessing and understanding the risks associated with ML/FT, as well as taking steps to ensure effective risk mitigation is established in the First Recommendation of the International Standards of the Financial Action Task Force (FATF)¹.

At the same time, in February 2013, a methodology for assessing the technical compliance of the FATF Recommendations and for assessing the functioning of the national AML/CFT systems was developed and adopted to verify the country's proper implementation of the FATF Recommendations².

In order to implement international standards in the national legislation, the NRA implementation mechanism is described by the Law of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction" (Law)³ and the Resolution of the CMU and the NBU "On Approval of the Procedure for Conducting a National Risk Assessment in the Field of Prevention and Combating the Legalization (Laundering) of Criminal Proceeds and Financing of Terrorism and Publication of its Results" dated September 16, 2015 No. 717⁴.

The purpose of the NRA is to identify (actualize) national risks (threats, vulnerabilities, consequences) in the AML/CFT system, identify elements of risk management and assist in the creation of a development strategy for the AML/CFT system in Ukraine.

The NRA is aimed at:

promoting the development of a proactive strategy and tactics for deterring criminals through timely detection, arrest and confiscation of criminal proceeds;

prevention of acts of terrorism and terrorist activity, by timely identification and effective blocking of sources of their financing;

analysis of the impact of ML and FT on society, public relations and the financial and economic system, with a view to identify appropriate measures to prevent and counter current threats and vulnerabilities.

NRA involves all participants of the AML/CFT system without exception, and other stakeholders who may contribute to NRA tasks, namely:

- SFMEs;
- Reporting entities;
- LEA (including prosecuting authorities) and the judiciary;
- other public authorities that have the information required by NRA tasks;
- industry associations and self-regulatory organizations, experts, researchers, scientists, etc.;
- other participants (if necessary).

Sources of information required for the NRA include, in particular, complex administrative reporting in the AML/CFT area, analytical reviews and requests of NRA participants, responses of NRA participants to SFMS questionnaires, the results of the sample analysis of court rulings in CPs, the results of studies by Ukrainian scientists, results of the public opinion polls, as well as reports of the European Commission

1 The FATF Recommendations: [Online resource]. - Access at: <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html>

2 Methodology for assessing technical compliance with the FATF Recommendations and the effectiveness of AML/CFT systems. [Online resource]. - Access at: <http://www.fatf-gafi.org/media/fatf/documents/methodology/FATF%20Methodology%2022%20Feb%202013.pdf>

3 On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction: Law of Ukraine of October 14, 2014 No.1702- VII: [Online resource]. - Access at: <http://zakon3.rada.gov.ua/laws/show/1702-18>

4 On Approval of the Procedure for Conducting a National Risk Assessment in the Field of Prevention and Combating the Legalization (Laundering) of Criminal Proceeds and Financing of Terrorism and Publication of its Results: CMU Resolution No.717, September 16, 2015: [Online resource]. - Access at: <http://www.kmu.gov.ua/control/uk/cardnpd?docid=248493531>

identifying, analyzing and assessing ML/FT risks at European Union level and the European Commission's recommendations regarding actions required to eliminate identified risks.

The first NRA in Ukraine was conducted in 2016 based on the developed and approved Methodology for conducting money laundering and terrorist financing risk assessments⁵ as well as FATF Guidance on "National money laundering and terrorist financing risk assessment"⁶, and the best NRA practices of foreign countries, the results of which were communicated to all participants of the AML/CFT system.

The main risks of the AML/CFT system of Ukraine, identified and assessed by the first NRA were as follows:

- low income of the population;
- acts of terrorism and separatism;
- illicit economic activity (including bogus entrepreneurship, fraud and tax evasion);
- the rise of organized crime;
- high cash turnover;
- use of non-profit organizations for ML/FT;
- other.

In order to minimize identified risks, the Government of Ukraine approved several mandatory measures to be taken by the state authorities, in particular:

- exchange of information with the competent authorities of foreign countries and international organizations in order to establish ML methods, schemes and mechanisms, and to document offenses in the field of foreign economic activity;
- establishment of close cooperation between NABU and SFMS in the context of information exchange and introduction of an effective cooperation mechanism;
- implementation of measures for the development of cashless payments;
- preparation of the draft law for the implementation in Ukrainian legislation of the EU Directive 2015/849 of the European Parliament and the Council on the prevention of money laundering and fight against terrorism and Regulation 2015/847 EC of the European Parliament and of the Council on information accompanying transfers, and supporting the legislation in VRU ahead of adoption;
- implementation of measures aimed at increasing the effectiveness of coordination of LEA in the field of combating OC, in particular with regard to cooperation with newly created (including anti-corruption) LEA;
- taking effective measures to identify and eliminate FT channels;
- conducting a sectoral assessment of the risks of using NGOs for ML/FT and financing the proliferation of weapons of mass destruction.

Based on the results of the fifth round of mutual evaluation of Ukraine, the Council of Europe Committee of Experts (MONEYVAL) has identified key conclusions regarding Ukraine in the context of Ukraine's assessment of the risks of the AML/CFT system, namely:

- public authorities are aware of the risks posed by corruption and are implementing substantial nationwide measures to mitigate these risks;
- Ukraine has a good understanding of its AML/CFT risks, although there are some areas (e.g. cross-border, NGOs and different types of legal entities) where understanding can be deepened;
- Ukraine has comprehensive national coordination and policy-making mechanisms to counteract identified risks;
- understanding of AML/CFT risks could be strengthened by taking some further steps to identify and evaluate risk, for example, by expanding information sources and improving statistical base;
- further efforts should be made to address the risks posed by bogus entrepreneurship, shadow economy and use of cash;
- all of the above pose a serious ML risk.

With regard to the recommendations on the results of the 5th round of the mutual evaluation by MONEYVAL, according to international standards and best NRA practices in leading countries, SFMS updated its

5 The methodology for conducting money laundering and terrorist financing risk assessment in Ukraine was approved by the Ministry of Finance of Ukraine on April 16, 2015.

6 National Money Laundering and Terrorist Financing Risk Assessment (2013): [Online resource]. – Access at: <http://www.fatfgafi.org/publications/methodsandtrends/documents/nationalmoneylaunderingandterroristfinancingriskassessment.html>

methodology for national risk assessment, and presented it to all participants of the of AML/CFT system⁷ as well as had it approved by the Ministry of Finance.

The development of the updated Methodology was carried out by local scientists and experts of the SFMS. In addition, NRA methodology was examined by and received useful feedback from a foreign expert with unique expertise in the NRA.

The methodology is designed to structure different aspects of the NRA in the AML/CFT field at the national level in terms of approaches, principles, methods and technology for their implementation, considering existing international standards, best practices, guidelines and reports.

According to the updated methodology, the NRA in Ukraine is carried out in the following stages:

- the preliminary stage (gathering and summarizing information);
- the identification stage (identification of risks);
- risk analysis;
- risk assessment and management.

Updated Methodology provides for sectoral ML/TF risk assessment.

A separate block of sectoral risk assessments involves the analysis of comprehensive administrative reporting by all state authorities – participants of the national AML/CFT system, including LEA and the judiciary.

For additional consultations and discussions related to assessing the reliability of conclusions on identified threats, vulnerabilities and their effects on the sector (SFMEs, LEA and judiciary), SFMS, as a NRA coordinator, initiated the establishment of a working group on sectoral risk assessments within the AML/CFT system (Working Group).

The Working Group comprised SFMS, SFMEs, LEA representatives, and other state authorities participating in the AML/CFT system.

The main tasks of the Working Group are:

- analysis of the results of financial monitoring entities, state authorities involved in the AML/CFT system;
- addressing issues arising from identification of ML/FT risks (threats), conducting analysis, evaluation and development of measures aimed at preventing and / or mitigating adverse effects;
- studying the impact of AML/CFT on society, public relations and the financial system in order to identify appropriate measures to prevent and counter current threats;
- discussion concerning preparation of complex administrative reporting in the AML/CFT area.

Based on the results of the risk assessment carried out by SFMS together with other NRA participants, proposals are prepared and presented following the established procedure to the CMU regarding measures to prevent and / or reduce negative effects of the risks, and to approve the strategic action plan.

7 The methodology of the assessment of money laundering and terrorist financing in Ukraine, approved by the Ministry of Finance of Ukraine on December 17, 2018: [Online resource]. - Access at : http://www.sdfm.gov.ua/content/file/Site_docs/2019/20190702/Methodology.pdf



1. GENERAL COMPONENT

1.1. Prerequisites of major threats in the AML/CFT system

Analysis of external aspects

Geopolitical and geo-economic factors

Over the course of 27 years of its independence, Ukraine has been searching for its own vector of development. Rich in natural resources, it remains weak economically, and is mostly regarded as a commodity appendage, a technologically backward country on the periphery of economic development. Interestingly, Ukraine is not trying to change these perceptions, and statistics confirm this. 70% of Ukrainian exports are commodities⁸.

This is also hampering the arrival of foreign investors in Ukraine. The annual volume of foreign direct investment over the last five years does not exceed USD 2-3 billion⁹.

The Ukrainian economy is growing by 2-3% per year, while the global economy is showing 3.7-3.9% growth, the developing countries – 4.8-5.0% on average, with individual countries growing at 8-10%¹⁰. With these dynamics of economic growth, Ukraine risks falling behind the world forever.

The security situation for Ukraine remains challenging. This is primarily due to economic and institutional weakness, as well as a lack of sustainable public consensus on key issues of social development, such as foreign policy orientation, identity problems, etc.

In February 2019, Parliament adopted a bill to enshrine the strategic course for membership in the European Union and NATO in the Constitution of Ukraine. The successful implementation of the Association Agreement with the EU and the achievement of the necessary NATO standards will help to make national claims of regional and global subjectivity more justified.

Trends in the world economy and threats to its growth

According to forecasts of international financial institutions, the next 10 years will see a stable growth of the world economy – at a rate of 3% per year.

According to USAID, developing countries will reduce their development gap within next 10-12 years, increasing their share of world GDP from 38% to 48% in 2030.

Thus, it is developing countries that will drive the growth of the global economy and consumer demand in the world, which opens opportunities for Ukraine in view of the potentially growing markets for Ukrainian products.

8 What did Ukraine export between 1995 and 2016? [Online resource] // The Atlas of Economic complexity. – 2016. – Access at: <http://atlas.cid.harvard.edu>

9 Statistics of Ukraine's Foreign trade sector according to the methodology of the 6th edition of the balance of payments and international investment position guidelines (IMF, 2009): [Online resource]. - Access at: https://bank.gov.ua/control/uk/publish/article?showHidden=1&art_id=65613&cat_id=44446#5

10 The World Economic Outlook (WEO) database. – 2019. - [Online resource]. – Access at: <https://www.imf.org/external/pubs/ft/weo/2019/01/weodata/index.aspx>

Threats to Ukraine's economic security

The major strategic economic threat to Ukraine's security is the loss of residual competitive advantage, potentially capable of driving rapid and sustained economic growth bringing the country to a level comparable to OECD countries. For if it is stuck at the raw material and industrial level, it will make it impossible for Ukraine to escape from the trap of middle income in the near future, and given the presence of a strong and hostile neighbor, will put into question the very existence of the Ukrainian state.

The second largest challenge to Ukraine's economic security is created by current trends in global finance. We are talking about an unprecedented accumulation of debt, the emergence of giant "bubbles" inflated by issued money, and the corresponding distortion of the normal market roles of speculative capital, investment infrastructure, and banking system.

In addition, one of the threats to Ukraine's economic security is international terrorism.

According to the results of analytical research, we can distinguish the following current trends in the international terrorism pattern:

- the ongoing spread of terrorism in the world, and, as a result, the increasing number of victims and the growing feeling of insecurity and uncertainty among the population;
- significant financial losses and redistribution of resources of the states;
- reduction of activity of some terrorist organizations;
- increasing influence on political processes;
- use of the latest technologies in terrorist activity and its financing;
- influence of migration processes;
- increasing the global threat from ISIS and similar ultra-radical international terrorist organizations (al-Qaeda, Boko Haram, etc.).

The threat of terrorism and separatism comes not only from large terrorist groups and organizations, but also small terrorist centers or individual terrorists that are prone to committing acts of terrorism and causing significant harm to society. In this regard, it is important to identify and eliminate terrorist financing networks of all types.

The risks of FT and separatism are due to several reasons, including:

- the economy of Ukraine is known for wide range of cash use;
- weak control over the registration of legal entities and the complexity of the UBO verification algorithm;
- a large share of NPOs;
- certain restrictions have been placed on the conduct of inspections of legal entities;
- lack of control over some sections of the state border.

The risks of financing terrorism and separatism are compounded by Ukraine's strategic geographical location. At present, the greatest terrorist threat to Ukraine is the aggressive policy of the Russian Federation aimed at destabilizing the situation in the country, including inspiring separatist movements and providing comprehensive support to subterfuge and terrorist activities of puppet quasi-state entities in temporarily occupied territories.

Moreover, Russia's aggressive policy is another threat to the economic security of Ukraine.¹¹

Analysis of internal aspects

Assessment of systemic socio-demographic aspects:

The aggravation of the demographic crisis in Ukraine

The aging population and increasing proportion of people of retirement age, which in the future will lead to an increase in social spending, leading to, in case of preserving the current pension system – increased payroll fund burden, possible reduction of social benefits and their non-compliance to social standards, reduction in the number of officially employed persons of working age leading to shortage of human resources.

¹¹ Russia's aggressive policy threatens security and economic cooperation in the BSEC region: Ministry of Foreign Affairs of Ukraine: [Online resource]. - Access at: <https://www.kmu.gov.ua/ua/news/agresivna-politika-rosiyi-zagrozhuye-bezpeci-ta-ekonomichnij-spivpraci-v-regioni-oches>

Labor migration

Loss of opportunities for economic development due to the outflow of a better, more proactive, more mobile part of the workforce, especially the departure of scientists and specialists; reducing budget revenues due to reduction in the number of potential taxpayers; worsening of the demographic situation, aging of labor resources due to the decrease in the share of persons of working and reproductive age, increasing the burden on the Pension Fund; social and psychological consequences of the destruction of families of migrants, education of children left without parents for prolonged periods of time; adaptation of workers returning after employment abroad to local work and life conditions etc.

Inefficient state policy in the field of high-quality education

Low quality of training for workers with higher education and low productivity of labor as a consequence, migration of young people to obtain education abroad as a result of strengthening labor migration, devaluing of higher education etc.

Inefficient state policy in the field of social protection of the population

Low social payments, which don't provide the appropriate level of social security on one hand, and excessive social expenses due to payments to citizens with enough financial means – on the other. Deterioration of the living standards of the population, lack of access to quality medicine and treatment. Increase in social illnesses of society, alcoholism, drug addiction, growing child and adolescent homelessness, vagrancy.

Inefficient state policy in the field of quality health care population

The deterioration of the overall level of health of the population, reduced life expectancy, unavailability of quality treatment, no possibility of treating certain types of diseases, high level of mortality, declining share of working-age population.

Assessment of systemic macroeconomic aspects:

The world economic crisis

Cyclic global economic crises significantly impacted the economic development of Ukraine, especially, the global economic crisis of 1998 led to repeated devaluation, inflation, falling rates of economic development. Due to the impact of the economic crisis of 2008, the devaluation of the national currency, declining incomes of citizens, etc. were also observed. Despite some measures undertaken by the NBU to reduce these risks, risks of macroeconomic imbalance in the country remains very high on the back of significant impending payments due to international liabilities.

Monopolization of key sectors of the national economy

According to the Antimonopoly Committee of Ukraine, 42% of the markets in Ukraine are monopolistic or have an oligopolistic position. The most monopolized in Ukraine are the fuel and energy complex and the transport and communications market. This negatively affects the competition, and, in the Global Competitiveness Index in 2018, Ukraine ranked 81st among 137 countries evaluated and scored. This situation leads to restraint of economic development, vulnerability of Ukrainian enterprises, abuse of its monopoly position, distortion of competition and decrease of profitability as well as fewer opportunities to increase economic value of other branches of national economy. This weakens the national economy and creates a threat to the economic security of Ukraine.

Significant size of shadow economy

Despite some deflation of the shadow economy, according to the estimates of the Ministry of Economy, it remains high leading to some major negative consequences, including:

- failure to receive significant revenues by the state budget in the form of unpaid taxes;
- distortion of internal competition, due to the competitive advantage of the shadow sector enterprises using various tax minimization schemes;
- overall growth of corruption and declining trust in state institutions, etc.

A considerable volume of smuggling

Given the exchange rates dynamics in 2018, index of inflation and the official imports growth dynamics, the volume of potential smuggling in 2018 was estimated to be between 209 to 311 billion UAH annually, with respective budget revenue loss in the amount of 63 to 93 billion UAH per year.¹²

Technological backwardness and low productivity of labor

According to estimates of the Ministry of Economy, labor and capital productivity have been showing positive dynamics in recent years, however their real levels remain low, which leads to reduction in wages and, as a result, the lowest GDP per capita in Europe. This not only decreases the competitiveness of Ukrainian products, but also enhances labor migration trends from Ukraine.

Incompatibility of most industrial operations with European and international standards

Despite Ukraine doing a lot of work to harmonize Ukrainian standards with European and international counterparts, namely, the adoption of the strategy of development of technical regulation system until 2020, cancellation of 14,475 outdated international standards developed before 1992, adoption of 56 technical regulations, 53 of which were developed on the basis of acts of legislation of the EU, 49 mandatory technical regulations (out of 27 acts of European sectoral legislation, defined in Annex III to the Association Agreement, 24 technical regulations were adopted of which 23 are mandatory), there is still a significant economic threat to Ukrainian enterprises arising from incompatibility of manufactured products with European and international technical regulations and standards. With the high cost of credit and a low level of foreign direct investments, technical refitting of Ukrainian companies to produce products that can be sold in international markets remains problematic.

Mostly commodity exports

According to SSS of Ukraine data, in 2018, 24.6% of Ukrainian exports were made up of ferrous and non-ferrous metals and their products, 20.9% of plant-based products, 9.8% of machinery, equipment and mechanisms, 9.2% of mineral products, 4% of products of chemical and related industry, 3.2% of wood and associated products.

Structure of imports is dominated by machines, equipment and mechanisms: electrical equipment – 20.9%, land vehicles, aerial vehicles, watercraft – 8%.

Low level of foreign direct investment, high cost of credit resources

Foreign direct investment (FDI) has seen its third consecutive year of decline and while in 2014 the main explanation was the beginning of military aggression by Russia; in recent years, however, investors noted high level of corruption in Ukraine. The low level of foreign direct investment reduces the economic growth and makes it impossible to implement Ukraine's large-scale investment and innovation projects.

12 Comparative analysis of the fiscal effect of using tax avoidance instruments in Ukraine: new challenges - Institute for Social and Economic Transformation, Center for Socio-Economic Research CASE- Ukraine: [Online resource]. - Access at: <http://iset-ua.org/images/Analiz-shem-2019-FINAL.pdf>

1.2. Geographic and socio-economic component

Geographical location of Ukraine

Ukraine is situated in the central part of Eastern Europe at the intersection of transport routes from Europe to Asia and from Scandinavia to the Mediterranean. The geographical location of Ukraine is quite favorable. Its territory is carved by major transport highways connecting Western Europe with countries of the Caucasus and Central Asia.

The total area of Ukraine is 603,700 square kilometers, accounting for 5.7% of Europe and 0.44% of the world. From north to south the territory of Ukraine extends for 893 kilometers, from west to east – for 1,316 kilometers. Ukraine is the largest country whose borders do not extend beyond Europe. Total length of borders: 6992 kilometers, length of land borders: 5,637 kilometers.

The length of the maritime section of the border: 1,355 kilometers (the Black Sea – 1,056.5 kilometers; the Sea of Azov – 249.5 kilometers; the Kerch Strait – 49 kilometers). Ukraine has a wide access to Black Sea and Sea of Azov, connecting it to the countries of the Mediterranean. Ukraine also borders Bulgaria, Turkey and Georgia by sea. The area of the exclusive (maritime) economic zone of Ukraine is more than 82 thousand square kilometers.

In the west, Ukraine borders Poland, Hungary and Slovakia, through which the shortest route connects Ukraine with countries of Western and Central Europe. In the east and north of Ukraine it borders Russia, in the southwest – Moldova and Romania. In the north, Ukraine borders Belarus, through which it has access to the Baltics. With Romania and Russia, Ukraine shares both land and maritime borders.

The period covered by the second NRA round (2016-2018) saw Ukraine continue on a path of fundamental political, social, economic, and societal changes that were given rise by the Revolution of Dignity, that occurred in November 2013 – February 2014. These events were caused by the departure of political leadership of the country, namely the former President of Ukraine and his surroundings from the legislatively fixed course for European integration as well as their ensuing efforts to undermine it, the fall of the living standard of Ukrainians and the colossal level of corruption in the country, primarily, among the top leadership.

During the Revolution, weapons were used against the peaceful assembly by former Ukrainian authorities, killing 121 civilians and injuring hundreds.

Given the situation in February 2014, Ukraine lost part of its territory – the Russian Federation annexed the Autonomous Republic of Crimea.

Since April 2014 large swaths of the Donetsk and Luhansk regions of Ukraine have been occupied by the Russian Federation with the help and under the guise of its subordinate terrorist and separatist entities “DNR” and “LNR”.

Against this background, an anti-terrorist operation was launched in Donetsk and Luhansk regions on April 14, 2014, lasting until April 30, 2018. After the conclusion of the ATO in the east of the country, Ukraine launched the JFO.

According to the UN, as a result of the unstable security situation, which arose in 2014 and continues to this day, about thirteen thousand people, including Ukrainian military and civilians, have been killed.

Despite these complex political and economic conditions, Ukraine persists in its efforts to develop and reform the national institutional environment, including in the context of strengthening institutional capacity of the national AML/CFT system in compliance with international standards.

Socio-demographic component

Socio-demographic component characterizes the ability of the state to ensure quality and decent living standards, create conditions for the development of human capital as an essential component of economic security and pay significant attention to ensuring sufficient strength of labor resources, as a prerequisite of sustainable development.

Data on the ethnic origin (nationality) of the population are obtained by state statistics authorities based only on the results of population censuses. The last National Census was carried out in Ukraine back in 2001.

1. General component

According to the Art. 3 of the Law of Ukraine “On the All-Ukrainian Population Census”¹³ the basis for the census is the decision of the CMU. According to the CMU decree “On conducting the All-Ukrainian Population Census in 2020” (as amended)¹⁴ the next census year is 2020.

The estimated population of Ukraine at the end of 2018 was 42,3 million people¹⁵. The average annual population decline in Ukraine is 200 thousand people.

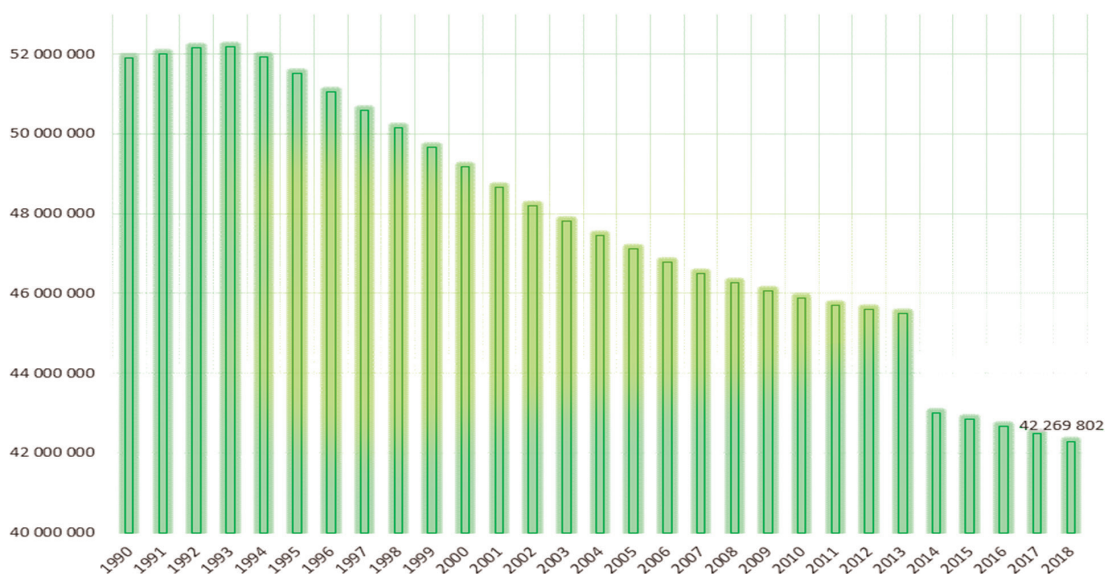


Fig. 1.1. Changes in the actual population of Ukraine¹⁶

According to sociological studies, as of April 2, 2018, 33% of Ukrainians were interested in job opportunities abroad. 64% of respondents admitted to thinking about emigration in hopes of getting better living conditions. The desire to provide a better future for children as a reason for moving to another country was cited by 34% of respondents, the lack of decent work in Ukraine – by 23%, the desire to get a better education – by 12%. According to Eurostat, in 2013, 236 thousand Ukrainians applied for permit in EU countries for the first time, in 2013 – 493 thousand, and in 2016 – 589 thousand, or about 18% of the total number of permits issued. For comparison: the Syrians accounted for only 348 thousand permits in 2016. Obviously, the reorientation of Ukrainian migrants towards the EU will continue. This will apply to both working people and those who leave for permanent residence¹⁷.

While Ukraine belongs to the category of “young and poor” countries, it does so only by the criterion of poverty, as the demographic trends in our country are completely in line with the rest of Europe. While India, Bangladesh, Mexico and China, whose populations are also actively migrating to the G20, have a growth rate of 1.1- 1.6%, Ukraine’s has been negative for a long time.

13 On the All-Ukrainian Population Census: Law of Ukraine, October 19, 2000 No. 2058-III: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/ru/2058-14>

14 On conducting the All-Ukrainian Population Census in 2020: CMU decree, April 9, 2008, No. 581-p: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/581-2008-p>

15 Estimated population as of March 1, 2019. [Online resource]. - Access at: http://database.ukrcensus.gov.ua/PXWEB2007/ukr/news/op_popul.asp

16 Plotted according to the State Statistics Service of Ukraine data

17 How labor migration affects Ukraine: Tyzhden.ua [Online resource]. - Access at: <https://tyzhden.ua/Society/206352>

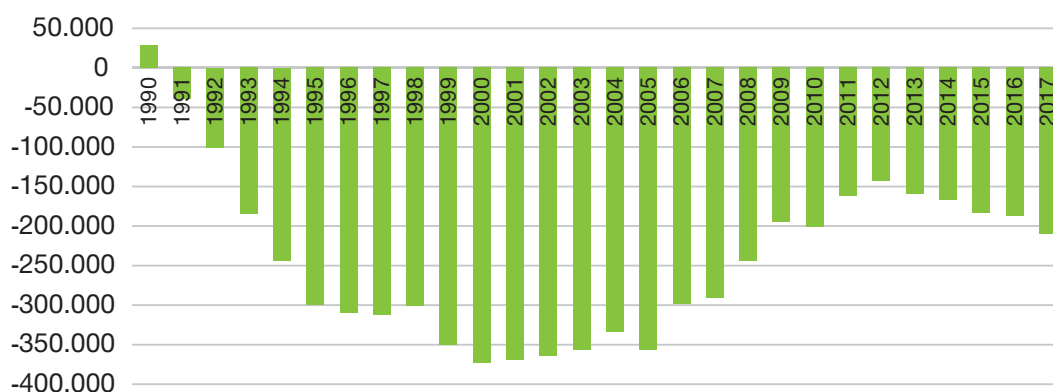


Fig. 1.2. Natural increase (+); decrease of (-) the population of Ukraine¹⁸

Level of trust in state and public institutions

According to the results of the sociological survey carried out by Razumkov Center on October 4-9, 2019¹⁹ (2015 respondents aged 18 and above were polled in all regions of Ukraine, with the exception of Crimea and the occupied territories of Donetsk and Luhansk regions using sampling representative of the adult population of the country according to basic social and demographic indicators), state and public institutions enjoying highest levels of trust were: Armed Forces of Ukraine (75% of respondents), President of Ukraine (70%), volunteer organizations (69%), State Emergency Service of Ukraine (64.5%), National Guard of Ukraine (64%), State Border Guard Service of Ukraine (63.5%), Church (61%), volunteer battalions (61%), Ukrainian media (56%).

Distrust was often expressed towards the Russian media (76% of respondents), the judicial system in general (70%), political parties (66%), local courts (65%), commercial banks (64%), prosecution (64%), state apparatus (officials) (63%), Supreme Court (59%), Constitutional Court of Ukraine (57%), NABU (54%), SAPO (54%), NACP (53%), anti-corruption court (53%), NBU (51%), trade unions (49%).

Essential characteristics of the economic environment of Ukraine

Ukraine belongs to countries with low (by volume) and open (relative to its connections with the outside world) economy with a narrow export base of products (commodity exports dominate) and services. Therefore, understanding the interconnections of external accounts of the national economy (BOP and IIP) between each other and their impact on the general equilibrium in the national economy, which actively interacts with the rest of the world, are those problematic issues that should be given special attention when studying the essential characteristics of the economic environment of Ukraine.

Considering current methodological principles of the formation of main macroeconomic indicators of SNA, various aspects of interactions are revealed, the consideration of which is crucial for understanding of the general economic equilibrium in the country (see Fig. 1.3).

A country, whose CA balance has a deficit, would suffer from exhaustion of ER and therefore would have to confront the inevitable devaluation of its currency, which in turn is a factor of instability, potentially leading to the reduction of real denominated in national currency household and business incomes, reducing their purchasing power and leading to mistrust and negative economic expectations.

The movement of capital influences the BOP of the country, determines the volume of purchase and sale of the national currency as a result of direct, portfolio and other investments in the country over a certain period. Physical capital flows include foreign direct investment in real estate, manufacturing, and shares of national companies with view to absorb them. This type of investing involves the conversion of the investor's foreign

18 Statistics of the population of Ukraine. [Online resource]. - Access at: http://database.ukrcensus.gov.ua/MULT/Dialog/statfile_c_files/main.htm?3

19 Citizens' assessment of the situation in the country and the authorities' activities, the level of trust in social institutions and politicians: Razumkov Center: [Online resource]. - Access at: <http://razumkov.org.ua/napriamky/sotsiologichni-doslidzhennia/otsinka-gromadianamy-sytuatsii-v-kraini-ta-diialnosti-vlady-riven-doviry-do-sotsialnykh-institutiv-ta-politykiv>

1. General component

currency into the national currency of the investee increasing the demand for the currency of the country being invested in (the appreciation). Portfolio capital flows include the inflow and outflow of capital in the secondary stock markets and in the debt securities (bond) markets.

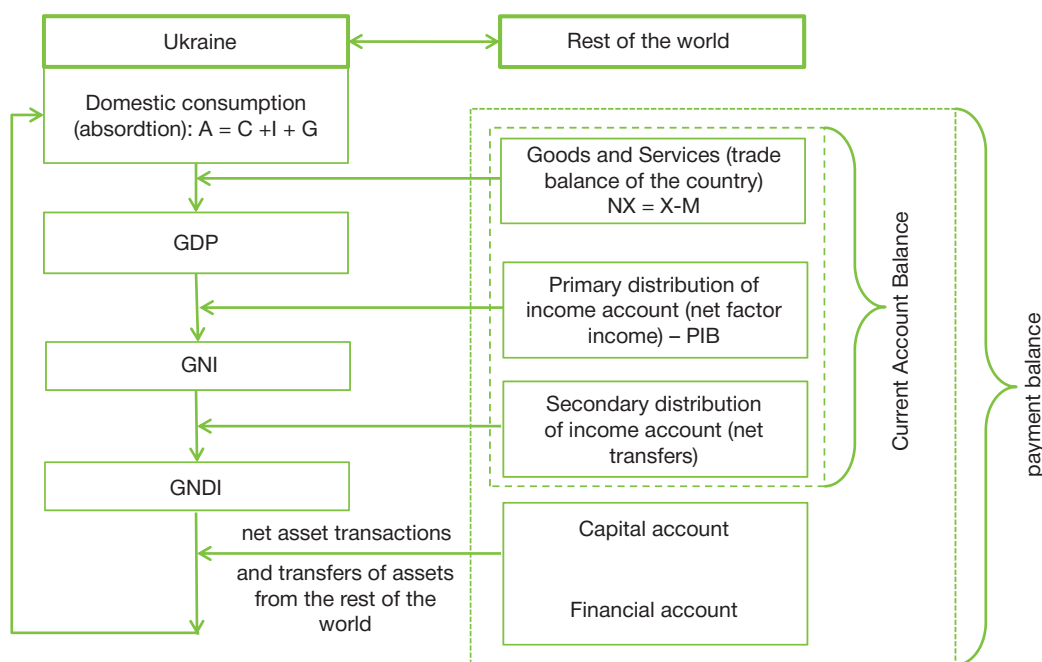


Fig. 1.3. Relationship between major macroeconomic aggregates of the SNA

GDP

According to a World Bank press release dated May 23, 2019,²⁰ from the point of view of GDP per capita, Ukraine remains one of the poorest countries in the region, that is, at the level of Moldova, Armenia and Georgia. Ukraine’s GDP per capita in purchasing power parity is about three times lower than in Poland, despite similar income level in 1990 (See Fig. 1.4.).

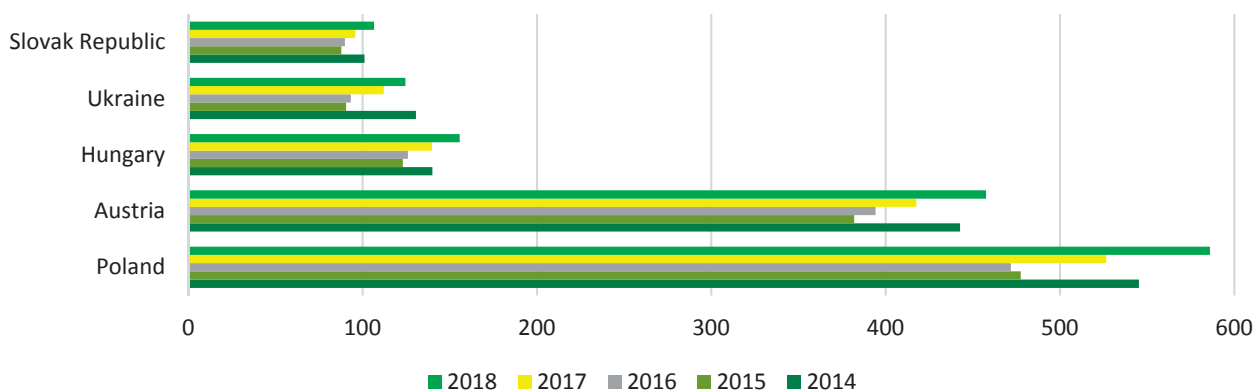


Fig. 1.4. Comparison of GDP of Ukraine and other countries in the region (USD billion)²¹

20 Special report: Realizing Ukraine’s Economic Growth Potential, May 23, 2019: World Bank, [Online resource]. - Access at: <http://pubdocs.worldbank.org/en/233891558601579588/Ukraine-Special-Focus-Note-Spring-2019-uk.pdf>

21 IMF Data Mapper: Gross Domestic Product. [Online resource]. - Access at: <https://www.imf.org/external/datamapper/datasets/WEO/1>

Additional data on the nominal and real GDP of Ukraine are given in Table 1.1.

Table 1.1.
GDP in Ukraine²²

Ukraine's gross domestic product from 2012 to 2018 (million UAH)			
	Nominal GDP (at current prices)	Real GDP (in 2010 prices)	Nominal GDP (USD billion)
2012	1 408 889	1 141 052	175,707
2013	1 454 931	1 140 747	179,572
2014	1 566 728	1 052 442	130,571
2015	1 979 458	894 774	90,489
2016	2 383 182	984 395	93,313
2017	2 982 920	1 010 173	112,125
2018	3 558 706	1 095 829	124,603

Balance of payments

The balance of foreign trade in goods and services in Ukraine is characterized by Table 1.2²³:

Table 1.2.
Dynamics of foreign trade in goods and services

Period	Exports of goods (USD million)	Import volume of goods (USD million)	BFT of goods (million USD)	Exports of services (USD million)	Services import volume (USD million)	BFT of Services (USD Million)	Total exports of goods and services (USD million)	Total imports of goods and services (USD million)	Total BFT of Goods and Services (USD million)
2011	62 383	80 414	- 18 031	21 269	13 383	7 886	83 652	93 797	- 10 145
2012	64 427	86 273	- 21 846	22 089	14 589	7 500	86 516	100 862	- 14 346
2013	59 106	81 234	- 22 128	22 613	16 119	6 494	81 719	97 353	- 15 634
2014	50 552	57 680	- 7 128	14 884	12 362	2 522	65 436	70 042	- 4 606
2015	35 420	38 875	- 3 455	12 442	11 349	1 093	47 862	50 224	- 2 362
2016	33 560	40 502	- 6 942	12 448	11 959	489	46 008	52 461	- 6 453
2017	39 701	49 364	- 9 663	14 167	13 148	1 019	53 868	62 512	- 8 644
2018	43 341	56 055	- 12 714	15 794	14 447	1 347	59 135	70 502	- 11 367

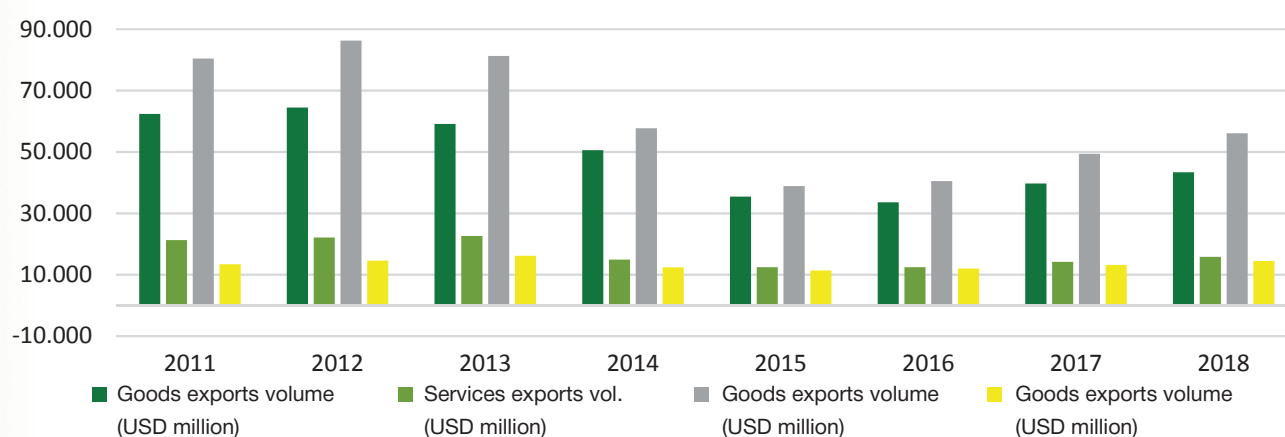


Fig. 1.5. Dynamics of exports and imports of goods and services

²² Plotted according to the Ukraine State Statistics Service

²³ Foreign trade sector statistics: Balance of Payments. [Online resource]. - Access at: https://old.bank.gov.ua/control/uk/publish/article?showHidden=1&art_id=65613&cat_id=44446

1. General component

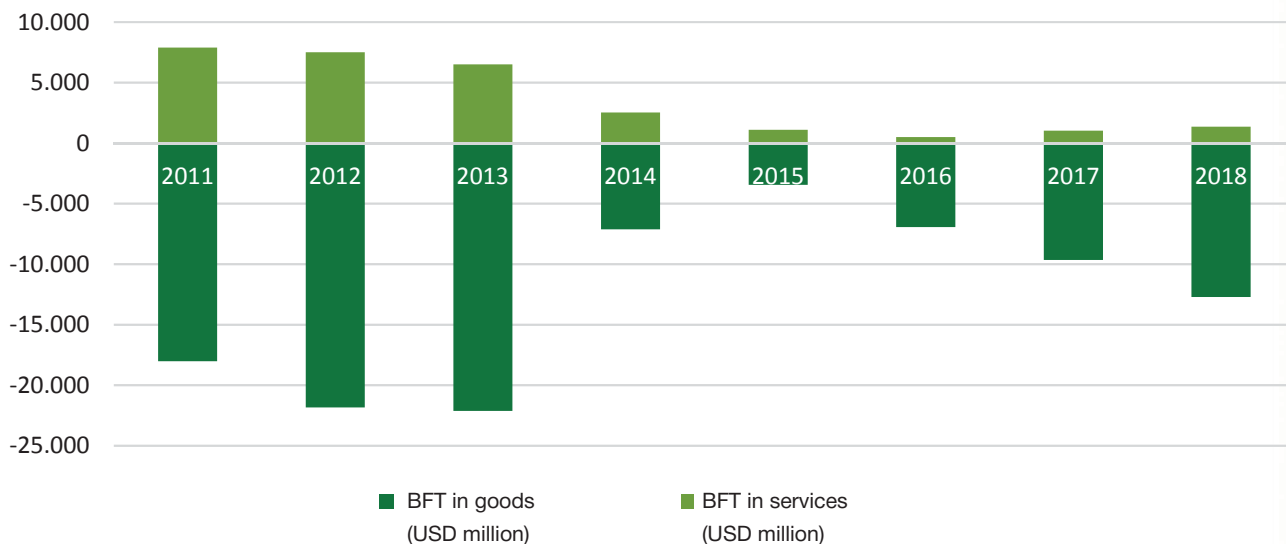


Fig. 1.6. Dynamics of foreign trade in goods and services

The structure of export of goods is characterized by the following indicators:

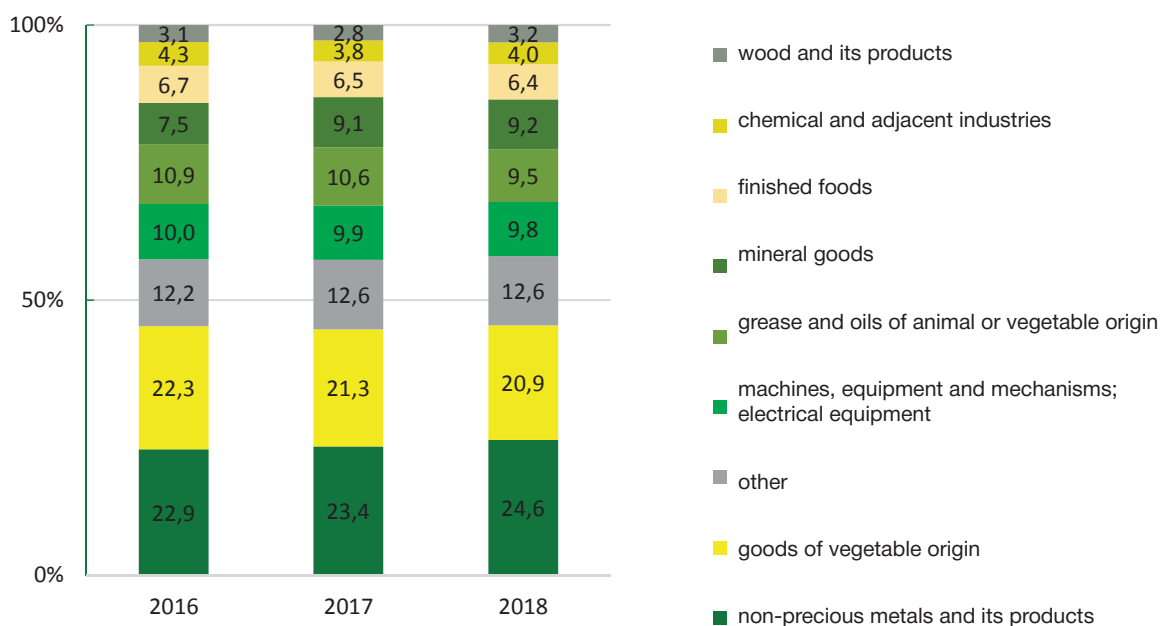


Fig. 1.7. Dynamics of Commodity Export Structure of Ukraine ²⁴

²⁴ Plotted according to the State Statistics Service of Ukraine data

Fig. 1.8. gives the geographical structure of exports of goods:

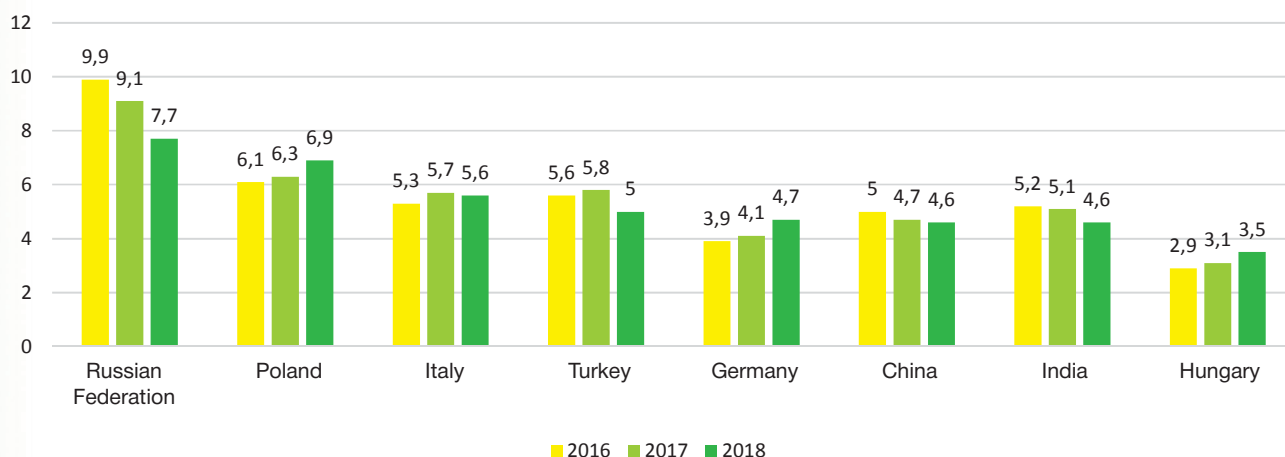


Fig. 1. 8. Geographic structure of exports of goods, %²⁵

The structure of goods imports is characterized by the following data:

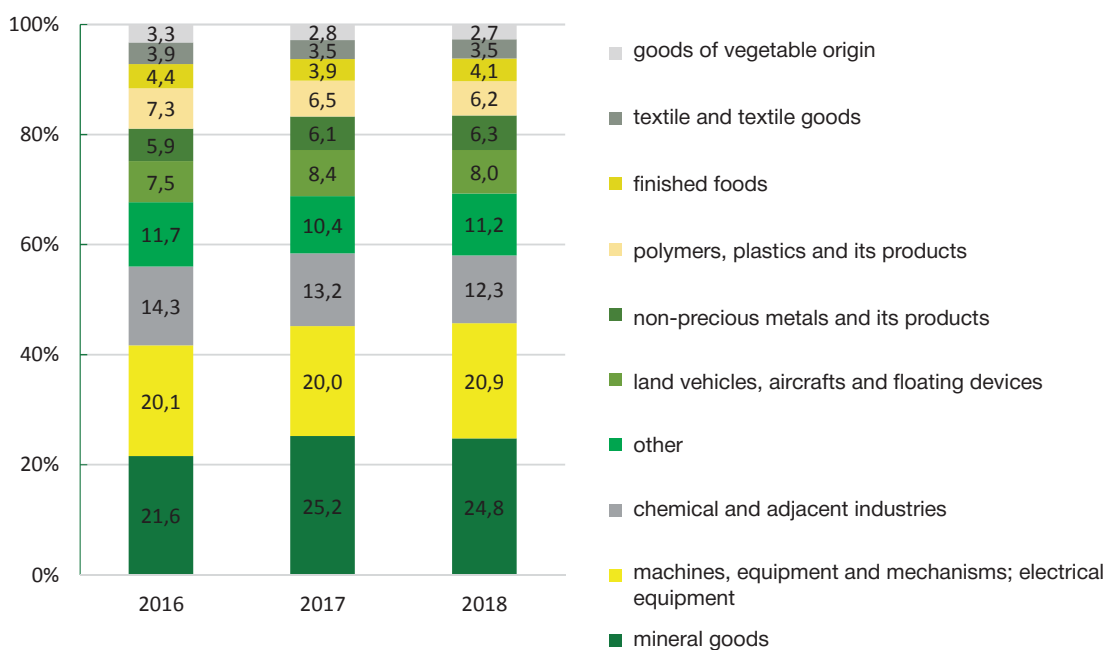


Fig. 1.9. Dynamics of Commodity Structure of Imports ²⁶

25 Plotted according to the State Statistics Service of Ukraine data, Statistical Digest «Ukraine in numbers»: [Online resource]. - Access at: http://www.ukrstat.gov.ua/druk/publicat/kat_u/2019/zb/07/Ukr_cifra_2018_u.pdf

26 Plotted according to the State Statistics Service of Ukraine data: [Online resource]. - Access at: http://www.ukrstat.gov.ua/operativ/operativ2018/zd/ztp_kv/ztp_kv_u/ztp_kv_4k2018_u.html

1. General component

Fig. 1.10. gives the geographical structure of the imports of goods:

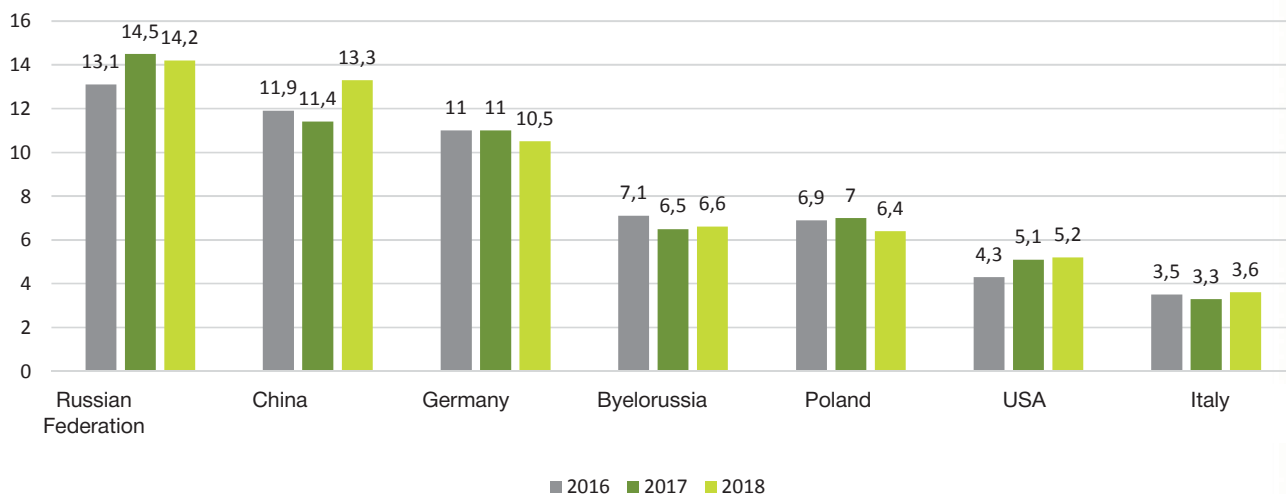


Fig. 1.10. Geographic structure of imports of goods, %²⁷

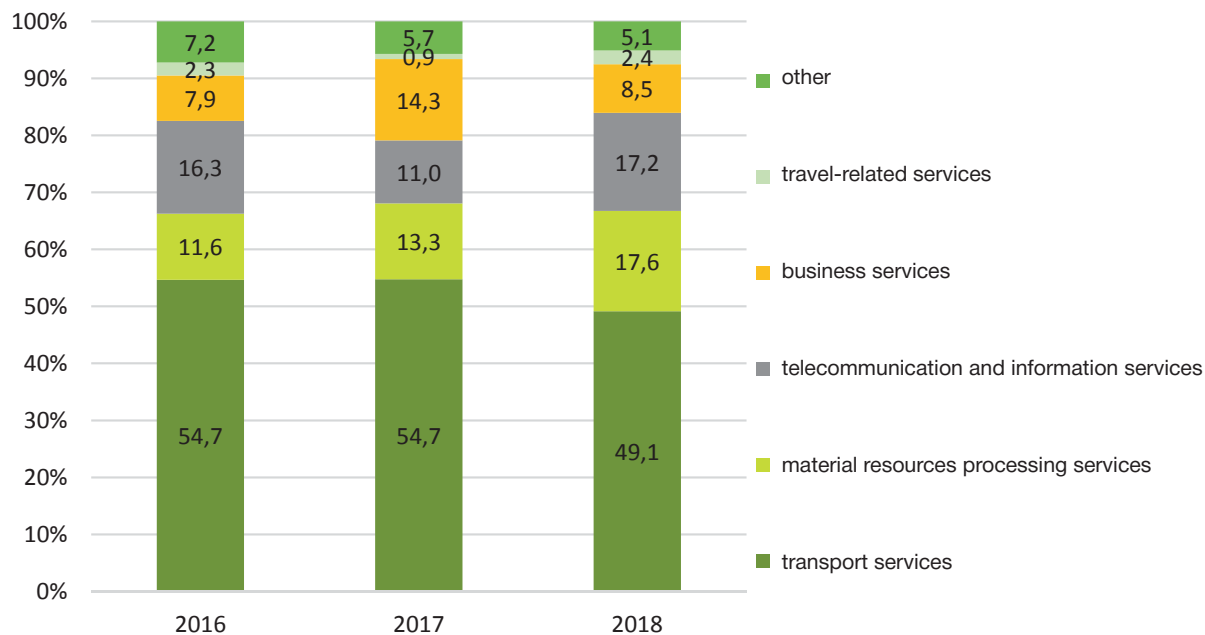


Fig. 1.11. Structure of services export by type ²⁸

27 Plotted according to the State Statistics Service of Ukraine data: [Online resource]. - Access at: https://ukrstat.org/uk/operativ/operativ2019/zd/ztt/ztt_u/ztt0719_u.htm

28 Plotted according to the State Statistics Service of Ukraine data: [Online resource]. - Access at: http://www.ukrstat.gov.ua/operativ/operativ2018/zd/ztp_kv/ztp_kv_u/ztp_kv_4k2018_u.html

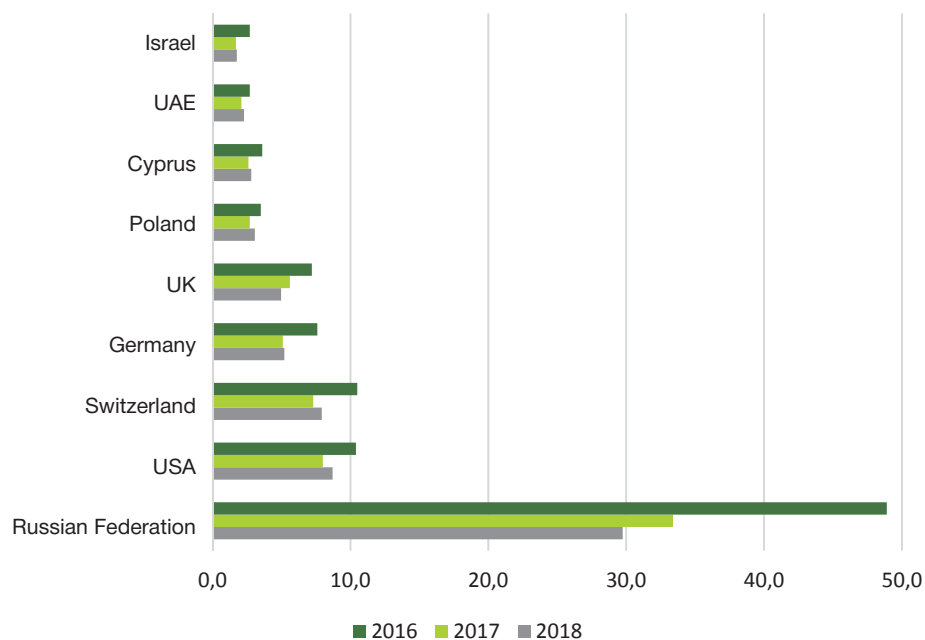


Fig. 1.12. Main services exports countries, %²⁹

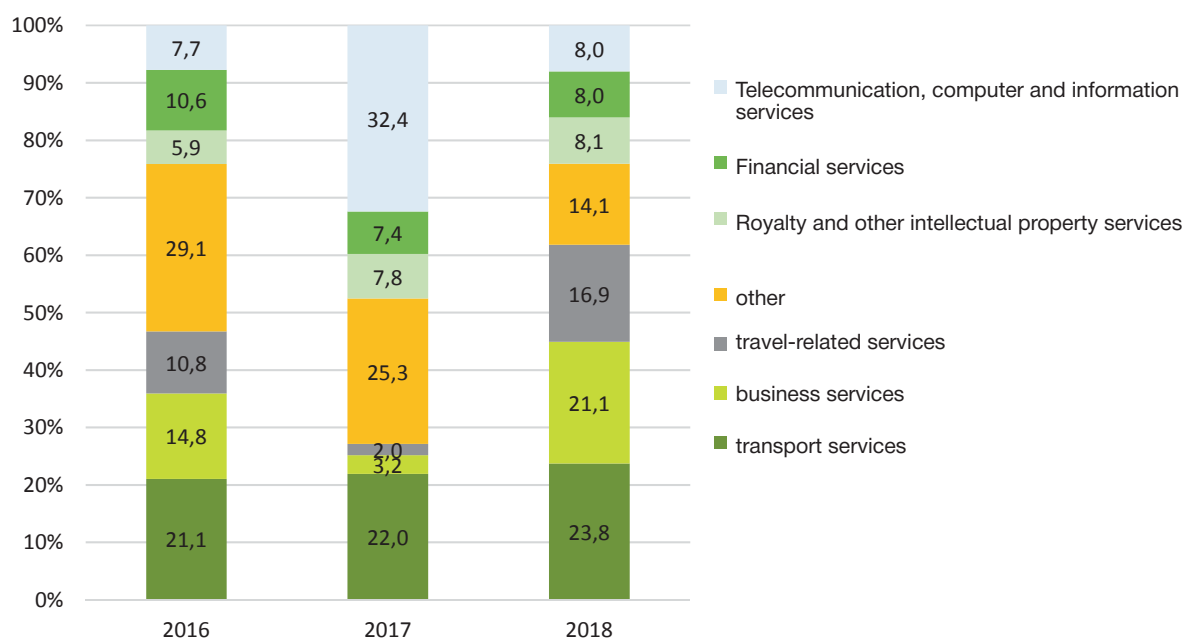


Fig. 1.13. Structure of services imports by type ³⁰

29 Plotted according to the State Statistics Service of Ukraine data: [Online resource]. - Access at: https://ukrstat.org/uk/operativ/operativ2019/zd/gsztp/gsztp_u/gsztp_1p2019_u.html

30 Plotted according to the State Statistics Service of Ukraine data: [Online resource]. - Access at: http://www.ukrstat.gov.ua/operativ/operativ2018/zd/ztp_kv/ztp_kv_u/ztp_kv_4k2018_u.html

1. General component

The main countries Ukraine imports services to are the United States, the United Kingdom and the Russian Federation (See Fig. 1.14).

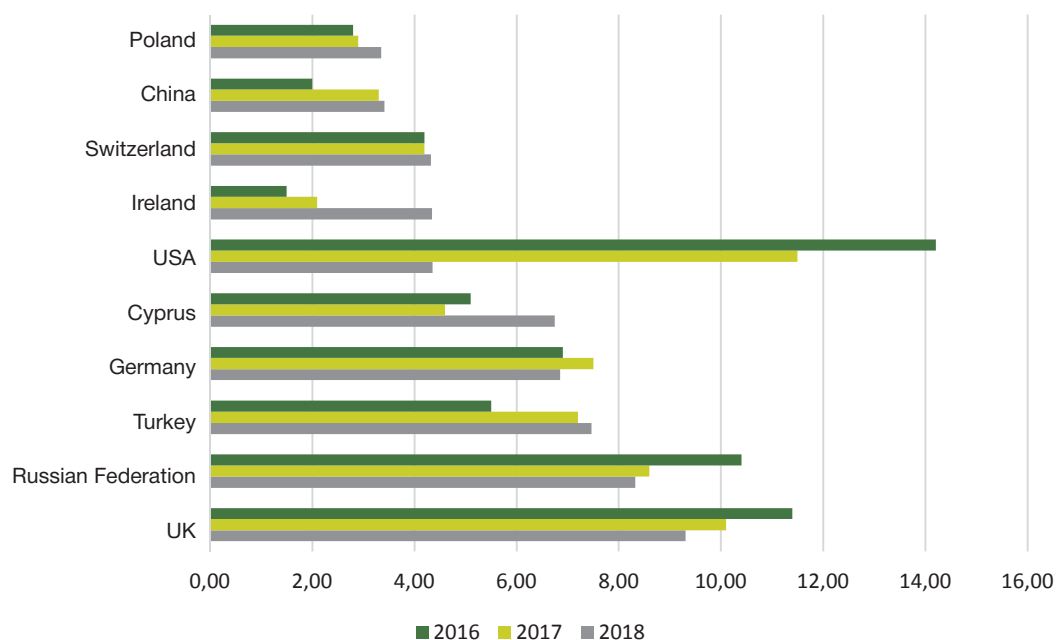


Fig. 1.14. Major services imports countries, %³¹

The rapid migration of labor potential out of Ukraine is accompanied by significant growth rates of private money transfers to Ukraine. In 2018 the volume of private money transfers in the amount of 11.1 billion USD almost completely balanced out the deficit of the BFT in goods and services amounting to – 11.4 billion USD.

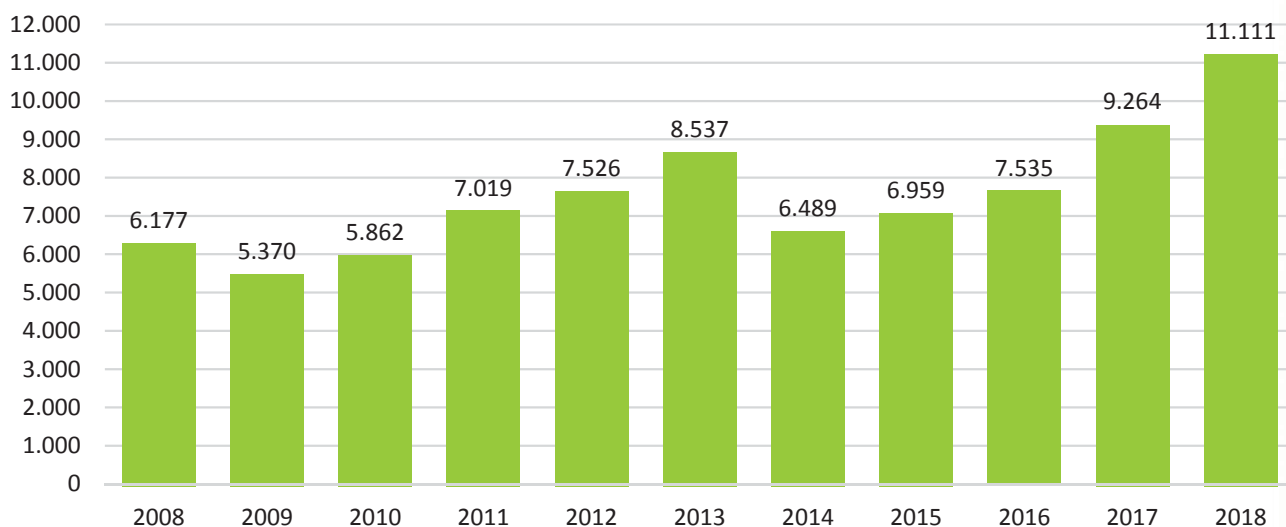


Fig. 1.15. Dynamics of Private Money Transfers to Ukraine (USD Million)³²

However, Ukraine’s labor migration losses are far from covered by the above-mentioned transfers. An internationally accepted criterion for the expression of the human capital value is a value that is 10 times larger than the GDP per capita calculated based on the purchasing power parity. The dynamics of the corresponding indicator for the last six years is shown in Fig. 1.16.

31 Plotted according to the State Statistics Service of Ukraine data: [Online resource]. - Access at: https://ukrstat.org/uk/operativ/operativ2019/zd/gsztp/gsztp_u/gsztp_1p2019_u.html

32 Foreign sector statistics: money transfers. [Online resource]. - Access at: https://old.bank.gov.ua/control/uk/publish/article?showHidden=1&art_id=65613&cat_id=44446#2

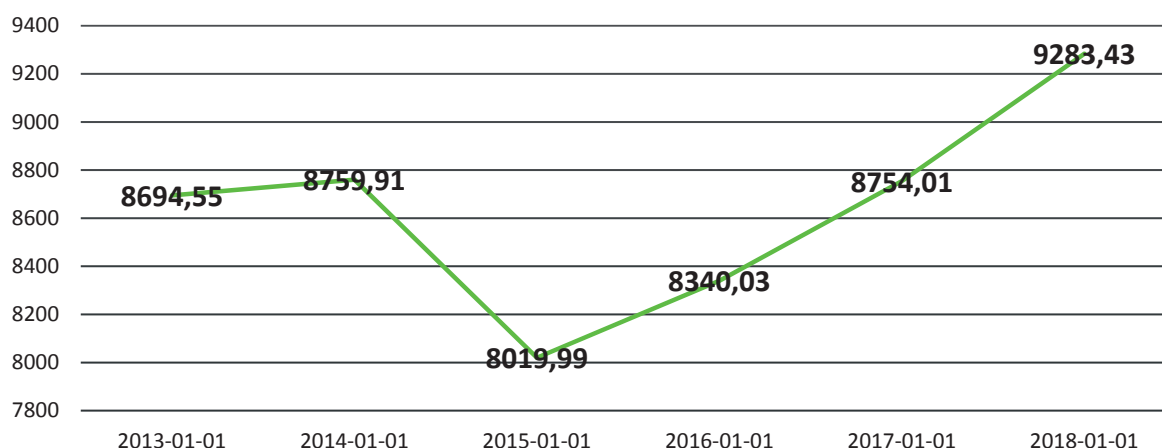


Fig. 1.16. GDP per capita dynamics, determined based on the estimation of purchasing power parity, USD³³

Analysis of the data above shows that as of 2018, **the average “price” of human capital of a single migrant worker from Ukraine was equivalent to 93 thousand USD in losses**. According to experts of the Center for Economic Strategy, the total size of Ukrainian population, which may be involved in external labor migration, is approximately 4 million people (16% of working age population), including long-term migrants, and accounting for circular and seasonal migration³⁴. Thus, we can calculate the total volume of real losses of human capital of Ukraine, which at the end of 2018 amounted to **USD 371.3 billion** (see Fig. 1.17)).

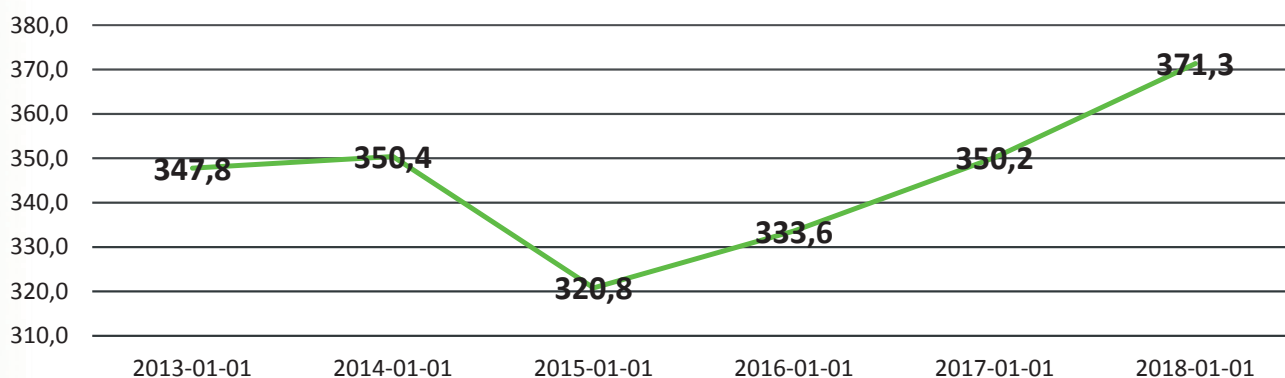


Fig. 1.17. Ukraine's human capital losses from labor migration as of the respective reporting date, USD billion

The analysis of the sources of financing of the country's CA BOP deficit clearly demonstrates the effect of fundamental macroeconomic interactions of the country with the rest of the world, which, in turn, determines the features of macro-level balancing.

³³ IMF Cross Country Macroeconomic Statistics: Ukraine Per Capita GDP based on PPP Valuation, USD. [Online resource]. - Access at: https://www.quandl.com/data/ODA/UKR_PPPEC-Ukraine-Per-Capita-GDP-based-on-PPP-Valuation-USD

³⁴ How many Ukrainians have gone abroad and what the state has to do with it? Analytical note of the Center for Economic Strategy. [Electronic resource]. - Access at: <https://ces.org.ua/migration/>

1. General component

The economy of any country as of the reporting period has a certain stock of assets and liabilities³⁵, the amount and composition of which are described in the IIP (Fig. 1.18).

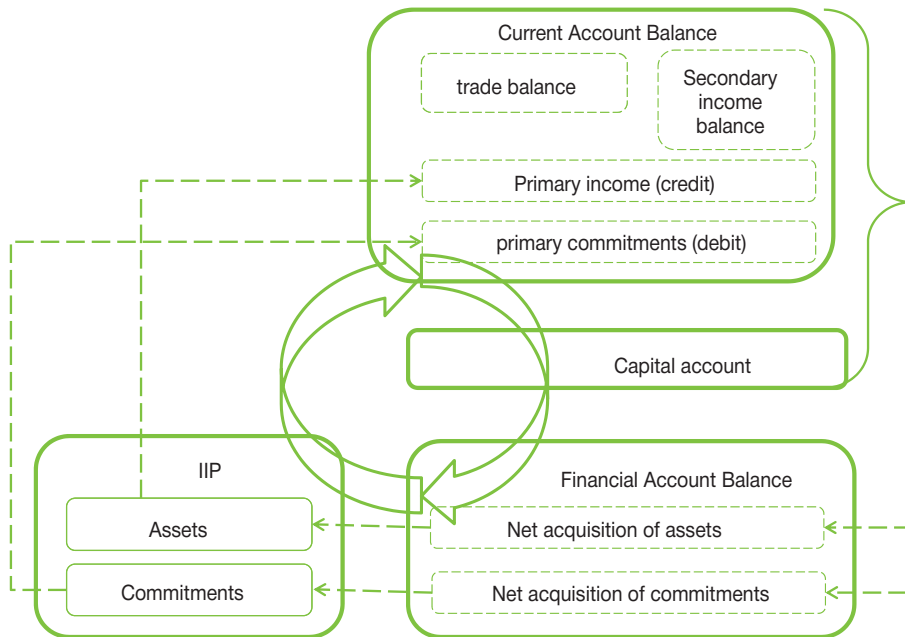


Fig. 1.18. Circulation of the country's total assets and liabilities to the rest of the world

Another important link illustrating the way in which the IIP generates additional debt for a country or becomes a source of financing for its own economy, and thus a factor of macroeconomic smoothening or imbalancing, is shown in Fig. 1.19 and is directly related to the issue of the country's FD.

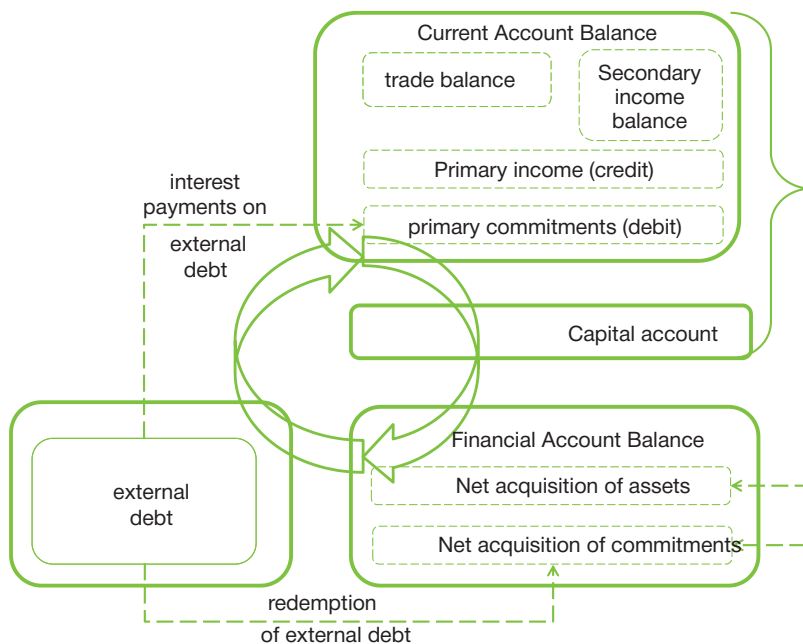


Fig. 1.19. Impact of the FD on the CA balance and the SM balance

35 According to the international methodology for the formation of SNA, BOP and IIP the state's total assets include all state-owned resources that can generate future economic benefits (non-financial assets: tangible assets (fixed and current assets), values (precious metals, stones, artworks), natural resources (land, subsoil, biological resources, water resources, spectrum of radio frequencies); financial assets: monetary gold, special borrowing rights, cash currency and deposits, debt securities, credits and loans, equity instruments, derivatives, and other receivables). A similar classification applies to the obligations of the state to the rest of the world.

The dynamics of the SC of Ukraine are characterized by the following figures 1.20 - 1.24³⁶:

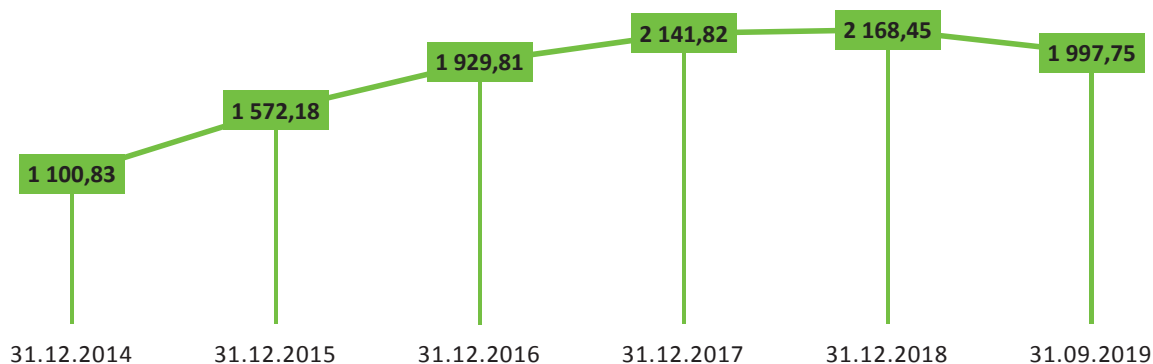


Fig. 1.20. Total public and publicly guaranteed debt, UAH billion.

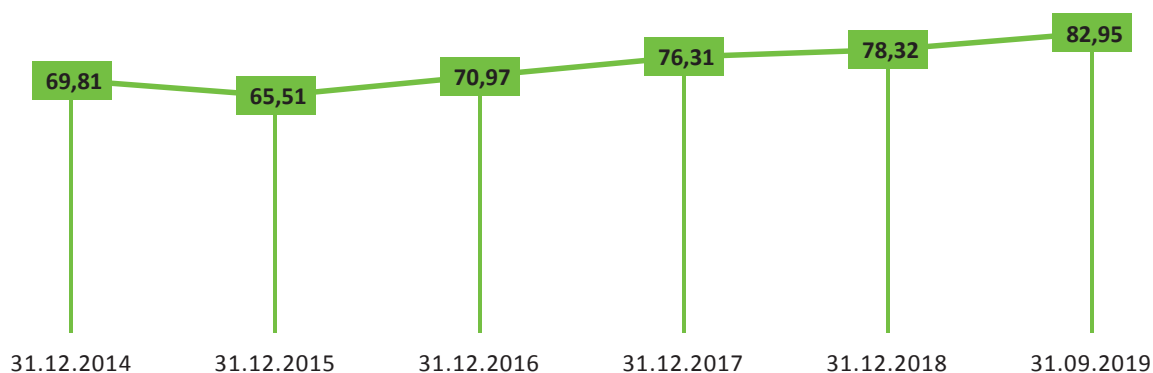


Fig. 1.21. Total public and publicly guaranteed debt, USD billion.

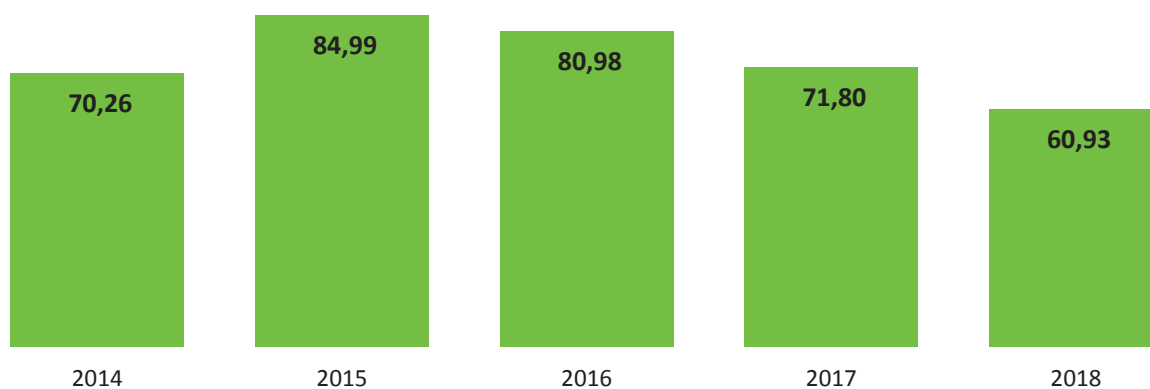


Fig. 1.22. Total public and publicly guaranteed debt as a percentage of the GDP of Ukraine, %.

36 Public debt and publicly guaranteed debt. [Online resource]. - Access at: <https://mof.gov.ua/uk/derzhavnij-borg-ta-garantovaniy-derzhavju-borg>

1. General component

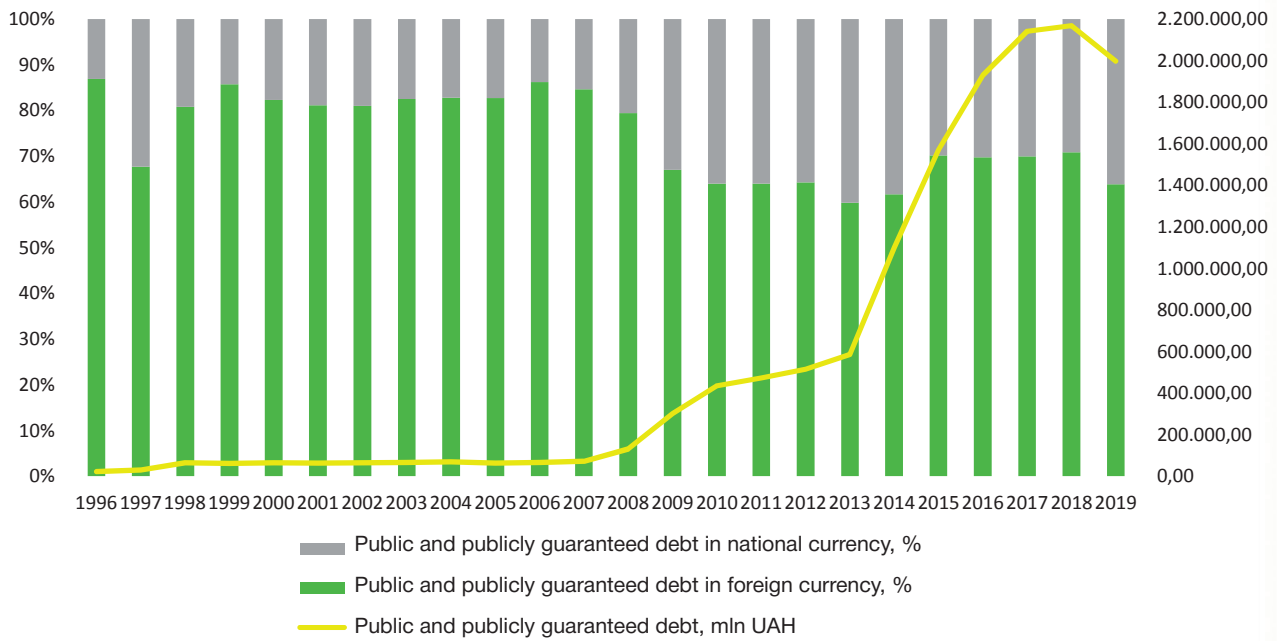


Fig. 1.23. Dynamics and structure of public and publicly guaranteed debt

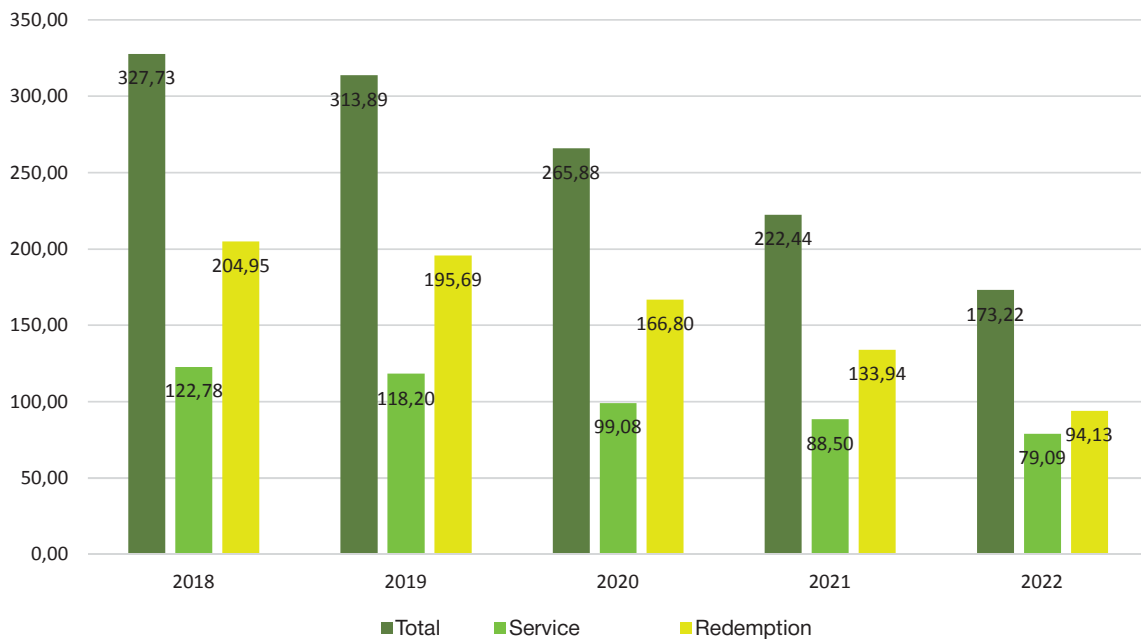


Fig. 1.24. Actual and expected repayments of the principal and servicing of public debt in 2018-2022, UAH billion.

Note: In the context of ML risk assessment related to government debt securities, we note the following. In May 2018, Parliament passed the Law of Ukraine No. 2418 “On Amendments to Certain Laws of Ukraine on Promoting Foreign Investment Attraction”, which entered into force on 24.11.2018. This law introduced the concept of a nominal holder, through which foreigners will be able to buy securities (including government bonds) much easier and without unnecessary bureaucratic barriers. The mechanism of the concept is this: a foreign investor reaches out to a foreign bank, which opens accounts in Ukraine and buys Ukrainian securities in its own name – for example, government bonds or corporate shares. Such a foreign bank will have the status of a nominal holder (nominee) in Ukraine. The risk of ML/FT is that the real investor (beneficiary) behind the nominal holder, may remain anonymous to Ukrainian financial institutions and law enforcement agencies. Although formally the law states that persons on a sanctions list will not be able to use the nominal holder mechanism, the UBO disclosure mechanism for securities purchased by the nominee has not been properly

tested and its effectiveness needs further careful monitoring as a part of sectoral risk assessment that falls within the scope of regulation and supervision by NSSMC.

Ukraine's small (by volume of production and its share of the global GDP), open, commodity economy is highly dependent on external price shocks ("trading conditions"). These price shocks are best tracked by analyzing the dynamics of the global All Commodity Price Index (Fig. 1.25).

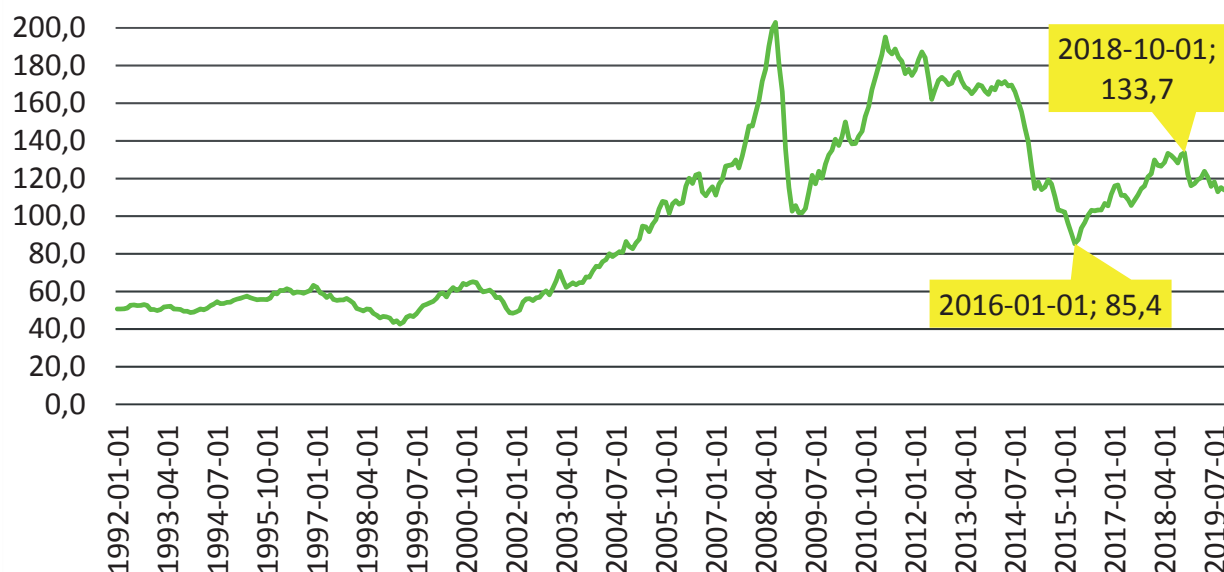


Fig. 1.25. Dynamics of the global All Commodity Price Index (including energy and non-energy commodities) over 1992–2019.³⁷

When analyzing external factors affecting macro-level imbalance of the national economy and finances, it is useful to monitor the dynamics of the trade weighted US dollar index.



Fig. 1.26. Dynamics of the Trade Weighted US Dollar Index for 1973–2019.³⁸

37 All Commodity Price Index [Online resource] // IMF Cross Country Macroeconomic Statistics. – 2019. – Available at: www.quandl.com/data/ODA/PALLFNF_INDEX-All-Commodity-Price-Index.

38 Trade Weighted U.S. Dollar Index: Major Currencies [Online resource] / Federal Reserve Bank of St. Louis – Available at: <https://research.stlouisfed.org/fred2/series/TWEXMMTH#>

1. General component

Note that there is a significant inverse relationship between the dynamics of the global All Commodity Price Index and the trade weighted US dollar index (Fig. 1.27).

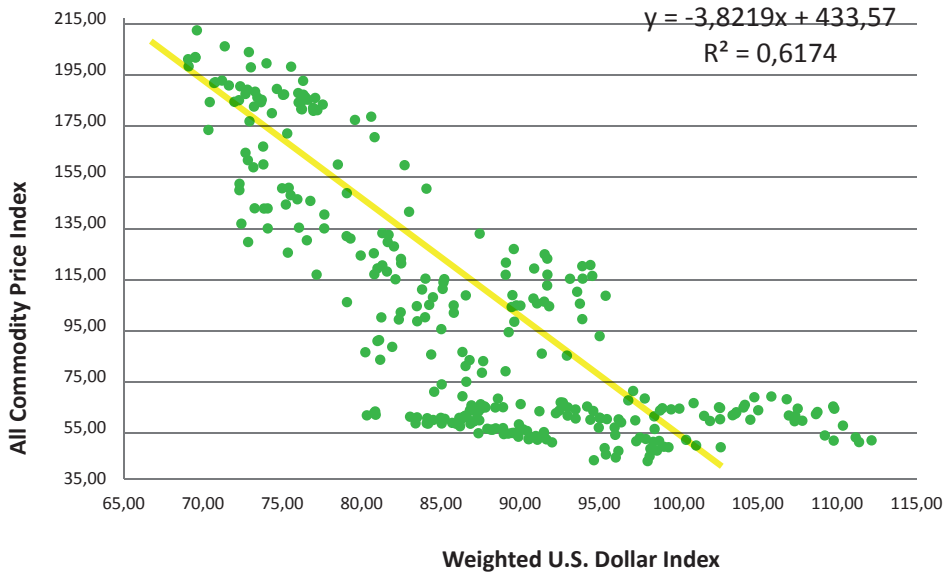


Fig. 1.27. Relationship between the Global Commodity Index and the Weighted US Dollar Index for 1992–2019.

Fig. 1.27 helps conclude that as the Trade Weighted US Dollar Index increases by one index point, the global All Commodity Index decreases by 3.8 index points. Thus, it can be stated that revaluation of the US dollar has the consequence of lowering the price of goods exported by Ukraine. This is the reason for a significant decrease in revenues from Ukrainian commodity exports, additional demand for sought after freely convertible currency (US dollar), falling state budget revenues in the face of virtually unchanged and often increasing budget expenditures, acceleration of inflation and devaluation processes, growing ED in UAH and its servicing costs, collapsing banking system, and more.

A more detailed correlation-regression analysis of relationship of indicators mentioned above makes it possible to ascertain the existence of a significant direct link, where with the growth / reduction of the global All Commodity Price Index by one point, Ukrainian GDP accordingly increases / decreases by 3.1 billion UAH given constant price levels. (Fig. 1.28)

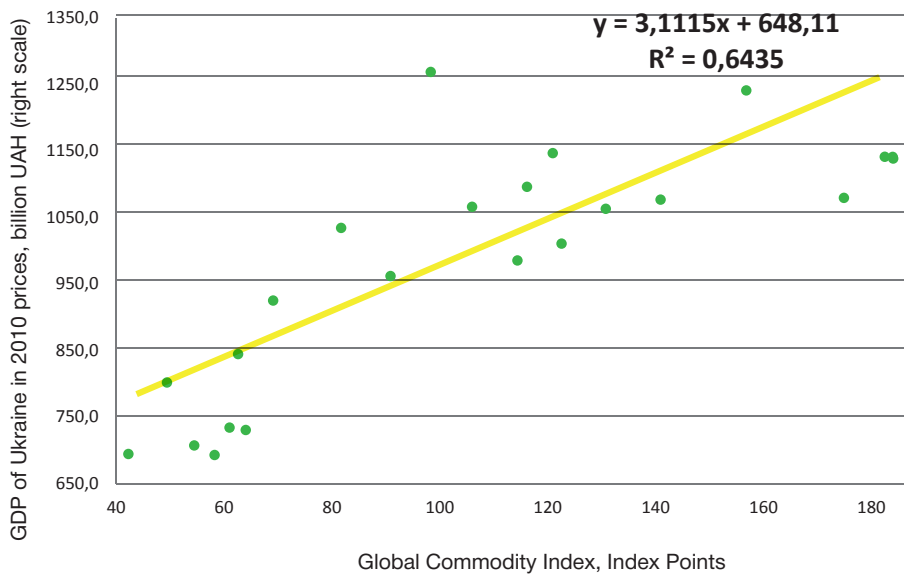


Fig. 1.28. The relationship between Ukraine's real GDP and the global All Commodity Price Index for 1996–2019.

In total, in 2018, the consolidated BOP had a surplus of 2.9 billion USD (in 2017 – 2,6 billion USD). The net repayment of IMF debt amounted to USD 716 million.

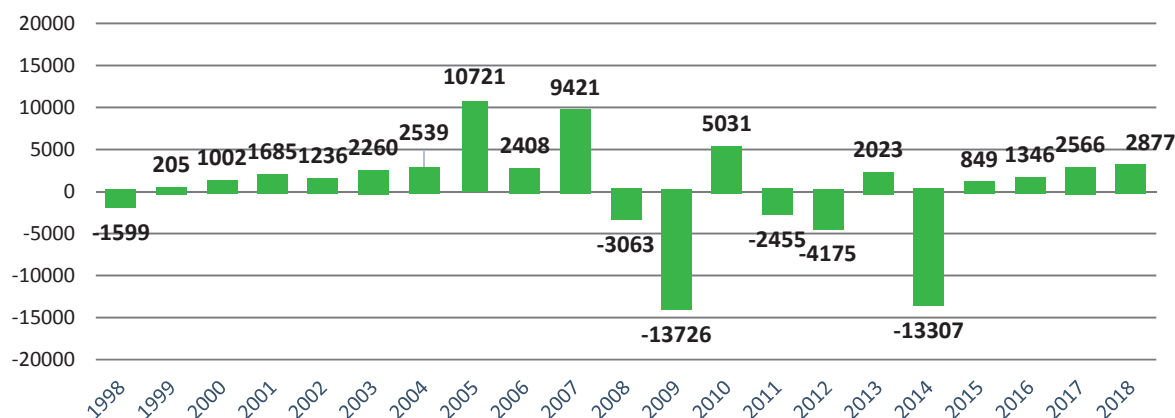


Fig. 1.29. Consolidated BOP of Ukraine, (USD million)³⁹

Emergence of a consolidated BOP surplus in Ukraine led to **growth of international reserves to 20,8 billion USD**, which helped finance future imports for the period for 3,4 months⁴⁰.

Inflation

In general, in 2018, the consumer inflation was 9.8% (in 2017 – 13.7% - see Fig. 1.30):

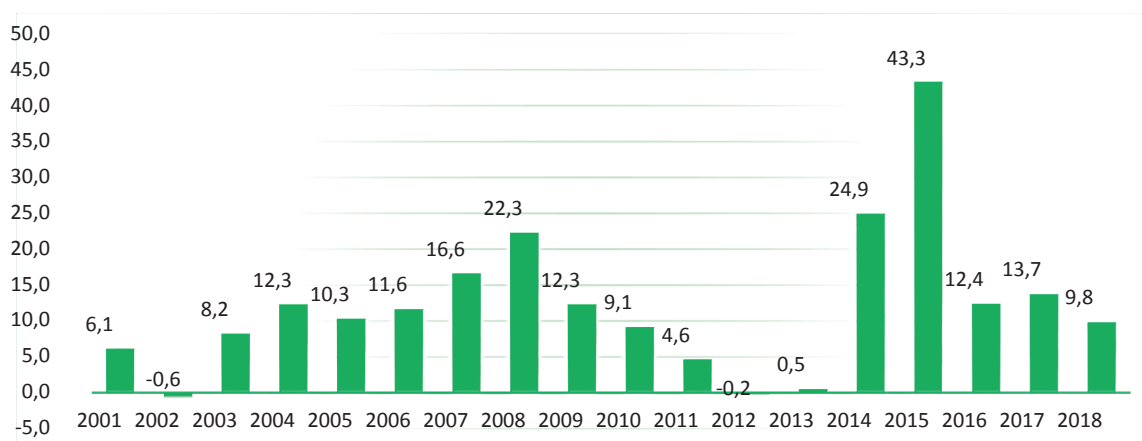


Fig. 1.30. Changes in consumer prices (inflation) in Ukraine ⁴¹

The markedly restrained dynamics of inflationary processes in 2018 was due to a decrease in the pressure on the consumer price component (partly as a result of the de-monopolization of markets), as well as the NBU's restrictive monetary policy against the background of relatively restrained fiscal policy.

Over the previous NRA period (2013-2015) the volume of newly created, UAH denominated public and publicly guaranteed debt was primarily due to open expenditure articles of the Law of Ukraine on State Budget and was intended, among other things, to finance troubled banks (many of which have withdrawn from the market), to support the Deposit Guarantee Fund, provide additional financing to the NJSC "Naftogaz of Ukraine". This debt was generated by the issue of government bonds. However, the most dangerous inflationary trigger of the aforementioned debt financing mechanism was the fact that the NBU became one of the main lenders of the government in the domestic market of Ukraine given levels of sovereign risk outlined earlier. In fact, by buying government bonds, NBU carried out emission of the hryvnia, monetizing the fiscal

³⁹ Plotted according to National Bank of Ukraine data

⁴⁰ Balance of Payments in June 2019: National Bank of Ukraine: Online resource]. - Access at: <https://bank.gov.ua/doccatalog/document?id=27033404>

⁴¹ Macroeconomic indicators. Prices. Consumer price indices. [Online resource] – Access at: https://bank.gov.ua/files/macro/CPI_y.xlsx

1. General component

deficit of the state. It is gratifying that, since 2016, the inflationary role of the NBU has significantly decreased (See Fig. 1. 31):

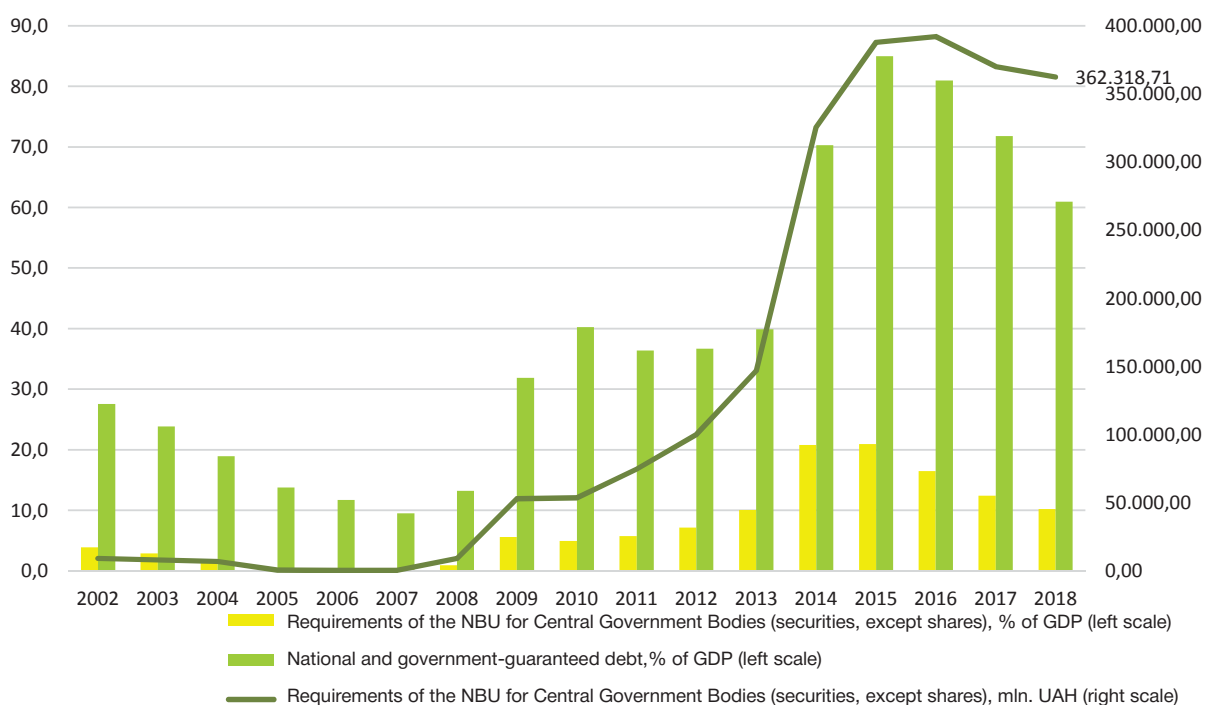


Fig. 1. 31. NBU's involvement in budget deficit monetization⁴²

The level of population income

Average nominal salary of full-time employees of enterprises, institutions and organizations in December 2018 was 10 573 UAH, which is 2.8 times higher than the MW level (3 723 UAH).

Consumer demand, an important driver of inflation, was rising due to higher wages. At the same time, the NBU experts who draft inflation reports⁴³ emphasize that wage changes have very little to do with labor productivity, and are solely determined by inflation, minimum wage and labor shortages (See Fig. 1.32):

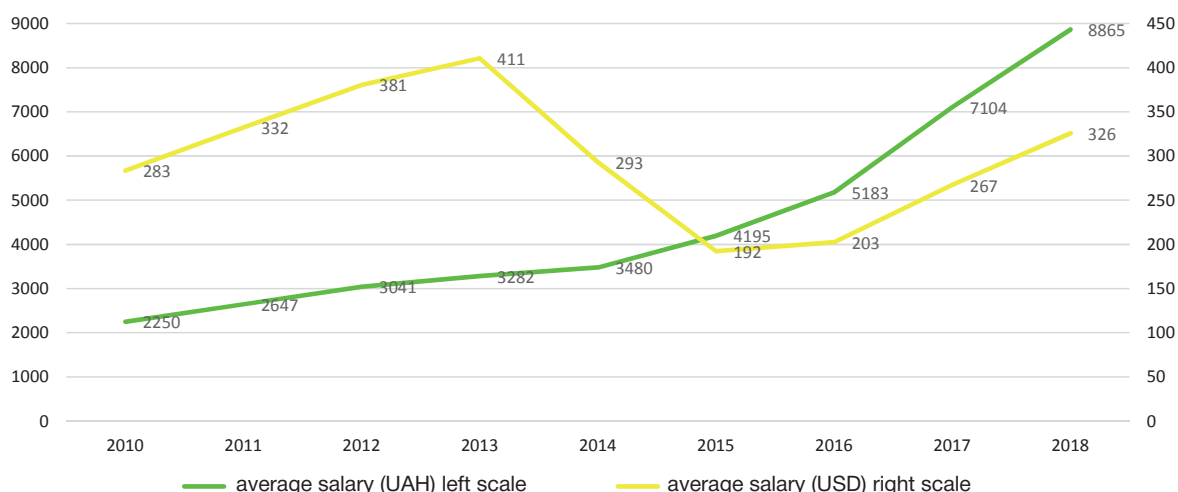


Fig. 1.32. Dynamics of the average wage per employee

42 Monetary and financial statistics. Reviews of financial corporations. National Bank of Ukraine review. [Online resource] - Access at: https://old.bank.gov.ua/files/3.1-Monetary_Statistics.xls

43 NBU inflation report. [Online resource] - Access at: <https://bank.gov.ua/monetary/report>

The shadow economy factor

According to indirect calculations of the Ministry of Economy, the level of the shadow economy in 2018 amounted to 30% of the official GDP, which is 2 pp. less than in 2017 and is the lowest since 2009 (see Fig. 1.33).⁴⁴

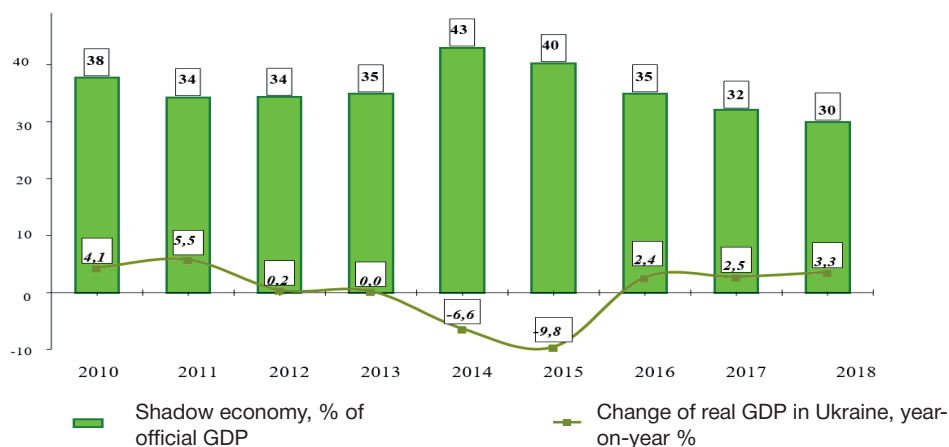


Fig. 1.33. Integral value of the level of the shadow economy in Ukraine (in % of official GDP) and the rate of growth / decline of real GDP (in year-on-year %)⁴⁵

At the same time, alternative (non-governmental) studies of the shadow economy of Ukraine indicate higher levels. Thus, **experts of the Institute of Social and Economic Transformation** say that unlike other countries, the structure of the shadow economy in Ukraine is not concentrated in unregistered or small business services and trade. The largest-scale tax evasion schemes in Ukraine are primarily employed by large enterprises that dominate their industries and typically have political protection and immunity from fiscal and law enforcement control. Based on state statistics, the Institute's experts analyzed 8 most popular tax avoidance schemes in Ukraine, which result in a total budget loss of more than 180 billion UAH (See Fig. 1.34)⁴⁶:

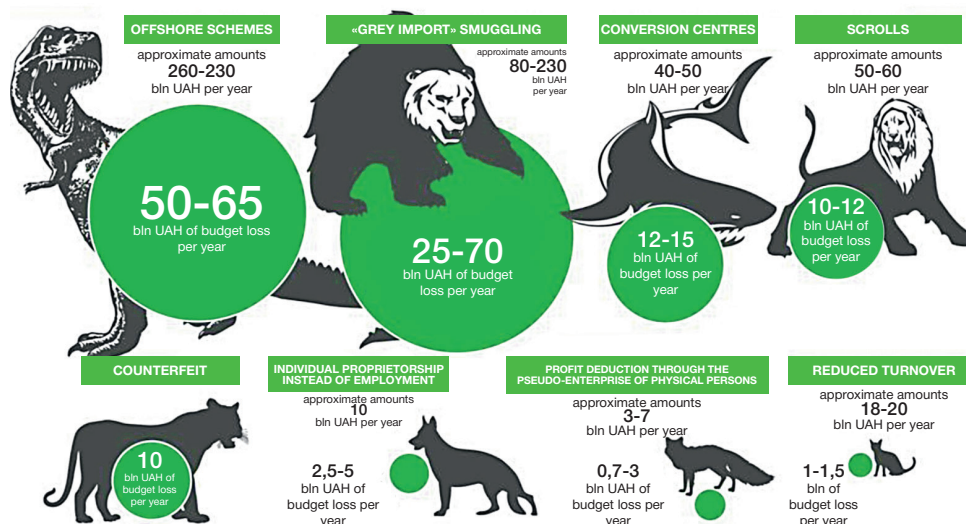


Fig. 1.34. Annual volumes and the impact on the state budget of Ukraine of main tax evasion and avoidance schemes⁴⁷

44 Shadow economy trends in 2018, Ministry of Economy: [Online resource]. - Access at: <http://www.me.gov.ua/Documents/Download?id=41c32df1-6e16-4226-a1cc-6e230ecf65e0>

45 Shadow economy trends in 2018, Ministry of Economy: [Online resource]. - Access at: <http://www.me.gov.ua/Documents/Download?id=41c32df1-6e16-4226-a1cc-6e230ecf65e0>

46 Eight tax evasion schemes: the largest underpayment to the budget is from offshore businesses and shadow importers. [Online resource]. - Access at: <https://iset-ua.org/ua/novini/podatki/item/116-visim-skhem-ukhylenia-vid-podatki>

47 Eight tax evasion schemes: the largest underpayment to the budget is from offshore businesses and shadow importers. [Online resource]. - Access at: <https://iset-ua.org/ua/novini/podatki/item/116-visim-skhem-ukhylenia-vid-podatki>

1. General component

Another independent study was conducted in 2019 by Kyiv International Sociology Institute as a part of the SHADOW project, funded by the European Commission under the HORIZON 2020 program (GA no. 778188)⁴⁸.

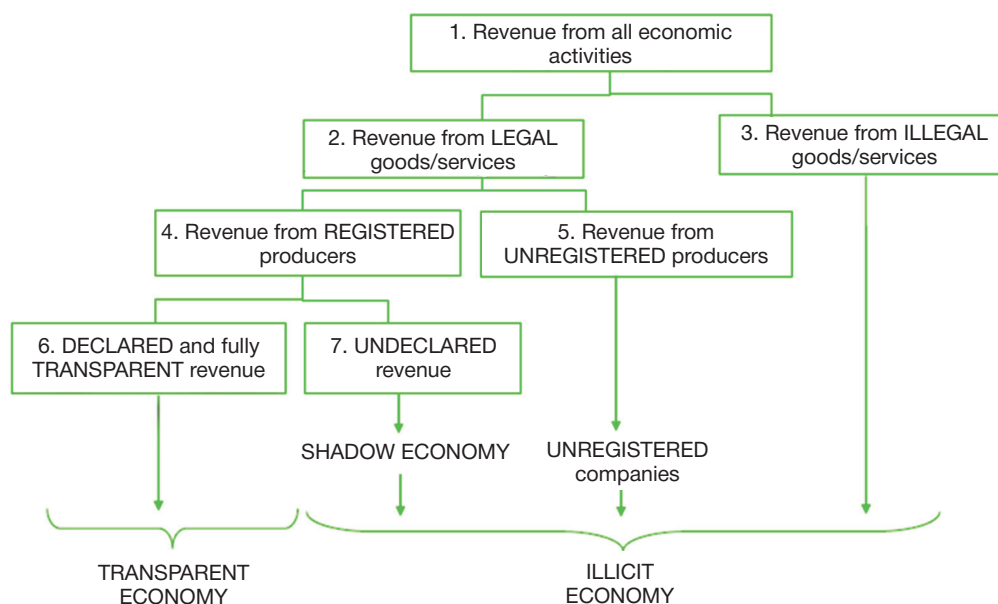


Fig. 1.35. Visible and hidden components of GDP (Putnins and Sauka, 2015)

A study by the Kiev International Institute of Sociology was based on the **Putnins and Sauka (2015) methodology**, which estimates the size of a shadow economy based on a sample survey of enterprises using a micro-macro modeling approach that separates visible and hidden GDP components:

The survey of Ukrainian enterprises was conducted in March – May 2019 by way of telephone interview of 800 business owners, executives and top managers from all over Ukraine with the exception of the Autonomous Republic of Crimea and areas of the Donetsk and Luhansk regions temporarily outside of the Ukrainian government control. The survey was conducted on a random stratified sample that covers all regions of Ukraine, economic sectors and different size companies (large, medium, small and micro). The results of this study are shown in Fig. 1.36 – 1.40

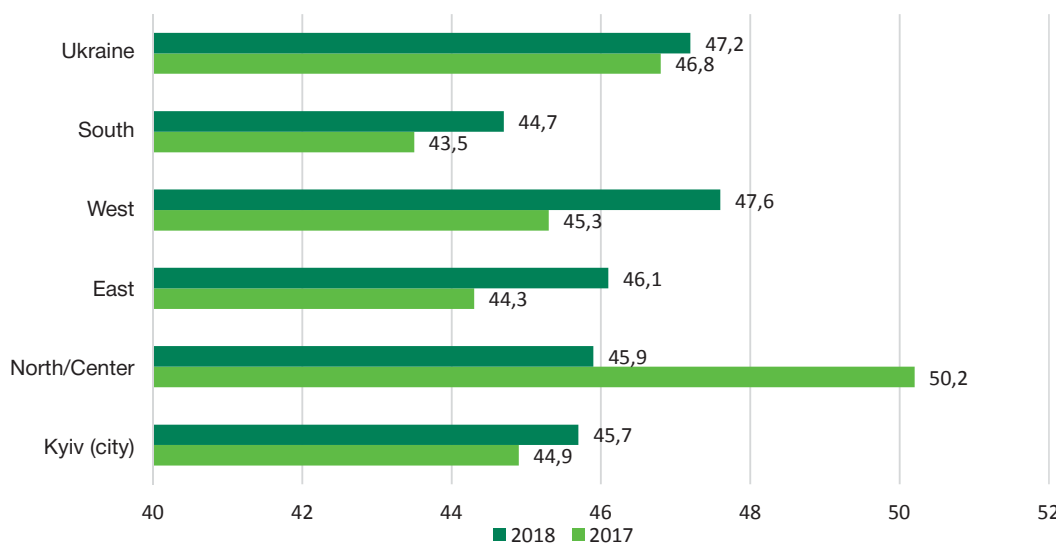


Fig. 1.36. The level of shadow economy in Ukraine (% of GDP): by region

48 Shadow economy in Ukraine. The results of the 2019 survey. [Online resource]. - Access at: http://kiis.com.ua/materials/pr/20191107_Shadow/Shadow_UA.pdf

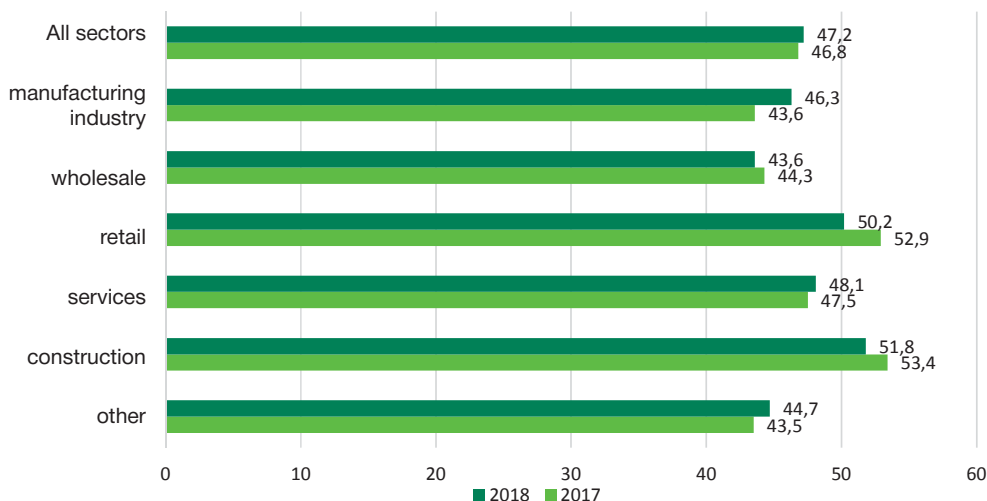


Fig. 1.37. The level of shadow economy in Ukraine (% of GDP): by sector

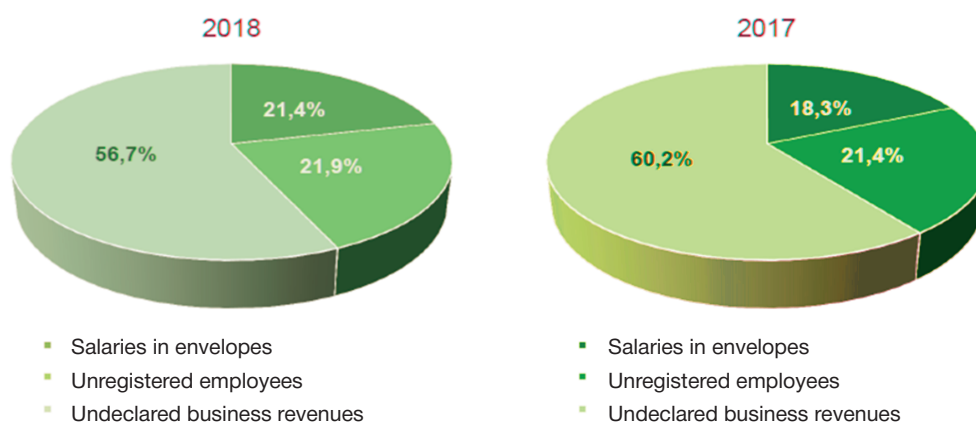


Fig. 1.38. Components of the shadow economy in Ukraine

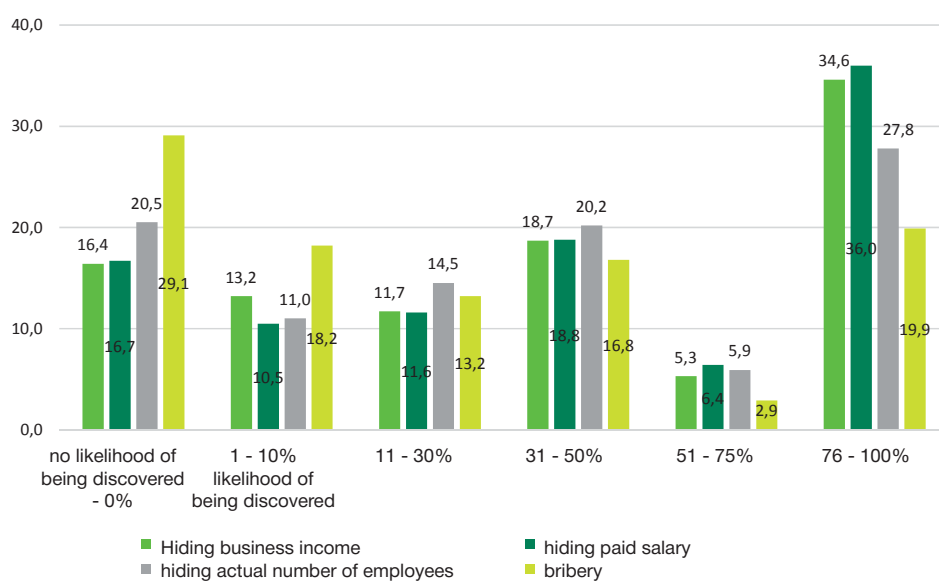


Fig. 1.39. Likelihood of being discovered for concealment and bribery

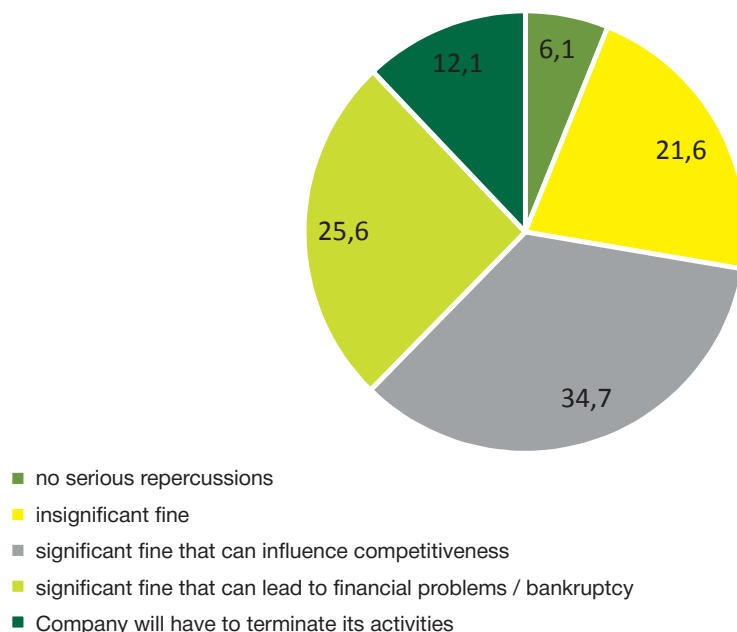


Fig. 1.40. Expected penalties for intentional incomplete reporting

The analysis of the results above allows us to draw the following conclusions:

- 1) the shadow economy occupies a significant place in the business life of Ukraine;
- 2) an increase in the shadow economy by an average of 1.5% is observed in all regions, apart from the North and the Center, where a sharp decrease of 4.3% is observed;
- 3) the most shadow-ridden sectors are retail trade and construction, where the shadow economy exceeds 50%, although, unlike other sectors, it were these that experienced a significant reduction of the shadow economy in 2018 in comparison with 2017;
- 4) components of shadow economy include three types of tax evasion, namely (1) concealing business income, (2) concealing the real number of employees, (3) concealing real volumes of salaries paid, so called salaries “in envelopes”;
- 5) the shadow economy index is only partially able to identify non-monetary transactions and only partially overlaps with the illicit economy;
- 6) a significant number of people are afraid to get caught (red-handed), which means that they are open to alternatives;
- 7) understanding the motives for getting involved with shadow economy can help with policy making.

It is much more difficult to evaluate **unregistered subjects of economic activity and illegal economic activities** in Ukraine. In this context, one can only rely on expert judgment related to the most common illegal types of organized economic activity.

Thus, at a meeting on the development of the alcohol industry in the framework of the trip to Ternopil region, the President of Ukraine stated that: **“More than a half, 55% of “Ukrspirit” production is now in the shadow, state-owned factories have been controlled by criminal groups for more than 10 years”**⁴⁹. In turn, the Deputy Head of the Office of the President stated that due to the shadow market of alcohol, the consolidated budget annually loses revenue in amount of 8 billion UAH. According to her, the financial results of “Ukrspirit” have decreased almost five times since 2016. “If in 2016 its profit amounted to almost 97 billion UAH, it has now decreased to zero. If in 2016 the company paid almost UAH 30 million in income tax, in 2018, not a single penny of income tax was paid by the largest state alcohol monopolist”.

According to the statement of the Minister of Finance of Ukraine, according to conservative estimates, the income **from the legalization of the gambling business can reach 5-9 billion UAH**⁵⁰.

49 The budget annually under-receives UAH 8 billion through the shadow market of alcohol [Online resource]. - Access at: <https://finclub.net/news/byudzhet-ezhagodno-nedopoluchaet-8-mlrd-grn-iz-za-tenevogo-rynka-spirta.html>

50 Oksana Markarova: “The goal of 40% growth is hard, ambitious, but achievable.” [Online resource]. - Access at: https://lb.ua/economics/2019/10/25/440657_oksana_markarova_tsil_shchodo_40.html

According to the Ukrainian Association of Tobacco Producers “Ukrtyutyun”, every year the state budget of Ukraine loses substantial revenues from the excise tax on tobacco products. They note that the level of excise revenues is affected by factors such as rising tax rates, reduced consumption of tobacco products, changing of the illegal market share etc. “The Ukrainian tobacco market shows a negative reaction to sharp increase in excise rates (See Fig. 1.41). And this is not only due to reduced consumption of tobacco, which, of course, is taking place (See Fig. 1.42), but also to significant increase in the volume of illegal products on the market.”⁵¹.

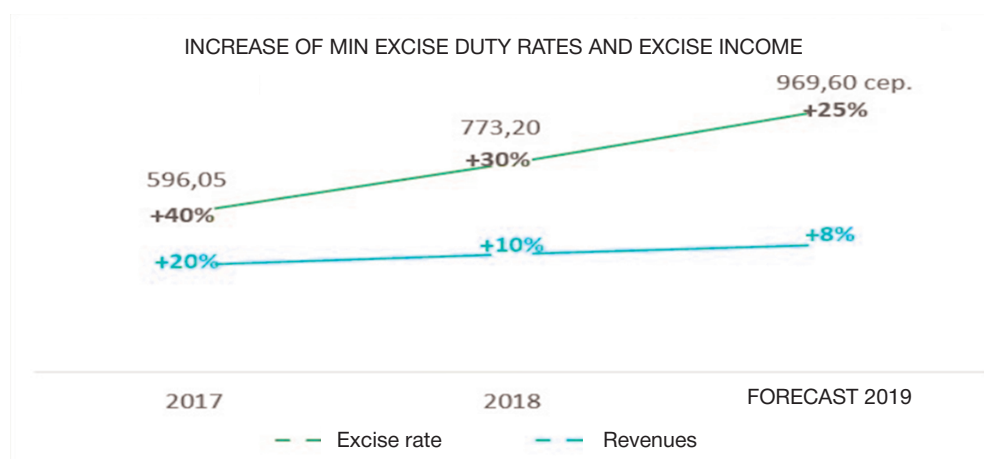


Fig. 1.41. Increase in the minimum excise rates and excise revenues

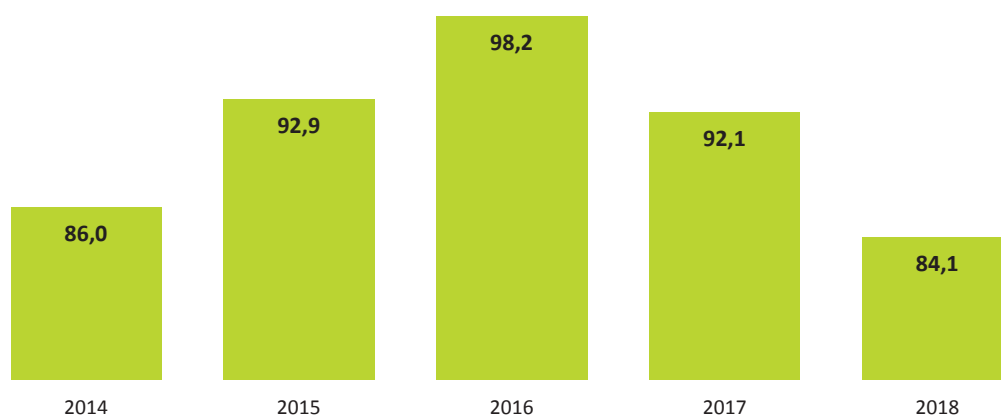


Fig. 1.42. Cigarette production in Ukraine, 2014-2018, billion pieces.

According to “Ukrtyutyun”, in 2018 the volume of legal sales of cigarettes fell by 19%, consumption fell by 10%, and **circulation of illegal products increased by 70%**. “In 2018, the level of illegal trade has reached a historic high over the last 3 years and is now 4% of the total volume, **excise tax revenue loss on tobacco products amounted to 10%, or almost 5 billion UAH**”.

For the second consecutive year (2017-2018), Ukraine continues to rank first among source countries of **cigarettes smuggled to the EU. More than 4.8 billion cigarettes are smuggled from Ukraine, accounting for almost 11% of total volume of smuggling to EU countries and over 1 billion euros in lost revenue (See Fig. 1.43)**. This information is taken from a study of the illicit cigarette market in Europe in 2017, published by KPMG:⁵²:

51 The state budget has under-receives UAH 5 billion from excise duty on cigarettes. [Electronic resource]. <https://www.epravda.com.ua/news/2019/02/21/645483/>

52 A study of the illicit cigarette market in the European Union, Norway and Switzerland. Access at: https://assets.kpmg/content/dam/kpmg/uk/pdf/2018/08/project_sun_exec_summary.PDF

1. General component

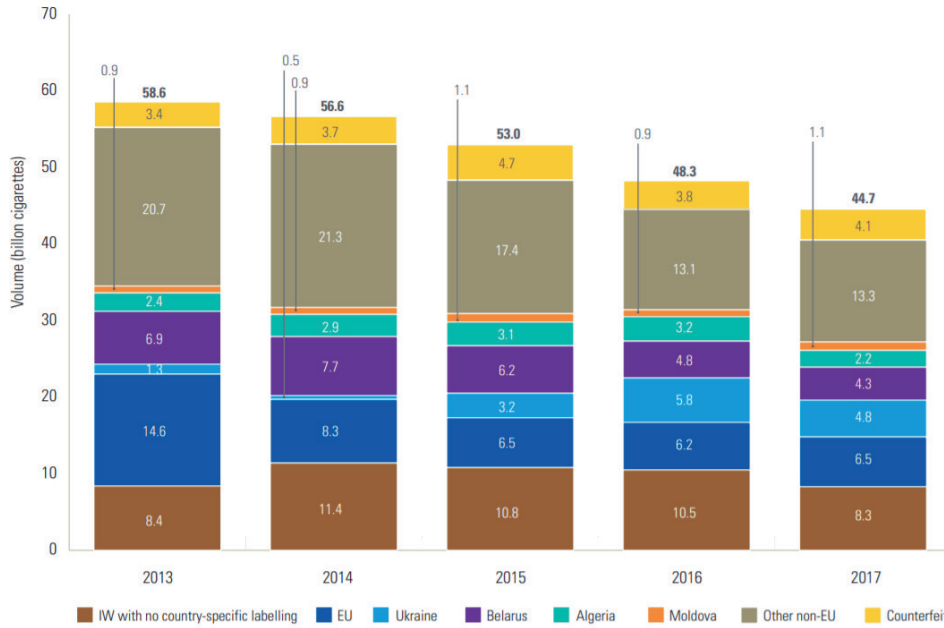


Fig. 1.43. Source countries of cigarettes smuggled to the EU

Although this indicator has decreased slightly compared to the previous year, Ukraine continues to be the number one source of smuggled cigarettes, which is a cause for concern for Brussels in the context of the EU-Ukraine Association Agreement.⁵³

The obvious attractiveness of cigarettes from Ukraine can be explained by significant difference in their price compared to other EU countries (see Fig. 1.44):

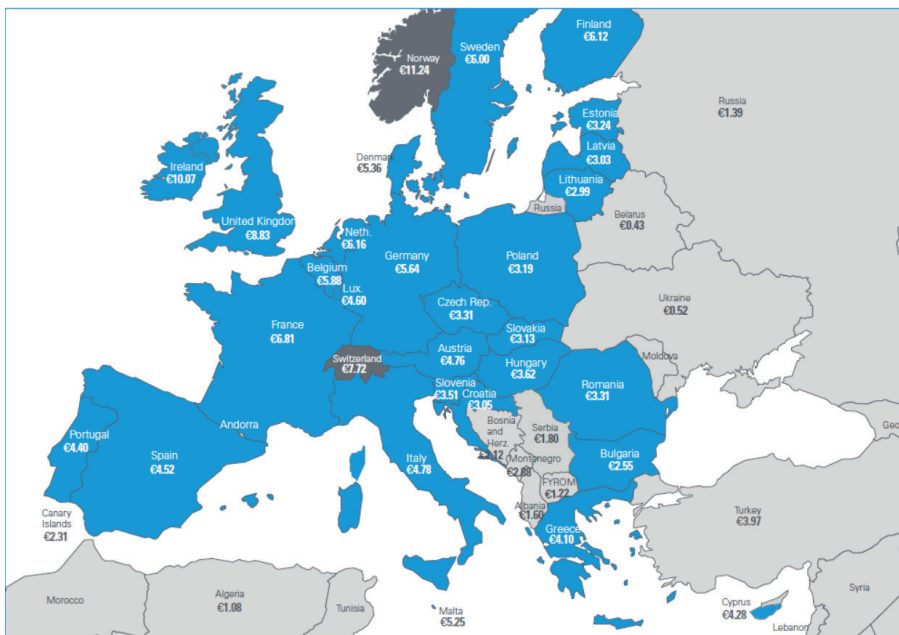


Fig. 1.44. Weighted average prices per pack of 20 cigarettes as of 01.01.18

Due to the constant increase in excise duty rates and, therefore, rise in the value of tobacco products and in the context of low purchasing power, Ukrainians are increasingly buying cheap counterfeit (counterfeit) or smuggled (illegal) cigarettes.

In 2018, the average the internal market indicator of illegal trade in cigarettes has increased to 3.7%. A seemingly small figure, this indicator is three times bigger than last year.

⁵³ UNIAN News Agency: Access at: <https://www.unian.ua/society/10235547-ukrajina-zalishayetsya-liderom-sered-dzherel-kontrabandi-sigaret-do-yes-mizhnarodniy-zvit.html>

In monetary terms, this is 2.5 billion UAH of taxes not received by the state.⁵⁴

During 2014-2018, mass facts of **illegal amber production** were recorded in four regions of Ukraine. By world standards, there is not much amber in Ukraine, but it is of high quality. About 90% of the world's reserves are located in the Kaliningrad region of Russia, and the rest is distributed between Poland, Lithuania, Ukraine and other countries. Illegal mining boom occurred in 2016-2017. **Official annual production in recent years ranged from 2.5 to 5 tons, while illegal mining, by various estimates – from 70 to 350 tons year**⁵⁵.

The monetary equivalent of the cost of illegal amber production in Ukraine can be estimated using the following graph (See Fig. 1.45):

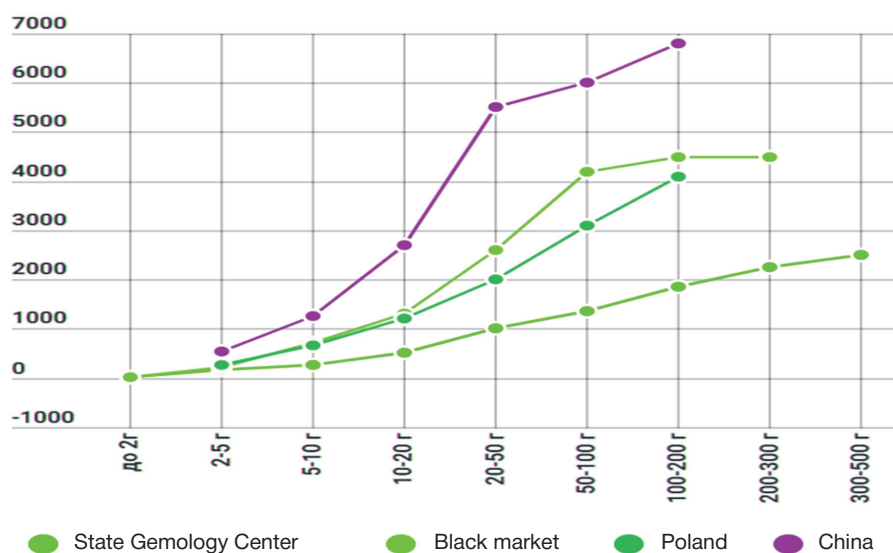


Fig. 1.45. Prices of different fractions of amber for small wholesale batches in 2015-2016. By InConsulting experts (USD)⁵⁶

Table 1.3.

Ukraine's annual losses as a result of illegal production and sales of amber (from 70 to 350 tons)

Black market fractions	Price per fraction, USD	Approximate price for 1 kg USD	Approximate price for 1 t USD	Min. annual illegal production, USD	max. annual illegal production, USD
2-5 grams	200	80 000	80 000 000	5 600 000 000	28 000 000 000
5-10 grams	700	93 333	93 333 333	6 533 333 333	32 666 666 667
10-20 grams	1 300	86 667	86 666 667	6 066 666 667	30 333 333 333
20-50 grams	2 600	74 286	74 285 714	5 200 000 000	26 000 000 000
50-100 grams	4 200	56 000	56 000 000	3 920 000 000	19 600 000 000
100-200 grams	4 500	30 000	30 000 000	2 100 000 000	10 500 000 000
200-300 grams	4 500	18 000	18 000 000	1 260 000 000	6 300 000 000
Sums of values	18 000	438 286	438 285 714	30 680 000 000	153 400 000 000
Average values	2 571	62 612	62 612 245	4 382 857 143	21 914 285 714

54 Illegal cigarettes: why Ukraine is still the leader of smuggling to EU: [Online resource]. - Access at: <https://www.epravda.com.ua/columns/2018/12/12/643505/>

55 Legitimate amber. [Online resource]. - Access at: <https://biz.liga.net/ekonomika/all/opinion/vyvesti-yantar-iz-teni-hto-predlagaet-kabmin-i-pomojet-li-eto>

56 Amber prices by fractions. [Online resource]. - Access at: <https://infogram.com/cini-na-burshtin-po-fractionam-1g9vp1y3q465p4y>

1. General component

The Government of Ukraine states that the area of illegal production is **5500 hectares** large⁵⁷. The analysis of information from the Register of Court Rulings and satellite imagery indicates that the epicenter of illegal amber production is in the **Rivne region**; in Zhytomyr region the illegals dig less. In Volyn region, which also has amber deposits, illegal production has almost ceased in recent years. There have hardly been any recorded facts of illegal mining in Kyiv region in recent years. The activity of illegal amber diggers is directly proportional to the fluctuation of amber prices in world markets. **The main causes of the problem include:**

- a) a complicated procedure for obtaining all the necessary permits for the legal production of amber;
- b) lack of a unified state policy to combat illegal amber production;
- c) corruption in the executive authorities, local self-government, law enforcement agencies (*deliberation on cases within territorial jurisdiction is carried out by local district courts, and pre-trial investigations are conducted by local law enforcement who, on the one hand, may themselves be corrupt illegal miners, and on the other have close social contacts with the "illegals" and do not consider amber extraction dishonorable*);
- d) the actual state monopoly on amber production in the forest reserves;
- e) the actual absence of an effective punishment for the illegal production of amber (*a CP under Article 240 of the CC of Ukraine usually results in fines in the amount of 6000-7000 UAH or a suspended 1-year sentence. In the Court Rulings Register in 2018 there were no sentences with real sanctions and imprisonment.*);
- f) lack of proper control over amber sales and transportation across the state border of Ukraine (our neighbors, Poland in particular, seize orders of magnitude more illegal amber at the border with Ukraine than Ukrainian customs does).

The main negative **social impact** is the criminalization of the region, the decline in the capacity of the state apparatus and the controllability of the region. **The environmental consequences** of illegal amber production are the destruction of the fertile soil layer (and it takes years to restore it), water pollution due to the operation of motor pumps, changes in the hydrological regime of swamps, forests and lakes, and significant loss of biodiversity. In addition to **direct economic losses** due to tax evasion and loss of rent, local budgets, as well as the state, suffer from a number of **indirect (ecologically renewable)** multi-billion-dollar losses.

Ukraine is a major exporter of illegal timber and its primary processing products to the European Union. This is stated in the report of the British non-governmental organization **EarthSight**, which deals with the study of illegal logging in the world. The report states that by volume of illegal timber supplies to EU countries, Ukraine bypassed Latin American, African and Southeast Asian countries combined. According to the organization, from 2013 to 2017, the export of timber from Ukraine to the EU has increased by 75%, currently, EU countries account for 70% of Ukrainian export. **In 2017, it exceeded EUR 1 billion** (see Fig. 1.46). Timber is one of Ukraine's largest export industries, **bringing in USD 1.7 billion annually, employing 350,000 people and accounting for 3.6% of GDP.** Corruption and illegality in this sector deprive the country of an important source of government revenue while significantly undermining its environment (**logging 1.2 million cubic meters of timber annually**). About **60% of logging operations in Ukraine violate local law.** For the most part, these illegal operations are carried out under disguise of sanitary logging, which is in breach not only of the moratorium in force in Ukraine, but also of EU regulations and certifications. Conclusions of EarthSight give evidence of the complicity of EU national governments and the world's largest timber processing enterprises in the corruption crisis in the forestry industry in Ukraine⁵⁸.

57 Black amber. What are the authorities involved and what should be done to stop illegal production (Analytical note). [Online resource]. - Access at: http://texty.org.ua/pg/news/editorial/read/95763/Chornyj_burshtyn_Jaki_derzhorgany_zadijani_ta_shho?a_offset=

58 Corruption-related. How billionaire companies and EU governments are not coping with the problems of Ukrainian forests. [Online resource]. - Access at: https://docs.wixstatic.com/ugd/624187_Od15e932377e4251898be6aaa71edf2e.pdf

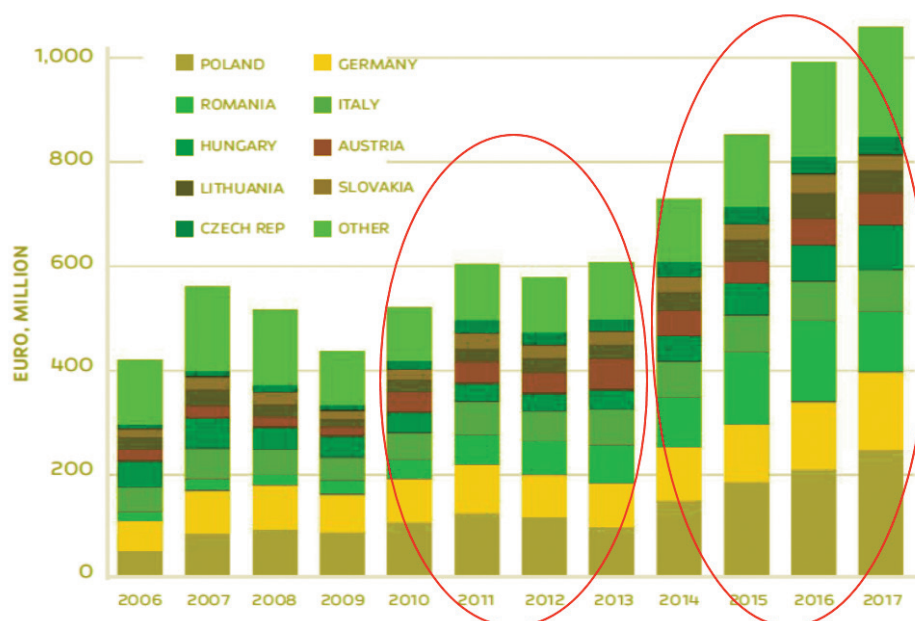


Fig. 1.46. Imports of timber and timber products from Ukraine, 2006-2017 (by value and country of destination)

Environmental crime, which also includes deforestation, is the third most profitable crime in the world. Global eco-crime profits are estimated at **USD 110-281 billion per year. Forest crime generates anywhere between USD 51-152 billion per year**⁵⁹.

“Forest crime”, similar to “amber crime”, is largely a consequence of local corruption, as well as the cause of not only logging and illegal sale of timber, but also attacks and killings of those who fight these phenomena.

In the media and in society, “forest crime” is mainly associated with deforestation. But Interpol experts show a complete timber chain and algorithms used by criminal groups, where illegal felling is but only one element⁶⁰.

Officially, about **22% of EU-imported charcoal comes from Ukraine**, but the real figure is higher, as the origin of coal on packages is often labeled incorrectly. Poland is one of the key buyers of charcoal from Ukraine. At the same time, it is a major exporter of the same products to other EU countries.

Meanwhile, Ukraine has been increasing its exports of charcoal ever since the ban on exports of round timber from Ukraine was put in place in 2015. Thus, during the first two years of the ban, the state increased the export of charcoal from 100 thousand tons to 170 thousand tons. According to the State Statistics Service, Ukraine exports about 4 million tons of timber every year, most of which (according to documents) is firewood.

Some of the Ukrainian production facilities are located near protected forests, so deforestation often occurs in the buffer zone of relict forests, which are a UNESCO heritage. Forest crime in Ukraine is a complicated problem for several neighboring countries and for the whole world, as crime groups are highly profitable, international and related to local corruption.

According to Ministry of Economy, since independence, **Ukraine has lost at least a half of state-owned agricultural land due to extraction using various schemes as well as squatting and encroachment of hundreds of thousands of hectares of arable land**. The specific figures are to be named after the inventory reconciliation has been completed. According to preliminary estimates, out of 1 million 300 thousand hectares in the state property no more than 600-700 thousand have been preserved. These figures were recently cited by the Minister of Economy⁶¹.

The chances that the state will return at least one or two hundred thousand hectares are slim. After all, this will require thousands of additional criminal cases to be opened, some of which are a priori subject to amnesty due to expiry of the limitation period.

59 Forest crime. Countering illegal logging in Ukraine was discussed with the participation of Interpol. [Online resource]. - Access: <https://www.radiosvoboda.org/a/30171677.html>

60 Supply chain (laundering) of illegal timber. [Online resource]. - Access at: <https://twitter.com/SolonynaY/status/1174214913440567298/photo/1>

61 According to official data, more than 700,000 hectares of land were stolen from the state. [Online resource]. - Access at: <https://www.ukrinform.ua/rubric-economy/2811715-za-oficijnimi-danimi-u-derzavi-vkradeno-ponad-700-tis-ga-naspravdi-miljoni.html?fbclid=IwAR3FddH3pMvygwimWKTW2Vvo9lxHJPqFQZAnCLCxdwIshYECaUcwDIgFf8>

1. General component

The National Academy of Agrarian Sciences of Ukraine (NAAS) is one of the largest national landowners (and in combination, one of the “record holders” in the number of cases of misappropriation and embezzlement of state holdings). Currently, more than 465 thousand hectares of land (364 thousand of which are arable land) are being used by scientific institutions and enterprises. This is almost six times the size of Kyiv. Since April 2017, NABU detectives have been investigating the theft of particularly valuable lands of the NAAS of Ukraine. Among plot recipients there are not only suspects and their relatives, but also SSU employees, NAAS officials, officials of the Ministry of Agrarian Policy and other authorities. In total, these persons received 144 plots, of which 138 have already had their property rights acquired and registered⁶².

The state has lost and continues to lose a lot of land through schemes involving local authorities – heads of territorial communities, local deputies. They are assisted in this by “their own” state registrars, notaries, employees of land management bodies.

According to experts, masterminds and employers of these fraudulent state and municipal land acquisition schemes were greatly assisted by the endless land use management and control “reform” in Ukraine. In the early 1990s, a **State Committee for Land Reform** was established in Ukraine, whose name was later changed to the **State Committee on Land Resources**, and then to the **State Land Resources Agency of Ukraine**. In 2013, this agency was granted the monopoly right to manage state lands (prior to 2002, eleven thousand local self-government bodies managed lands outside settlements, later – five hundred district administrations). In September 2014, a “new and progressive” **StateGeoCadastre**, the State Service of Ukraine for Geodesy, Cartography and Cadastre, replaced the “old and corrupt” State Committee – State Agency. In September 2019, the Prime Minister of Ukraine announced plans to immediately “reboot” StateGeoCadastre as one of the most corrupt public authorities. The end goal is to turn it into a mobile service agency, whose main function is to fill-out and maintain a quality database of the State Land Cadastre⁶³.

Speaking of the 1.3 million hectares of state land, the Minister of Economy obviously meant only a fraction of public plots – those in the StateGeoCadastre, whose use is more or less under state control. However, **according to expert estimates, as of 2016-2017, the state actually owned 10.5 million hectares of land** (approximately 8 million hectares – arable land). As a part of decentralization more than 1.5 million hectares were transferred to the ownership of amalgamated territorial communities. Meaning that, as of 2019, the state should de jure own some 8.5 – 9 million hectares of land. However, none of the experts are willing to predict how much land is going to end up in the de facto state ownership. This will only be known after the inventory reconciliation has been completed. Such inventory reconciliation needs to be larger than the one reported by the Ministry of Economy. Because only 1.4 million “state” hectares are now officially leased. Who and how uses the rest is unknown? Therefore, the complete inventory of state land can take years, while finding and punishing perpetrators can take decades.

62 Theft of especially valuable lands of NAAS of Ukraine. [Online resource]. - Access at: <https://nabu.gov.ua/infographics/shema-rozkradannya-osoblivo-cinnih-zemel-naan-ukrayini-v-kiievo-svyatoshinskomu-rayoni>

63 Liberal Blitzkrieg. What Zelensky and Goncharuk plan to do with the economy. [Online resource]. - Access at: <http://www.afo.com.ua/doc/WDM-Chrematistic-2019-09-22.pdf>

Corruption factor

Ukraine scores 32 out of 100 on the Corruption Perceptions Index for 2018, reported by Transparency International. The corruption index in Ukraine averaged 25.19 points from 1998 to 2018, peaking at 32 points in 2018 and recording an all-time low of 15 points in 2000 (See Fig. 1.47).⁶⁴:

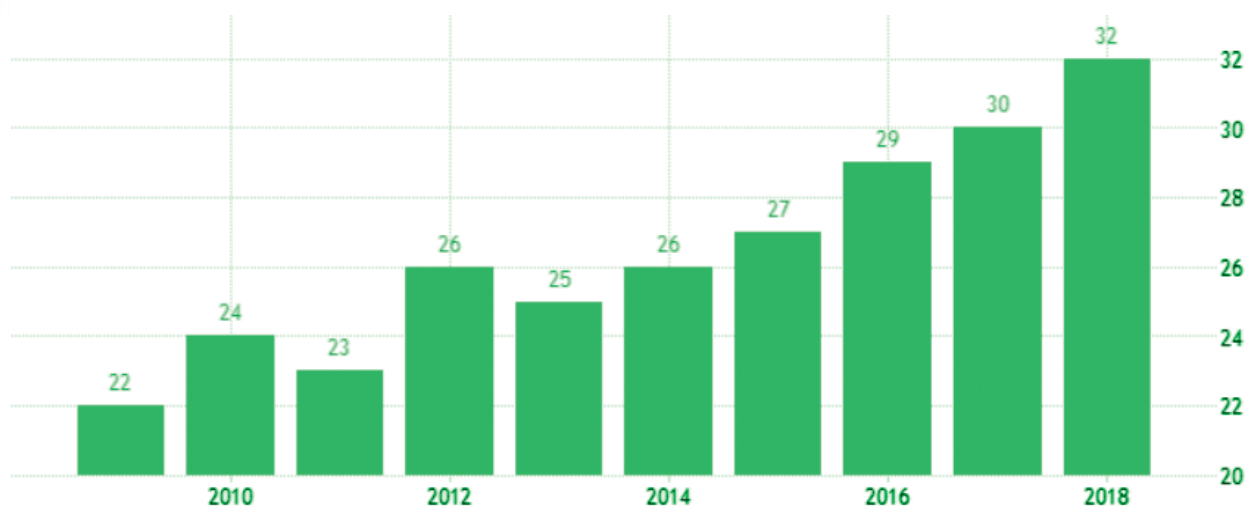


Fig. 1.47. Dynamics of Corruption Perceptions Index in Ukraine

According to Transparency International Ukraine⁶⁵, in the context of the Corruption Perceptions Index, Ukraine has slightly improved its performance in 2018. Ukraine scored 32 points and ranked 120th out of 180 countries. Thus, Ukraine gained 2 more points and rose by 10 places (result for 2017 – 30 points, 130th place; for 2016 – 29 points, 131st place).

The improvement of Ukraine's rating was due to the assessment of the situation from the business perspective. This is evidenced by the analysis of the studies used to calculate the Index.

The positive impact was primarily due to the introduction of automatic value added tax refund procedures, expansion of ProZorro and Pro Zorro Sales systems and operations of the business ombudsman.

In May 2018, the Ilko Kucheriv Democratic Initiatives Foundation jointly with the Razumkov Center Sociological Service⁶⁶ conducted a nationwide survey of the population of Ukraine in all regions of Ukraine except Crimea and the occupied territories of Donetsk and Luhansk regions.

According to the survey, 83% of respondents consider the fight against corruption in Ukraine unsuccessful (in 2017 – 80%), 50% – a complete failure (in 2017 – 46%), 9% – see success in the fight against corruption (in 2017 – 15%), and only 1% rate this fight as a complete success (in 2017 – 2.5%).

Also, 48% of respondents do not see a single institution to actively combat corruption in Ukraine (in 2017 – 43%).

Among active fighters against corruption, 26% of respondents named media and journalists (in 2017 – 26%), 18% – anti-corruption non-governmental organizations (in 2017 – 21%), 11% – NABU (in 2017 – 24%), 10.5% – the population itself (in 2017 – 12%), 10% – individual politicians, public figures, 6% – Western countries.

A small percentage of the population regards state institutions that are supposed to fight corruption as active corruption fighters. SSU and SAPO each got 5% of respondents' votes, NACP, OPGU, President of Ukraine – 4% each, NPU – 3%, CMU, ministries and other central executive bodies – 2% each, 2% – VRU, 1.5% – local governments, 1% – courts.

15% of respondents expressed positive sentiment regarding anti-corruption efforts by NABU, 13% – by SSU, 10% – NPU, 9% – OPGU, 6% – SAPO and NACP, 4% – courts.

A negative assessment of the effectiveness of anti-corruption efforts was handed by 79% of respondents to courts, 75% to the OPGU, and 74% to the NPU.

64 Ukraine Corruption Index. [Online resource]. – Access at: <https://tradingeconomics.com/ukraine/corruption-index>

65 CORRUPTION ACCEPTANCE INDEX-2018: Transparency International Ukraine: [Online resource]. – Access at: <https://ti-ukraine.org/research/indeks-spryjnyattya-koruptsiyi-2018>

66 How to fight corruption in Ukraine - Public Opinion: Ilko Kucheriv Democratic Initiatives Foundation: [Online resource]. – Access at: <https://dif.org.ua/article/yak-v-ukraini-boryutsya-z-koruptsiyeyu-dumka-gromadyan>

1. General component

A significant proportion of citizens were unable to give a specific assessment of the activities of these agencies (from 16% regarding NPU, to 34% regarding NACP).

According to participants of the National Anti-Corruption Survey conducted in July-August 2018 by the "Join-up" USAID Community Support Program⁶⁷, corruption was found to be one of the three biggest problems in Ukraine after high cost of living and low wages, hostilities in Donetsk and Luhansk regions, with political corruption at the highest level being the biggest threat as stated by 92,5% of citizens, some of whom (26 %) called the elimination of the parliamentary immunity a major step in the fight against corruption. This again emphasizes the topicality of the problem of the highest level of political corruption in the opinion of the population of Ukraine (73.2%). The domestic corruption that respondents face in their daily lives is seen as a less serious problem (53.3%). Corruption in the business environment is considered a serious problem by 72.4% of respondents.

The respondents also believe that ordinary people (72.7%), the media (47.3%) and non-governmental organizations (41.9%) want to fight corruption the most.

Most are convinced that corruption in Ukrainian society is widespread. 65.5% of respondents believe that corruption is very widespread, 21.2% believe it is somewhat widespread, 9.2% consider it as not too widespread, and only 1.1% believe that corruption is absent in Ukraine at all.

The results of studies (surveys) show that there is a lack of confidence in the state institutions in the area of combating corruption, which increased in 2018 compared to 2017.

According to the respondents, the most corrupt spheres of life are the judicial system (corruption is very widespread according to 62.2%), receiving medical services (very corrupt according to 55.0%), prosecutor's office (54.3%). However, according to the respondents, the level of corruption in everyday life has slightly decreased compared to last year.

The offshore factor of the national economy

According to the Financial Secrecy Index–2018 study, the global volume of illicit cross-border financial flows is estimated to be in the range of 1-1.6 trillion USD per year, and the amounts placed in offshore jurisdictions and tax havens reach an astronomical sum of 32 trillion USD⁶⁸.

According Organization for Economic Cooperation and Development (OECD), as a result of harmful tax practices, countries loose up to 250 billion USD in revenues annually⁶⁹.

The scale of the offshore component of Ukrainian economy is striking⁷⁰:

- Offshore is a locomotive of foreign economic activity. The share of foreign trade contracts, where a product has to pass through companies registered in tax havens currently exceeds 80%, at the same time, in 2012-2013 this figure did not exceed 40%;
- Offshore plays an important role in investment. **Of the 32.3 billion USD of foreign direct investments made in Ukraine as of December 31, 2018, 8.9 billion USD or 27,5 % have a Cypriot origin** (according to the State Statistics Service)⁷¹. Thus, Cyprus, an officially recognized offshore jurisdiction, has remained Ukraine's largest investor for many years in the row. Equally significant are the Netherlands (de facto – one of the most attractive tax offshores of the EU), Switzerland and the British Virgin Islands (see Fig. 1.48):

67 Every third Ukrainian is ready to join the fight against organized corruption: Ilko Kucheriv Democratic Initiatives Foundation: [Online resource]. - Access at: <https://dif.org.ua/article/kozhna-tretya-ukrainaets-gotovi-doluchitisya-do-organizovanoi-protidii-koruptsii>

68 Financial Secrecy Index – 2018 Results. [Online resource]. - Access at: <https://www.financialsecrecyindex.com/en/introduction/fsi-2018-results>

69 Shining Light on the Shadow Economy: Opportunities and threats. [Online resource]. - Access at: <https://www.oecd.org/tax/crime/shining-light-on-the-shadow-economy-opportunities-and-threats.htm>

70 How popular are offshore companies in Ukraine: NV BUSINESS: [Online resource]. - Access at: <https://biz.nv.ua/ukr/experts/naskilki-populjarni-v-ukrajini-ofshori-2454606.html>

71 Economic Statistics / Foreign Economic Activity. [Online resource]. - Access at: http://www.ukrstat.gov.ua/operativ/operativ2017/zd/inv_zd/pi_ak_ks_reg/pi_ak_ks_reg_u.xlsx

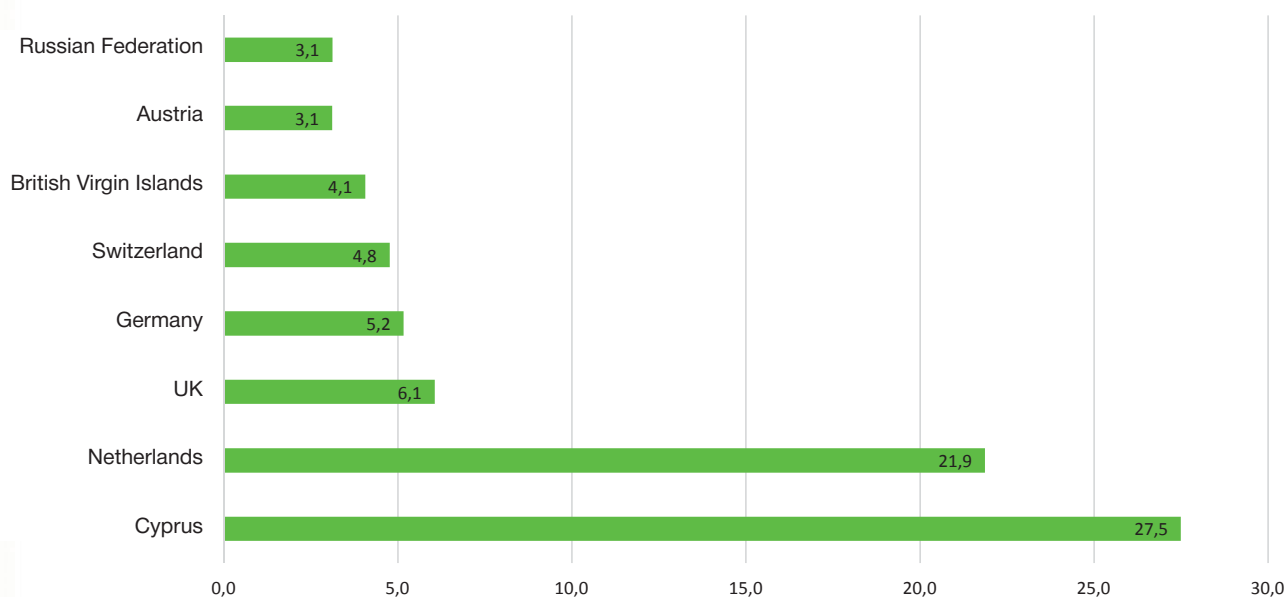


Fig. 1.48. The distribution of 75% of foreign direct investment in Ukraine by country of origin (cumulatively over the 2010-2018 period)

- Offshore is a major capital flight and tax evasion tool. **Huge amounts of wealth are being extracted (on average, from 2011 to 2018, the equivalent of 10.6% of GDP per year was extracted from Ukraine).** According to estimates based on the Global Financial Integrity, **in 2011-2018, some 113 billion USD in wealth were extracted from Ukraine to low-tax jurisdictions** (see Fig. 1.49)⁷²:

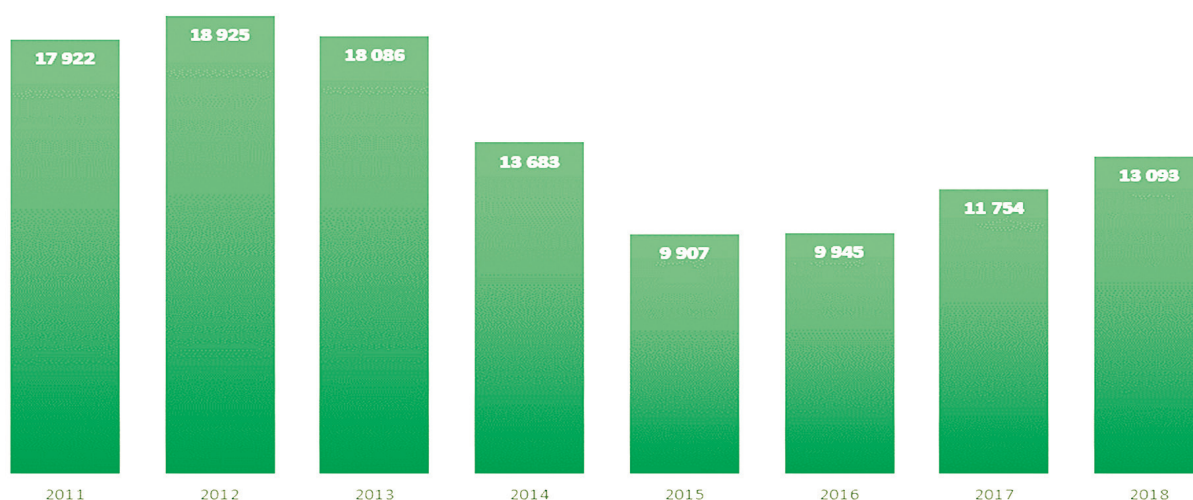


Fig. 1.49. Total amount of net illicit financial outflow from Ukraine, USD millions

⁷² Illicit Financial Flows to and from 148 Developing Countries: 2006-2015. [Online resource]. - Access at: <https://gfintegrity.org/report/2019-iff-update/>

1. General component

Until recently (as of the end of 2014), Ukraine was among the TOP-15 developing countries affected by the flight of capital to offshore and tax haven jurisdiction (See Fig. 1.50):

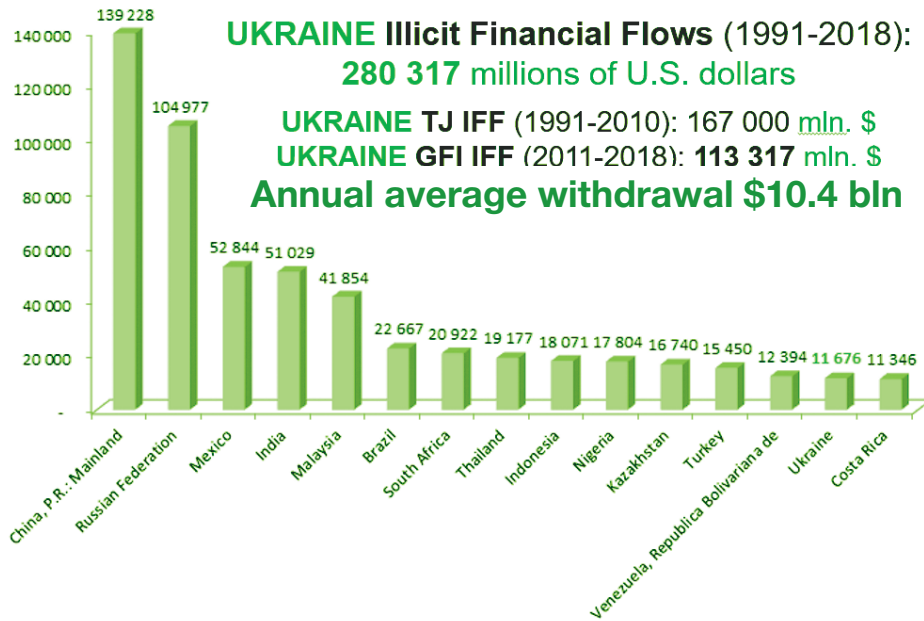


Fig. 1.50. Rating of countries by largest average illicit financial flows (end-2013) and cumulative trends (end-2018)

We're talking about the average annual capital flight amounting to 10,4 billion USD over the period of 1991 to 2018, while a total budget loss from non-payment of income tax over the period of 2011 to 2018 amounted to over 313 billion UAH (more than 20 billion USD) (See Fig. 1.51):

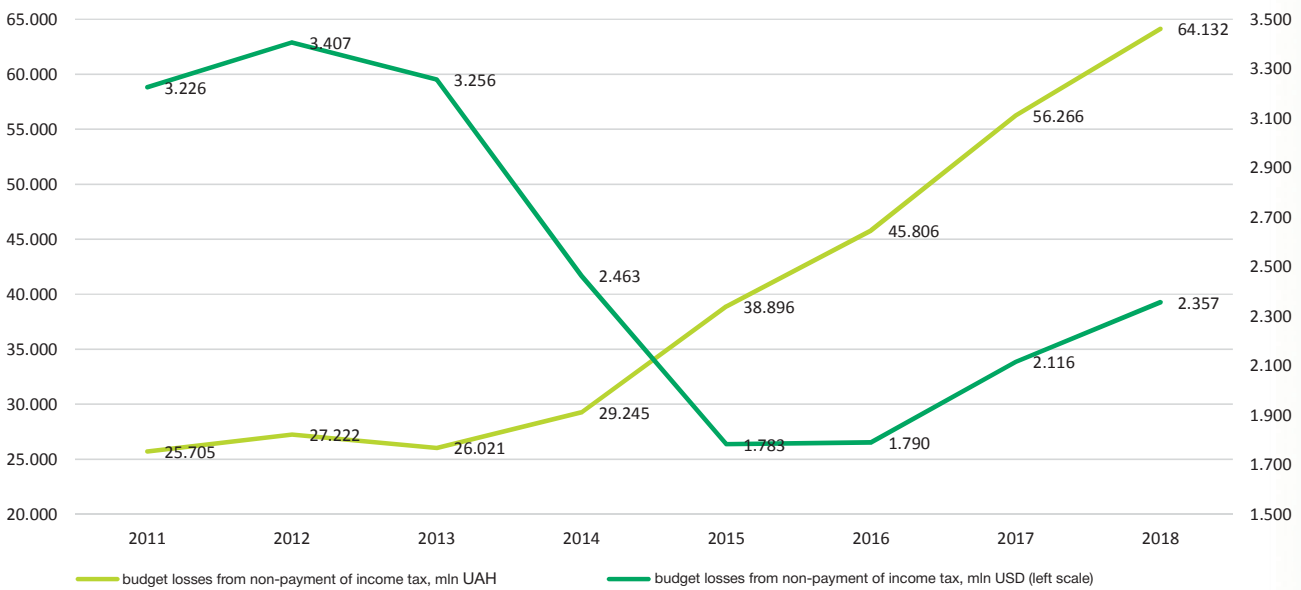


Fig. 1.51. Dynamics of budget losses from non-payment of income tax on the total amount of net illicit financial outflow from Ukraine

The main reasons for the popularity of offshores have to do with:

- tax avoidance within the country (legal reduction of tax burden);
- reduction of risks and simplification of judicial protection of their interests (capital flight due to poor protection of investments / savings);
- extraction of proceeds of corruption.

The relevance of all three of the above factors is explained by the fact that over the last three years Ukraine's de-offshore achievements are of a purely cosmetic, demonstrative nature – of note formal accession to the

BEPS Plan (23.11.2016), ratification of the MLI Convention (08.08.2019) and ratification of the FATCA between the Government of Ukraine and the US Government (29.10.2019).

Thus, the offshore continues to be the most popular national tax evasion and wealth extraction tool.

Financial capital outflow factor

The following types of financial capital outflows should be considered when analyzing possible risks of capital flight from Ukraine:

- outflow of capital that is contrary to state interests due to unfavorable investment climate (for example, by exporting at low prices through intermediaries and related entities in low-tax jurisdictions; lending within an international group of companies at a rate that is significantly higher than market, etc.);
- capital outflows related to the legal economic interests of business entities (e.g. payment of interest or repayment of debt, payment of dividends, etc.).

One of the possible areas of financial capital outflow from Ukraine and its subsequent laundering involves **Round tripping investment operations**. According to the NBU⁷³, Round tripping in 2016 amounted to 134 million USD or 4.1% of total direct investment in Ukraine; in 2017 – 270 million USD, or 10.4% of total direct investment in Ukraine; in 2018 – USD 485 million, or 20.6 % of total direct investment in Ukraine. In terms of economic sectors and instruments, Round tripping operations had the following dynamics presented in Table 1.4.

Table 1.4.

Dynamics of FDI (Controlling investor is a resident) by Economic Sectors and Instruments in 2013-2018.

Indexes	2013	2014	2015	2016	2017	2018
1	2	3	4	5	6	7
Foreign Direct Investment (FDI) in Ukraine, USD million	4499	410	2961	3284	2601	2355
Round tripping, USD million	1055	-1038	-162	134	270	485
Round tripping, % of the total volume	23,5	-	-	4,1	10,4	20,6
1. Equity participation tools	3668	712	4003	3550	1934	1969
Banks	469	499	2384	2257	1034	974
other sectors	3199	213	1619	1293	900	995
Round tripping, USD million	1116	-965	181	208	299	366
Banks	0	49	99	139	54	106
other sectors	1116	-1014	82	69	245	260
2. Debt instruments including	831	-302	-1042	-266	667	386
direct investment loans	103	-80	-1015	-167	204	356
Round tripping *, USD million	-61	-73	-343	-74	-29	119

* taking into account loans financed by the issue of Eurobonds

According to the NBU, as of 01.01.2019 the amount of gross FD of Ukraine amounted to 114.7 billion USD (down by 2.5% compared to 01.01.2016), or 87.8% of the GDP, which is due primarily, to the limited ability of residents to borrow in foreign markets, along with the gradual repayment of their own debt – the debt of the “Other depository corporations” sector decreased by 54.8% in 2015-2018, other sectors – by 4%. That is, the private sector primarily performed as a net creditor of the outside world – net revenues were offset by payments on their external liabilities.

This was the backdrop for an increase in the debt of the national administration sector (11.6%) and the Central Bank (17.7%) due to loans from the IFIs and the implementation of external borrowings by the Government (although in 2018, the National Bank became a net creditor – by 11,9 billion USD).

73 Retrospective analysis of data on foreign direct investment in which the ultimate controlling investor is a resident (round tripping) for 2010-2018 pp.: National Bank of Ukraine: [Online resource]. - Access at: <https://bank.gov.ua/doccatalog/document?id=73849830>

1. General component

In the context of the abovementioned problems it benefits one to pay attention to the dynamics of the volume of investments of nonresidents in government securities of Ukraine⁷⁴:

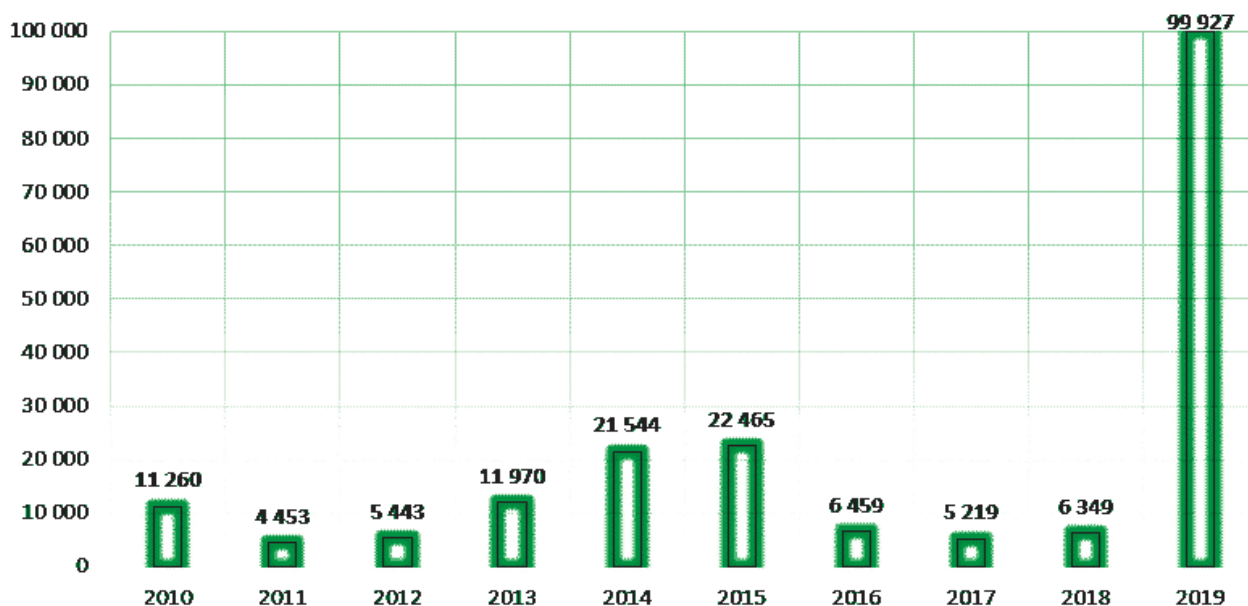


Fig. 1.52. BDSLs in circulation, by principal debt to non-residents, UAH million

The rapid growth in demand by foreign investors (including capital of offshore origin) in bonds in 2019 was influenced, primarily by high returns on debt instruments and simplified access to the domestic government securities market (since 27.05.2019 p. Ukraine is a member of Clearstream international central securities depository network). These rapid dynamics (YTD portfolio of non-residents in Ukrainian BDSLs rose nearly 15 times) necessitate monitoring of these processes both in view of prevention (minimizing the effects of) currency related risks, devaluation processes, and of the possible laundering of illegally obtained funds with special focus on “nominal holders”.

Against this backdrop, the level of international reserves is still considered low (ranging around 3-3.5 months of projected imports in recent years), while existing major planned payments on public debt (external, internal, denominated in foreign currency, internal owned by non-residents) and its service in the coming years with regard to mainly commodity led exports and dependence on the dynamics of prices on world markets requires the Government and the NBU to step up their efforts to stimulate the expansion of export potential, import substitution (in order to ensure a stable inflow of foreign currency) as well as optimize the debt structure away from external borrowing in foreign currency towards internal in hryvnia, decreasing the price at the same time.

Employment of the population

In 2018, there were positive trends in terms of employment growth and falling unemployment. According to the State Statistics Service, the number of employed Ukrainians increased in 2018, compared to 2017, by 185 thousand people and amounted to 16.4 million people. The employment rate increased from 56.3% to 57.2%.⁷⁵

Unemployment rate (ILO methodology) decreased from 9.4% of economically active population in 2017 to 8.6% in 2018⁷⁶.

74 BDSLs, in circulation, the sum of principal: National Bank of Ukraine: [Online resource]. - Access at: https://bank.gov.ua/files/T-bills_debt.xls

75 Analytical and statistical information: State Employment Service: [Online resource]. - Access at: [Online resource]. - Access at: <https://www.dcz.gov.ua/analytics/68>

76 Based on information from the State Employment Service, [Online resource]. - Access at: https://www.dcz.gov.ua/sites/default/files/infocfiles/dodatky_26.xlsx

International Investment Position

As of the end of 2018, Ukraine's IIP liabilities reached almost USD 155 billion and the assets of Ukrainian residents relative to the rest of the world reached USD 133.4 billion making Ukraine a net borrower relative to the rest of the world by USD 21.6 billion⁷⁷.

In terms of GDP in 2018, the international liabilities of residents of Ukraine accounted for 120.6% of GDP, their assets – 103.8% of GDP, with the negative net investment position with 16.8% of GDP. In the historical perspective, the largest negative balance of net IIP of Ukraine – USD 66.9 billion happened in 2013. Since then, the net lending to Ukraine by the rest of the world or the net investment position has been gradually decreasing (See Fig. 1.53):

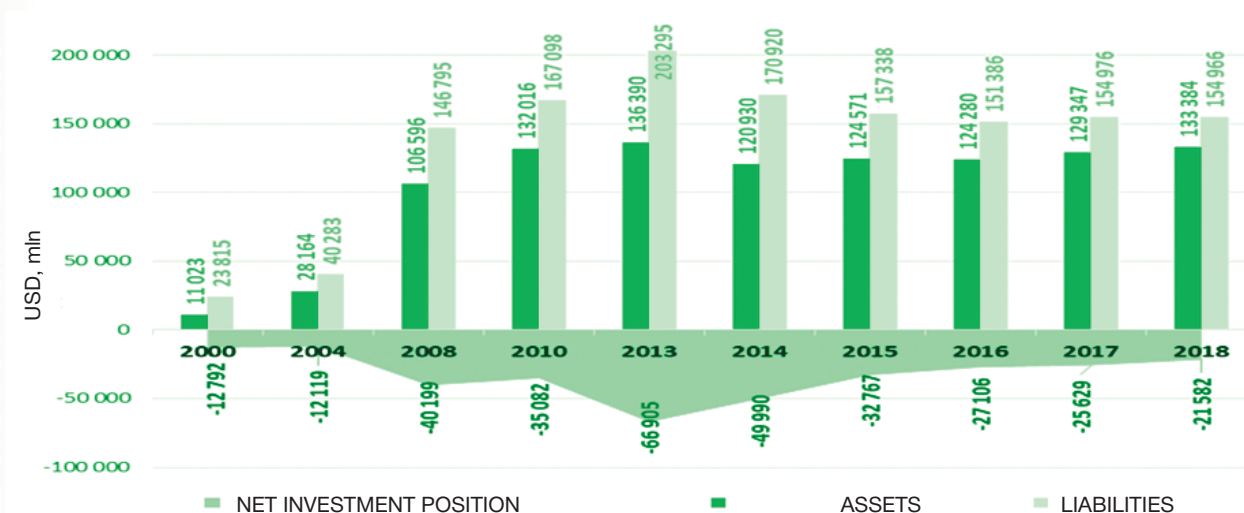


Fig. 1.53. Aggregate indicators of IIP of Ukraine in 2000-2018

The low level of Ukraine's international reserves, the widening of the trade deficit, as well as the high amount of short-term external debt, a large proportion of which is denominated in foreign currency signal the possible occurrence of a debt and / or balance of payments crisis in the event of large-scale external shocks (unfavorable commodity price environment) or aggravation of internal economic and political problems in Ukraine. At the same time, the gradual decline in the relative indicators of external aggregate debt and the improvement of Ukraine's net international investment position show a tendency towards increased solvency of Ukrainian borrowers.

Cash factor

As of January 1, 2019, banknotes and coins totaling 400.1 billion UAH were in circulation. This is 38.6 billion UAH, or 10.7% more than at the beginning of 2018 (361.5 billion UAH).⁷⁸

There were 2.95 billion banknotes in circulation worth 397.8 billion UAH, 13.1 billion exchange and circulation coins worth almost 2.3 billion UAH, 15.8 million pieces of commemorative and investment coins worth 87.7 million UAH.

In general, during 2018 the number of banknotes in circulation decreased by 23.8 million pieces (by 0.8%), while circulation of coins increased by 118.0 million pieces (by 0.9%).

Cash situation in Ukraine in 2018 was characterized by an increase in cash in circulation. As of January 1, 2019, bank cash balances amounted to UAH 36.5 billion, which is the maximum amount since the beginning of the 1996 monetary reform. For 2018, balances increased by UAH 7.5 billion, or 25.8% compared to the beginning of 2018.

⁷⁷ Foreign financial vulnerability and foreign aggregate debt of Ukraine: current state and risks as of January 01, 2019: OPTIMA EXPERT ANALYTICAL CENTER: [Online resource]. - Access at: <http://optimacenter.org/>

⁷⁸ Annual Report 2018: National Bank of Ukraine: [Online resource]. - Access at: <https://old.bank.gov.ua/doccatalog/document;jsessionid=35AFE0F1B136DEB86BF3D61EB0FA6C0F?id=95170958>

1. General component

During 2018 there was an increase in cash received by banks when compared with the corresponding period of 2017, by 278.3 billion UAH, or by 15.4% – up to 2083.1 billion UAH

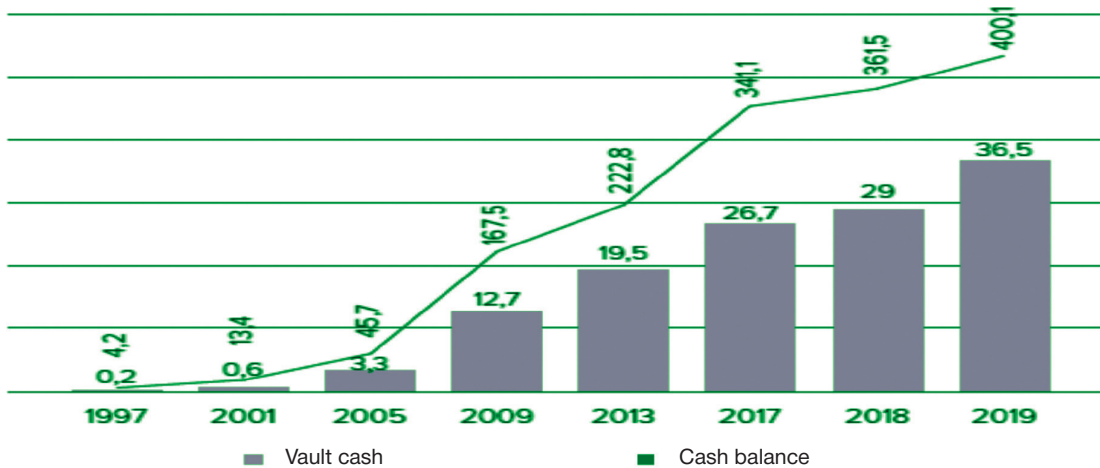


Figure 1.54. Cash balances and vault cash (at the beginning of the year), billion UAH ⁷⁹

As of January 1, 2019, operations for accepting cash in UAH for its subsequent transfer were carried out by:

- by means of payment devices: 15 NFIs – payment systems participants, 7 bank agents and 31 banks through their own payment devices;
- through cash acceptance points: 20 NFIs – payment systems participants and 15 bank agents.

In 2018, compared to 2017, the total number of payment devices decreased by 8.5 thousand units, namely:

- NBFIs – by 3.2 thousand units as a result of discontinuation of cash payment services by individual NFIs;
- Bank agents – by 7.2 thousand units due to the decrease in the number of liquidated bank agents;
- the number of bank payments devices increased by 1.9 thousand units.

In addition, the amount of cash received through payment devices increased by UAH 102 788 million:

- NFIs – by UAH 241 million;
- bank agents – by UAH 9,628 million thanks to iBox LLC – a leader among bank agents;
- banks – by UAH 92,919 million thanks to JSC CB “PRIVATBANK” – the leader among banks.

In 2018, the market for accepting cash payments through cash acceptance points was characterized by an increase in both the number of cash acceptance points and the volume of cash payments received.

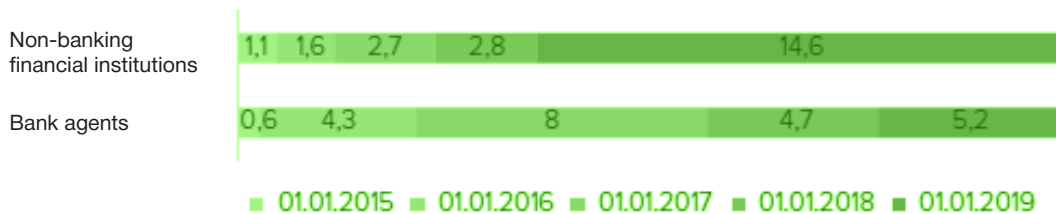


Fig. 1.55. Number of cash acceptance points, thousand. ⁸⁰

⁷⁹ Annual Report 2018: National Bank of Ukraine: [Online resource]. - Access at: <https://old.bank.gov.ua/doccatalog/document;jsessionid=35AFE0F1B136DEB86BF3D61EB0FA6C0F?id=95170958>

⁸⁰ Annual Report 2018: National Bank of Ukraine: [Online resource]. - Access at: <https://old.bank.gov.ua/doccatalog/document;jsessionid=35AFE0F1B136DEB86BF3D61EB0FA6C0F?id=95170958>

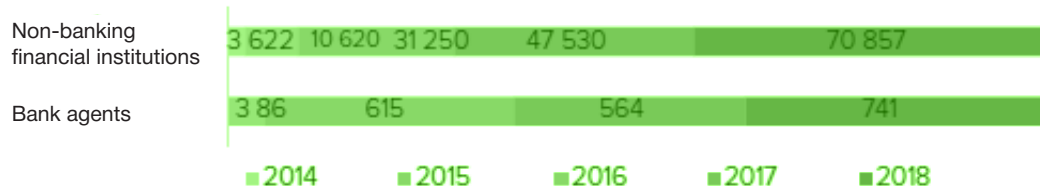


Fig. 1.56. Amounts of cash payments accepted through cash acceptance points, UAH million ⁸¹

Overall, 2018 was characterized by a rapid (76%) increase in cash payments through non-banking financial institutions compared to 2017.

⁸¹ Annual Report 2018: National Bank of Ukraine: [Online resource]. - Access at: <https://old.bank.gov.ua/doccatalog/document;jsessionid=35AFE0F1B136DEB86BF3D61EB0FA6C0F?id=95170958>

1.3. Legal and institutional component

Institutional component

The current system of institutes in Ukraine is, for the most part, in line with the definition of “developed restricted access”:

- organizations are primarily formed either through direct or indirect utilization of state enforcement or are forced to enter informal contracts with those who have access to it;
- the rule of law is only partially established;
- perpetual organizations are a rare exception;
- public control over security forces is weak;
- the state’s monopoly on violence is violated by organized criminal groups, sometimes under the guise of legal structures, spliced with individual representatives of business and government.

Ukraine is characterized by a huge gap between formal and informal institutions and social practices. Having almost a complete set of formal institutes (norms) and institutions (organizations) built on the models of successful countries, the state and society continue to live by certain informal norms and restricted access practices, which, from the open access (and relevant laws) perspective are recognized as criminal offenses, corruption. Corruption fills in the gaps between formal and informal norms, with the internal structure of some organizations actually holding on to corrupt relationships, while corrupt income, in turn, generates the retention of skilled personnel.

At the same time, there are currently some processes of institution building that are characterized by “open access public order”, which gives weight to a claim that **Ukraine is at the point of bifurcation (transformation), in the transition phase from “developed restricted access” to initial “open access”**. This stage is characterized by the weakness and instability of institutions, which makes the country vulnerable, and therefore needs to be overcome as soon as possible.

A decisive reform of the institutions requires “political will”, but politics is, in turn, dominated by the interests and informal relations of “patronage policy” exacerbating problems outlined above.

The legal component

The legal system of Ukraine is a holistic, structured system of sources of law and other legal means, stable interaction of subjects of national law, which ensures the achievement of proper law and order as a necessary condition for the functioning and development of Ukrainian society.

In Ukraine, the ideas of the rule of law, the priority of human rights, the legal social democratic state, separation of the law into public and private, the inviolability of private property, characteristic of the European legal tradition, are officially recognized.

The judicial system in Ukraine is defined in the Law of Ukraine “On Judicial System and Status of Judges”⁸².

During the time covered by the second round of the NRA, Ukraine faced serious challenges, which were accompanied by a number of reforms, including the reform of the legal system. Currently, one of the major reforms is the reform of the judiciary and administration of justice. First of all, it has to do with the lack of trust people have in courts. The public actively criticizes judges for lack of independence, impartiality, transparency, accountability and corruption. The requirement in Ukraine today is to restore public confidence in the judiciary.

The first step on the road to judicial reform was the adoption of the Law of Ukraine “On Ensuring the Right to a Fair Trial”⁸³.

⁸² On the Judiciary and Status of Judges: Law of Ukraine dated June 02, 2016 No. 1402- VIII: [[Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/1402-19>

⁸³ On Ensuring the Right to a Fair Trial: Law of Ukraine dated February 12, 2015 № 192-VIII: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/192-19>

The law aims at simplifying access to justice for citizens, establishes transparent competitive procedures for the selection of judges, provides for increased accountability of judges and an anti-corruption mechanism for clearing the judicial body.

The second step – the Decree of the President of Ukraine dated May 20, 2015, approved the Strategy for reform of the judiciary system, administration of justice and related legal institutions for 2015-2020. The strategy involves the implementation of the long overdue reform in two stages. The first is to update the legislation aimed at restoring confidence in the judiciary and related legal institutions, and the second is to systematically amend the Constitution of Ukraine and comprehensively build the institutional capacity of the respective legal institutions.

During 2016-2017, several significant steps were taken towards the implementation of the Strategic Objectives. The most significant is the adoption by the VRU of the package of reform laws, namely, the Laws of Ukraine “On Amendments to the Constitution of Ukraine (on Justice)”⁸⁴, “On the Judiciary and Status of Judges”⁸⁵ and “On the High Council of Justice”⁸⁶. These laws provide for changes not only in the judicial system of the state, but also radically change approaches to the appointment of judges to positions.

The Law of Ukraine “On Amendments to the Constitution of Ukraine (on Justice) implements the following legislative changes:

- the Supreme Council of Justice was reorganized into the High Council of Justice (HCJ);
- President was deprived of the right to create courts;
- the VRU is endowed with powers to create, liquidate and reorganize courts;
- the VRU is deprived of the power to appoint judges indefinitely and to consent to their detention and arrest with the transfer of the latter powers to the HCJ;
- the President of Ukraine, the Verkhovna Rada and the Congress of Judges were deprived of the right to fire judges of the CCU – a judge may be released only by decision of at least two thirds of the CCU.

The said Law raises the minimum age for holding the position of judge from 25 to 30 years and introduces a system of competitive selection for the appointment of judges.

The Prosecutor General’s term of office has also been extended from 5 to 6 years, but they are prohibited from holding this post for two consecutive terms.

In addition, the amendments provide for the institution of a constitutional complaint (complaints of contradiction with the Fundamental Law applied in the final judicial decision of the law when all national remedies are exhausted) and the right of the Constitutional Court to determine the constitutionality of the proposed national referendum (at request of the President or at least 45 parliamentarians)

The judicial system in Ukraine is defined in the Law of Ukraine “On Judiciary and Status of Judges”⁸⁷.

84 On Amendments to the Constitution of Ukraine (on Justice): Law of Ukraine: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/1401-19>

85 On the Judiciary and Status of Judges: Law of Ukraine [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/1402-19>

86 On the High Council of Justice: Law of Ukraine: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/1798-19>

87 On Judiciary and Status of Judges: Law of Ukraine dated June 02, 2016 № 1402-VIII: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/1402-19>

1. General component

At present, after the reform, Ukraine’s judicial system looks like this:

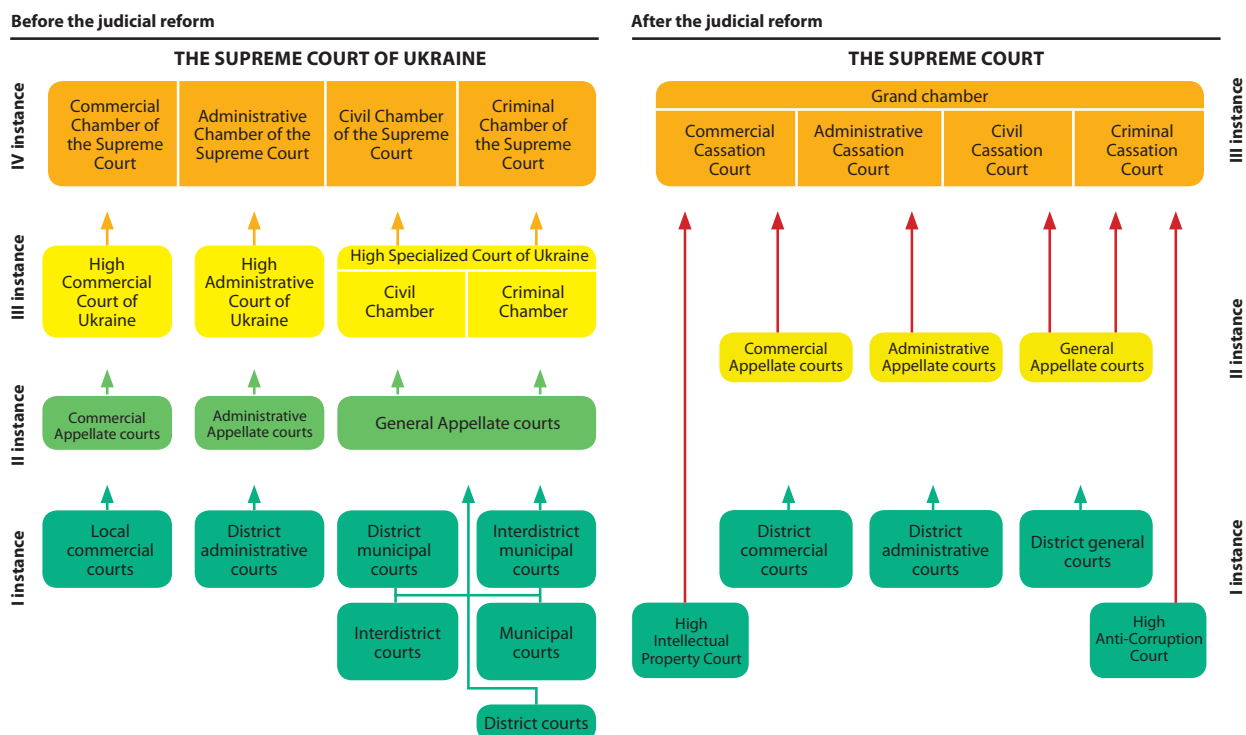


Fig. 1.57. Judicial system of Ukraine⁸⁸

The Law of Ukraine “On the Judiciary and Status of Judges” defines the organization of the judiciary and the administration of justice in Ukraine, which operates on the basis of the rule of law in accordance with European standards and guarantees the right of everyone to a fair trial.

The next steps on the reform path were the adoption of the Law of Ukraine “On the Constitutional Court of Ukraine” on 13 July 2017, which introduced the brand new institute of constitutional complaint, as well as the adoption on October 3, 2017 of the new Law of Ukraine “On Amendments to the Economic Procedure Code of Ukraine, Civil Procedure Code, the Code of Administrative Procedure of Ukraine and other legal acts”, which introduced new rules in civil litigation, commercial, administrative justice, made some changes to the rules of criminal procedure, introduced a system of “e-justice”, which facilitates communication with the court and reduces the maintenance costs of the judicial system.

In addition, from 2016 to 2018 the Law on the Bar and Practice of Law was improved, amendments to improve the Law on the of Prosecutor General’s Office were made 9 times, the Law on Free Legal Aid was revised 6 times over the same period of time, and in 2016 the Law on State Guarantees of Execution of Court Resolutions was amended. An important step towards the improvement of the institutes came in the form of the Decree of the President of Ukraine dated September 29, 2017 on the launching of the High Court on Intellectual Property.

The creation of anticorruption bodies is also an extremely important step in the implementation of legal reform. Thus, during 2014-2018 several anti-corruption bodies were created, namely:

- NACP;
- NABU;
- SAPO;
- ARMA;
- SBI;
- HACC.

⁸⁸ What has the reform of justice changed, Judiciary of Ukraine: [Online resource]. - Access at: <https://court.gov.ua/press/interview/441643/>

The types and main tasks of anti-corruption authorities are shown in the following figure.

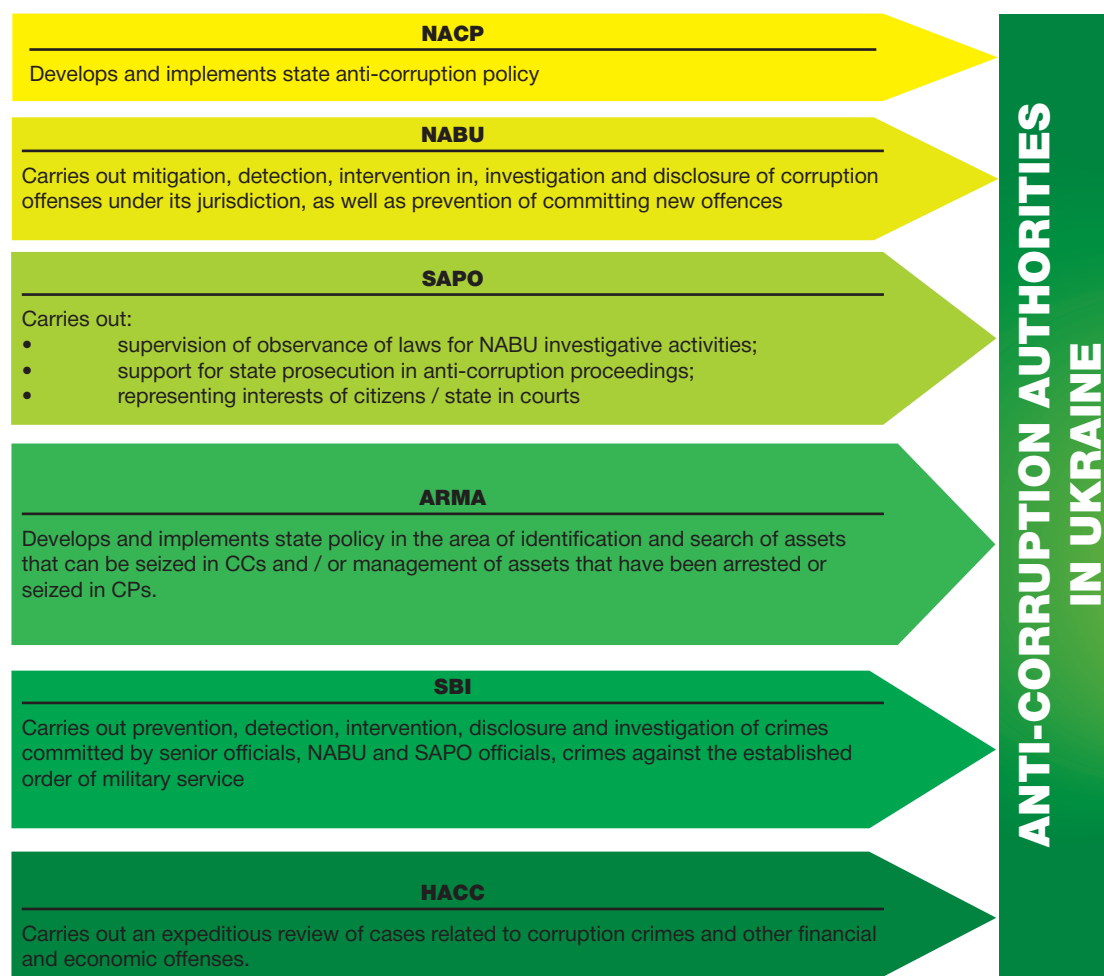


Fig. 1.58. Types and tasks of anti-corruption authorities

The legislative framework of the AML/CFT system in Ukraine is composed of the laws of Ukraine, CMU acts, acts of SFMEs and other state authorities.

The main legal act that defines the organizational and legal mechanism of the AML/CFT is the Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction”.

On November 28, 2002, the VRU adopted the Law “On Prevention and Counteraction of Legalization (Laundering) of Criminal Proceeds”, which was the beginning of the establishment of a system of financial monitoring in Ukraine. The law was aimed at protecting the rights and legitimate interests of citizens, society and the state by defining a legal mechanism to counter the legalization (laundering) of criminal proceeds, or financing terrorism and ensuring the availability of nation-wide multi-source analytical information, enabling Ukrainian and foreign LEA to check and investigate money laundering and other illegal financial transactions. The next revision of the Law was set out in the Law of Ukraine “On Prevention and Counteraction of Legalization (Laundering) of Criminal Proceeds or Financing of Terrorism” dated May 18, 2010, which came into force on August 21, 2010.

The new version of the Law incorporated requirements of the 2004 FATF Recommendations regarding building an AML/CFT system, the rights and responsibilities of reporting entities, the FIU, regulatory and oversight bodies, law enforcement and investigative agencies, as well as the requirements for international cooperation. In addition, the Law took into account the requirements of the UN Convention on the Financing of Terrorism, the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, Directive 2005/60/EC of the European Parliament and of the Council dated 26.10.2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and other international standards) and the recommendations of the Council of Europe

1. General component

Special Committee of the MONEYVAL, as well as the experience of the national anti-money laundering and countering terrorist financing system in 2003-2010.

On October 14, 2014, at the submission of the Government of Ukraine, the VRU adopted a new Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction”, which was developed by SFMS. The law came into force on 06.02.2015.

The law was adopted in the framework of anti-corruption initiatives, which confirms the irreversibility of the political will of the country and the European development choice of our country and the unconditional fulfillment of Ukraine’s commitments to implement FATF Standards.

The said Law took into account the requirements of the 2012 FATF Recommendations on the establishment of the AML/CFT system, the rights and responsibilities of reporting entities, FIU, regulatory and oversight bodies, law enforcement and investigative agencies, as well as requirements for international cooperation.

Auxiliaries to the Law are: the CC of Ukraine, the CPCU, the Code of Administrative Justice of Ukraine, the Code of Ukraine on Administrative Offenses, the Civil Code of Ukraine, the Law of Ukraine “On Banks and Banking”, the Law of Ukraine “On Insurance”, the Law of Ukraine “On State Regulation of the Securities Market in Ukraine”, the Law of Ukraine” On Financial Services and State Regulation of Financial Services Markets “.

1.4. Dynamics of development and structure of predicate crimes

Detection and pre-trial investigation of ML related crimes

During 2016-2018, URPI listed 644 ML related criminal offenses (Art. 209 of the CC of Ukraine).

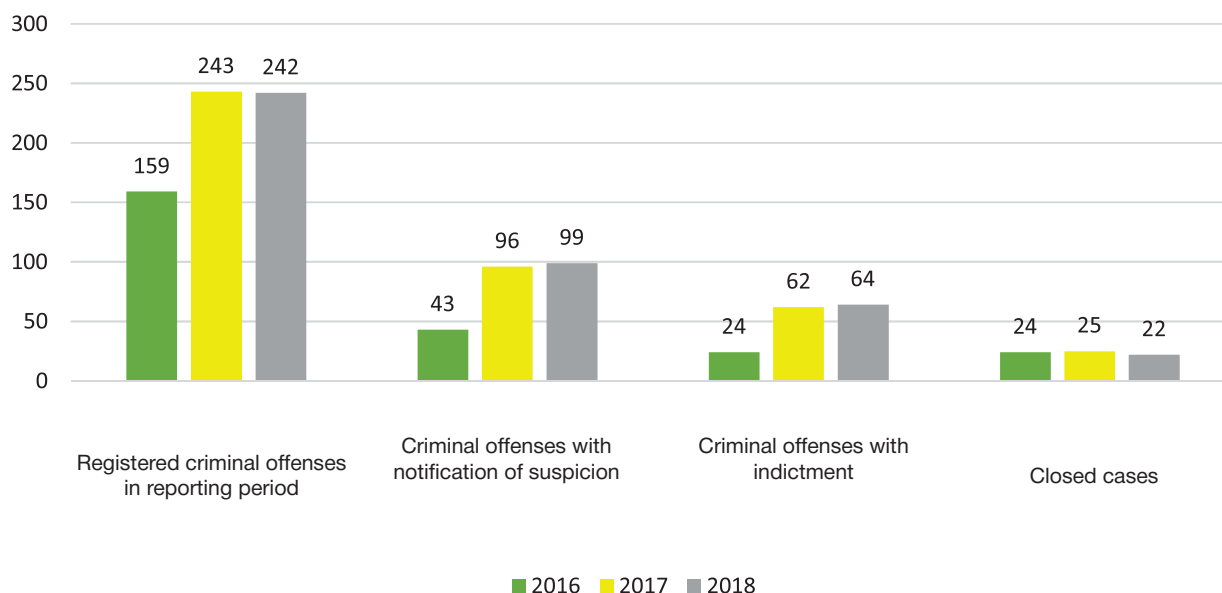


Fig. 1.59. State pre-trial investigation of ML related criminal offenses⁸⁹

2016-2018 saw a tendency towards the increase in the number of persons, charged with ML crimes from 43 in 2016 to 99 in 2018 and the increase in the proportion of indictments from 15% in 2016 to 26% in 2018, which may indicate an increase in efficiency of LEA.

At the same time, according to the PGO the size of proceeds, obtained by criminal means (according to PGO indictments) in 2016-2018 amounted to **UAH 7,318.89 million**.⁹⁰

Dynamics and structure of predicate crimes in CCs initiated by LEA at request of SFMS

During 2013-2018, the LEA, using SFMS intelligence, initiated 2,659 CPs on the aggregate of predicate crimes, of which only 299 CPs (11% of the total number of launched CPs) were investigated under Article 209 of the CC of Ukraine "Legalization (laundering) of criminal proceeds":

⁸⁹ Plotted according to the PGO reports for 2016-2018, «National criminal offences report», [Online resource]. - Access at: https://www.gp.gov.ua/ua/stst2011.html?dir_id=113653&libid=100820

⁹⁰ PGO Reports (form 1-LV) "Report on counteraction to legalization of criminal proceeds", [Online resource]. - Access at: <https://www.gp.gov.ua/>

1. General component

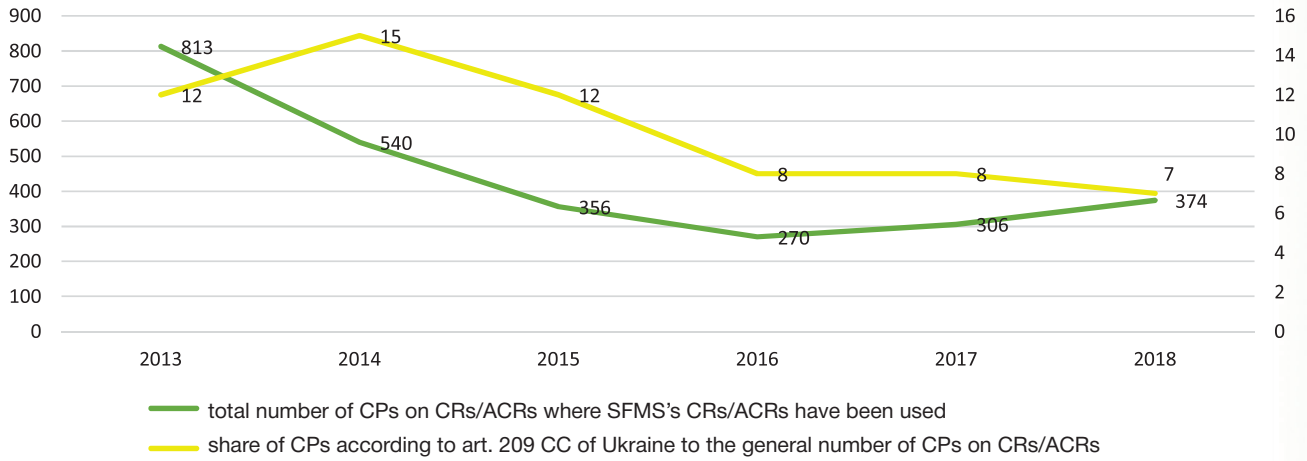


Fig. 1.60. Number of CPs launched by LEA based on SFMS intelligence ⁹¹

The structure of predicate offenses in CPs initiated by LEA based on SFMS CR/ACR in 2013-2018 offended in Figure 1.57

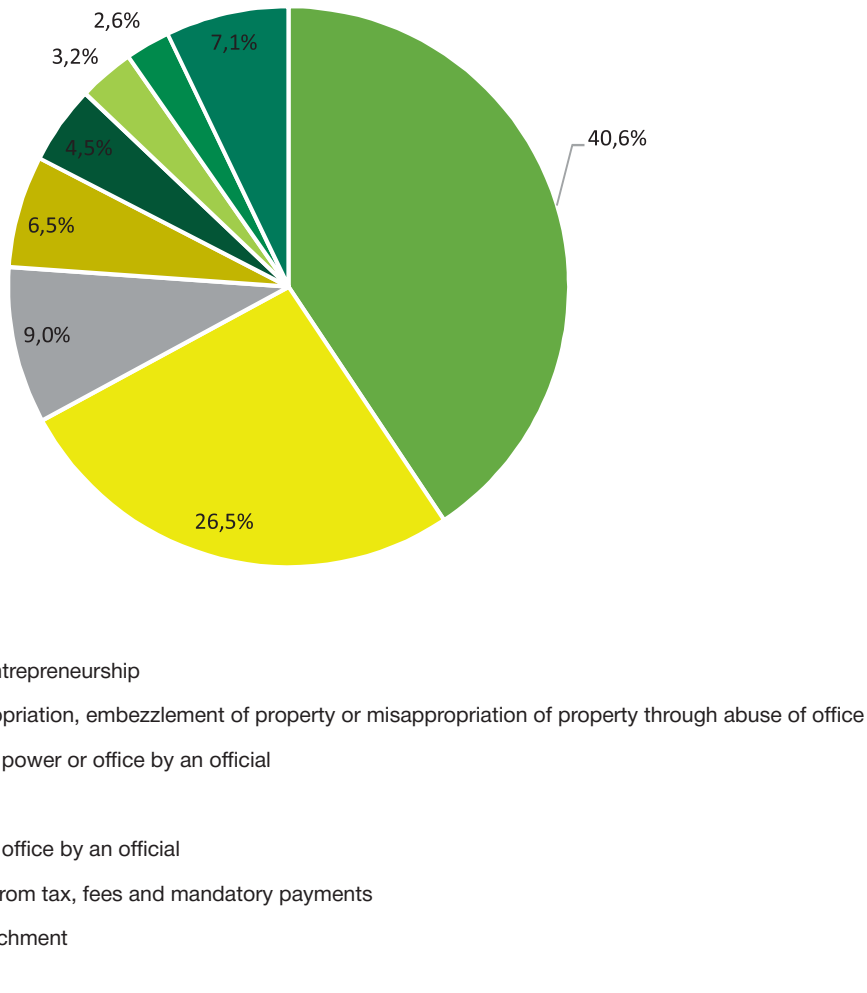


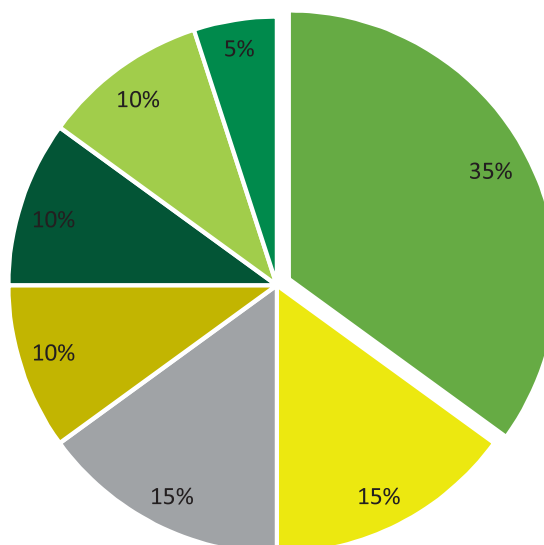
Fig. 1.61. Structure of predicate crimes in CPs related to ML, initiated by LEA on CR/ACR in 2013-2018⁹²

91 Plotted according to SFMS data

92 Plotted according to SFMS data

According to the 2013-2018 data the largest share in the structure of predicate offenses in CPs initiated by LEA on SFMS CR/ACR is taken by bogus entrepreneurship, misappropriation, embezzlement or seizure of property through abuse of office and fraud.

Evaluation of the statistics reveals that in 2018 that the top three predicate offenses of 2018 were crimes related to misappropriation, embezzlement or seizure through abuse of office, fraud and bogus entrepreneurship.



- misappropriation, embezzlement of property or misappropriation of property through abuse of office
- fraud
- bogus entrepreneurship
- evasion from tax, fees and mandatory payments
- creation of criminal organization
- illicit enrichment
- forgery of documents and seals

Fig. 1.62. Structure of predicate crimes in ML related CPs launched by LEA on SFMS CR/ACR in 2018 ⁹³

The structure of predicate offenses in ML court sentences

By analyzing the structure of predicate offenses in ML court sentences in 2013-2018 handed down in 25 CPs initiated by LEA based on SFMS CR/ACR, we can identify the main types of predicate offenses that are committed for money laundering purpose:

- misappropriation, embezzlement or seizure of property through abuse of office;
- fraud, including through fraudulent computer operations;
- abuse of power or office;
- bogus entrepreneurship.

⁹³ Plotted according to SFMS data

1. General component

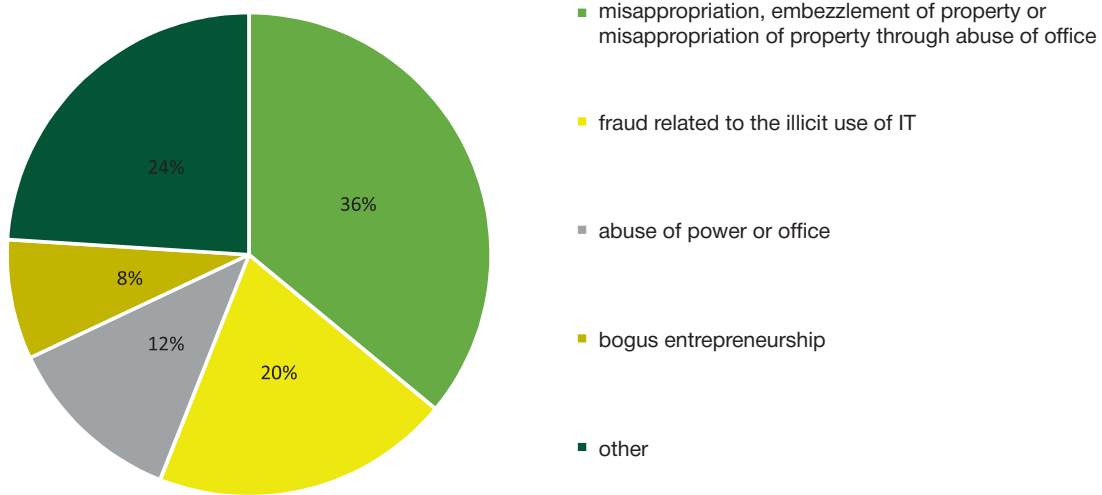


Fig. 1.63. The structure of predicate offenses in the ML sentences handed down by the courts on CPs initiated based on SFMS CR/ACR in 2013-2018⁹⁴

Based on the information in Figure 1.63, on the structure of predicate crimes in the 27 ML related sentences handed down in CPs (including those where SFMS CRs were not used) in 2018, we can distinguish the following main types of predicate crimes that are most often committed with the purpose of ML:

- misappropriation, embezzlement of property through abuse of office;
- official forgery;
- fraud;
- bogus entrepreneurship;
- forgery of documents, seals, stamps;
- unlawful acts with transfer documents;
- gambling;
- creation of a criminal organization;
- abuse of power or office.

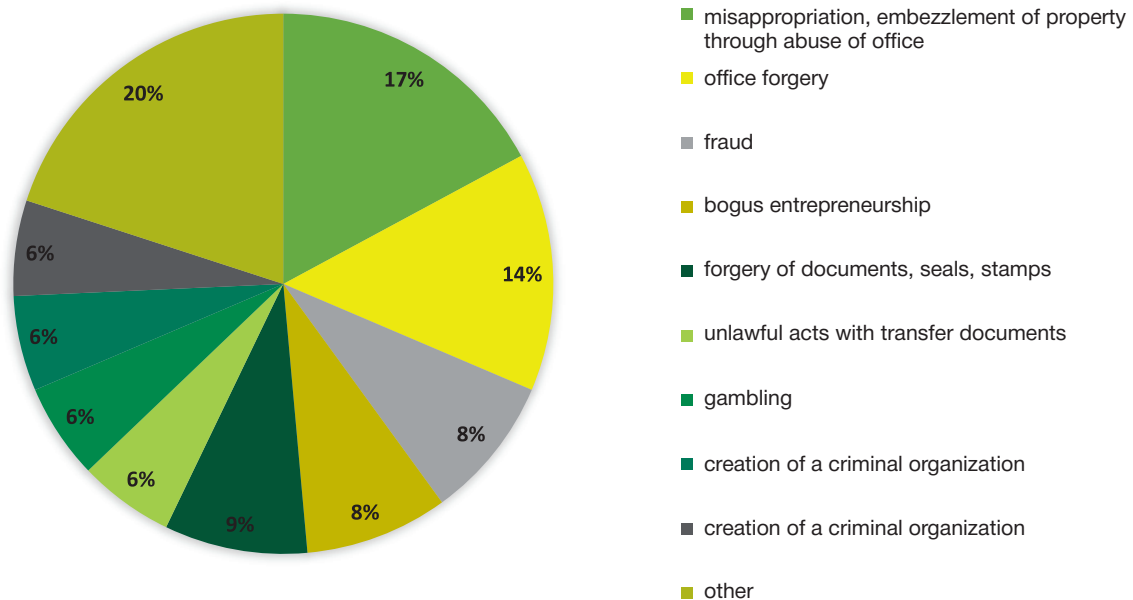


Fig. 1.64. Structure of predicate crimes in court sentences handed down on ML CPs in 2018⁹⁵

94 Plotted according to SFMS data

95 Plotted according to SFMS data

Impact of organized crime on predicate crimes in Ukraine (drug crimes, cybercrime, corruption, illegal gambling, etc.)

Modern OC poses a threat not only to the national interests of individual states, but also a direct threat to international security, becoming transnational in nature. OC is especially dangerous to countries with unstable socio-political and economic conditions that are in a state of economic and political transformation which include Ukraine.

According to a rating compiled by experts of the World Economic Forum⁹⁶, **Ukraine ranked 113th out of 137 countries in the world in terms of the OC impact on business** and found itself next to Latin America and Africa, sitting right next to Uganda (112th) and Trinidad and Tobago (114th). Among neighboring countries, Poland ranked 54th, Hungary – 56th, Slovakia – 64th, Romania – 71st, Russia – 86th, and Moldova – 94th.

In terms of business expenses to satisfy requests from racketeers and extortionists representing organized crime groups, Ukraine received an index of 3.9 on a seven-point scale – “1” means that the demand leads to huge costs for entrepreneurs, and “7” – does not incur costs. The survey was conducted by interviewing business representatives in 2016.

Organized economic crime is integrated into highly profitable sectors of the economy and is one of the factors that pose a real threat to Ukraine’s national security. However, official statistics do not give an objective idea of the scale of organized economic crime and the overall level of corruption in the field of economic relations.

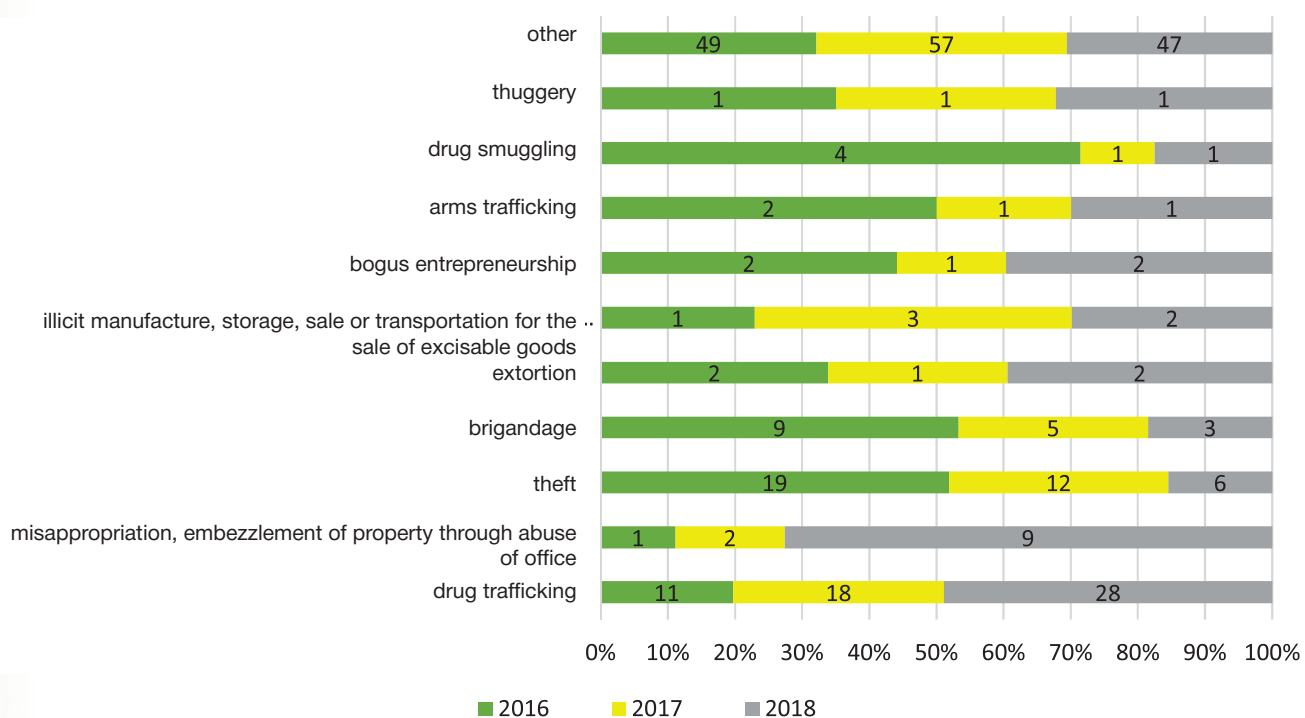


Fig. 1.65. The results of LEA efforts to detect and investigate criminal offences committed by OCG and COs⁹⁷

⁹⁶ Global Competitiveness Index 2017-2018, Competitiveness Rankings Home: [Online resource]. - Access at: <http://reports.weforum.org/global-competitiveness-index-2017-2018/competitiveness-rankings/#series=EOSQ035>

⁹⁷ Plotted according to the PGO reports on the results of the fight against OCG and COs, Form No. 1-OC (monthly): [Online resource]. - Access at: https://www.gp.gov.ua/ua/stst2011.html?dir_id=112759&libid=100820&c=edit&c=fo

1. General component

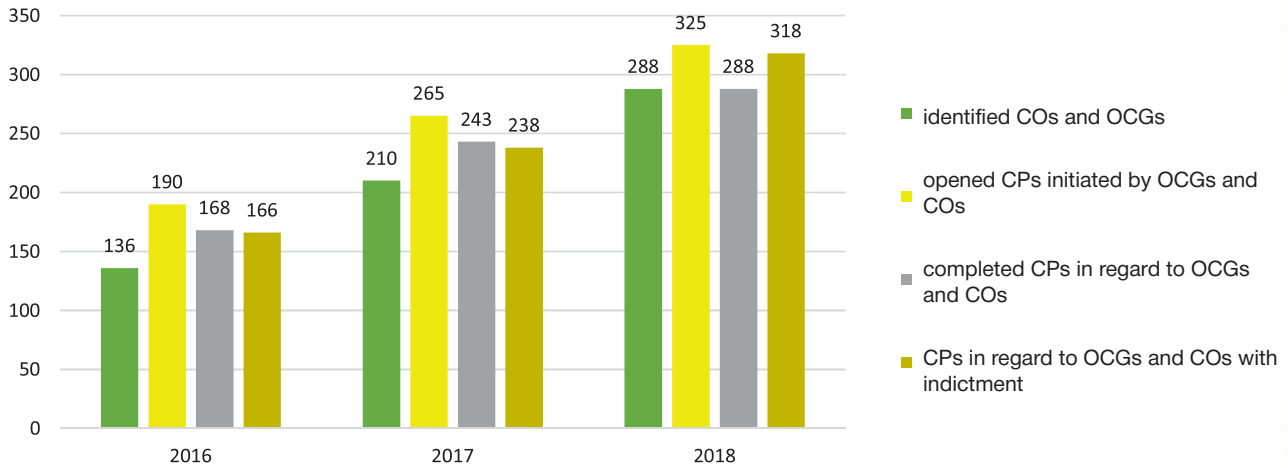


Fig. 1.66. Information on completed CPs committed by OCGs and COs by type of offence, 2016-2018, %⁹⁸

The economy of Ukraine is vulnerable to the effects of OC. Economic crime, fueled by corruption, presents a real and imminent threat to the national security of Ukraine, affects nearly all spheres of public life – social, legal, political, etc.

Modern economic OC is transnational in nature. OGs and COs create transnational companies that are engaged in criminal business in various sectors of the economy. Being connected to illegal operations involving moving tangible and intangible assets across borders, bringing in significant economic benefits, OGs and COs, using favorable market conditions of other countries, significant differences in criminal justice systems of different countries, modern communication technologies, electronic payment systems, penetrate legal economies of other countries through corruption and violence.

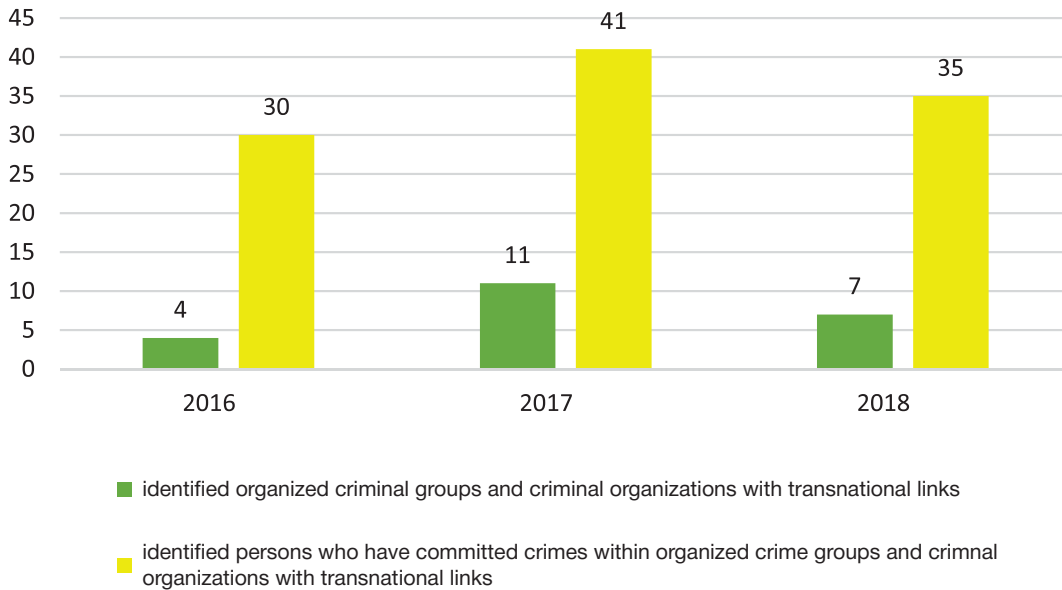


Fig. 1.67. Information on combatting OCGs and COs with transnational links⁹⁹

98 Plotted according to the PGO reports on the results of the fight against OCG and COs, Form No. 1-O3 (monthly): [Online resource]. - Access at: https://www.gp.gov.ua/ua/stst2011.html?dir_id=112759&libid=100820&c=edit&c=fo

99 Plotted according to the PGO reports on the results of the fight against OCG and COs, Form No. 1-O3 (monthly): [Online resource]. - Access at: https://www.gp.gov.ua/ua/stst2011.html?dir_id=112759&libid=100820&c=edit&c=fo

Drug crimes

One of the most dangerous types of OC is the illicit trafficking in narcotic substances (drug trafficking), which tends to grow and threaten national security not only in Ukraine but globally, as it is characterized by transnational character, professionalism, ample technical capabilities of criminal groups, own intelligence and counterintelligence, possession of the latest forms and methods of countering LEA and the judiciary. In addition, drug trafficking causes an increase in the number of drug addicts, an increase in selfish and violent crime.

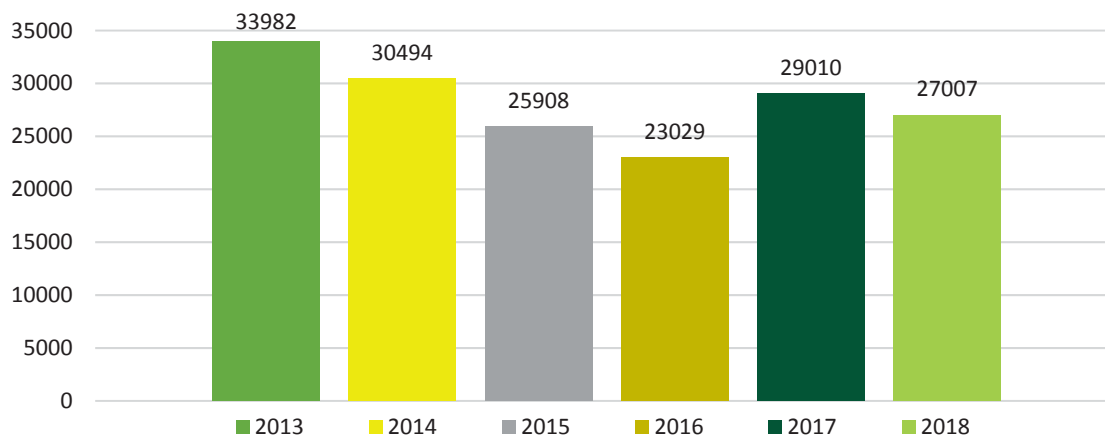


Fig. 1.68. Number of reported crimes in the field of trafficking in drugs, psychotropic substances, their analogues and precursors¹⁰⁰

In the overall structure of crime, over the past two years, **drug crimes ranked third (falling behind crimes against life and health and property) among all reported crimes, accounting for about 10%. One in six people sentenced in the country is serving terms for drug crimes.**¹⁰¹

Work of the state and LEA **in 2018**, and, NPU counter-narcotics units, led to the indictment of **63 organized drug groups** involved in more than 700 criminal offenses. This figure has doubled since 2017.

Counter-narcotics units dismantled 45 drug trafficking OGs. For example, in July 2018, **an international OG comprising seven members** supplying particularly large quantities of cocaine from Latin America to Ukraine was dismantled.

In 2018, the number of investigations against drug traffickers that resulted in indictments has increased by 30%. Overall, during 2018 the NPU documented five thousand drug deals and brought nearly 2 thousand drug dealers to trial.

Due to efforts aimed at rooting out sources of drug business financing, the effectiveness of counteracting the laundering of the money obtained from the drug business has increased threefold compared to 2017. **During the 12 months of 2018, 112 such offenses have been documented.**

In 2018, in the course of the pre-trial investigation of severe and particularly severe drug crimes, **the courts arrested drug offenders' property in the amount of UAH 72 million and seized UAH 10 million worth of such property.**

Also, in 2018, NPU focused its efforts on counteracting the sale of drugs and psychotropic substances using modern innovative technologies. Thus, **in 2018, 196 internet-based drug sales centers were dismantled.** In July of 2018 NPU dismantled a large-scale online drug store, operating on a nation-wide basis, and a drug lab that supplied it with prohibited substances. The drug dealer was selling manufactured drugs through a wide-ranging online network.

In 2018, the police shut down 118 underground drug laboratories and 511 drug dens. Also, **NPU units blocked 35 international drug supply channels.** In July 2018, an international channel for the supply of opium concentrate from Hungary to Ukraine was shut down, and an organized crime group consisting of 5 participants was liquidated.

100 Plotted according to the PGO reports for 2016-2018, «National report of criminal offence», [Online resource]. - Access at: https://www.gp.gov.ua/ua/stst2011.html?dir_id=113653&libid=100820

101 Source: Information from the official website of the Prosecutor General's Office of Ukraine www.gp.gov.ua

1. General component

The level of drug seizure has doubled compared to 2017. Over 4 tons of drugs and psychotropic substances, including over 8 kg of cocaine and heroin, over 40 kg of amphetamine-based stimulants and 4 kg of new psychoactive substances, were seized in 2018¹⁰².

Cybercrime

The end of the XX century was marked by the rapid development of information technologies, which began to be introduced in all spheres of human life. The use of modern personal computers, computer networks and computerized communication networks provides new opportunities for committing traditional crimes and creates conditions for the implementation of fundamentally new schemes and methods of criminal activity. In addition to the benefits, computerization has several negative consequences, among which is the emergence of a qualitatively new kind of crime - cybercrime.

Currently, the most common types of cybercrime are:

- camcording;
- cardsharing;
- fake online auctions;
- spamming;
- online gambling (using money);
- development of viruses;
- theft of personal data and personal information.

Legal regulation of this sphere in Ukraine is envisaged by Articles 361, 361-1, 361-2, 362, 363, 363-1 of the CC of Ukraine, contained in Section XVI “Crimes in the Use of Electronic Computation Devices (Computers), Systems and Computer and Telecommunication Networks.”

As evidenced by the PGO data, 2018 saw detection of 2,301 criminal offenses related to use of electronic computation devices (computers), systems and computer and telecommunication networks, 1,330 CPs resulted in indictments:

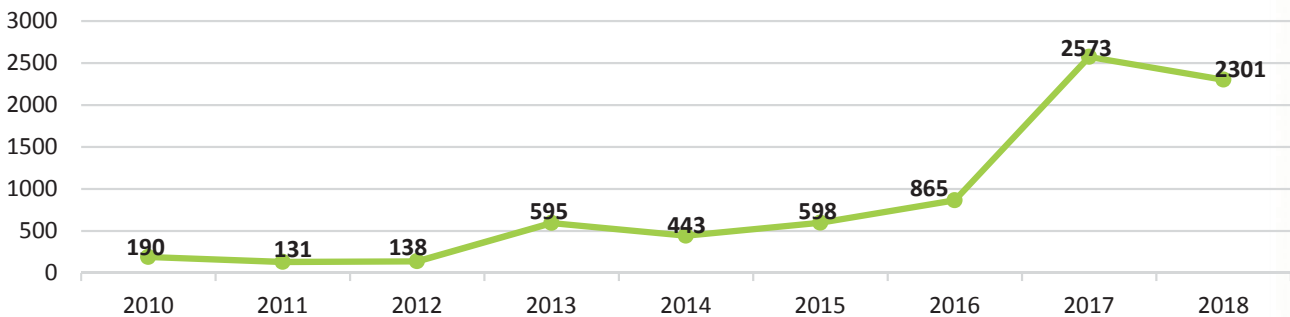


Fig. 1.69. Number of reported criminal offenses related to use of electronic computation devices (computers), systems and computer and telecommunication networks ¹⁰³

Reported criminal offenses related to use of electronic computation devices (computers), systems and computer and telecommunication networks accounted for 0.47% of the total number of reported criminal offenses in 2018.

102 National Police of Ukraine: [Online resource]. - Access at: <https://www.npu.gov.ua/news/narkozlochyni/za-minulij-rik-pidrozhdili-protidiji-narkozlochinnosti-pripinili-funkcionuvannya-45-organizovanix-grup-narkotorgovcziv-andrij-kixtenko/?fbclid=IwAR2dmq7yyi1mWpv92CBfQnm6o7uw-tpBvM7uJr6xXXjTv6VurnpuyZ-nllo>

103 Plotted according to the PGO reports for 2016-2018, «National criminal offences report», [Online resource]. - Access at: https://www.gp.gov.ua/ua/stst2011.html?dir_id=113653&libid=100820

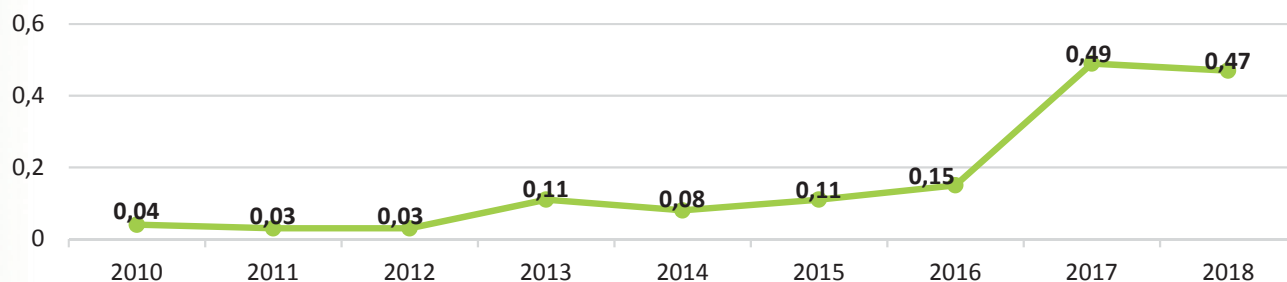


Fig. 1.70. The share of reported criminal offenses related to use of electronic computation devices (computers), systems and computer and telecommunication networks in the total number of reported criminal offenses¹⁰⁴

Analysis of the official statistical reporting data for 2018 showed that the vast majority of the investigated cybercrimes are those that fall within the scope of Art. 362 of the CC of Ukraine (46.5%). Second most widespread – crimes under Art. 361 of the CC of Ukraine (44.5%). Third most widespread – crimes under Art. 361-1 of the CC of Ukraine (5.8%). Fourth – crimes under Art. 361-2 of the CC of Ukraine (2.3%). All other crimes related to use of electronic computation devices (computers), systems and computer and telecommunication networks amounted to 0.5%.

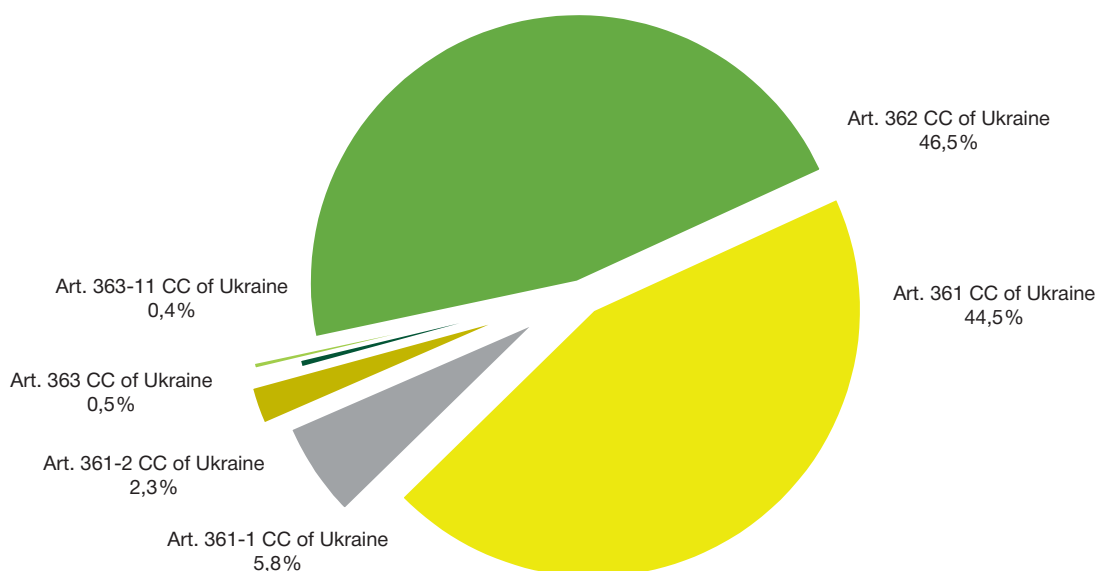


Fig. 1.71. Structure of crimes related to use of electronic computation devices (computers), systems and computer and telecommunication networks¹⁰⁵

According to the Cyberpolice Department of the NPU 4 massive cyber-attacks were thwarted in Ukraine in 2018.¹⁰⁶ In 2017, a number of cyber operations were carried out against Ukraine, the main ones being:

- «BugDrop»
- «WannaCry» (also known as «WannaCwt»);
- «NotPetya» (also known as «Petya.A» «Petya»).

The fight against Internet piracy continues – more than 40 piracy websites have been shut down during 2018. As a part of their international cooperation efforts, LEA identified eight transnational hacker groups and took part in more than 30 international operations.

¹⁰⁴ Plotted according to the PGO reports for 2016-2018, «National criminal offences report», [Online resource]. - Access at: https://www.gp.gov.ua/ua/stst2011.html?dir_id=113653&libid=100820

¹⁰⁵ Report of the Chairman of the National Police of Ukraine S. Knyazev on the results of for the 2018: National Police of Ukraine: [Online resource]. - Access at: https://www.npu.gov.ua/assets/userfiles/files/zvity/Zvit_NPU_2018.pdf

¹⁰⁶ Report of the Chairman of the National Police of Ukraine S. Knyazev on the results for the 2018: National Police of Ukraine: [Online resource]. - Access at: https://www.npu.gov.ua/assets/userfiles/files/zvity/Zvit_NPU_2018.pdf

Corruption crimes

Corruption is a prerequisite and consequence of the functioning of the shadow economy of the state, while the subjects of corruption are among primary consumers of ML services, and at the same time, indispensable participants in most of “laundering” schemes. Therefore, without radically reducing corruption, efforts to de-shadow national economy, prevent and combat OC, ML will not give the desired effect. Attempts to combat corruption through selective punishment will be ineffective, as the underlying factors of these social behavioral dysfunctions will remain, with ML, including laundering of proceeds of corruption, gaining a qualitatively new momentum in times of economic instability.

According to reports on the state of combatting corruption¹⁰⁷ during 2016-2018, LEA initiated 8361 CPs into corruption offenses. As a result of these investigations, 6016 CPs resulted in indictments or petitions for the use of compulsory medical measures against 7029 persons. Damages from corruption crimes in 2016-2018 amounted to UAH 26 404.8 million, of which only 4% (UAH 1065.5 million) was recovered.

Table 1.5
Information on the state of combating corruption in 2016-2018

Indicator	2016	2017	2018
1	2	3	4
A pre-trial investigation has been initiated (continued) during the reporting period	2281	2836	3244
CPs resulting in indictment or petition to undergo compulsory medical treatment	1739	2051	2226
Number of indicted persons	2010	2411	2608
The amount of damages, UAH million	4598,8	16329,5	5476,5
Damages recovered, UAH million	151,5	312,5	601,5

Table 1.6. describes the movement of corruption CPs, investigated in the pre-trial investigation by the respective authorities^{108,109}:

Table 1.6
Results of corruption CPs

Period	The proceedings are completed, and the proceedings are sent to court with an indictment or a petition for the use of compulsory medical measures in	Of them:				
		The Prosecutor's Office	Military prosecutor's office	The Internal Affairs	SSU	Tax authorities
2016	1739	534	339	839	24	3
2017	2051	613	275	1129	27	7
2018	2226	314	82	1656	165	9

According to the SCA, 4253 persons were convicted during 2017-2018, including:

- 1,110 (26%) persons under Article 191 (misappropriation, embezzlement of property through abuse of office);
- 745 (17,5%) persons under Article 366 (official forgery);
- 611 persons (14.4%) with Article 366¹ (declaring false information);
- 433 persons (10.2%) under Article 368 (acceptance of an offer, promise or receipt of undue benefit by an official);
- 396 persons (9.3%) under Article 369 (offer, promise or provision of undue benefit to an official);

107 CORRUPTION STATUS REPORT: Form No. 1-COR (2016-2018): Order of the PGO, MIA, SSU, State Fiscal Service, Ministry of Defense, SAS of 22.04.2013, No. 52/394/172/71/268 / 60, [Online resource]. - Access at: https://mvs.gov.ua/ua/pages/274_Statistika.htm/

108 National report on implementation of principles of anti-corruption policy in 2018, [Online resource]. - Access at: [Online resource]. - Access at: <https://nazk.gov.ua/wp-content/uploads/2019/07/Natsdopovid-2018.pdf>

109 National report on implementation of principles of anti-corruption policy in 2016, [Online resource]. - Access at: <https://nazk.gov.ua/wp-content/uploads/2019/06/Natsdopovid-2016.pdf>

- 393 persons (9.2%) under Article 367 (official negligence);
- 333 persons (7.8%) under Article 369² (abuse of influence);
- 232 persons (5.5%) under Articles 364 (abuse of power or office), 364¹ (abuse of powers by an official of a private legal entity irrespective of the organizational and legal form), 365 (abuse of power or office by a LEA officer), 365² (abuse of power by persons providing public services), 368³ (bribery of an official of a private legal entity irrespective of the organizational and legal form), 368⁴ (bribery of a person providing public services), 369³ (unlawful influence on results of official sporting events) and other crimes in the field of official activities.

It is worth noting that the number of persons sentenced for committing corruption offenses in 2018 increased by 375 persons or by 19.3%, to 2314 persons versus 1939 persons in 2017.

The number of persons sentenced for declaring false information increased significantly. Thus, in 2018 this number grew by 455 persons and amounted to 533 persons versus 78 persons in 2017.

Quite a large number of those convicted held no state power or office, as one fourth of the total number of convicts were private individuals representing the business community (legal entities of private and public law, officials providing public services (55 persons), officials of legal entities of public law (94 persons), persons performing organizational-administrative or administrative-economic duties in private legal entities (46 persons).

Thus, as was the case in previous years, there is a negative trend regarding the effectiveness of investigations and indictments of corruption offences involving civil servants, employees of control and supervisory bodies, judges, customs and tax officials, LEA officers, and others.

At the same time, the results of litigation of said cases are extremely poor. Thus, in 2018, only 65 civil servants, 42 officials and employees of the State Fiscal Service of Ukraine, 1 employee of the prosecutor's office were brought to justice for committing corruption crimes.

SFMS activities in combatting corruption

During 2017-2018, 631 corruption and corruption proceeds ML related referrals were prepared and submitted to LEA by SFMS.

The total number of corruption related CR/ACRs submitted to LEA in 2018 increased by 99% (by 209 materials) compared to 2017.

In 2017-2018, the above-mentioned referrals were submitted to:

- NABU – 401;
- PGO – 208;
- SSU – 20;
- NPU – 1;
- SFS – 1.

The vast majority of SFMS corruption related referrals was directed to NABU (401 materials or 63%) and to the PGO (208 materials or 32.9%).

The largest number of CR/ACRs involved civil servants, members of the Ukrainian parliament and heads of state-owned enterprises.

Corruption related CRs were based on **85.9 thousand reports by reporting entities in 2018, totaling 381.2 billion UAH** (57.5 thousand reports amounting to 112.4 billion UAH in 2017).

Thus, in 2018, the number of FT reports in referrals increased by 28,4 thousand messages, or 49,4%, and their volume increased by 269,0 billion UAH, or by 239,1% in comparison with 2017.

It should be noted that in **the referrals submitted to LEA in 2018** on suspicion of corruption crimes, **almost 32.8 thousand FT reports (38.2%) totaling 123.4 billion UAH (32.4%) were related to the FTs involving PEPs and related parties** (in 2017 – 11.2 thousand reports (19.5%) worth 30.7 billion UAH (27,3%).

That is, in 2018, the number of FT reports made involving PEPs and related parties, submitted as a part of SFMS referrals to LEA on suspicion of corruption crimes, increased by 21.6 thousand, or by 192.9% compared to 2017, and the total value of such reports increased by 92.7 billion UAH, or by 302%.

1. General component

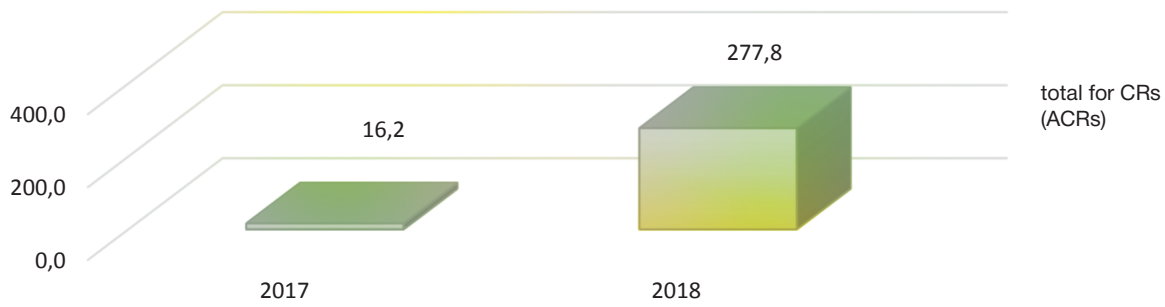


Fig. 1.72. Sum of corruption related suspicious transaction reports submitted to LEA in 2017-2018 (billion UAH)¹¹⁰

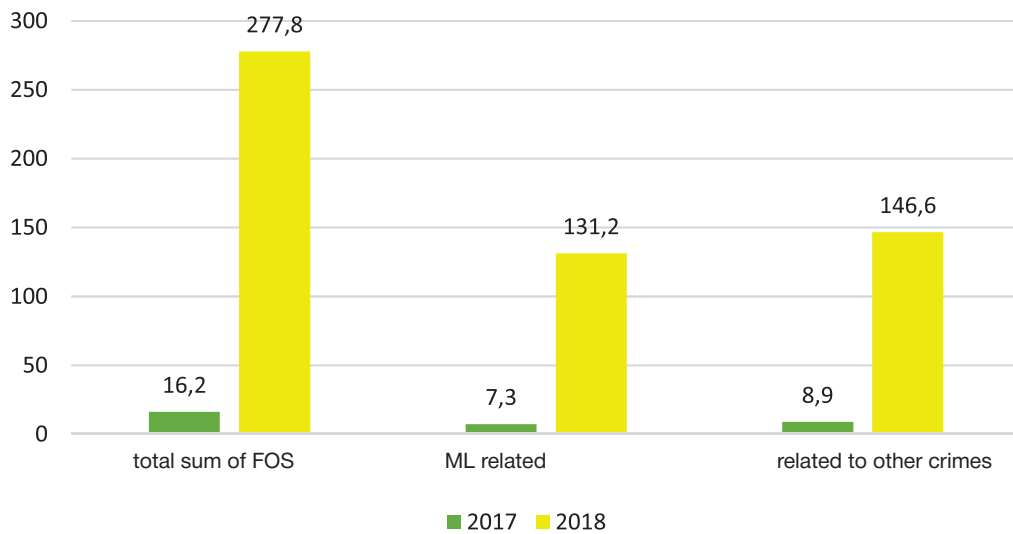


Fig. 1.73. The amount of money suspected of being involved in corruption-related crimes identified in transferred CR/ACRs in 2017-2018 (UAH billion)

At the same time, the amount of suspected corruption crimes identified in materials submitted to NABU in 2018 (UAH 276.2 billion) increased almost 75.3 times compared to 2017 (3.7 billion UAH).

The main tools for laundering corruption proceeds identified in CRs:

- bogus services;
- use of affiliates to provide pseudoservices;
- use of straw persons for the registration of controlled entities with the purpose of concealing real UBOs;
- advance payments for goods and services to controlled persons with subsequent non-delivery / non-performance;
- underestimation of the value of goods by a state-owned company while selling to intermediaries to accumulate profits;
- the conclusion of deliberately unlawful agreements on the purchase of products at prices set for social needs and their subsequent sale;
- use of enterprises with fictitious features;
- use of cash;
- “trading” in government services for issuing / processing of permits;
- use of bank accounts opened outside Ukraine;
- non-declaration of cash when crossing the border;
- customer setting tender requirements in favor of a specific participant;
- use of securities (BDSL).

¹¹⁰ Plotted according to SFMS data

The most common ways to launder corruption proceeds include:

- involvement of persons who do not have close family ties with the “corrupt” person, but at the same time are connected through different relationship (distant relatives, drivers, assistants);
- receipt of undue benefits by cash, with subsequent transfer to non-cash form;
- corruption proceeds are received in Ukraine, while subsequent “bleaching”, legalization, or giving it legal origin, happens abroad;
- repeated receipt of inheritance from persons not related by family ties;
- acquisition of property abroad;
- acquisition of corporate rights;
- pseudo-operations with BDSLs.

Results of handling of corruption related CRs

In 2017-2018 LEA reported 163 CPs¹¹¹, that used or were initiated based on SFMS corruption related referrals. Over the 2017-2018 period, the number of CPs that were initiated or used corruption related referrals has increased 1.9 times (2018 – 108; 2017 – 55).

In 2017-2018 LEA reported 83 CPs that were initiated based on referrals that were corruption related only (without Art. 210 of the CC of Ukraine).

Most often, LEA conducted pre-trial investigations, looking into CRs related the following corruption articles of the CC of Ukraine:

- 191 of the CC of Ukraine – 50;
- 364 of the CC of Ukraine – 16;
- 366 of the CC of Ukraine – 9.

Over the 2017-2018 period, LEA reported 19 CPs, initiated based on referrals related to corruption offenses and ML (Article 209 of the CC of Ukraine).

Most often, the LEA carried out pre-trial investigations in which CRs were examined under Article 191 of the CC of Ukraine.

Out of 163 CPs, 12 CPs had their pre-trial investigation stage complete in connection with the referral of an indictment to court.

In 2018, the number of pre-trial investigations completed in connection with the referral of an indictment to court decreased by 28.6% compared to 2017 (2018 – 7; 2017 – 5).

According to LEA reports received **between 2017 and 2018, the CPs initiated based on CRs resulted in arrest and seizure of assets for a total amount of UAH 382.12 million.**

In 2018 total value of assets belonging to suspects, arrested by LEA was 36 times less compared to 2017 (2018 – UAH 10.2 million, 2017 – UAH 371.92 million).

Regarding trials into CPs, it should be noted that in 2017, the SFMS received information about **1 court decision** (a guilty verdict or a decision for reasons other exoneration) in a CP initiated based on corruption and ML related referral.

Regarding the single CP that lead to a guilty verdict in 2017-2018, no additional penalties in the form of confiscation, special confiscation or other restrictions were applied by the court decision.

Gambling

Illegal gambling is one of the most dangerous crimes in the field of economic activity. Back in 2009, the VRU passed the Law “On Prohibition of Gambling Business in Ukraine”¹¹². Despite the legal ban, gambling establishments continue to operate, including illegally under the guise of Internet cafes and poker clubs (Fig. 1.74).

¹¹¹ Information on CRs, provided by LEA in previous periods.

¹¹² On Prohibition of Gambling Business in Ukraine: Law of Ukraine, May 15, 2009 No. 1334-VI: (Verkhovna Rada of Ukraine Bulletin (VRB), 2009, No.38, p.536): [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/1334-17>

1. General component

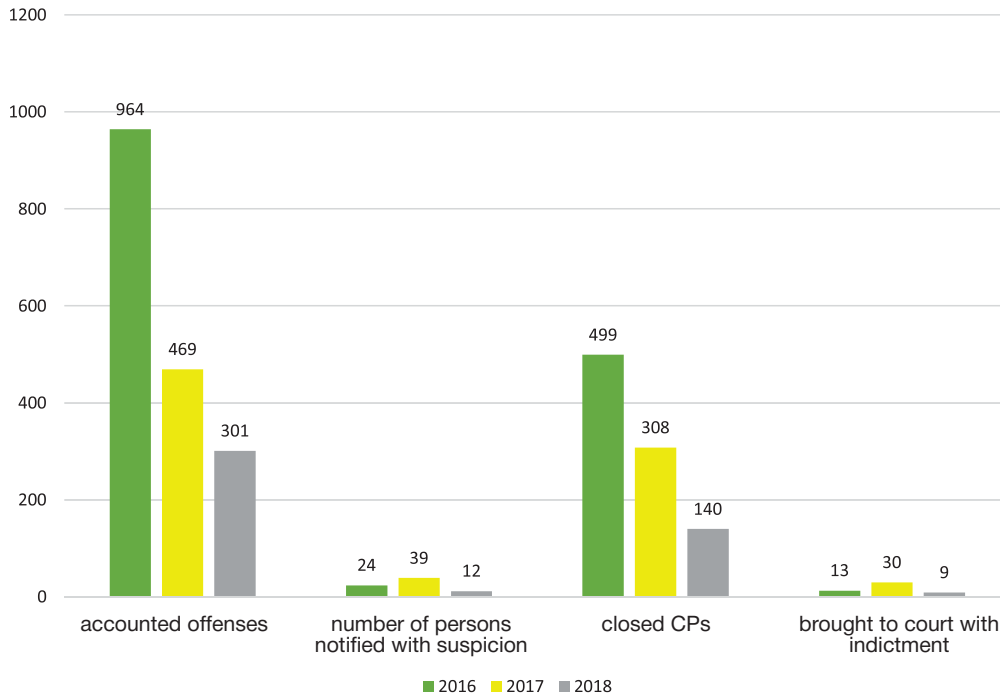


Fig. 1.74. LEA activities for detecting offenses related to the gambling business (Art. 203-2 of the CC of Ukraine)¹¹³

As a result of inquiries into in gambling offences, most often courts applied fines.

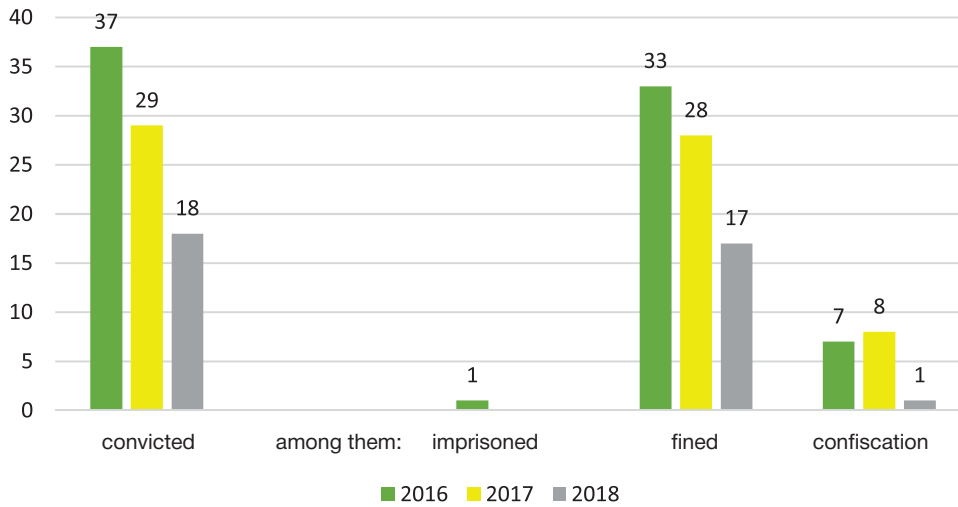


Fig. 1.75. Results of consideration by the courts of CPs related to the offense of engaging in gambling (Article 203-2 of the CC of Ukraine)¹¹⁴

Under the law, business entities that organize and conduct gambling business in Ukraine will have financial sanctions under Article 203-2 of the Criminal Code Ukraine applied to them in the amount form 10 thousand to 40 thousand NTMI and all profits from conducting such a business recovered by the state budget of Ukraine.

2016-2018 saw a decrease of the number of gambling offences.

This may be primarily due to the fact that **given the lack of clear legislation, various slot machine parlors, online casinos, bookmakers began operating under the guise of lotteries.**

113 Plotted according to the PGO reports for 2016-2018, «National report of criminal offence», [Online resource]. - Access at: https://www.gp.gov.ua/ua/stst2011.html?dir_id=113653&libid=100820

114 Court statistics: State Judicial Administration of Ukraine [Online resource]. - Access at: https://court.gov.ua/inshe/sudova_statystyka/

A cash card can be purchased at the cash desk. The player does not get any receipts. So, this is, essentially, a multibillion cash flow not under anyone's control.

Lottery organizers' finances deserve special attention. Despite the colossal spread of gambling, taxes paid by operators are decreasing.

Firstly, some operators are unable to pay taxes because of sanctions and due to the arrest of their accounts yet carry on lottery activities anyway.

Secondly, the state does not have a centralized control over distribution of lotteries. Nominal owners of industry operators are foreign-invested companies, so the money earned is easily moved offshore as dividends.¹¹⁵

Tax evasion

The set of tax evasion tools used in Ukraine is not very different from other countries. The standard set includes, in particular:

- Smuggling:
 - manipulation of the customs value of goods;
 - interrupted transit;
 - direct smuggling;
- Theft of Value Added Tax (VAT):
 - unlawful export refunds;
 - bogus entrepreneurship (missing trader) – carousel schemes in particular;
- Counterfeit;
- Moving profits to “tax havens” (“offshore”);
- Distortion of the tax base (concealment of sales volumes);
- Abuse of tax privileges and preferences;
- Unofficial entrepreneurship and individual economic activity without registration.

Yet, the Ukrainian economy is also characterized by some atypical phenomena, the existence of which is largely explained by the differences described above.

First of all, it is the whole “conversion centers” industry – in particular, the “licensed sites” where such activities take place under the auspices of LEA and tax officials. It is through this practice that a wide range of large and medium-sized enterprises, which do not have direct access to large-scale tax avoidance schemes through foreign economic transactions, are able to evade basic tax payments despite accounting.¹¹⁶

115 National addiction: why Ukraine is overrun by gambling establishments: *Economichna Pravda*, [Online resource]. - Access at: <https://www.epravda.com.ua/publications/2018/05/31/637058/>

116 Comparative analysis of the fiscal effect of using tax avoidance instruments in Ukraine, Social and Economic Transformation Institute: [Online resource]. - Access at: <http://iset-ua.org/images/Doslidjenia/Instrumentariy-uhilyannya-vid-splati-podatkov-2017.docx>

1. General component

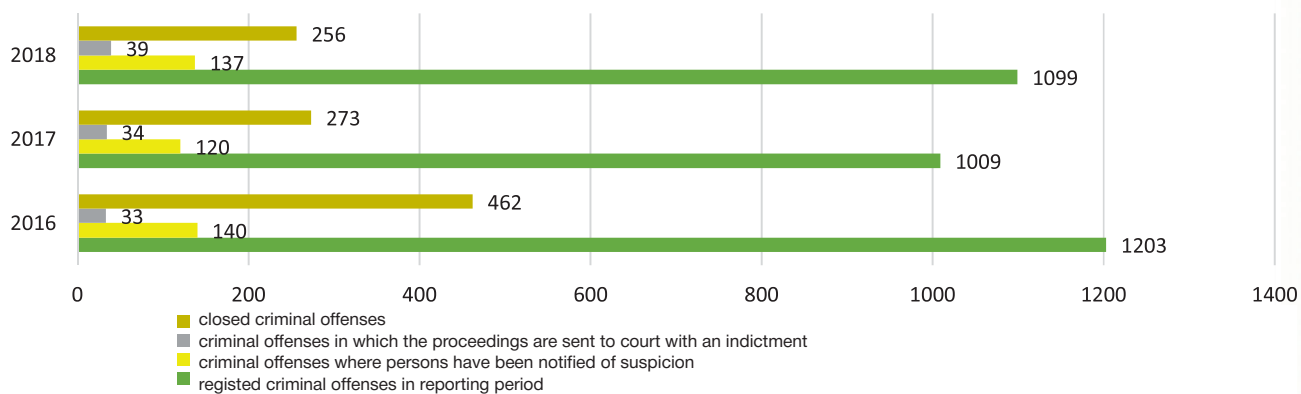


Fig. 1.76. Results of pre-trial investigations into tax evasion crimes¹¹⁷

As evidenced by data from the above figure, during 2016-2018, on average, **in only 12% of CPs among those listed in URPI and related to Art. 212 of the CC of Ukraine, were the suspects served with a charge; and in 1.8% of respective CPs was the indictment sent to court.**

Smuggling

In 2017, SFS investigators conducted pre-trial investigation into 300 cases related to possible illegal manufacture of tobacco products; 240 – in 2018.

64 CPs were sent to court in 2017 and 50 in 2018 – where persons were charged with committing a crime, provided for in Art. 204 of the CC of Ukraine concerning actions, connected with the illegal manufacture of tobacco products¹¹⁸.

A similar situation is observed with illegal manufacture of alcohol products and pharmaceuticals.

LEA constantly publish information exposing illegal activities related to **manufacture of counterfeit pharmaceutical products and their subsequent sale**. In most cases, these products are sold through the Internet.

In June 2018, the CMU, together with the Ministry of Internal Affairs, the PGO, NABU, SAPO, SFS, and SSU, developed an action plan designed to effectively combat smuggling and shadow schemes at customs. The program was named “Ukraine free of smuggling”. According to various estimates, the amount of smuggling in Ukraine has reached UAH 70-100 billion, and for some commodity items shadow imports reached 60-80%. Smuggling has become a real threat not only to the revenue side of the state budget, but also to the development of entire branches of national industry.¹¹⁹

Trafficking in human beings

In a report of the US State Department on Trafficking in human beings in 2016, Ukraine was placed in the second group as “country of origin, transit, and destination for men, women, and children experiencing forced labor and sexual exploitation”. The number of cases of trafficking in human beings and slavery in Ukraine has increased. And this is not only caused by a permanent crisis and a low standard of living, since alongside weapons and ammunition, victims and traffickers are also moving across the uncontrolled border area with Russia.

117 Plotted according to the PGO reports for 2016-2018, “National report of criminal offence”, [Online resource]. - Access at: https://www.gp.gov.ua/ua/stst2011.html?dir_id=113653&iibid=100820

118 Tobacco billions: how the black cigarette market works: [Online resource]. - Access at: <https://censor.net.ua/r3095756>

119 Head of the Government on smuggling of forests: We follow the whole chain of conspiracy, by mid- September we will prepare a report, Government portal: [Online resource]. - Access at: <https://www.kmu.gov.ua/ua/news/glava-uryadu-pro-kontrabandu-lisu-proslidkuyemo-ves-lancyug-zmovi-na-seredinu-veresnya-pidgotuyemo-zvit>

The report published in 2019¹²⁰ noted, that the Government of Ukraine has not fully achieved the minimum standards in terms of combatting trafficking in human beings but is making significant efforts to do so.

At the same time, the report has a positive outlook of changes to the Law of Ukraine “On Combatting Trafficking in Human Beings”¹²¹; increased funding for implementation of the national action plan; investigations into growing number of forced labor cases; improved training of officials.

At the same time, there is a need to take the right steps in several key areas, in particular, the appropriate punishment of convicted traffickers in human beings; the definition of the administrative chain of custody; intensive investigation of crimes in this area. In addition, there is a need to increase the level of training of LEA, prosecutors and judges, strengthen safeguards for witness protection and the like.

In 2018 NPU Counter Human Trafficking unit exposed 21 (15 in 2017) organized group, launched 276 CPs under article 149 (Trafficking in Human Beings) of the CC of Ukraine. 109 people were served charges. 223 persons (135 women, 60 men and 28 children) were recognized as victims in corresponding CPs.

Among successful operations – the dismantling of an organized group, which recruited more than 250 Ukrainian seamen for smuggling illegal immigrants from Turkey to EU.

Another successful operation was carried out in the Odessa region. It resulted in the release of 92 people who were forcibly detained and forced to work for free.¹²²

Terrorism and its most common sources of financing

Between 01.01.2014 and 31.12.2018, the SFMS made 321 referrals to LEA / RA regarding FTs, potentially related to terrorism or conducted by individuals making public calls for violent change or overthrow of the constitutional order or change of the territory or the state border of Ukraine.

Table 1.7

Analysis of FT related SFMS CR/ACRs¹²³

Period	Submitted to LEA regarding terrorism/separatism and its financing	including those involving NPOs				Number of NPOs
		number of referrals	including			
			domestic	international		
1	2	3	4	5	6	
2014	73	6	6	0	36	
2015	48	7	7	0	35	
2016	31	2	2	0	4	
2017	69	4	4	0	5	
2018	100	11	11	0	18	
2014-2018	321	30	30	0	98	

120 2019 Trafficking in Persons Report: [Online resource]. - Access at: <https://www.state.gov/wp-content/uploads/2019/06/2019-TIP-Report-Narratives-T-ZSpecial-Case.pdf>

121 “On Combatting Trafficking in Human Beings” Law of Ukraine, December 09, 2015 №3739. [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/3739-17>

122 Report of the Head of the National Police of Ukraine S.Knyazev on the results of the 2018, National Police website: [Online resource]. - Access at: <https://www.npu.gov.ua/activity/zviti/richni-zviti/>

123 Plotted according to SFMS data

1. General component

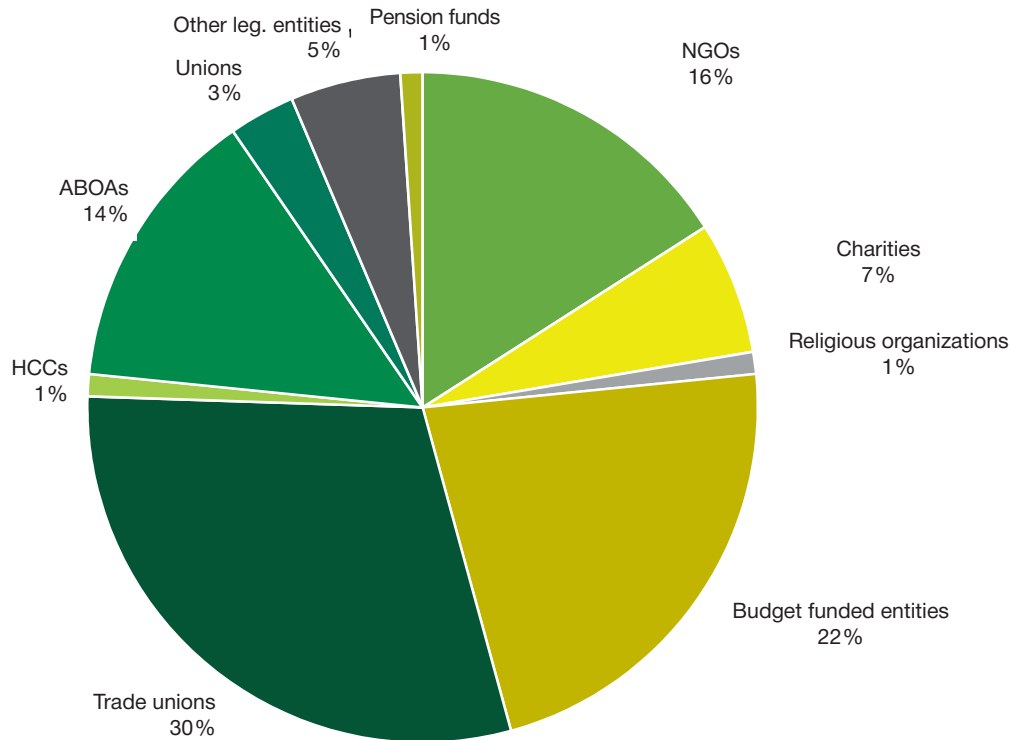


Fig. 1.77. Types of NPOs involved in FTs related to terrorism/separatism and its financing in SFMS referrals to LEA made over the 2014-2018 period¹²⁴

In 2013-2018, LEA reported launching of 83 terrorism related CPs based on the SFMS CRs.

Table 1.8

CPs initiated based on inquiry into SFMS CRs

Article number	Title of the article of the CC of Ukraine	Period						Total
		2013	2014	2015	2016	2017	2018	
1	2	3	4	5	6	7	8	9
258	Terrorist act	0	0	1	0	0	0	1
258-1	Engaging in a terrorist act	0	0	0	0	1	0	1
258-2	Public calls for an act of terrorism	0	0	1	0	0	0	1
258-3	Setting up a terrorist group or terrorist organization	1	2	4	5	1	3	16
258-5	Financing terrorism	3	11	21	11	9	9	64
Total		4	13	27	16	11	12	83

124 Plotted according to SFMS data

Table 1.9
Information on the arrest / seizure of property (funds) of terrorism suspects¹²⁵

№	Provision of confiscation	Period						Total UAH
		2013	2014	2015	2016	2017	2018	
1	Arrest (UAH million)	0	UAH 102.55 million; USD 0.36 million; RUB 405.55 million	UAH 77.53 million	UAH 237.02 million	0	0	UAH 537.49 million
2	Seizure (UAH million)	0	UAH 1.0 million	0	0	0	0	UAH 1.0 million
Total		0	UAH 103.55 million; USD 0.36 million; RUB 405.55 million	UAH 77.53 million	UAH 237.02 million	0	0	UAH 538.49 million

* The average US dollar exchange rate for the hryvnia in 2014 is \$ 15.6 per \$ 1.
The average exchange rate of the ruble grew to UAH in 2014 - 2.83 for 10 rubles.

In 2018, the SSU prevented 8 terrorist attacks, 5 of which were cleared. In total, in 2016-2018, 28 acts of terror were prevented.¹²⁶



Fig. 1.78. Terrorism and terrorism financing related CPs initiated and sent to court by the SSU in 2016-2018.¹²⁷

125 Plotted according to SFMS data

126 Security Service of Ukraine: Figure of the Day: [Online resource]. - Access at: <https://ssu.gov.ua/ua/news/1/category/2/view/5512#.7DQB33MP.dpbs>

127 According to the Security Service of Ukraine

1.5. New technology

Advances in communications technology, freedom of movement and other effects of globalization are improving the availability of global financial and business centers for all segments of the population. Today, there is much greater access to information and communication technologies that are becoming easier to use and do not require special skills. The ever-expanding market for transnational services is forcing large firms to expand in their pursuit of greater opportunities. This has led to the fact that over the last few years, financial transactions and business relationships have become much more digitalized, creating a customer expectation of constant access to financial products and services.

Financial products and services and identification

When considering the use of innovative solutions in the process of customer identification and verification, the focus is on better customer service and cost reduction. Therefore, many of the innovative solutions currently in use contain features that meet this demand and can be grouped into two broad categories:

First, there are innovative solutions that often involve remote verification of a customer's identity based on traditional identification documents (e.g., passport, driver's license) through various portable devices such as smartphones.¹²⁸ However, such innovative solutions may present a risk in the Ukrainian market, since when generating an electronic-digital signature, obtained after verification of the documents sent, it is attached to a specific telephone number, which makes it possible to be obtained by criminals with illegal purpose.

Secondly, there are innovative solutions that allow verification of the client's identity through other means, e.g. central repository of identification documents (often referred to as "KYC utilities"). These repositories are typically created as a joint venture or cooperative of multiple reporting entities or based on the outsourcing agreement of multiple reporting entities and an external vendor. These repositories are aimed at optimizing the collection and exchange of data and documentation of customer due diligence (CDD) between the reporting entities involved and their clients, thus avoiding requiring a client to present the same information repeatedly. Thus, the NBU introduced the possibility to open bank accounts remotely using Bank ID system. To do this, the client of the bank only needs to be authenticated once by one of the participating banks, after which the banking services will become available on websites of other financial institutions connected to the BankID¹²⁹.

Today, banks offer a fairly wide range of services using remote service technologies. One of the most common services is internet banking and mobile banking, providing multiple benefits to account holders, such as transfer control, account statements, remote account and deposit opening, multiple required payments, etc. Today, the vast majority of banks have their own internet banking.

128 European Supervisory Authorities (ESAs) - Opinion on the use of innovative solutions by credit and financial institutions in the due diligence process. [Online resource]. - Access at: [https://esas-joint-committee.europa.eu/Publications/Opinions/Opinion%20on%20the%20use%20of%20innovative%20solutions%20by%20credit%20and%20financial%20institutions%20\(JC-2017-81\).pdf](https://esas-joint-committee.europa.eu/Publications/Opinions/Opinion%20on%20the%20use%20of%20innovative%20solutions%20by%20credit%20and%20financial%20institutions%20(JC-2017-81).pdf)

129 Financial Stability Report, December 2018: National Bank of Ukraine [Online resource]. - Access at: <https://bank.gov.ua/doccatalog/document?id=83816603>

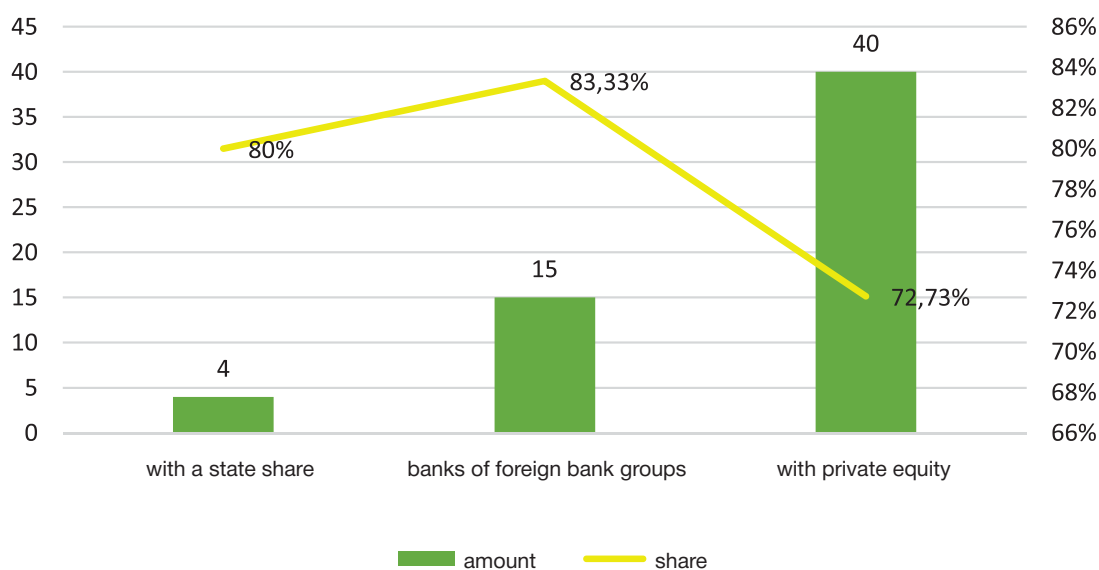


Fig. 1.79. Implementation of Internet banking by Ukrainian banks as of March 2019

However, despite the significant benefits of these remote services, they may carry significant risks of being used for money laundering and terrorist financing purposes, especially in the light of remote identification capabilities. In addition to the usual hacking of a personal account, there is a risk of deliberate use of Internet banking capabilities, since it does not require the personal presence a bank branch, a client, after conducting identification and opening a bank account together with a personal internet banking account, can transfer the credentials to criminals who will then use the account for their own purposes. First and foremost, we are talking about financing of terrorism or organized crime groups, since their financing does not require a large amount of money, making such operations more difficult to track.

Remote banking services are also increasingly being targeted by cybercriminals and one of the main criteria for increasing the risk in this area is the complexity of identifying those who use such services. Cybercrime threats are becoming more powerful with the development of social and economic activity in cyberspace and global interconnectedness.

Electronic money

Electronic money products are a means of payment that can generate significant amounts of cash flow in a fast and anonymous way. This makes the use of electronic money attractive to terrorist and criminal organizations, as it makes it easy to move funds anonymously (especially by using prepaid cards instead of large amounts of cash). Although cash is still the preferred financing option, e-money pre-paid cards can be considered by criminals as a safer option for discrete payments.

A key feature of e-money is their prepaid nature. This means that money, which would be electronic money, must be credited to the account, card or device. In recent years, there has been a significant increase in the amount of e-money issued, in contrast to the volume of transactions, which remains approximately the same.

130

130 Plotted according to the data of the NBU from the official website of the NBU.

1. General component

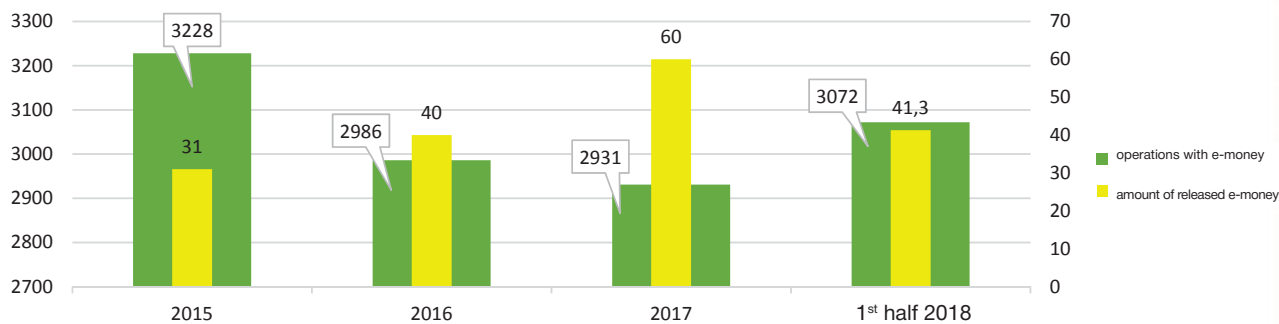


Fig. 1.80. Operations of banks with electronic money, UAH million

Anonymous nature of e-money drives the interest of criminal organizations and the sector’s exposure to ML/FT risks. However, the restrictions imposed by the electronic money regulations do not allow the accumulation of too large amounts of funds, which reduces the risk of their use for illegal purposes.

Virtual Assets

Virtual assets (digital currencies, cryptocurrencies) are a relatively new market that has been growing rapidly in the last 10 years both in terms of the amount of virtual assets and the volume of funds attracted through their issue and gaining significance for the world economy.

In October 2018, concepts of “virtual asset” (VA) and “virtual asset service provider” (VASP) were defined in FATF Recommendations¹³¹.

Thus, a virtual asset is defined as a digital representation of the value, which can be traded in a digital format or transferred, and which can be used for payment or investment purposes.

In turn, a virtual asset service provider is any natural or legal person who, as a business entity, conducts one or more of the following activities or transactions for or on behalf of another natural or legal person:

- exchange between virtual assets and fiat currencies;
- exchange between one or more forms of virtual assets;
- transfer of virtual assets;
- storage and / or administration of virtual assets or tools that allow one to control virtual assets; and
- participation and provision of financial services related to the issuer’s offer and / or sale of virtual assets.

In addition, participants in virtual assets relationships include groups such as virtual asset users and miners¹³². Considering the developed domestic IT sphere; an unstable economy and conflict with Russia; lack of investment instruments; large shadow sector and society’s tolerance for corruption, Ukraine is among the world leaders in the virtual currency market, in particular, in terms of capital invested in cryptocurrency in relation to GDP¹³³.

It should be noted that it is quite difficult to determine the volume of transactions with virtual assets both globally and in Ukraine, given the lack of official data and the high volatility of the value of virtual currencies. The exact number of users of virtual assets is also impossible to determine, however, according to individual studies, in 2017, Ukraine ranked among the top 10 countries in the number of users of virtual currencies¹³⁴.

According to expert estimates:

- daily trading volume of virtual currency / hryvnia pairs on three major exchanges (Kuna, Exmo and BTC TRADE UA) amounts to about USD 2 million;
- the size of the mining segment in Ukraine reaches USD 100 million or more per year;
- the value of about 25 ICOs conducted by companies that have Ukrainian origin or employ Ukrainian development teams in 2017-2018 amounted to about USD 100 million.

131 FATF Recommendations, 2012 (updated): [Online resource]. - Access at: http://www.sdfm.gov.ua/content/file/Site_docs/2018/20181221/BOOK/FATF%20Recommendations_UKR_17_12_2018.pdf

132 Green Paper “Regulation of the Cryptocurrency Market”, Office of Effective Regulation, 2018: [Online resource]. - Access at: <https://regulation.gov.ua/book/91-zelena-kniga-reguluvanna-rinku-kriptoalut>

133 Cryptocurrencies in Ukraine: technology, market, regulation, USAID, 2018: [Online resource]. - Access at: <https://zakon.help/article/kriptovalyuta-v-ukraini-tehnologiya-kriptoaluti>

134 Green Paper “Regulation of the Cryptocurrency Market”, Office of Effective Regulation, 2018, [Online resource]. - Access at: <https://regulation.gov.ua/book/91-zelena-kniga-reguluvanna-rinku-kriptoalut>

In addition, the volume of virtual currencies owned by residents of Ukraine is estimated at several billion US dollars¹³⁵.

However, the legislation of Ukraine does not regulate relations in the market of virtual assets (definition of virtual assets and other related concepts, requirements for transactions with virtual assets, including conversion to fiat currencies, other currency valuables, and in the opposite direction, their use for the purpose of making payments / settlements, no appropriate authorization procedures have been defined), whereby virtual assets are not regarded as currency valuables and are outside the legal field in Ukraine. Accordingly, virtual asset service providers, including virtual asset exchange service providers and purse operators operating in Ukraine, are not recognized as REs.

New technologies, products including virtual assets and related services will bolster the spread of innovation, efficiency and financial inclusion, but also create opportunities for criminals and terrorists to launder criminal proceeds and fund their activities.

Due to the lack of regulation of the virtual assets market in Ukraine, no cases of irregularities in the AML/CFT sphere have been detected on part of the virtual assets market participants, yet such cases have indeed occurred in other countries¹³⁶.

However, based on FATF experts' analysis, there are several characteristics of virtual assets that make them vulnerable to ML/FT use¹³⁷:

- anonymity of relationships and transactions (in particular, failure to identify and verify customers, lack of verification of sources of origin of funds invested in the acquisition of virtual assets, anonymous transfers, lack of centralized databases that store information about operations with virtual assets);
- large number of market participants and different business models and technologies used by participants, frequency, speed of transactions and their large volumes, and as a consequence – segmentation of transactions with virtual assets, which makes it virtually impossible to track such transactions, cash flows and their participants; moreover, the various components of virtual assets systems may be located in different states, particularly in high-risk jurisdictions;
- lack of proper regulation and adequate supervision and control over the virtual assets market, in particular in the field of financial monitoring (each state separately determines what virtual assets are in accordance with its legislation, how transactions are regulated and taxed; at international level, however, only general principles and approaches have been defined) that make virtual assets attractive for the laundering of criminal proceeds, drug trafficking, terrorist financing.

Thus, virtual assets, and crypto currencies in particular, as means of transfer of funds, have a high potential for ML/FT abuse.

The main solution is to eliminate legal uncertainty regarding virtual assets¹³⁸. In particular, according to the Association Agreement between Ukraine and the EU, Ukraine is required to implement the Fifth EU Money Laundering Directive, which recognizes custody purse operators and exchange services operators as reporting entities¹³⁹. Pursuant to the FATF Recommendations updated in October 2018, virtual asset service providers should be designated as REs: countries should ensure that virtual asset service providers are subject to permitting procedures (licensing or registration) and regulation for the purposes of AML/CFT, and the implementation of measures provided for in the FATF Recommendations¹⁴⁰.

135 Green Paper “Regulation of the Cryptocurrency Market”, Office of Effective Regulation, 2018: [Online resource]. - Access at: <https://regulation.gov.ua/book/91-zelena-kniga-reguluvanna-rinku-kriptoalut>

136 FATF (2014) Virtual Currencies: Key Definitions and Potential AML/CFT Risks: [Online resource]. - Access at: <https://www.fatf-gafi.org/publications/methodsandtrends/documents/virtual-currency-definitions-aml-cft-risk.html>

137 FATF (2014) Virtual Currencies: Key Definitions and Potential AML/CFT Risks: [Online resource]. - Access at: <https://www.fatf-gafi.org/publications/methodsandtrends/documents/virtual-currency-definitions-aml-cft-risk.html>; FATF (2019) Guidance for a Risk-Based Approach to Virtual Assets and Virtual Asset Service Providers (<https://www.fatf-gafi.org/publications/fatfrecommendations/documents/guidance-rba-virtual-assets.html>)

138 Draft order of the Cabinet of Ministers of Ukraine “On Approval of the Concept of state policy in the field of virtual assets” of October 25, 2018: [Online resource]. - Access at: <http://me.gov.ua/Documents/Detail?lang=uk-UA&id=dbfc2a7e-47f9-4fce-9110-66ed61c0ae17&title=ProektRozporiadzhenniaKabinetuMinistrivUkrainiproSkhvalenniaKontseptsiiDerzhavnoiPolitikiUSferiVirtuaInikhAktiviv>

139 DIRECTIVE (EU) 2018/843 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of May 30, 2018: [Online resource]. - Access at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018L0843>

140 FATF Recommendations, 2012 (amended): [Online resource]. - Access at: http://www.sdfm.gov.ua/content/file/Site_docs/2018/20181221/BOOK/FATF%20Recommendations_UKR_17_12_2018.pdf

1. General component

According to preliminary estimates, due to the adoption of relevant legislation on virtual assets in Ukraine, the potential number of REs will range from eight to ten entities: about six online exchange sites, and two crypto exchanges – BTC Trade UA and Kuna.¹⁴¹

Security technologies

Innovation is not limited to new financial products and services. It also includes the development of new solutions to solve specific compliance challenges, such as customer due diligence (CDD), a key AML/CFT component.

When innovative solutions are designed to monitor business relationships and transactions, they often replace or supplement traditional transaction monitoring (based on pre-set rules, thresholds and templates and can generate a large number of potential hits) with a more traceable, AI based approach, often involving algorithms that process large amounts of data from multiple sources and languages. If implemented properly, these innovations can potentially enable organizations to:

- evaluate business-related risks on an ongoing basis by verifying large amounts of data and information from various internal sources (e.g., steady client data, account information, transaction history) and external sources (e.g., PEP registers, registers of companies and beneficial owners, online news and publications), including sources in different languages and by supplementing these data with IP location and device information during remote identification;
- complement the existing monitoring process, making it more automated and thus allowing firm staff to focus on relevant information analysis;
- optimize decision making practices by getting regular warnings about possible suspicious transactions or changes in the client risk status (e.g., a new post for PEP or allegations of corruption);
- minimize false warnings.¹⁴²

In order to adapt to current technological developments, further analysis is needed to identify which risky products may emerge in this fast-growing sector and the latest technologies need to be utilized to improve AML/CFT efforts.

141 Cryptocurrencies in Ukraine: technology, market, regulation, USAID, 2018: [Online resource]. - Access at: (<https://zakon.help/article/kriptovalyuta-v-ukraini-tehnologiya-kriptovalyuti>)

142 European Supervisory Authorities (ESAs) - Opinion on the use of innovative solutions by credit and financial institutions in the process of customer due diligence. [Online resource]. - Access at: [https://esas-joint-committee.europa.eu/Publications/Opinions/Opinion%20on%20the%20use%20of%20innovative%20solutions%20by%20credit%20and%20financial%20institutions%20\(JC-2017-81\).pdf](https://esas-joint-committee.europa.eu/Publications/Opinions/Opinion%20on%20the%20use%20of%20innovative%20solutions%20by%20credit%20and%20financial%20institutions%20(JC-2017-81).pdf)

2. GOVERNMENT COMPONENT

2.1. Financial intelligence unit

General information

According to the Law of Ukraine “On Ratification of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and on the Financing of Terrorism”, an agency authorized by Ukraine to perform the functions of the FIU is the SFMS.

According to the law, SFMS is the central executive authority that implements the state policy in the AML/CFT system and is a key element of this system.

The SFMS activities are directed and coordinated by the CMU through the Minister of Finance of Ukraine.

SFMS is slotted for 237 personnel. As of January 1, 2019, there are 213 civil servants currently employed in SFMS.

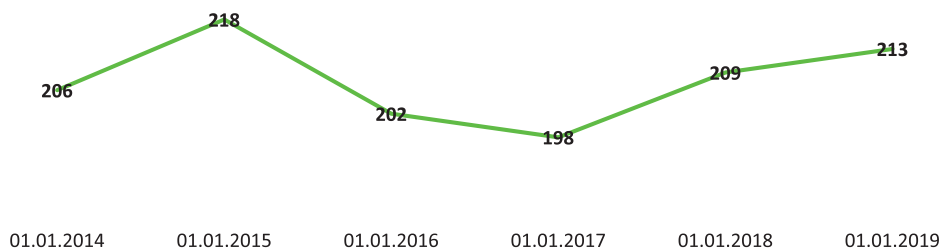


Fig. 2.1. Dynamics of actual number of SFMS employees in 2014-2019

SFMS is funded from the state budget within the limits of budget allocations approved by the Law of Ukraine “On the State Budget of Ukraine”.

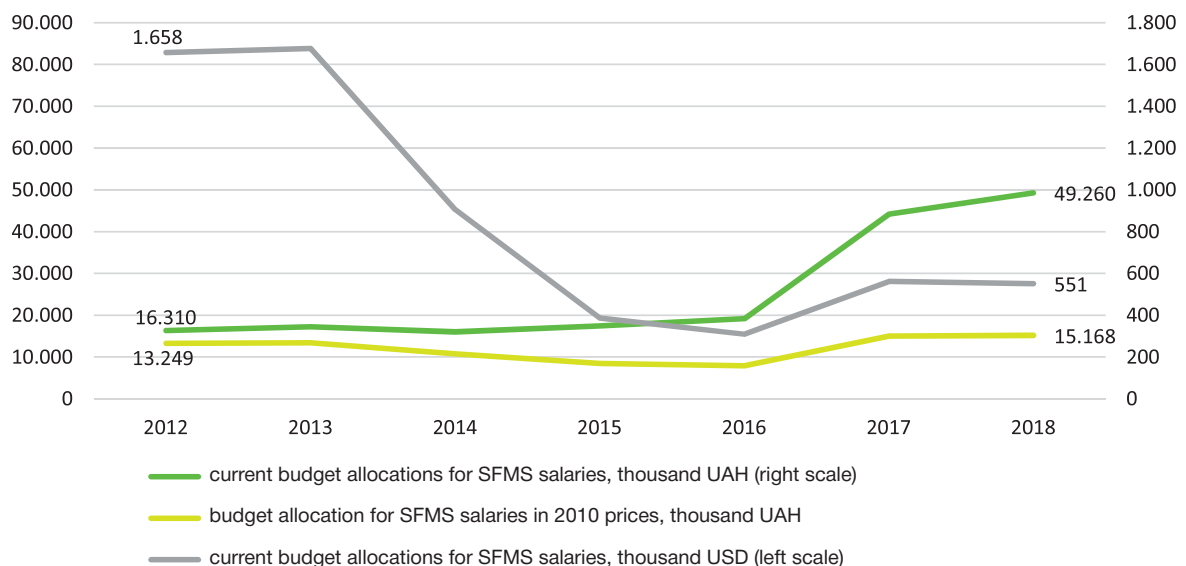


Fig. 2.2. The size of SFMS wage budget allocations.

In order to reduce the risk of “low salaries of FIU personnel”¹⁴³, The Government has implemented a number of measures aimed at increasing the wage and benefits budgetary allocations for SFMS by 77.1 % in 2017 compared to 2016 and by 13% in 2018 compared to 2017. However, in 2010 prices, the corresponding allocations increased by 88% in 2017 compared to 2016 and only by 3% in 2018 compared to 2017.

In accordance with the basic tasks defined by the Law, SFMS ensures the functioning and development of the FMIS.

To ensure the prompt collection, efficient processing and comprehensive analysis of the FT related information, detection of attempts to conceal illegal income and the legalization mechanism, in 2018, the AML/CFT continued upgrading the FMIS, with the purpose of introducing modern secured information technologies in this field.

In 2018, the pilot run of the FMIS hardware and software suite (FMIS HSS) updated at the end of 2017 confirmed high performance and reliability of implemented solutions.

2018 also saw a pilot implementation of the modernized comprehensive information protection system (FMIS IPS) outlining administration, maintenance, support and revision arrangements for the system. The state performance evaluation of the updated FMIS IPS conducted in 2018, confirmed its compliance with national standards in the field of technical and cryptographic information security.

The first stage of the modernization of the FMIS, in addition to improving the technical capacity of the FMIS, the protection of the information resources of the FMIS, also ensured the improvement of the functional capacity of the SFMS units.

During the pilot run, relevant applied software was migrated to new hardware platforms, improving the capability for analytical processing of information. In particular, the analytical reporting system has been improved, the possibilities of using information about legal entities and individuals to identify masked relationships have been expanded, volume of information to perform simultaneous operational analysis on has been increased.

At the same time, in 2018, the second phase of the modernization of the FMIS began, aimed at improving its functionality.

Thus, the 2018 saw the beginning of modernization of the SFMS web portal as a modern secure information interaction and exchange platform designed for the national AML/CFT system. SFMS has outlined technical requirements for updating the SFMS official web site and development of electronic accounts (e-accounts) for AML/CFT users.

With the support of the EUACI project, work was started on updating the SFMS official web site in the reporting year.

The creation of E-accounts will complete the transition to electronic information exchange within the AML/CFT system. It will also help optimize the submission of information by REs, as well as the ability to get other relevant information, decisions, certificates, receipts and other documents electronically.

The creation of E-accounts is also aimed at improving SFMEs activities in supervision of reporting entities enabling SFMEs to digitally monitor the status and activity of such entities.

The E-account also provides some LEA functionality, especially for initiating the exchange of requests, information in electronic form, including from NABU, NPU, SSU, PGO regarding financial monitoring and investigations.

Considering that the volume of information received by SFMS from REs has increased significantly (5-6 times compared to 2014), the SFMS is currently attempting to improve its data storage, processing and analysis system. In particular, the SFMS started work on optimizing its FMIS central data storage system and RE pre-analytical information processing system.

Modernization of the FMIS will ensure stable and reliable operation, while:

- optimizing FMIS HSS, increasing its productivity and ensuring uninterrupted FMIS operation;
- improving information protection;
- improving collection and processing of information;
- improving automated information analysis tools.

According to the Law, one of the tasks of SFMS as a Specially Authorized Body is to collect, process, and analyze (operationally and strategically) data related to FTs, subject to financial monitoring, other FTs, as well as information that may be related to suspected ML/FT. The data comes primarily from RE clients' suspicious transaction reports.

¹⁴³ Risk was identified in the first National Risk Assessment conducted in 2016

Since the beginning of operation of the information analysis system, SFMS received and processed data on **39,614,852 FTs**, subject to financial monitoring, of which about **24,303,068 FTs, or 61.3%** were reported in 2016-2018.

Fig. 2.3. shows the dynamics of the total number of FT reports submitted to SFMS by all reporting entities over the 2003-2018 period.

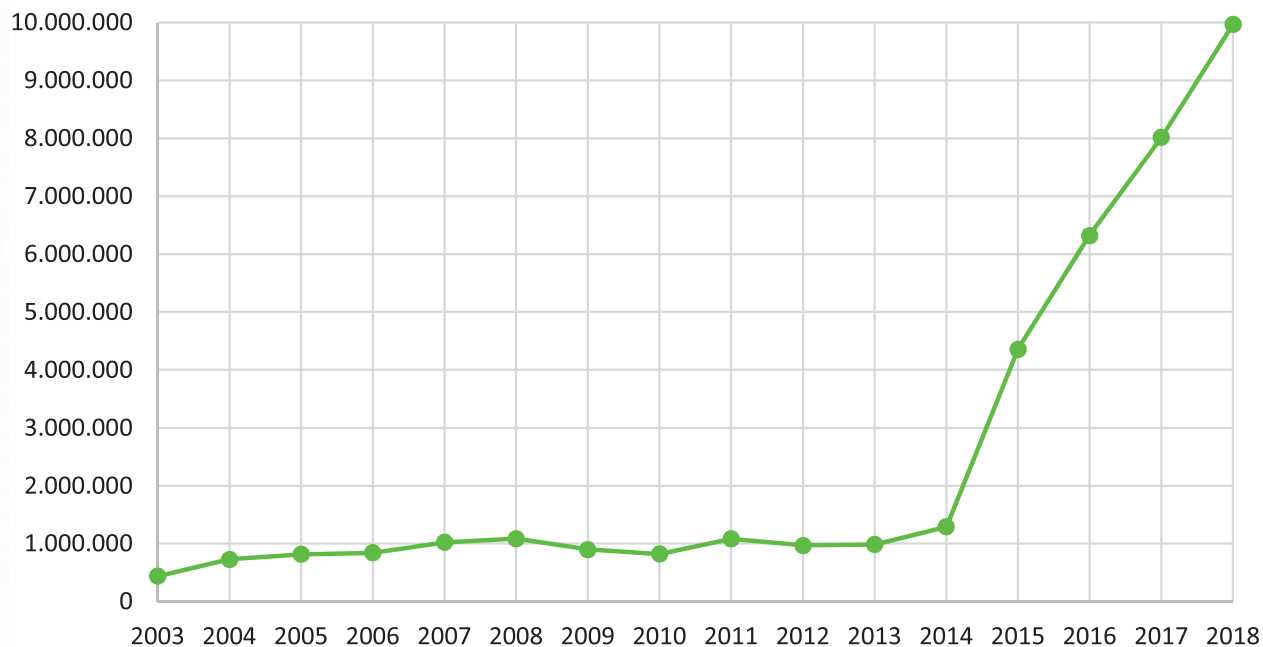


Fig. 2.3. Information FT reports received by SFMS¹⁴⁴

It should be noted that **over 2003-2018**, in annual terms, reporting entities submitted an average of **2,475,928 FT reports**, while over the analyzed period (2016-2018), the annual average of reports received from REs has increased significantly (three times), up to **8,101,023**.

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2. Government component

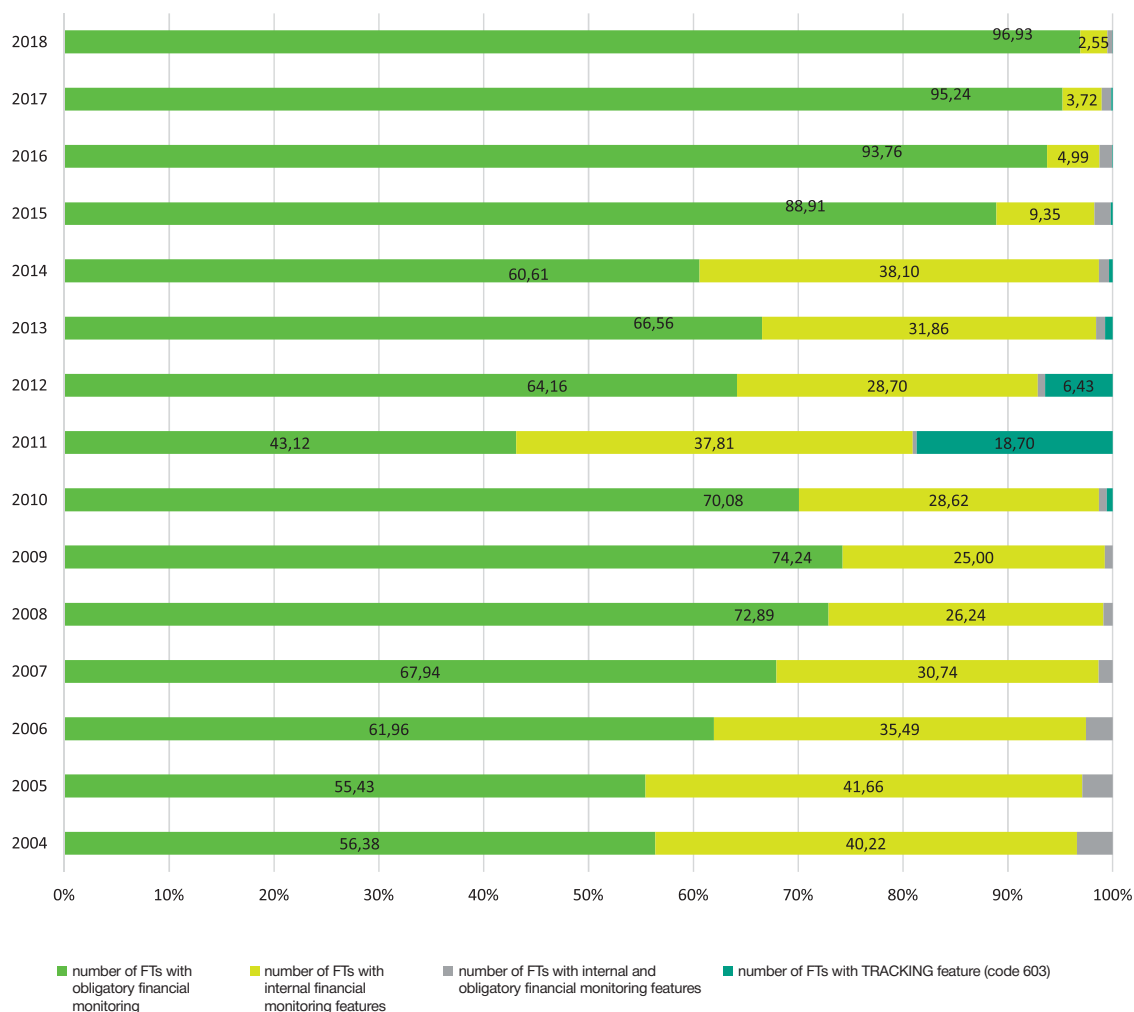


Fig. 2.4. Information on FTs received by SFMS over the 2004-2018 period

Next figure presents regional distribution of FT reports.

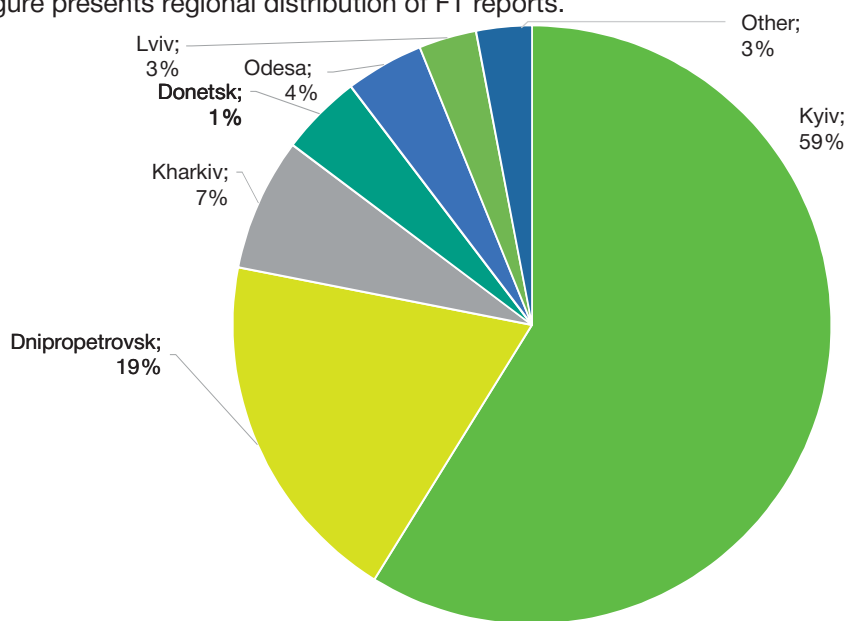


Fig. 2.5. Regional distribution of FT reports subject to financial monitoring in 2016-2018¹⁴⁵

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In 2016-2018 the largest share of FT reports received by SFMS came from Res in the city of Kyiv, as well as Dnipropetrovsk, Kharkiv and Donetsk regions.

However, the largest proportion of FTs for which REs had reasonable suspicions (a sign of internal financial monitoring) in 2016-2018, was received by SFMS from REs in the city of Kyiv, Odesa, L'viv and Kharkiv regions (see. Fig. 2.6).

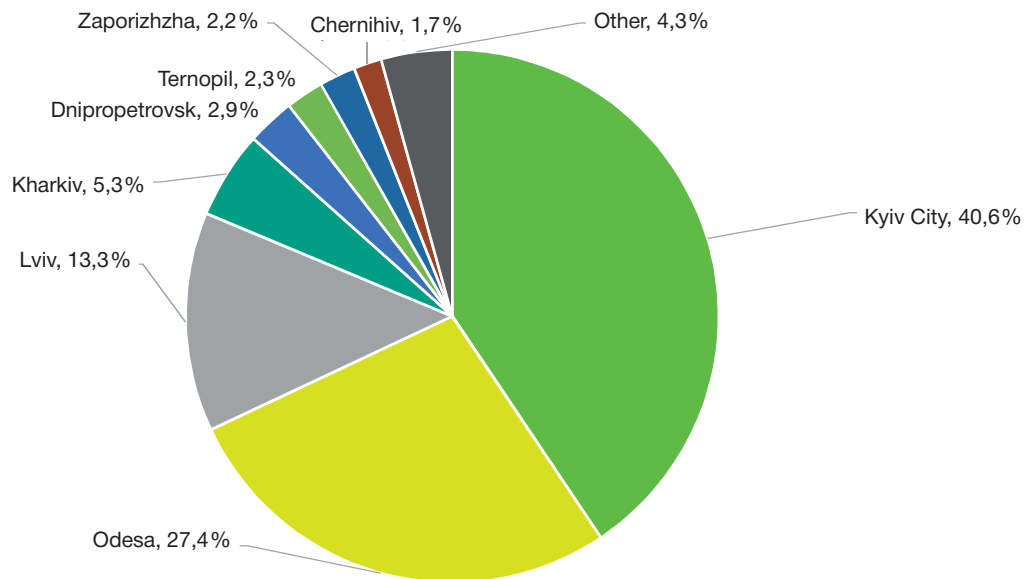


Fig. 2.6. Regional distribution of FTs with signs of internal financial monitoring received by SFMS in 2016-2018¹⁴⁶

Fig. 2.7 presents the dynamics of RE reports to SFMS containing OFM and IFM characteristics respectively:

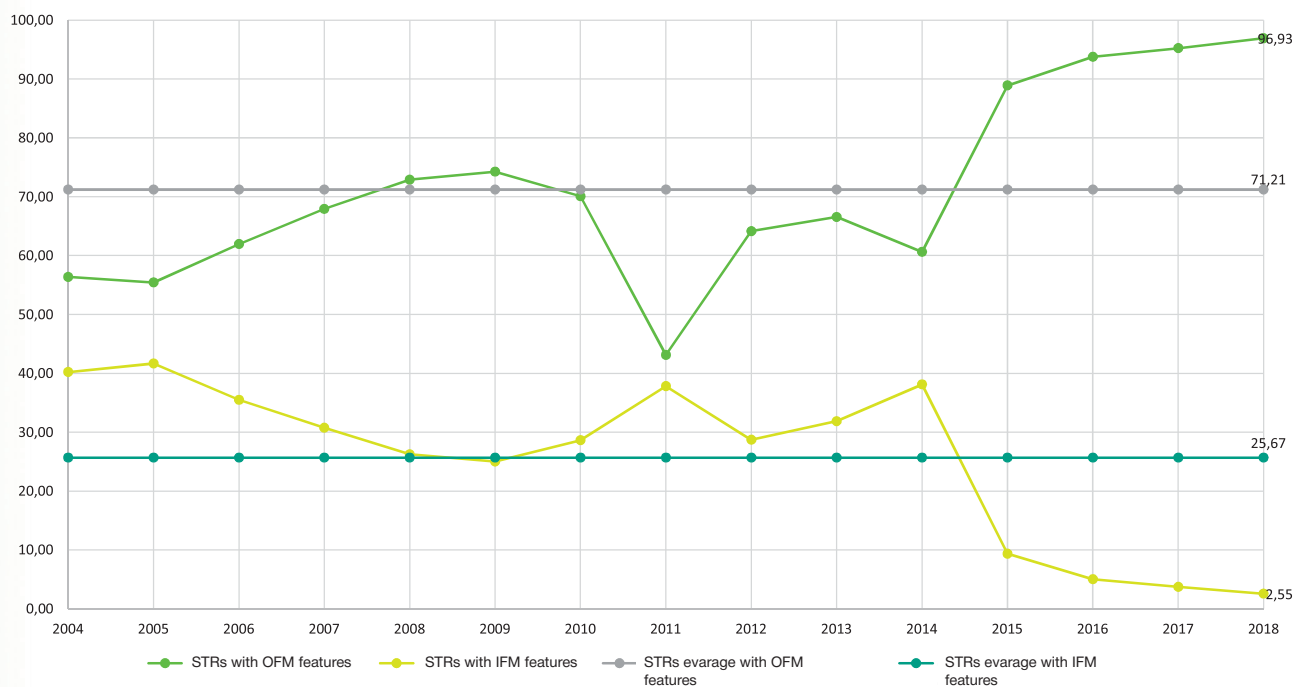


Fig. 2.7. Dynamics of FT reports with OFM and IFM features received by SFMS in 2013-2018¹⁴⁷

In 2016-2018, the RE reports submitted to the SFMS contained signs of OFM related to cash payments, PEPs and other clients, considered high risk by SFMS.

146 Plotted according to SFMS data

147 Plotted according to SFMS data

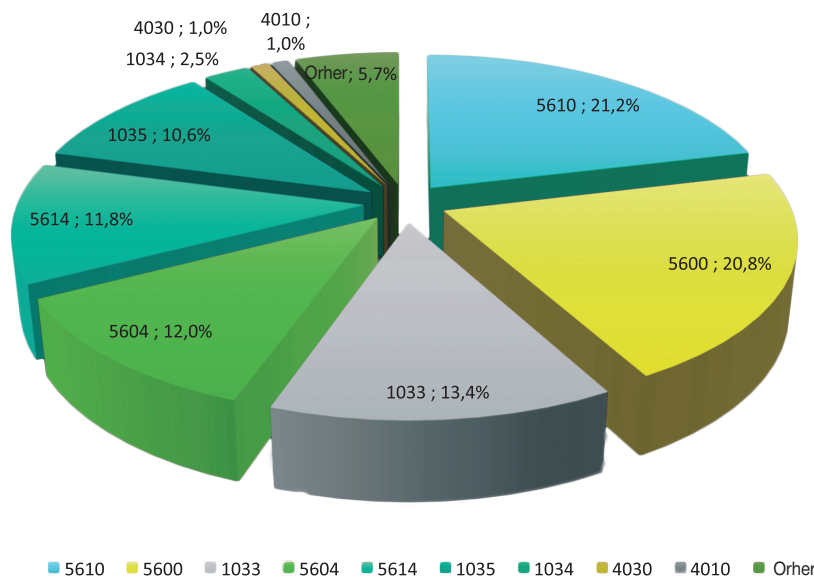


Fig. 2.8. Distribution of over-the-threshold FTs reported to SFMS in 2016-2018, by feature code¹⁴⁸

Code	The name of the code
5610	Transfer of funds to persons deemed high risk
5600	Receipt of funds from persons deemed high risk
1033	Deposit of cash for transfer into the account of the initiator
5604	Obtaining funds from persons associated with national PEPs
5614	Transfer of funds to persons associated with national PEPs
1035	Withdrawal of cash
1034	Cash transfers (without opening an account and / or without using an initiator account)
4030	Withdrawal of funds from the current account of a legal entity, whose operations period does not exceed three months from the date of registration
4010	Transfer of funds to the current account of a legal entity, whose operations period does not exceed three months from the date of registration

The largest share of FTs suspected by REs of ML/FT (IFM feature) and reported to SFMS in 2016-2018 is related to receiving or providing financial assistance to non-residents, cash transactions, services that do not have a constant market value, avoidance of mandatory financial monitoring procedures, inconsistency of FT sums with the client’s financial condition.

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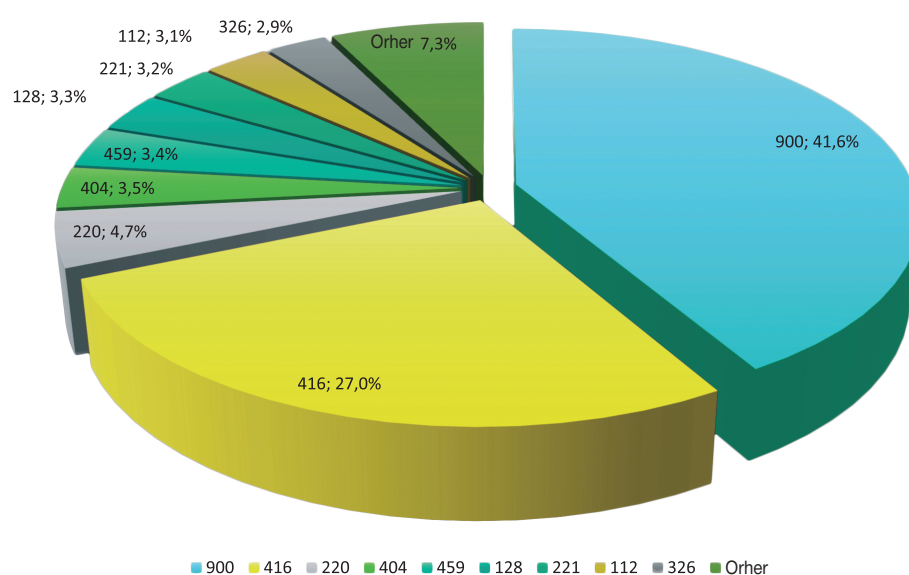


Fig. 2.9. Distribution of suspicious FTs reported to SFMS in 2016-2018, by feature code ¹⁴⁹

Code	The name of the code
900	Other FTs for which RE has reason to believe that the FT is carried out with ML/FT
416	Repeated receipt or provision of financial assistance, including from non-residents, or provision of financial assistance to non-residents
220	Repeated transfers to the client’s account with subsequent withdrawal in cash by the client and / or their authorized representative
404	Conducting large-scale purchase and sale FTs (payment for services), whose value is difficult or impossible to determine (e.g. intellectual property; some non-fixed market services, consulting, legal, auditing, etc.)
459	Carrying out a purchase / sale operation or forfeiture of a monetary claim
128	Unusually large transactions that do not correspond to a person’s financial condition
221	Regular withdrawal by a client and / or proxy of cash previously credited to the client’s account
112	Submission of information that cannot be verified
326	Repeated FTs in amounts below the established threshold, having signs of OFM

It should be noted that the primary financial monitoring system in Ukraine is bank centric, since banks are the main reporting entities, providing more than 99% of FT reports in 2016-2018. Therefore, ensuring the effective prevention of using Ukraine’s banking system to conduct suspicious FTs is a key priority in the context of improving state and primary financial monitoring system.

FT reports with signs of OFM or IFM received by SFMS are selected according to certain criteria, analyzed and, if necessary, submitted in the form of CR/ACR to LEA or RAs. The analysis of reported FTs is carried out taking into account any additional information obtained at SFMS request.

Despite some automation at initial stages of receiving (banking) messages, the tools for verification, initial analysis and prioritization that the SFMS analysts rely on for further analysis and generation of CRs are largely non-automated. These processes are based on uploading FT data to Excel spreadsheets, creating i2 diagrams to visualize relationships and generate reports using Microsoft Word.

Moving data from one system to another, analysis and subsequent export of partially analyzed data, uploads to other systems, and so on until the final generation of referrals, requires considerable time, resources, and

¹⁴⁹ Plotted according to SFMS data

2. Government component

is highly likely to cause human error. This also means that many various systems need to be monitored, periodically upgraded and their licenses paid for.

The CR is a SFMS product, generated based on the results of analysis of FTs and their participants, as well as any additional information in which regard, the SFMS may have suspicions. The CRs are referred to LEA or RA for further investigation of established facts related to ML/FT, commission of a ML/FT predicate offense, or another crime.

The ACR is an integral part of the CR and is generated in addition to the previously submitted CR, as a result of the analysis of any additional information obtained.

CRs have a crime report status and may serve as basis for field investigations and counterintelligence operations by LEA and RA.

Over the **2016–2018** reporting period, based on the analysis of FTs, subject to financial monitoring, the SFMS generated and handed over to LEA/RA **1,117 CRs and 1,120 ACR, or 16.1% and 25.2%** of the total number of FT reports since the establishment of SFMS, respectively. A more detailed account of generation and transfer of CRs and ACRs to LEA and RA is shown in Fig. 2.10. and 2.11.:

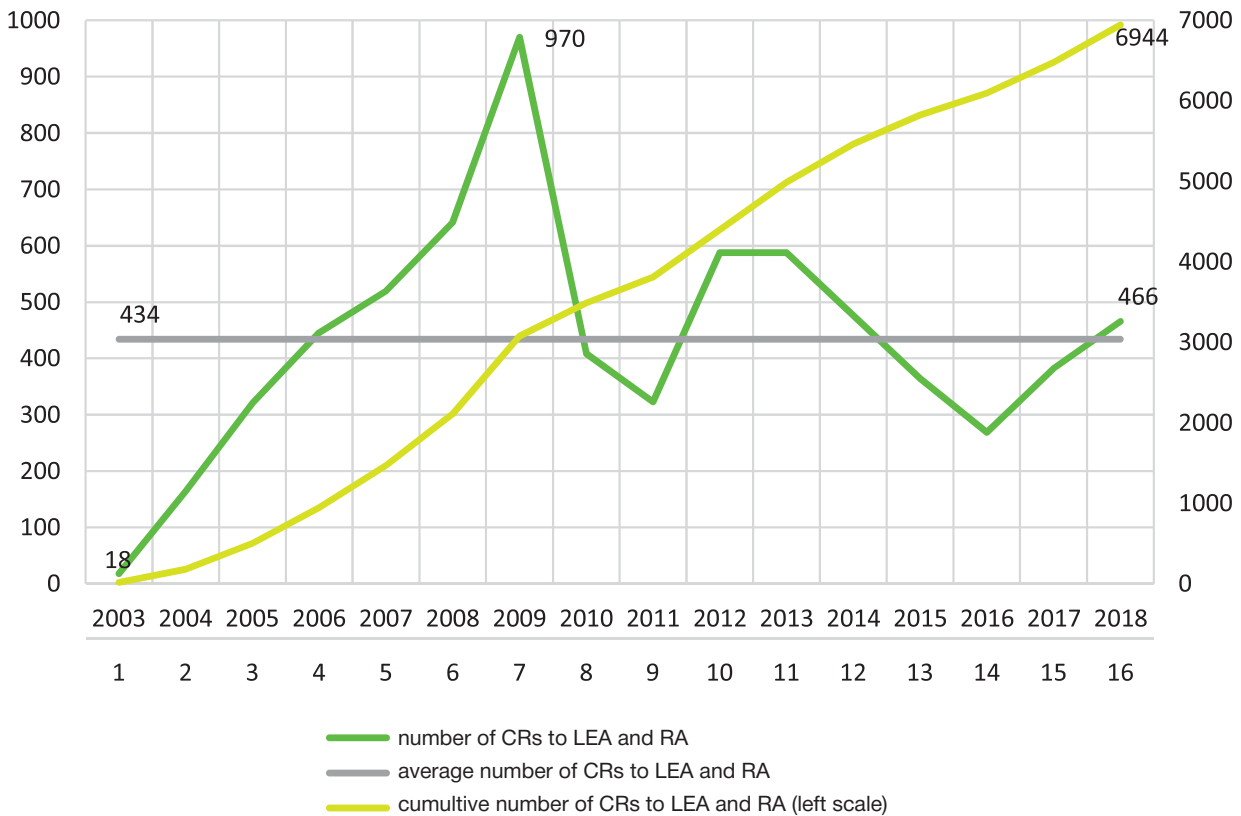


Fig. 2.10. CRs generated and submitted by SFMS to LEA and RA over the 2003-2018 period¹⁵⁰

Fig. 2.10. shows that, from 2003 to 2018, 6,944 CRs were submitted by SFMS to LEA and RA, for an average of 434 CRs per year.

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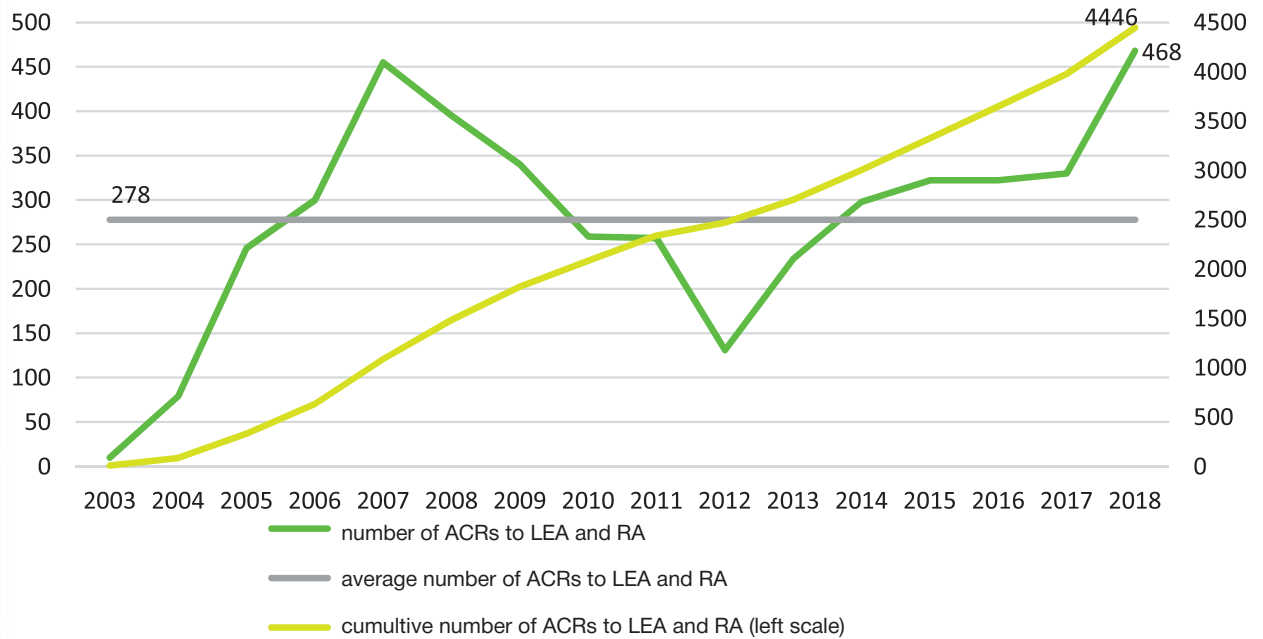


Fig. 2.11. ACRs generated and submitted by SFMS to LEA and RA over the 2003-2018 period ¹⁵¹

Fig. 2.11. shows that, from 2003 to 2018, 4,446 ACRs were submitted by SFMS to LEA and RA, for an average of 278 CRs per year.

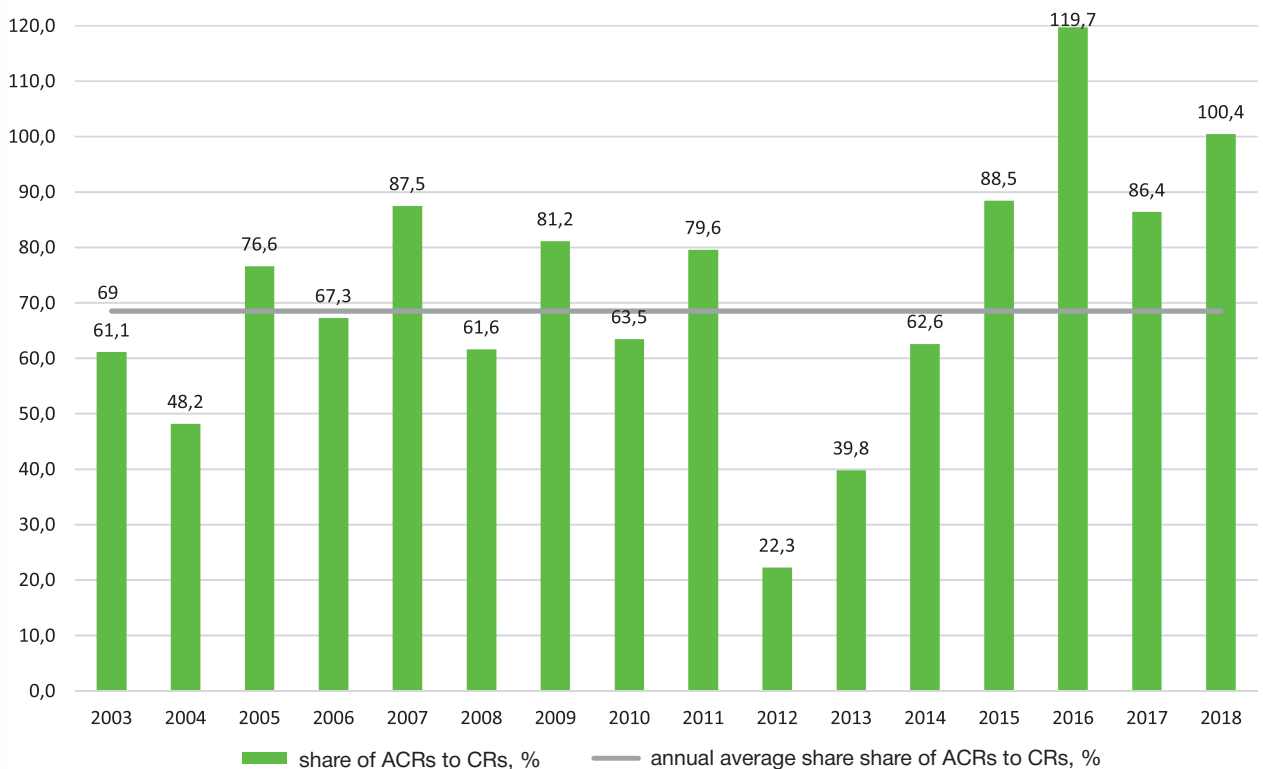


Fig. 2.12. The proportion of ACRs in all CRs submitted by SFMS to LEA and RA ¹⁵²

The results shown in Fig. 2.12 can be interpreted from the point of view of analyzing such a high-risk event as “failure to fully or partially identify ML and entities that launder criminal proceeds”. Thus, in case there’s sufficient initiative, primarily on a part of LEA, as a result of due diligence of the SFMS CRs, LEA should be able to generate additional investigative leads, explore additional circumstances of committing predicate and

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2. Government component

ML related crimes. In the totality of the newly discovered circumstances, the LEA should request the SFMS to prepare an ACR. In such circumstances, at least 1 ACR would normally be drafted for each CR (the proportion of ACRs relative to CRs should be at least 100 %); while, in some cases, number of ACRs related to a specific CR could be greater than 1. The average annual ratio of ACRs to CRs of 69% for the 2003–2018 period may be explained by lack of initiative on the part of LEA and SFMS in identifying ML transactions or receiving information from sources other than the REs FT reports. However, it should be noted that in the reporting period (2016-2018), this proportion was significantly higher than the average, while in 2016 and 2018 it either exceeded or was spot on at 100%.

Fig. 2.13. shows the total number of CRs transmitted to LEA in 2003-2018, by agency.

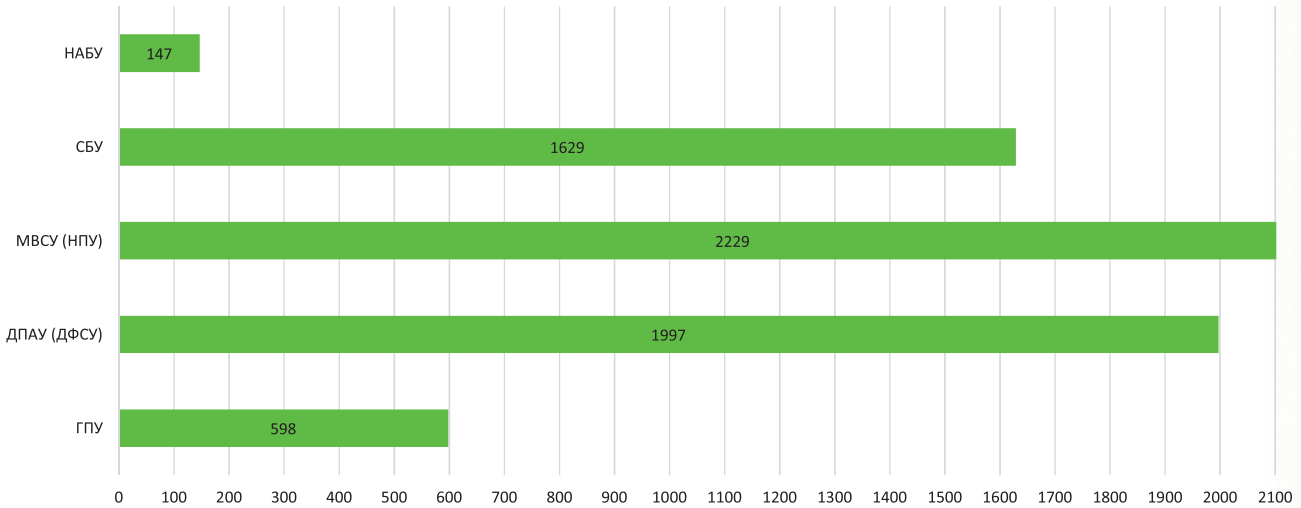


Fig. 2.13. The total number of transmitted CRs, by agency, 2003-2018¹⁵³

Fig. 2.14. shows the total annual number of CRs submitted by SFMS and ratio per relevant law enforcement agency.

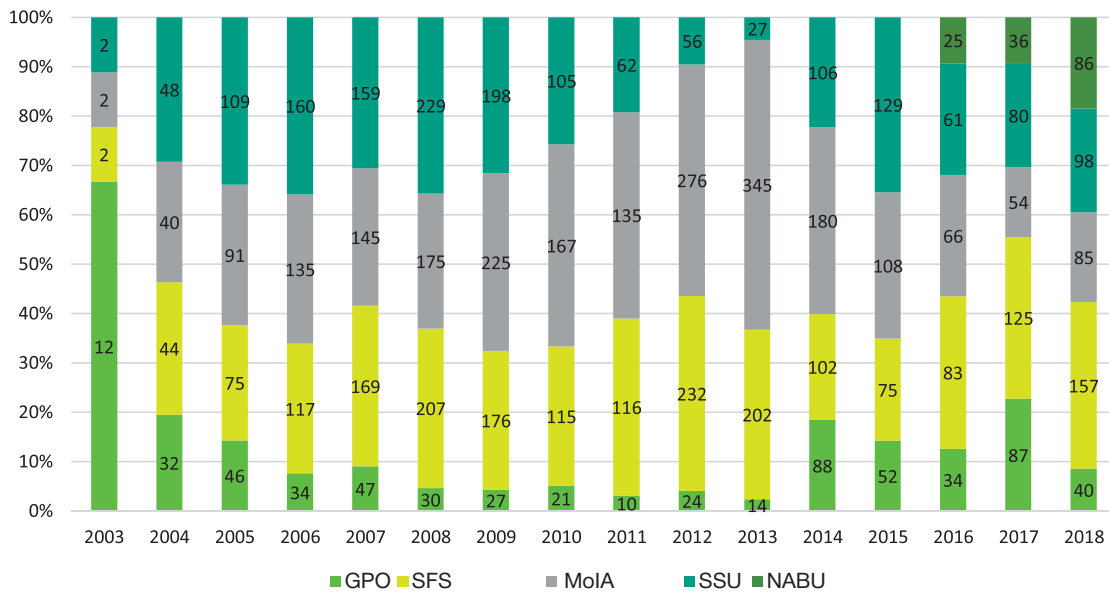


Fig. 2.14. Normalized distribution of CRs submitted to LEA in 2003-2018.¹⁵⁴

The detailed distribution of CRs and ACRs submitted to LEA over the 2016-2018 period is shown in Fig. 2.15.

153 Plotted according to SFMS data

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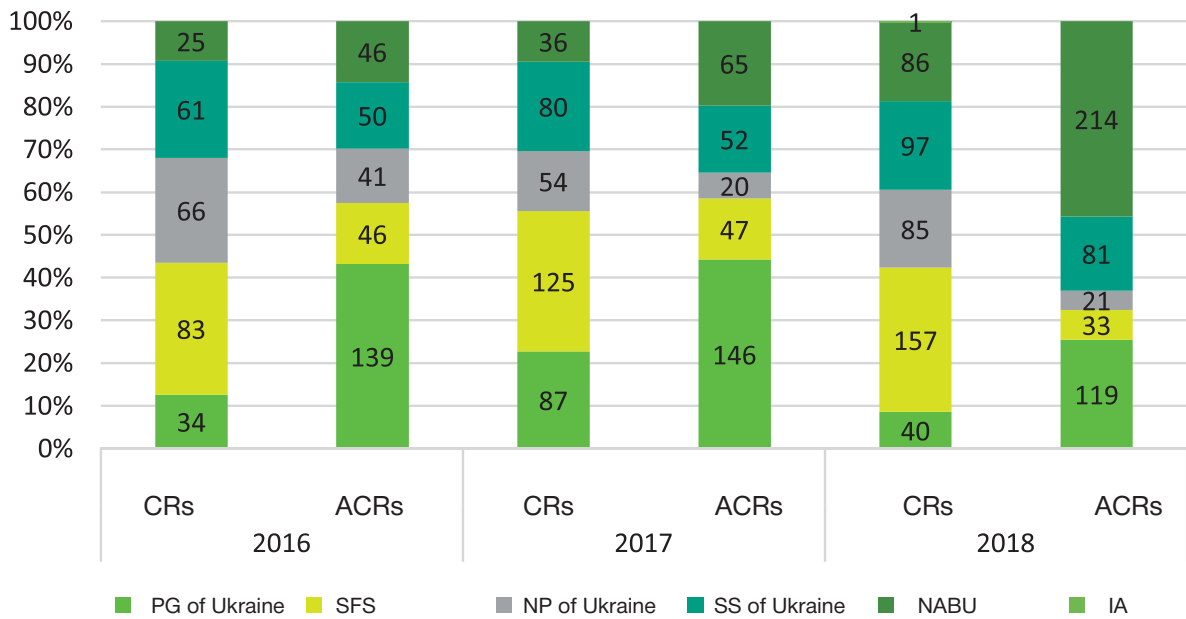


Fig. 2.15. CRs and ACRs generated and submitted in 2016-2018 by the SFMS to LEA and RA¹⁵⁵

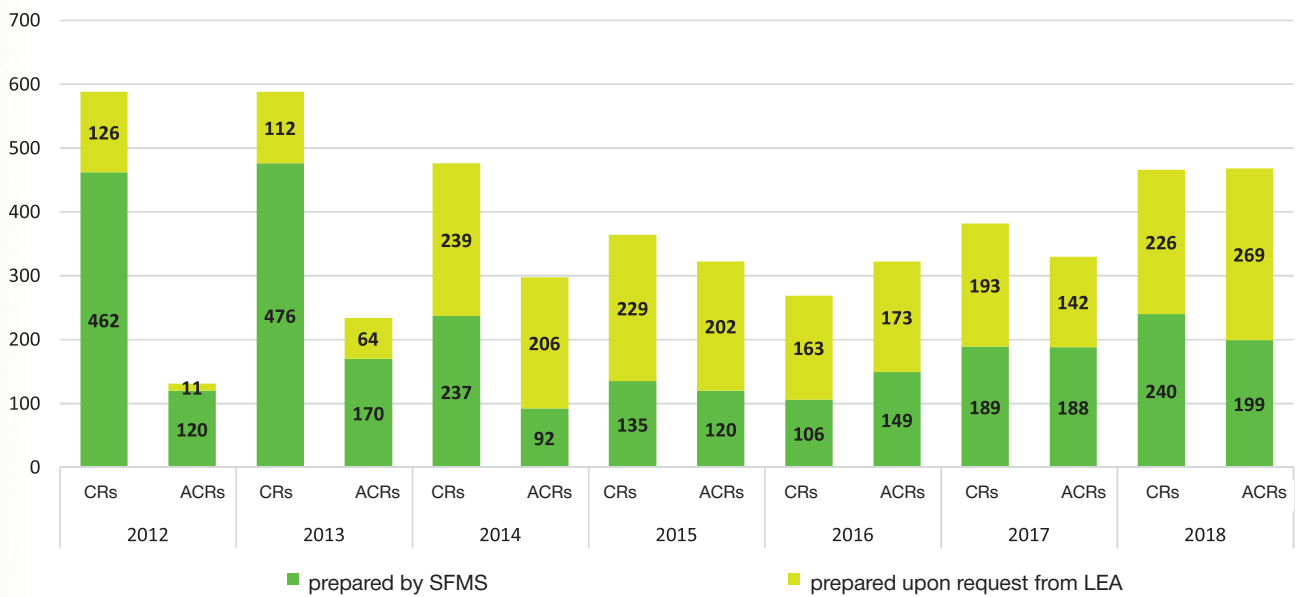


Fig. 2.16. Distribution of generated and submitted CRs and ACRs over the 2012-2018 period¹⁵⁶

Fig. 2.16 indicates a 2016 trend towards the increase in the number of CR/ACRs prepared by SFMS on its own, compared with the number of CR/ACRs prepared by SFMS upon request.

Information regarding FT reports received by SFMS and results of analysis are shown in Figure 2.17.

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156 Plotted according to SFMS data

2. Government component

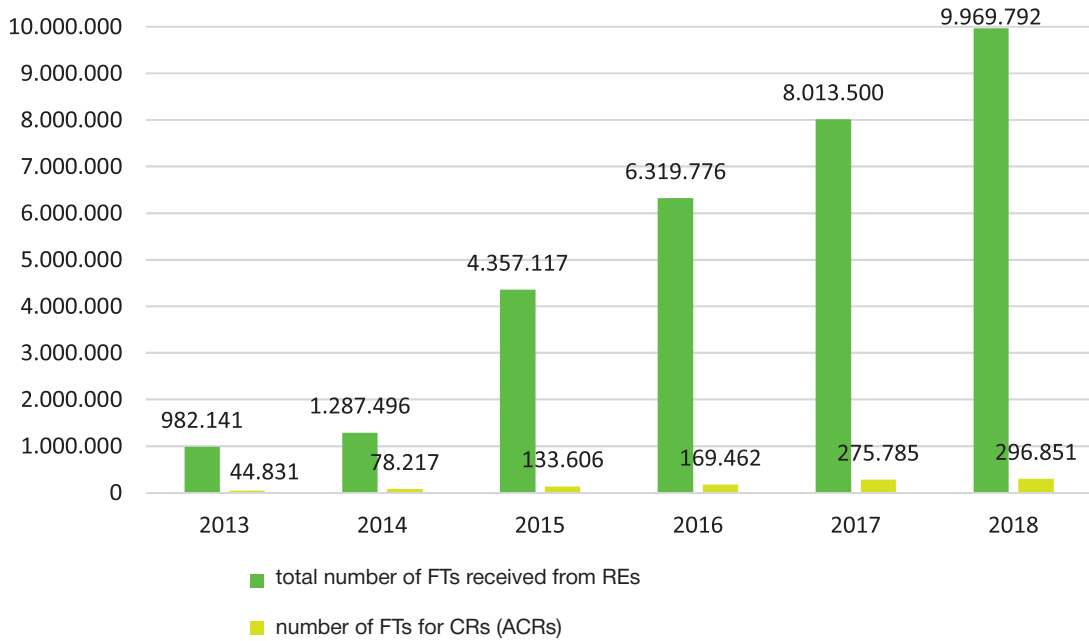


Fig. 2.17. The number of FT reports and results of their analysis, accounted by SFMS¹⁵⁷

The average annual ratio of FTs selected for generation of CRs (ACRs) over the entire period of SFMS existence stands at 10.8%. For the NRA reporting period (2016-2018), the corresponding value was at the level of 3% of all FT reports received from REs (see Fig. 2.18).

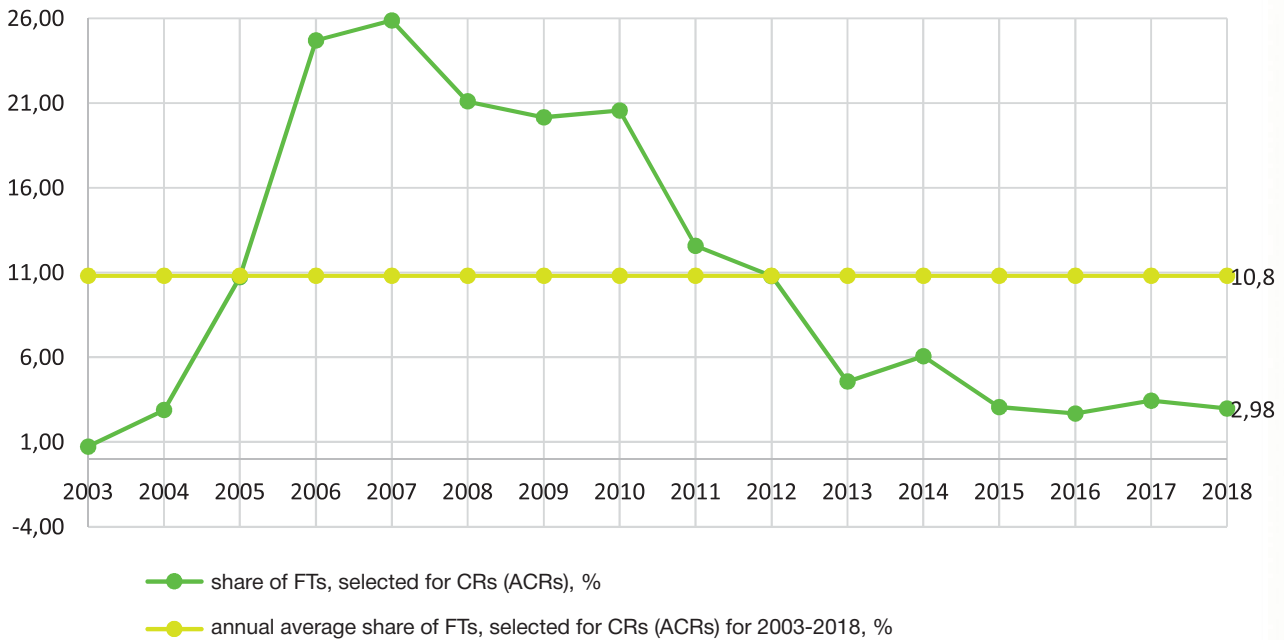


Fig. 2.18. FT reports selected for CR (ACR) as a ratio of the total number of reports received from REs in 2003-2018, %¹⁵⁸

The total sum of FTs accounted for in the SFMS FMIS, over the entire period of Ukrainian FIU existence (2003 to 2018), amounted to **UAH 58.5 trillion in current prices or UAH 25.1 trillion in 2010 prices**. Over the same period, the value of FTs resulting in generation of SFMS CRs (ACRs) amounted to **UAH 2.2 trillion (3.8% of the corresponding total amount) at current prices or UAH 1.4 trillion (5.7% of the corresponding total amount) in 2010 prices**.

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The average annual sum of FTs, incorporated in CR (ACR) in 2013-2018 amounted to **UAH 276,312 million in current prices** or **UAH 119,361 million in 2010 prices**, or **3%** of the average annual amount of FTs accounted by SFMS at current prices or **3.5%** of the corresponding value in 2010 prices over the specified period (see Fig. 2.19 and 2.20).

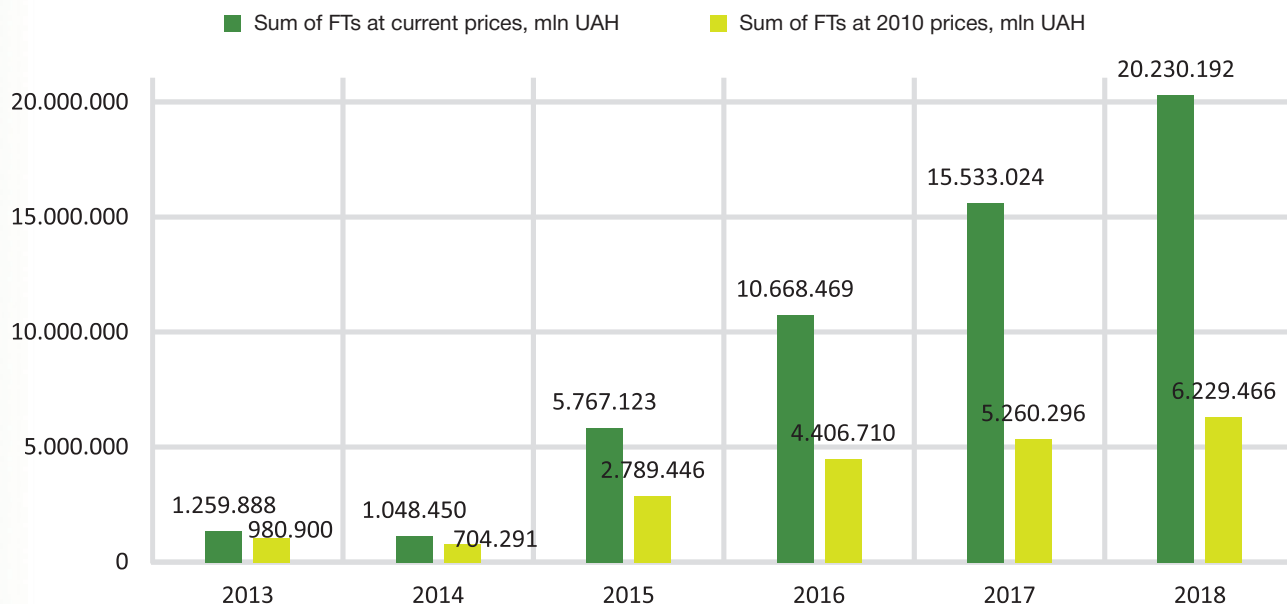


Fig. 2.19. FTs, accounted by SFMS, at current prices and comparative 2010 prices.¹⁵⁹

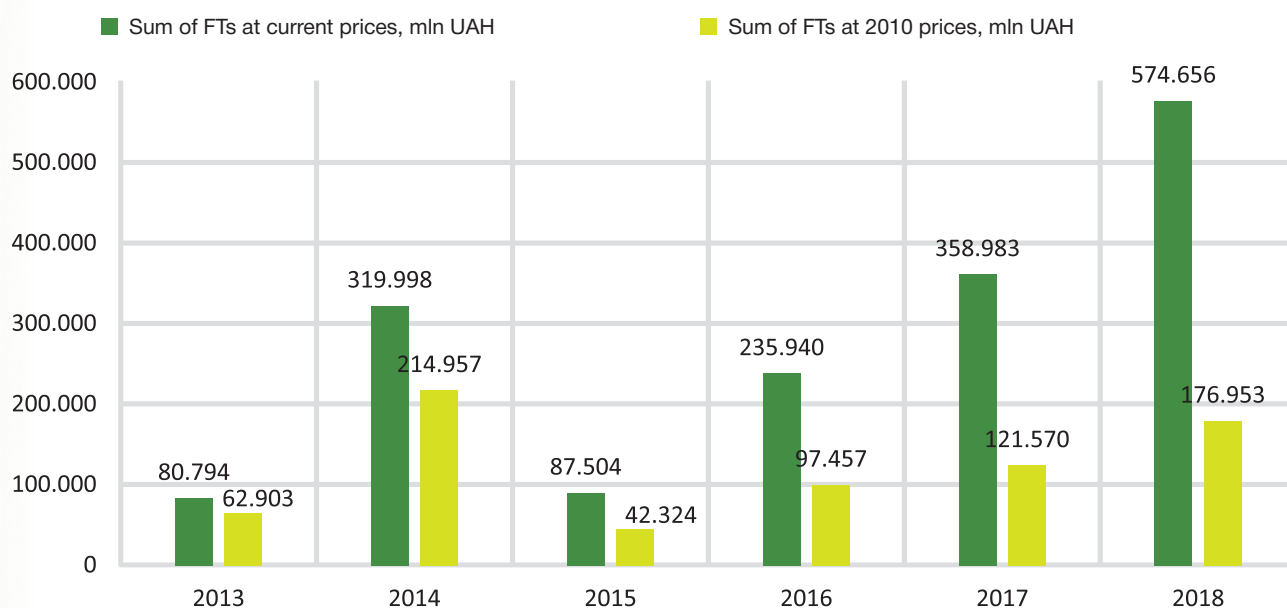


Fig. 2.20. FTs resulting in CR (ACR) at current prices and comparative 2010 prices.¹⁶⁰

The general state of consideration of SFMS CRs by LEA is characterized by the following figures.

159 Plotted according to SFMS data

160 Plotted according to SFMS data

2. Government component

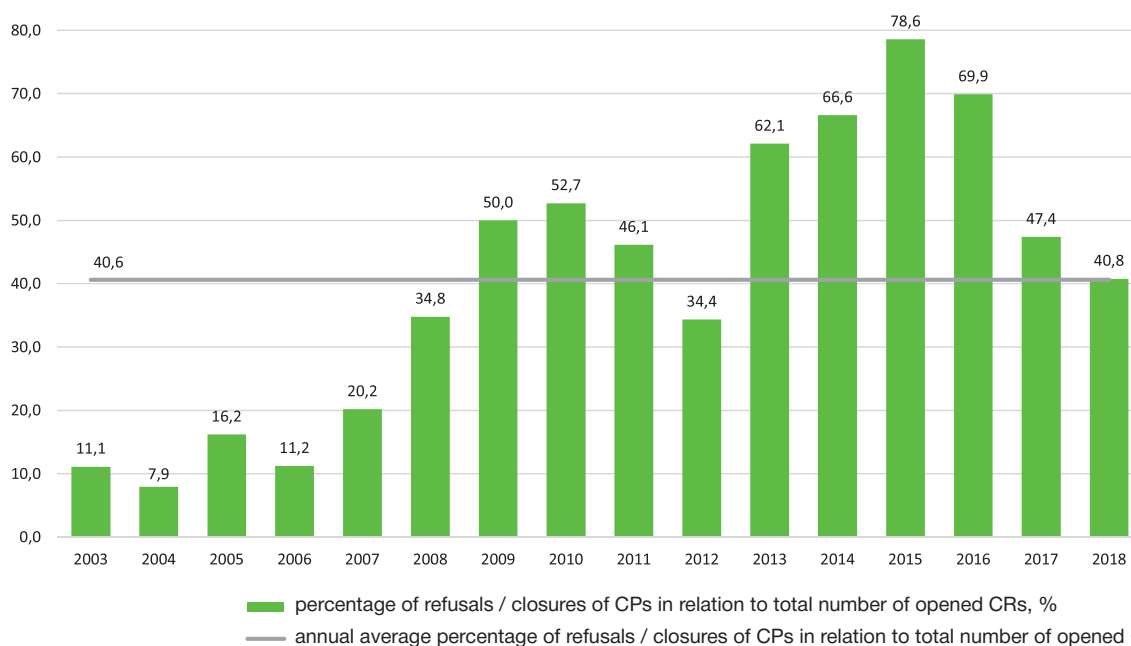


Fig. 2.21. Percentage of CP refusals / closures in the total number of CPs initiated based on CRs, or where CRs had been used, 2003-2018.¹⁶¹

Detailed analysis of the state of consideration of SFMS CRs by LEA over the 2016-2018 period is shown in Fig. 2.22.

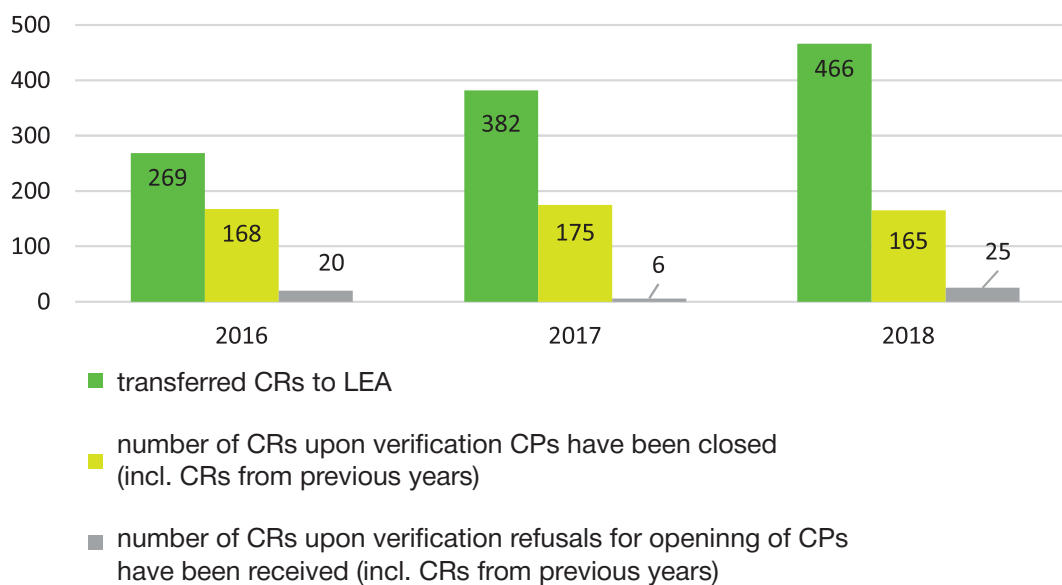


Fig. 2.22. State of consideration of SFMS CRs by LEA¹⁶²

161 Plotted according to SFMS data

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Fig. 2.23. shows the annual percentage of CP refusals / closures in the total CPs launched per relevant LEA.

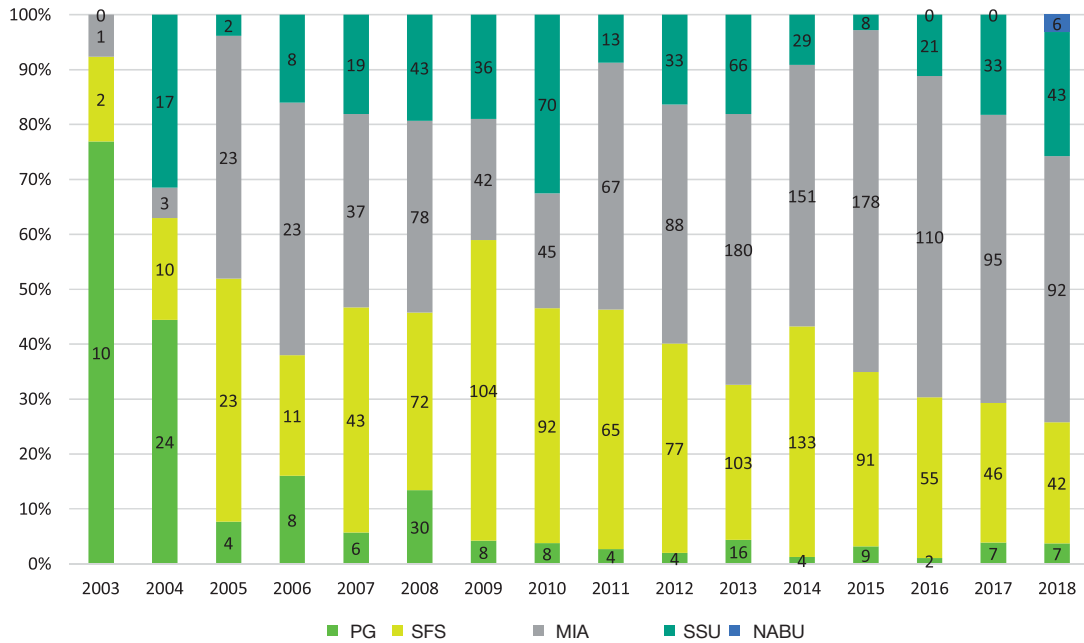


Fig. 2.23. Distribution of refusals / closures for CPs initiated based on SFMS CRs, or where SFMS CRs were used as a part of the investigation¹⁶³

Over the entire period of existence of the financial monitoring system of Ukraine, out of 6,944 considered CRs, LEA closed or refused to open CPs in case of 2,780 CRs. Fig. 2.24. shows the cumulative (incremental) number of CPs refusals / closures per relevant LEA in 2003-2018.

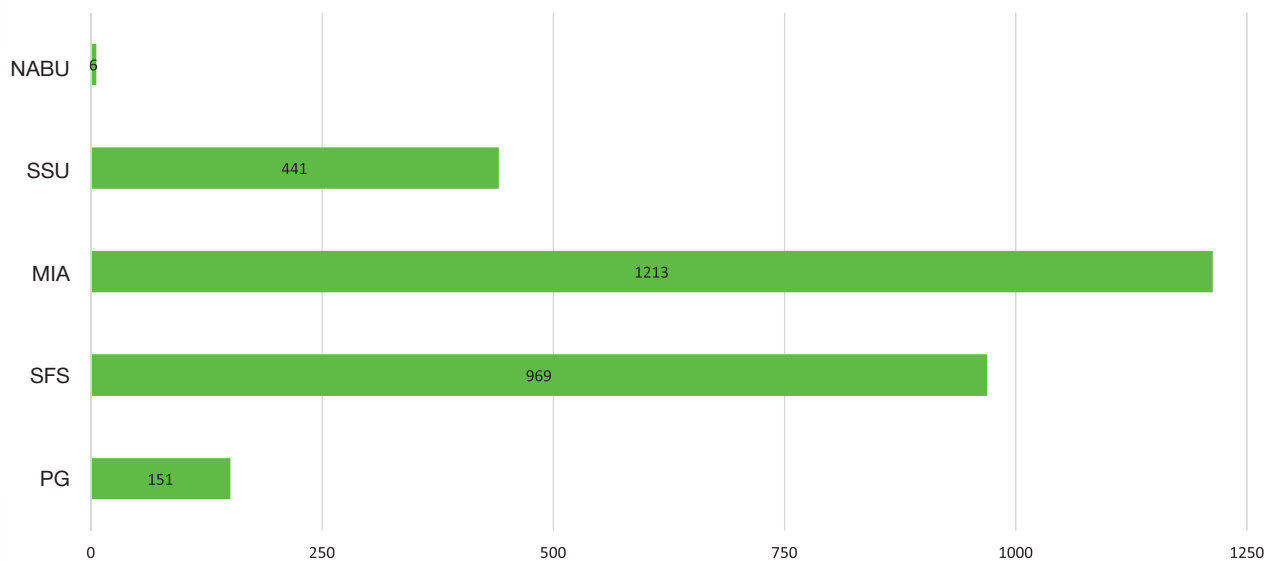


Fig. 2.24. Cumulative number of CP refusals / closures based on CRs per relevant LEA in 2003-2018.¹⁶⁴

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Fig. 2.25. illustrates the net weight of CP refusals / closures by relevant LEA.

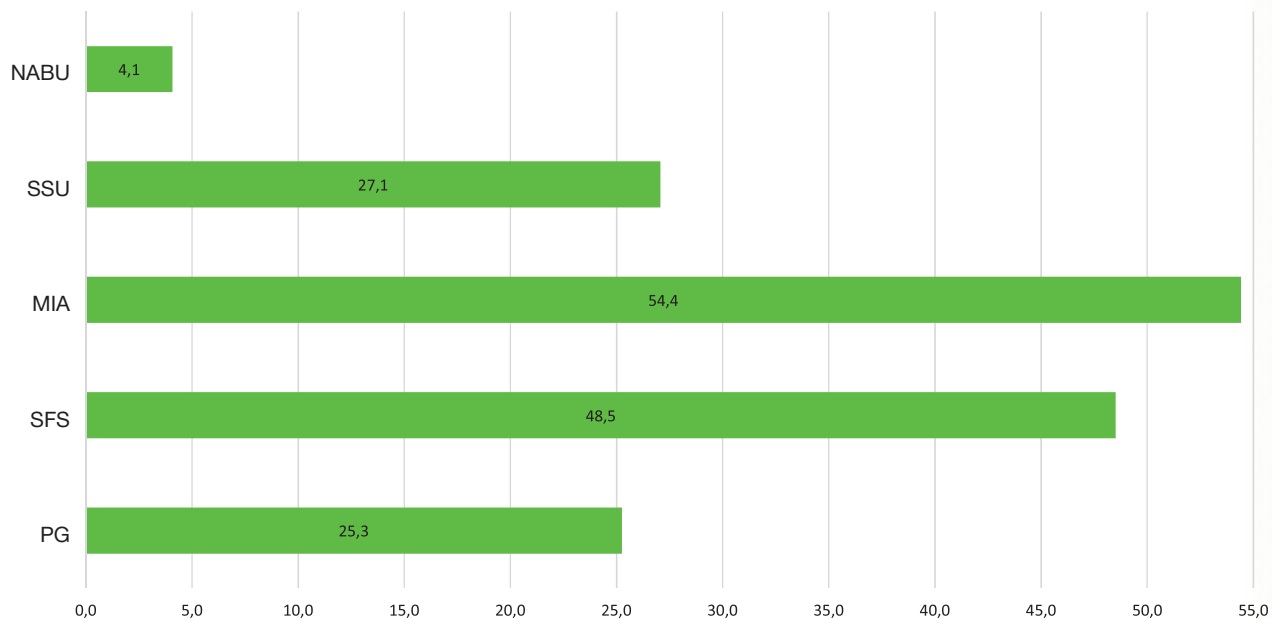


Fig. 2.25. Net weight of CP refusals / closures by relevant LEA in 2003-2018.¹⁶⁵

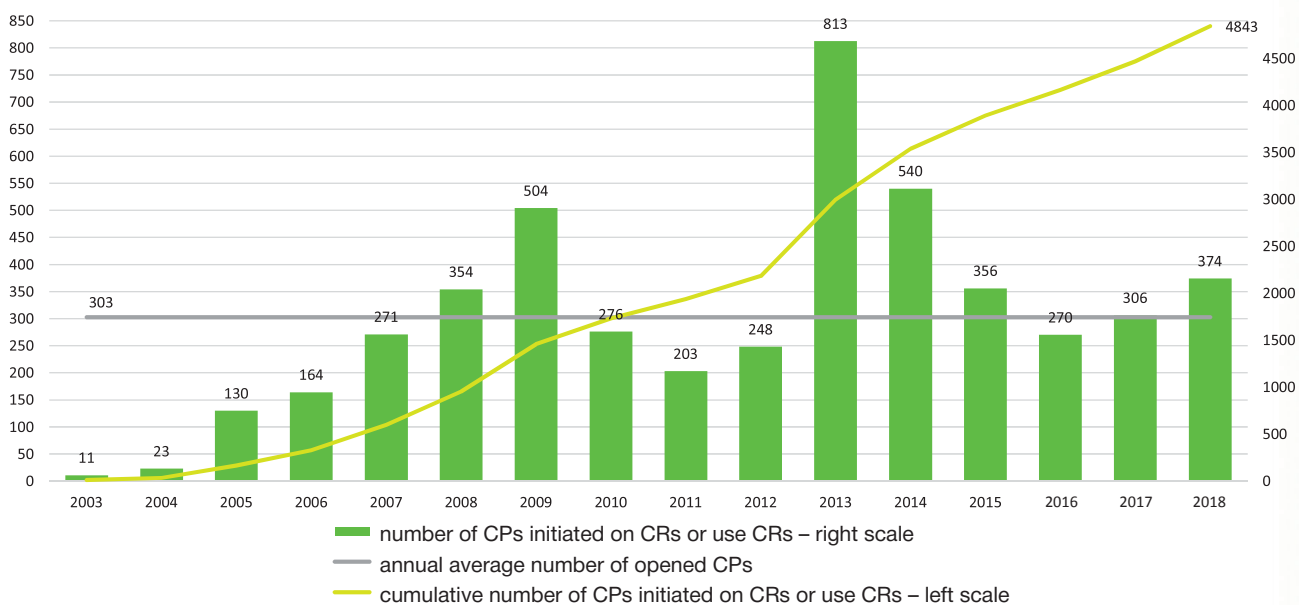


Fig. 2.26. Number of CPs initiated based on CRs or where CRs had been used, 2003-2018.¹⁶⁶

165 Plotted according to SFMS data

166 Plotted according to SFMS data

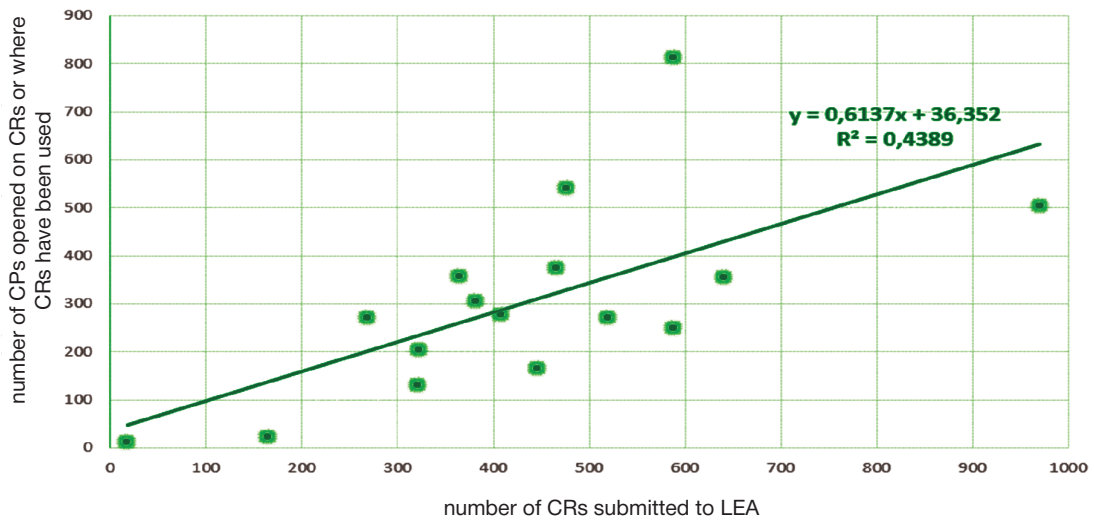


Fig. 2.27. Correlation and regression relationship between the total number of submitted CRs and the number CPs launched based on CRs or where CRs had been used, 2003-2018.

Fig. 2.27. shows the existence of a moderate direct correlation between the number of CRs submitted to LEA and the number of CPs initiated by LEA based on CRs, or where the CRs had been used in 2003-2018. The approximation reliability value (coefficient of determination – R²) is 0.4389, indicating that the closeness of relationship between the CPs initiated by LEA into predicate crimes and / or ML/FT crimes and SFMS generated CRs submitted to LEA equated to almost 44% over the considered period of time. The regression equation indicates that in 2003-2018, 1 generated and submitted CR translated into 0.6 CPs launched.

At the same time, the analysis of the relevant interdependencies for the previous and current NRAs (2013-2018) indicates that there is a high direct correlation between the number of CRs transmitted to LEA and the number of CPs launched by LEA based on CRs, or where CRs had been used in 2013 – 2018. The approximation reliability value (coefficient of determination – R²) is 0.8037, indicating that the closeness of relationship between the launched (initiated) CPs into predicate and / or ML/FT crimes SFMS generated and submitted CRs equated to 80% over the considered period. The regression equation also indicates that in 2013-2018, 1 generated and submitted CR translated into 1.7 initiated CPs. This indicates both the increase in the quality of the SFMS, and their greater demand from the LEA side

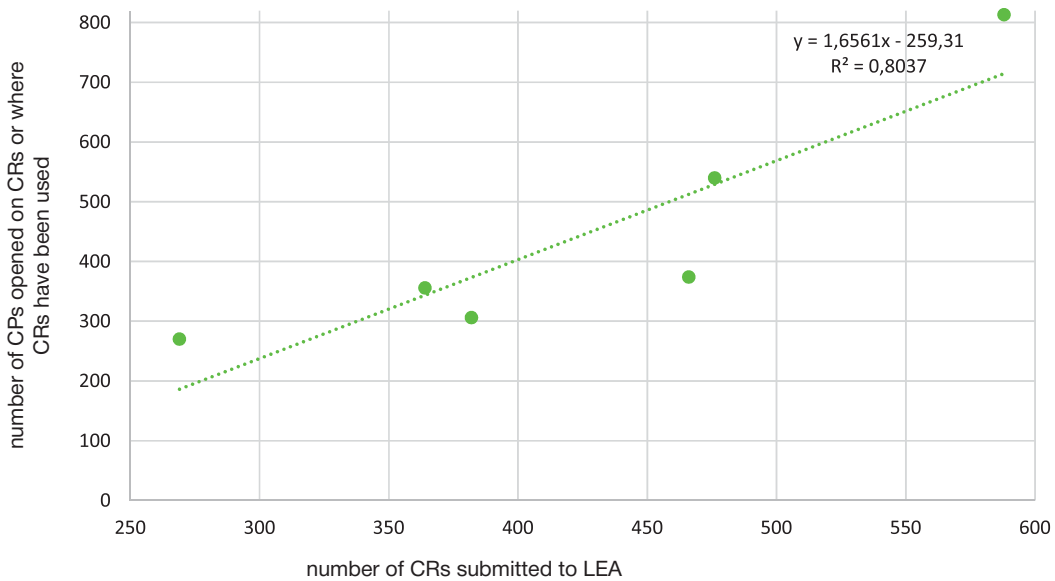


Fig. 2.28. Analysis of the correlation-regression relationship between the total number of CRs submitted to LEA and the number of CIS initiated by the LEA based on or using CRs, 2013-2018.

2. Government component

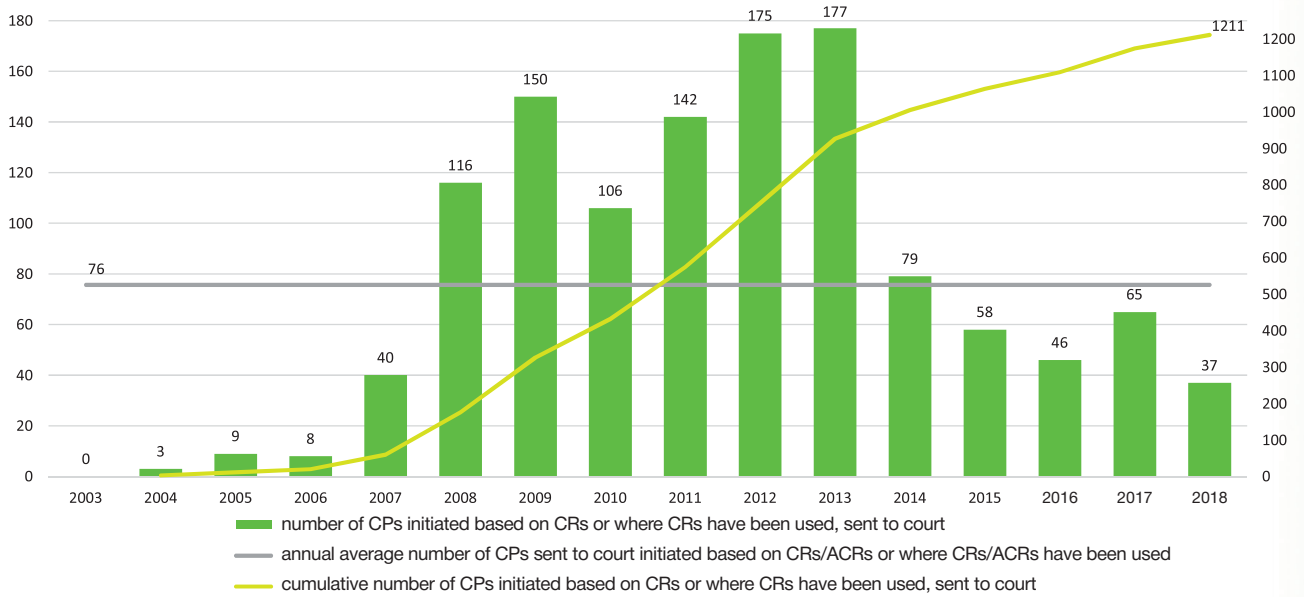


Fig. 2.29. The number of CPs initiated based on or using CRs, brought to court in 2003-2018.¹⁶⁷

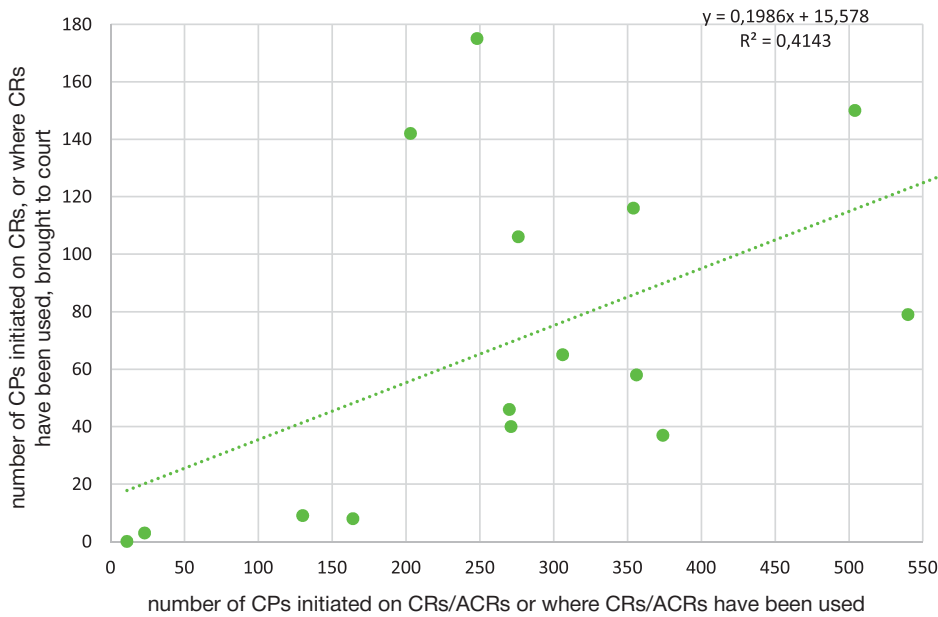


Fig. 2.30. Analysis of the correlation-regression relationship between the number of CPs initiated by LEA based on or using CRs and the number of CPs of this category brought to court in 2003-2018.

Fig. 2.30. shows that there is a moderate direct correlation between the number of CPs initiated by LEA based on CRs or where the CRs were used – and the number of CPs of this category sent to court in 2003-2018. The coefficient of determination value – R^2 is 0.4143, indicating that the closeness of relationship between CPs of this category (predicate offenses, ML/TF) sent to court and previously initiated CPs, that were either based on or used SFMS CRs equates to 41%. The regression equation value indicates that in 2003-2018, only every 19th out of a 100 CPs in this category was brought to court.

At the same time (see. Fig. 2.31), analysis of relevant interdependencies over the previous and current NRA period (2013-2018.) shows a high direct correlation between the number CPs launched based on CRs or where the CRs were used and the number of CPs of this category sent by LEA to court in 2013-2018. The approximation reliability value (coefficient of determination – R^2) is 0.8721, indicating that the closeness of

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relationship between CPs of this category (predicate offenses, ML/TF) sent to court and previously initiated CPs, that used SFMS CRs equates to 87%. The regression equation indicates that in 2003-2018, every 23rd out of a 100 CPs in this category was brought to court.

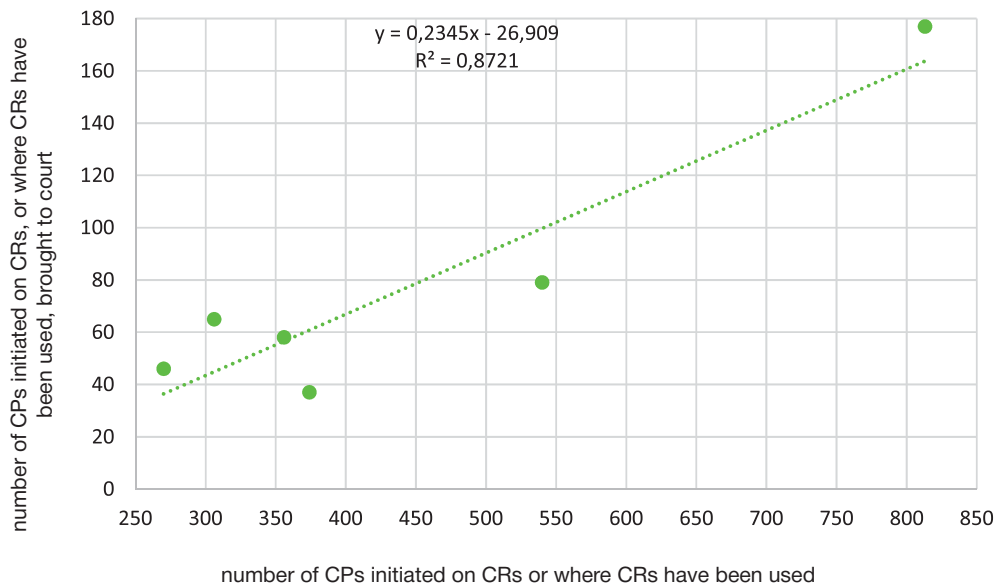


Fig. 2.31. Analysis of the correlation-regression relationship between the number of CPs launched by LEA that were either based on or used SFMS CRs and the number of CPs of this category, brought to court, 2013-2018.

Of the 1,211 CPs of the relevant category brought to court, convictions or acquittals had been handed in 804 CPs or 66% of the total number of CPs. Additionally, note that corresponding indicator identified within the previous NRA (end of 2015) amounted to 82%. Thus, there is a significant reduction in the number of cases dealt with by the courts in this category (See Fig. 2.32.):

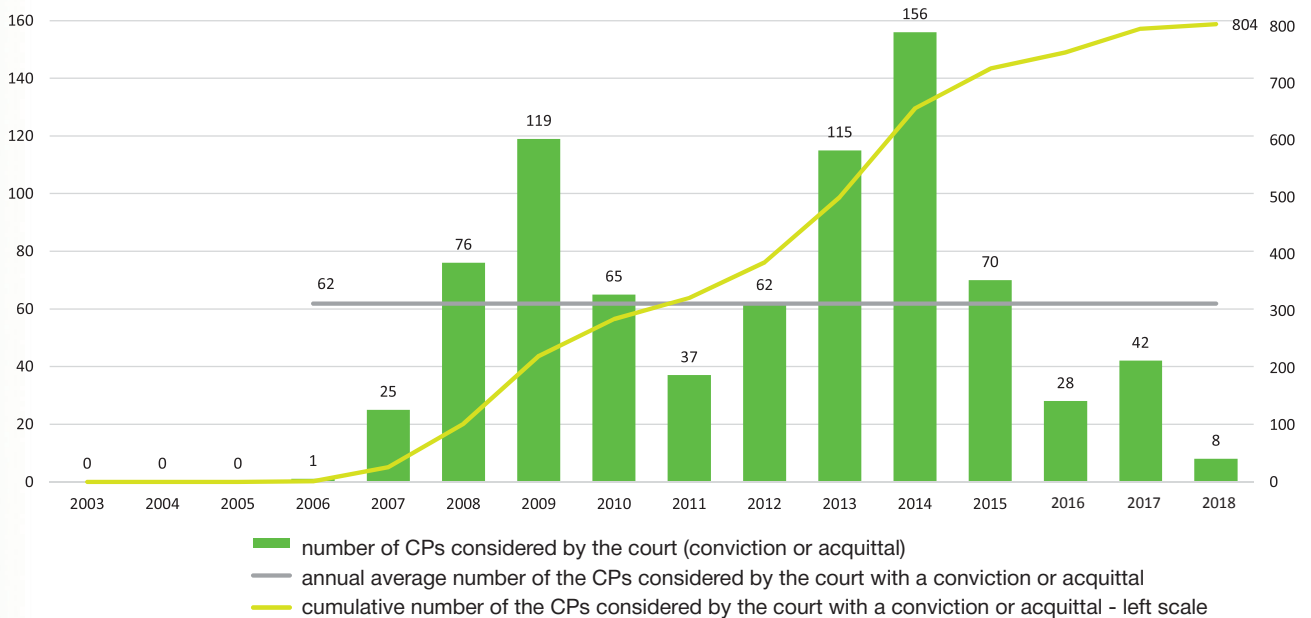


Fig. 2.32. Number of CPs, considered by courts that lead to sentencing, 2003-2018.¹⁶⁸

A detailed analysis of the results of court review of CPs, that were either initiated based on or used SFMS CRs over the 2016-2018 period is shown in Fig. 2.33:

¹⁶⁸ Plotted according to SFMS data

2. Government component

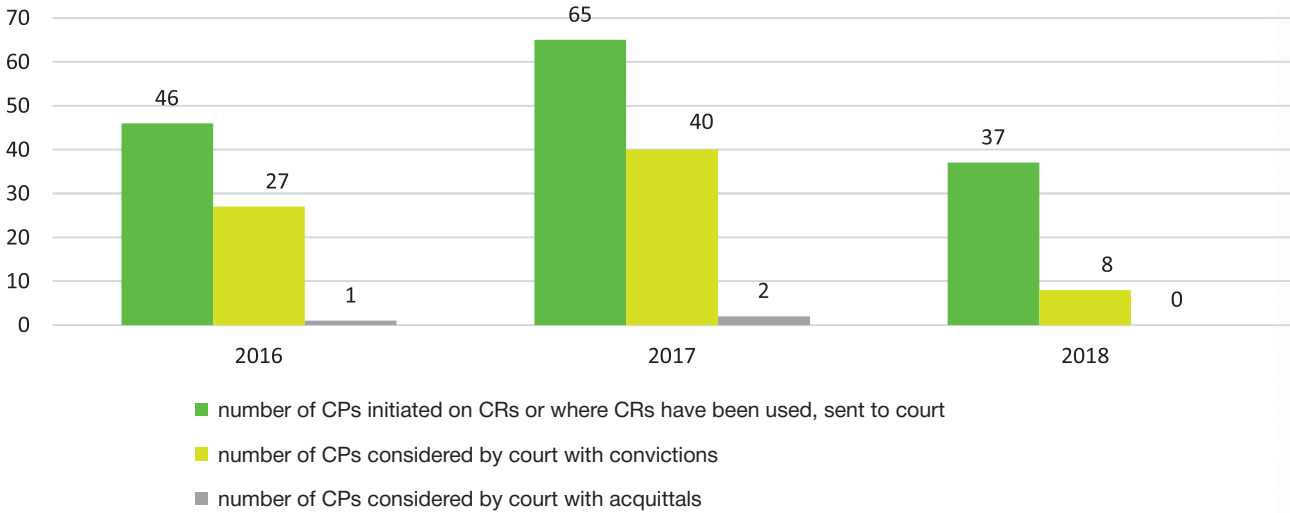


Fig. 2.33. State of judicial consideration of CPs based on or using SFMS CRs ¹⁶⁹

Fig. 2.34. shows that there is a moderate, tending to significant, direct correlation between the number of CPs, that were either initiated by LEA based on, or used SFMS CRS and the number of CPs of this category considered by courts in 2003-2018. The coefficient of determination value – R² is 0.4845, which indicates that **the 2003-2018 period** was marked by close relationship between CPs of the category (predicate crimes, ML/FT) considered by courts and CPs previously brought to court, where CRs were used, of 48%. The regression equation indicates that out of every 100 CPs of this category referred to courts, 54 CPs result in court sentences.

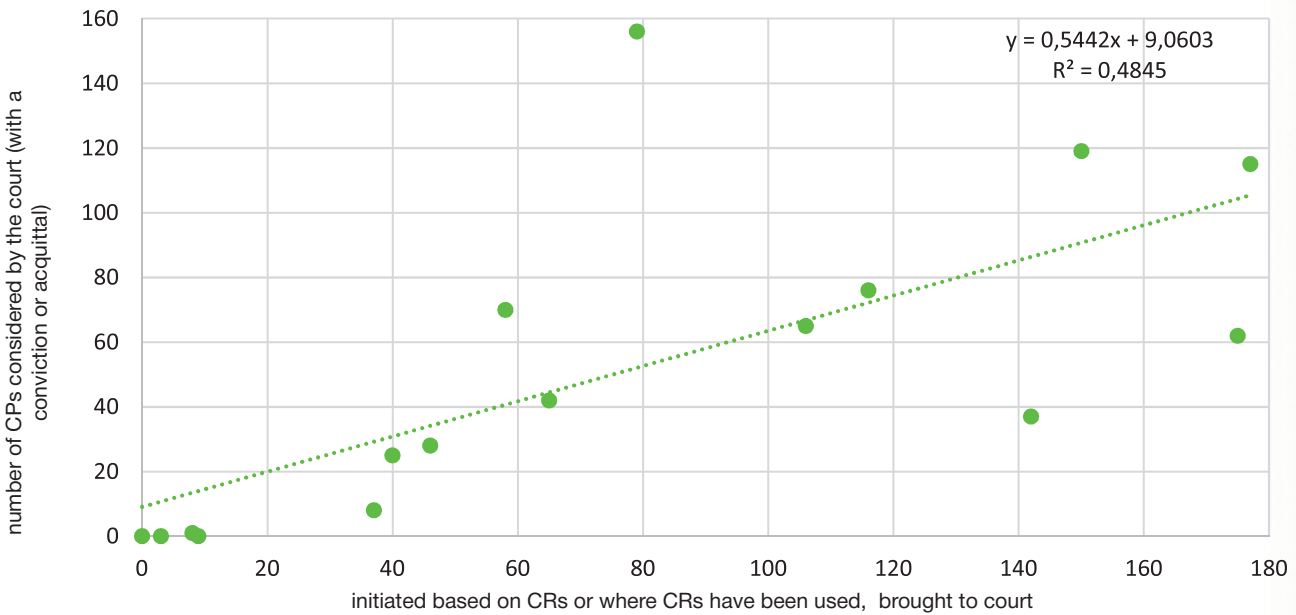


Fig. 2.34. Analysis of the correlation-regression relationship of judicial consideration of CPs that were either based on or used SFMS CRs

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Table 2.1.

The results of the judicial consideration of CPs, that were either initiated based on or used SFMS CRs, from 01.01.2004 to 31.12.2018.

Years	Types of sanctions					
	Total convicts, persons	Sentenced under Art. 209, persons	Total imprisonments, persons	Fine, UAH million	The amount of funds ruled legalized, UAH million	The amount of funds paid into government revenue, UAH million
2004	4	2	1	600	2774.00	0,05
2005	12	1	0	850	0	0
2006	24	0	3	32520	0	0.83
2007	51	8	4	3910	1.98	2.53
2008	30	4	1	14800	0.11	0.03
2009	52	0	14	*	0.30	1.00
2010	63	8	12	2.16	0	22.37
2011	10	3	3	0.0245	0	17.20
2012	58	9	5	0.6069	0	27.42
2013	175	15	25	1.634	39.97	132.29
2014	228	12	12	2.38	0.07	23.75
2015	112	8	10	2.69	19.6	11.93
2016	56	9		0.81	0.84	16.30
2017	53	2		3.96	39413.59	39415.85
2018	12	0		0.16	0	0
2004-2018	940	81	90	52694	42250.46	39671.56

Data in Table 2.1. leads to a following general conclusion. Over the entire period of existence of the legalization deterrence system in Ukraine and active involvement the judiciary in this system (2004-2018), the amount of funds recognized by the courts as legalized amounted to UAH 42.3 billion or only 2% of FTs included in CRs and ACRs over the corresponding period. The amount of funds paid to the state revenue based on court decisions amounted to UAH 39.7 billion over the corresponding period of time, which is 94% of the amount recognized by the courts as legalized and only 1.8% of FTs included in CRs and ACRs over the corresponding period in the current prices. These data serve as yet another confirmation of conclusions of the immediate result 7, made by the MONEYVAL international experts with respect to the results of the fifth round of assessment of Ukraine, which took place in 2017.

Analysis of FT reports involving PEPs and related parties

In 2018, SFMS database contained information on 3,191.4 thousand FTs made by PEPs and related parties, representing 32.0% of total FTs reported to SFMS in 2018.

In monetary terms, the amount of FTs performed by PEPs and related parties in 2018 is **UAH 11,317.3 billion**, which is 55.9% of the total amount of FTs (UAH 20,258.2 billion).

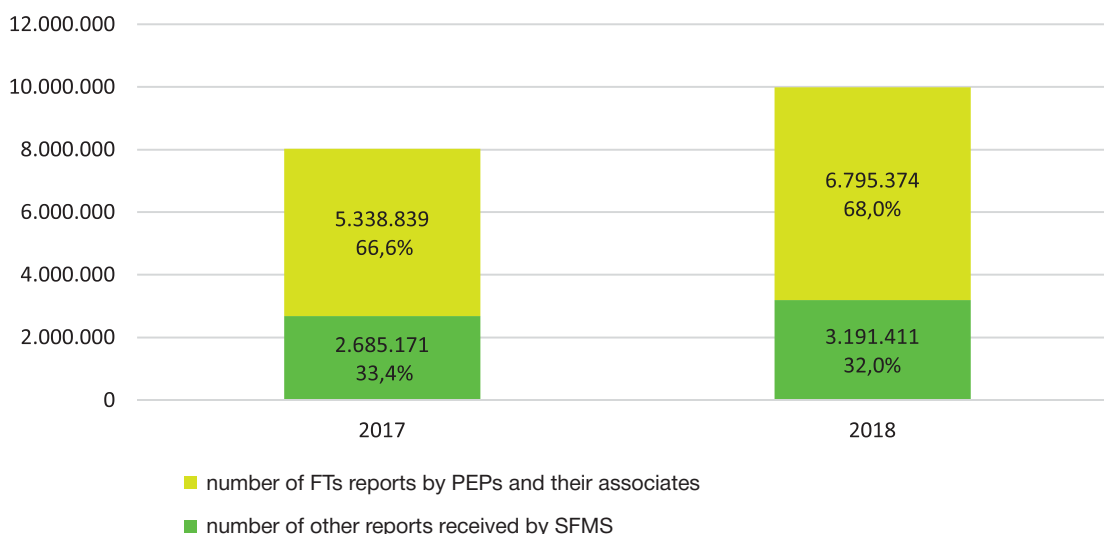


Fig. 2.35. Comparative analysis of the number of FTs reported to SFMS, incl. those with signs of being made by PEPs in 2017 and 2018¹⁷⁰

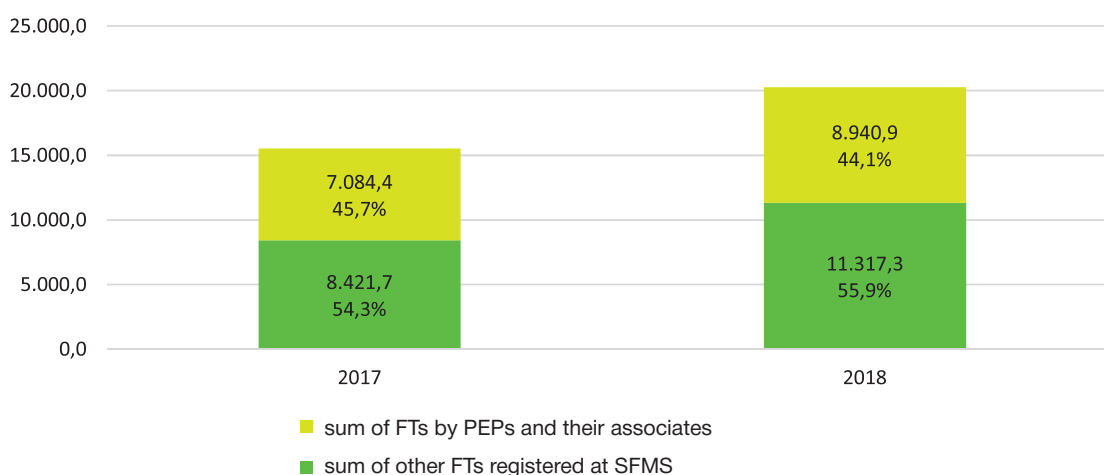


Fig. 2.36. Comparative analysis of the sums of FTs reported to SFMS, incl. those with signs of being made by PEPs in 2017 and 2018 (UAH billion)¹⁷¹

It should be noted that in 2018 the number of FTs conducted involving PEPs and related parties, compared with 2017, increased by 2,895.6 thousand FTs (or 34.4%).

In the course of the analysis, it was found that 3,071.1 thousand FTs (96.2%) were carried out by individuals identified as parties related to national PEPs totaling **UAH 10,591.2 billion** (93.6%) and only 18.6 thousand FTs (0.7%) were carried out by national PEPs directly, totaling **UAH 40.3 billion** (0.5%) in relation to all FTs carried out by PEPs and related parties.

At the same time, in the course of the analysis of FTs conducted by PEPs and related parties in the context of participants, it was found that:

- PEPs and individuals associated with PEPs made **41.4 thousand FTs** (1.3%) for the total amount of **61.6 billion UAH** (0.5%);

170 Plotted according to SFMS data

171 Plotted according to SFMS data

- legal entities affiliated with PEPs made **3,150.0 thousand FTs** (98.7%), for a total amount of 11 255,7 billion UAH (99.5%).

More detailed information is shown in the graphs below.

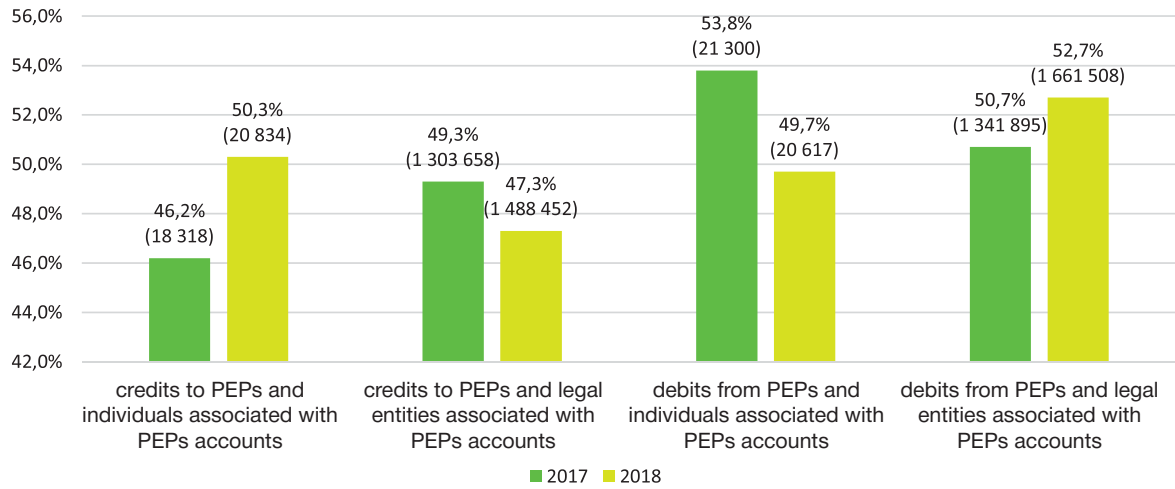


Fig. 2.37. Comparative analysis of the number of FTs involving crediting and debiting of funds in the context of participants ¹⁷²

The share of FTs credited to accounts of PEPs and related individuals increased by 4.1% compared to the same indicator in 2017. At the same time, in 2018, the share of FTs debited from the accounts of legal entities affiliated with PEPs increased by 2% compared to the same indicator in 2017.

In turn, according to the information shown in the graph below, the net FT volume remains unchanged.

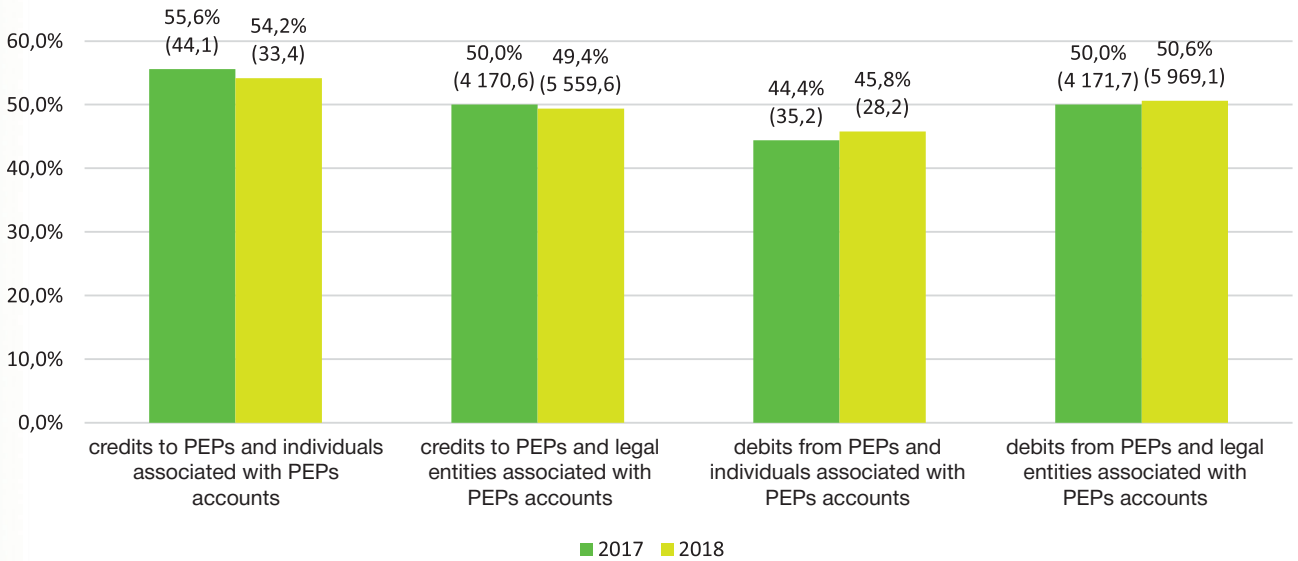


Fig. 2.38. Comparative analysis of the volume of FTs involving crediting and debiting of funds in the context of participants (billion UAH) ¹⁷³

172 Plotted according to SFMS data

173 Plotted according to SFMS data

Analysis of FTs involving PEPs and related parties in the context of foreign economic activity

In 2018, SFMS received **82.0 thousand foreign currency FT** reports involving PEPs and related parties (hereinafter – foreign economic transactions), representing **2.6% of FTs made involving PEPs** and related parties in 2018. However, the volume of these foreign economic transactions amounted to **UAH 757.7 billion (6.7%)**; and FTs made **involved 7,341 national and foreign PEPs** and related individuals and legal entities.

USD, EUR, RUB, GBR, CHF and other currencies were used to make foreign economic transactions by PEPs and related parties.

Thus, according to the information received from REs, 900 foreign currency transactions were carried out by 386 *national PEPs and related individuals* for a total amount of **UAH 3.2 billion**, which is 0.4% of the total foreign economic transactions made by PEPs and related parties in 2018. The largest volume of transactions was made in USD and EUR, **USD 83.4 million** (UAH 2.3 billion) and **EUR 13.3 million** (UAH 0.8 billion).

The largest volume of foreign economic transactions involving national PEPs and related individuals per counterpart country is shown in Table 2.2.

With regard to *legal entities affiliated with national PEPs*, 6,808 said entities made 80.6 thousand FTs in foreign currency for the total amount of **UAH 751.2 billion**, which is 99.1% of the total volume of foreign economic transactions made involving PEPs and related parties in 2018.

At the same time, the majority of transactions were made in USD and EUR, **USD 20,561.7 million** (UAH 558.6 billion) and **EUR 5,125.0 million** (UAH 163.9 billion) respectively.

In turn, 147 *foreign PEPs and related parties* made 493 foreign currency FTs totaling **UAH 3.4 billion**, which is 0.5% of the total volume of foreign economic transactions made by PEPs and related parties in 2018. The vast majority of transactions were made in USD and EUR, **USD 96.0 million** (UAH 2.7 billion) and **EUR 15.6 million** (UAH 0.5 billion) respectively.

The largest volume of foreign economic transactions involving foreign PEPs and related parties per counterpart country is shown in Table. 2.4.

Table 2.2.

Volume of foreign economic transactions involving national PEPs and related parties ¹⁷⁴

National PEPs				
The name of the country	Number of people	Number of operations	Transaction Amount: All currencies (UAH equivalent, UAH mln)	Share of the Total
Cyprus	7	8	136.1	5.3%
Georgia	2	36	113.9	4.4%
Latvia	5	17	153.7	6.0%
Switzerland	25	50	1 514.7	58.9%
United States	47	84	279.1	10.9%
Others	131	379	373.6	14.5%
TOTAL	217	574	2 571.2	100.0%

174 Plotted according to SFMS data

Individuals affiliated with national PEPs				
The name of the country	Number of people	Number of operations	Transaction Amount: All currencies (UAH equivalent, UAH mln)	Share of the Total
Austria	8	10	39.4	6.4%
Liechtenstein	2	3	144.1	23.5%
Russian Federation	1	1	93.2	15.2%
Switzerland	26	49	125.9	20.5%
United States	37	62	54.3	8.8%
Others	95	201	157.2	25.6%
TOTAL	169	326	614.3	100.0%

Table 2.3.

Volume of foreign economic transactions involving legal entities affiliated with national PEPs¹⁷⁵

Legal entities affiliated with national PEPs				
The name of the country	Number of people	Number of operations	Transaction Amount: All currencies (UAH equivalent, UAH mln)	Share of the Total
Austria	238	2 935	39 282.5	5.2%
Germany	462	6 551	38 304.2	5.1%
Netherlands	231	3 163	55 706.1	7.4%
Russian Federation	293	9 971	132 541.8	17.7%
Switzerland	317	5 556	253 419.1	33.7%
Others	5 267	52 452	231 897.8	30.9%
TOTAL	6 808	80 628	751 151.5	100.0%

Table 2.4.

Volume of foreign economic FTs involving foreign PEPs and related parties¹⁷⁶

Foreign PEPs				
The name of the country	Number of people	Number of operations	Transaction Amount: All currencies (UAH equivalent, UAH mln)	Share of the Total
China	3	8	15.3	2.9%
Cyprus	2	3	86.8	16.2%
Germany	2	3	7.9	1.5%
Switzerland	4	5	383.1	71.7%
United Arab Emirates	2	3	10.3	1.9%
Others	20	72	30.9	5.8%
TOTAL	33	94	534.5	100.0%

175 Plotted according to SFMS data

176 Plotted according to SFMS data

Individuals affiliated with foreign PEPs				
The name of the country	Number of people	Number of operations	Transaction Amount: All currencies (UAH equivalent, UAH mln)	Share of the Total
Belarus	9	72	134.8	4.7%
Luxembourg	1	5	161.0	5.5%
Switzerland	4	7	518.0	18.0%
United Arab Emirates	3	9	505.7	17.6%
United States	7	61	568.4	19.8%
Others	90	245	989.3	34.4%
TOTAL	114	399	2 877.1	100.0%

An important aspect in the analysis of FTs conducted by PEPs and related parties in the segment of foreign economic activity is the study of the flow of funds to and from Ukraine.

Thus, in 2018, PEPs and related parties made foreign currency transactions to Ukraine in the amount of **UAH 434.0 billion**, which is **p** of the total volume of foreign economic transactions made by PEPs and related parties in 2018. In turn, **UAH 323.7 billion** or **42.7%** of transactions were made to foreign countries.

More information about foreign transactions involving PEPs and related parties in terms of flow of funds from and to Ukraine is shown in Fig. 2.39

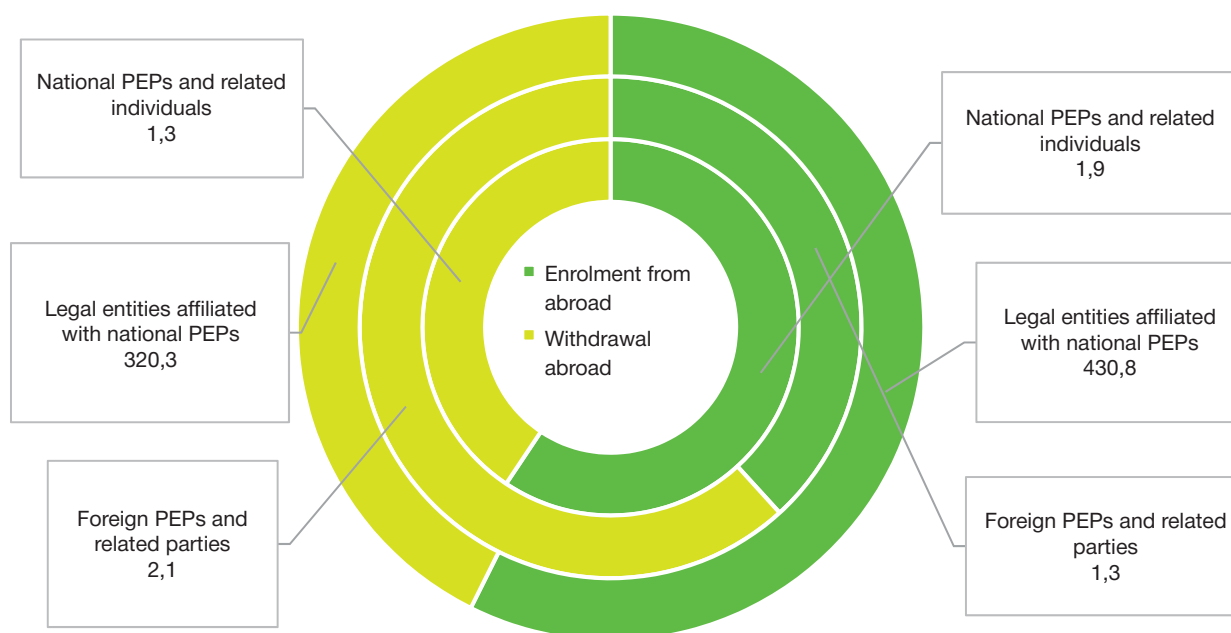


Fig. 2.39. Analysis of FT reports in the segment of foreign economic transactions made by PEPs and related parties, by direction of the flow of funds, 2018 (UAH billion)¹⁷⁷

Thus, summarizing the aforementioned study of foreign currency FT reports made by PEPs and related parties, it should be noted that a significant portion of transactions made from and to Ukraine are foreign currency FTs made by PEP affiliated legal entities for the total amount of UAH 320.3 billion and UAH 430.8 billion, respectively.

177 Plotted according to SFMS data

SFMS cooperation with foreign FIUs

SFMS is continuously cooperating with relevant authorities of foreign countries ensuring exchange of experience and information regarding prevention and counteraction of legalization (laundering) of criminal proceeds, financing of terrorism and financing of proliferation of weapons of mass destruction.

Thus, in 2003 -2018, SFMS exchanged financial information, potentially related to illegal activities with more than 150 FIUs of foreign countries.

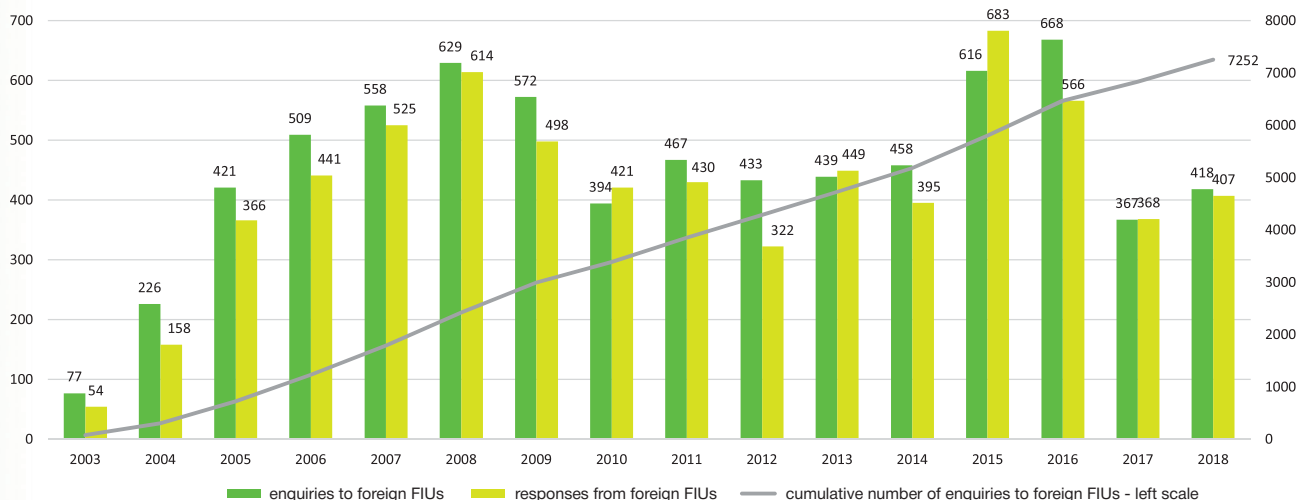


Fig. 2.40. International cooperation of SFMS with foreign FIUs in 2003-2018

In 2003-2018, SFMS sent 7,252 requests to foreign FIUs and received 6,697 replies.

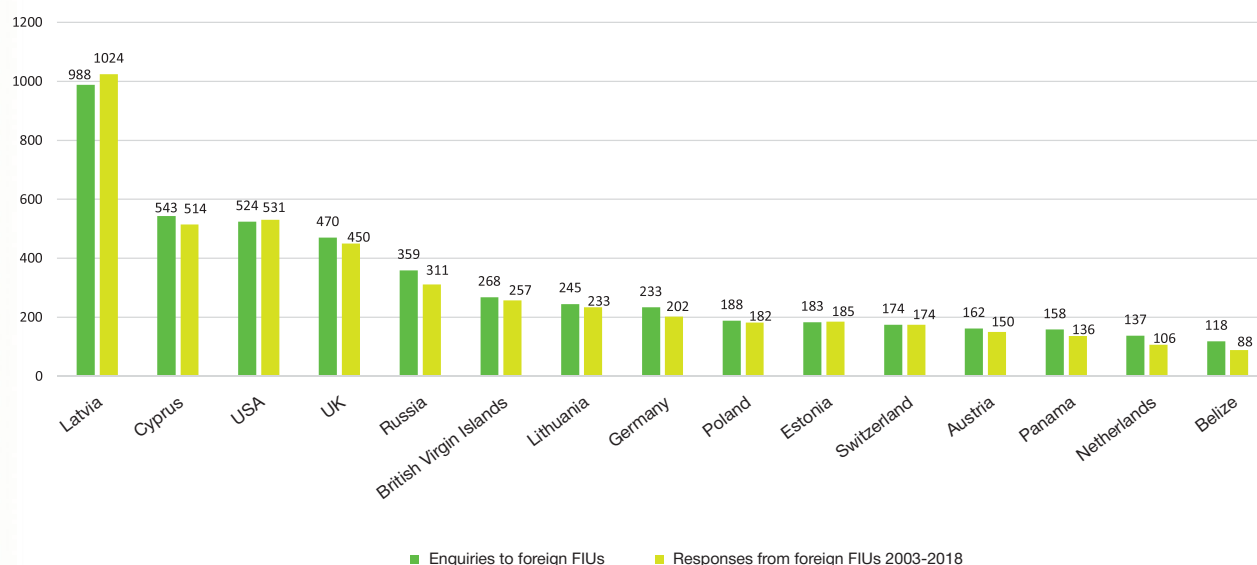


Fig. 2.41. Leaders of information exchange with SFMS in 2003-2018¹⁷⁸

In 2003-2018 SFMS engaged in active exchange with the FIUs of Latvia, Cyprus, USA and Great Britain.

Risks associated with SFMS investigations at requests of foreign FIUs in 2018

In order to isolate, identify and analyze risks of foreign jurisdictions in such categories as geography of company registration, the geography of bank accounts registration, financial instruments used for FTs, geography of beneficial ownership of subject companies, and to identify predicate ML/FT crimes – 13 most active foreign FIUs were selected and their messages thoroughly analyzed in the context of ML/FT threats in 2018.

178 Plotted according to SFMS data

2. Government component

Within the framework of international cooperation in the field of AML/CFT information exchange, in 2018 SFMS sent 186 requests to 11 foreign FIUs – leaders of correspondence.

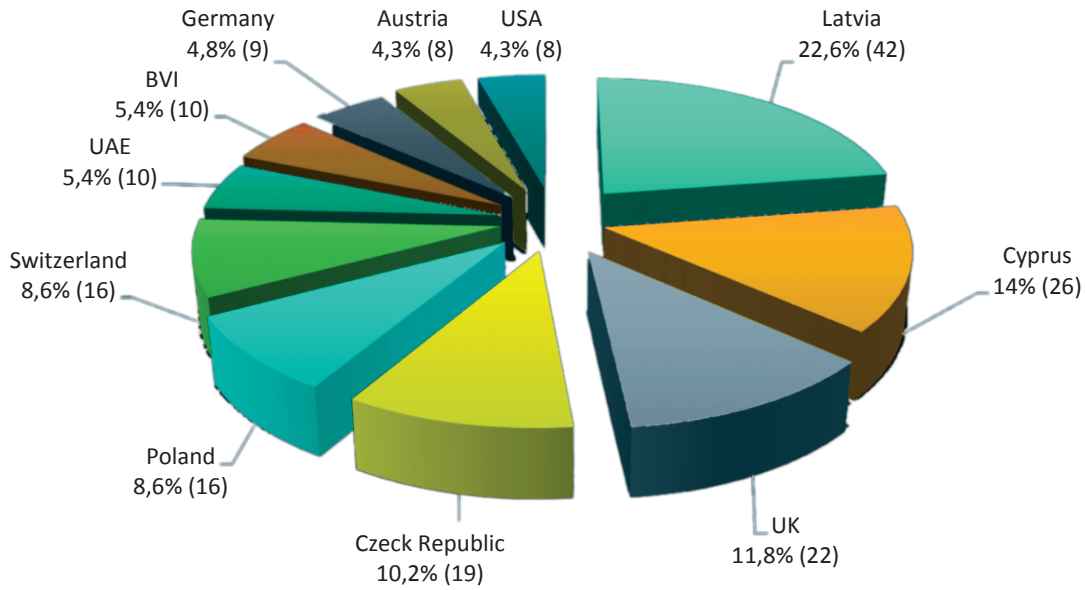


Fig. 2.42. Total number of requests sent by SFMS to 11 FIU leaders in 2018¹⁷⁹

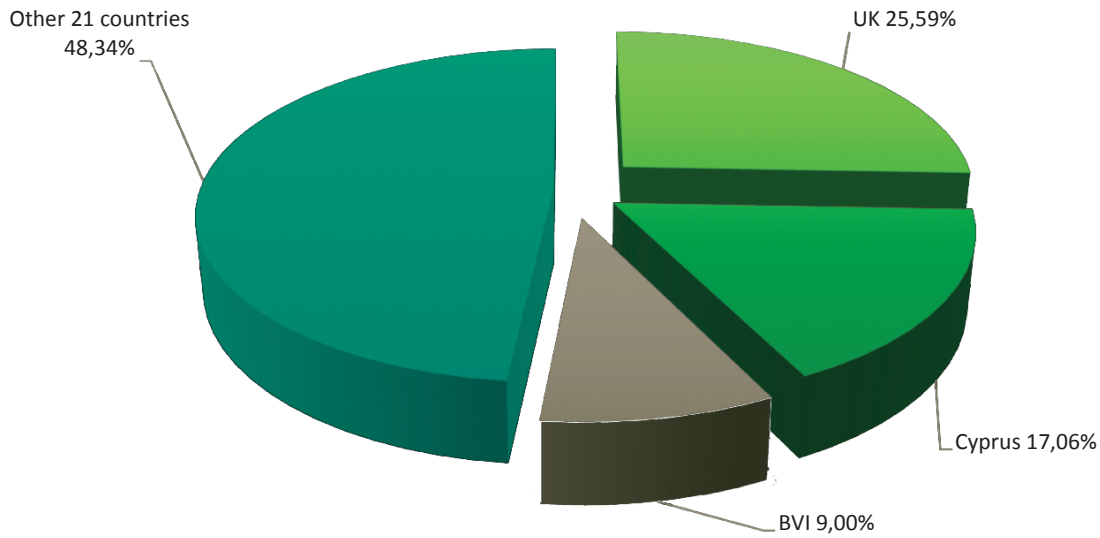


Fig. 2.43. Geography of registration of companies subject to outbound requests in 2018¹⁸⁰

It should be noted that among other countries, in terms of ML schemes, the following two countries are also in demand with respect to registration of legal entities: Poland – 6.64 % (14) and Czech Republic – 6.16% (13). However, only 1.42% (3) companies are registered in Latvia.

179 Plotted according to SFMS data

180 Plotted according to SFMS data

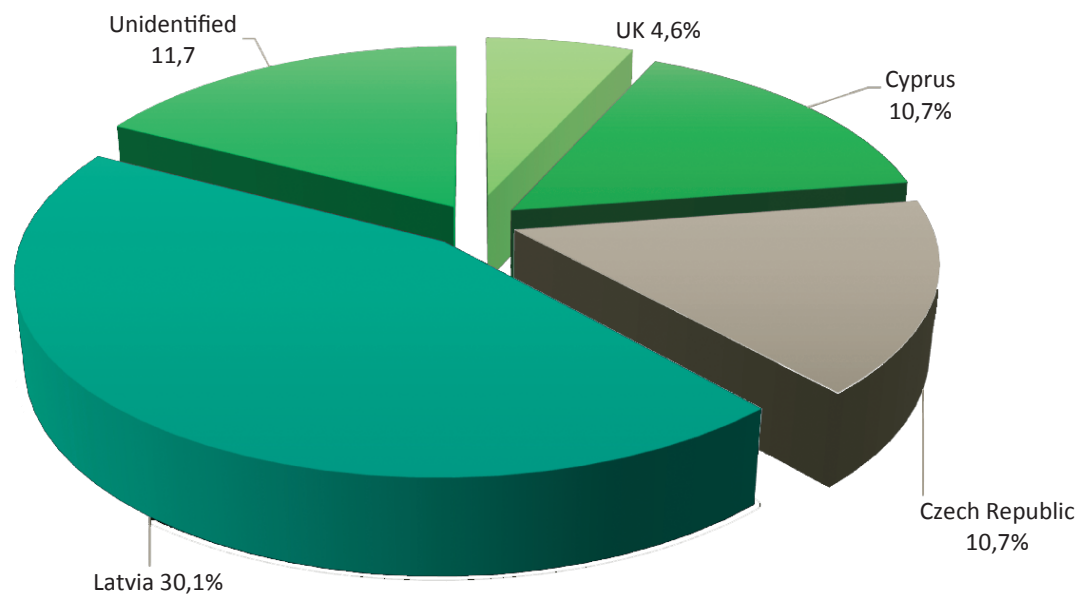


Fig. 2.44. Geography of bank account registrations of outbound requests in 2018¹⁸¹

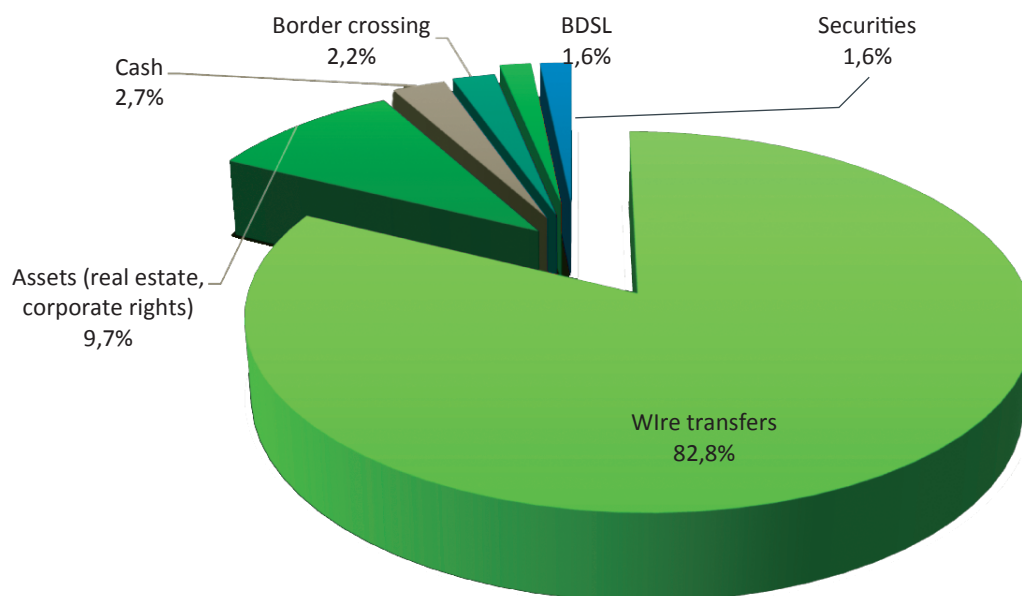


Fig. 2.45. Financial instruments used by the outbound request subject companies in 2018¹⁸²

Analysis of outbound requests in the context of financial instruments used in FTs, showed that **82.8%** (154) requests cited wire transfers. **9.7%** (18) requests cited other assets (real estate, corporate rights); **2.7%** (5) were related to cash turnover; **2.2%** (4) were related to transportation of funds across the border, **1.6%** (3) requests were related to the purchase / sale of securities.

181 Plotted according to SFMS data

182 Plotted according to SFMS data

Risks associated with SFMS investigations at requests of foreign FIUs regarding PEPs and related parties in 2018

In 2018, SFMS made 67 requests to 33 foreign FIUs concerning PEPs and related parties. The largest number of requests was made to FIUs of Latvia – 34,8% of requests, Cyprus – 10,4%, Great Britain – 9%, Switzerland, Jersey and the Isle of Man – 7,5%.

As a result of cooperation with foreign FIUs, it was revealed that *in order to disguise the real ownership of companies and assets*, corrupt officials used straw persons acting as nominal owners, directors, accountants; trust funds and professional financial service providers, company registration specialists etc.

The use of trusts has several advantages. The first is absolute anonymity. As soon as the money owner transfers resources to a foreign country and enters into an agreement with a trust to act on their behalf – the owner becomes effectively invisible, the only entity that’s visible is the trust, which can establish companies, manage them and administer funds for profit. The trust is registered in trustee name.

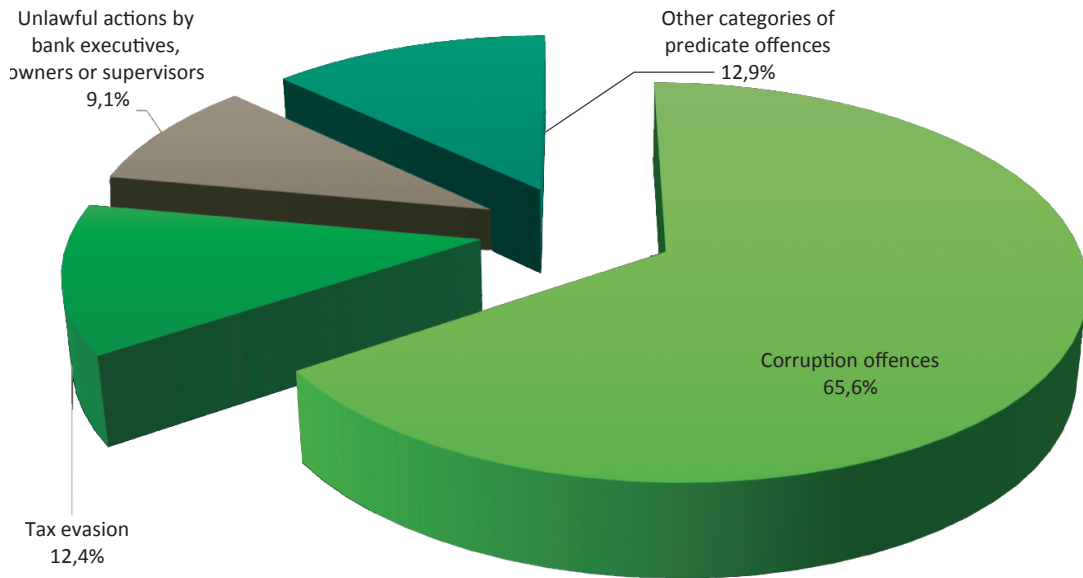


Fig. 2.46. Outbound requests by SFMS, by category of crime, 2018¹⁸³

Almost **65.6%** of outbound requests made by SFMS in 2018 concerned possible corruption offenses. This indicator indicates a high risk of PEP ML overseas. The other 12.9% of requests are mainly related to suspected fraud (4.3%), terrorism (separatism) (3.76%), bogus business (2.1%), ML through government bonds. (1.6%) and trafficking in human beings (about 1.1%).

183 Plotted according to SFMS data

Risks associated with investigations by foreign FIUs (requests to SFMS in 2018)

In order to analyze the contextual part of the incoming correspondence, 6 countries, leaders of cooperation were selected. 80 ML/FT related requests for information were received from these countries.

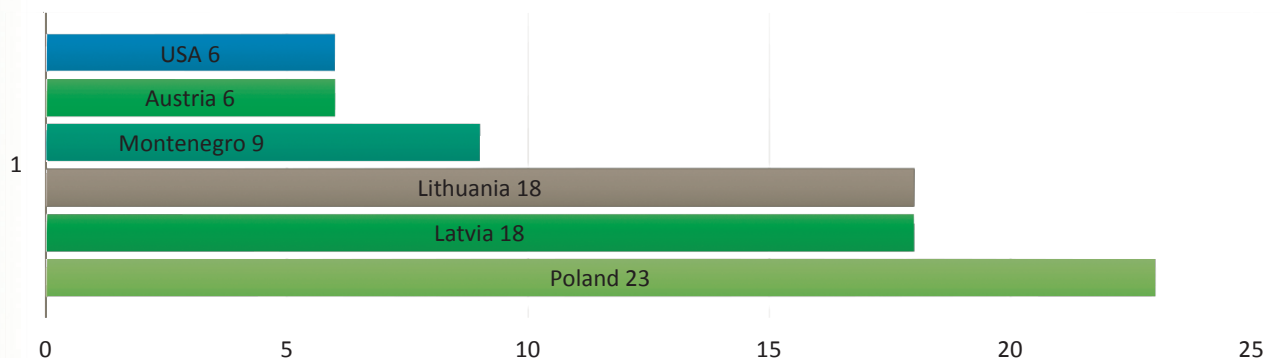


Fig. 2.47. Statistics of inbound requests to SFMS in 2018¹⁸⁴

Poland is the leader among the requesting countries, with a total of 23 requests. As a result of the analysis of 80 inbound requests concerning the country of registration of entities subject to the request, 70 legal entities were identified; 15.7% (13) are registered in the UK, 13.3% (11) – in Poland, 12% (10) – in Lithuania.

As for the individuals – 15.7% were subjects of foreign FIUs requests.

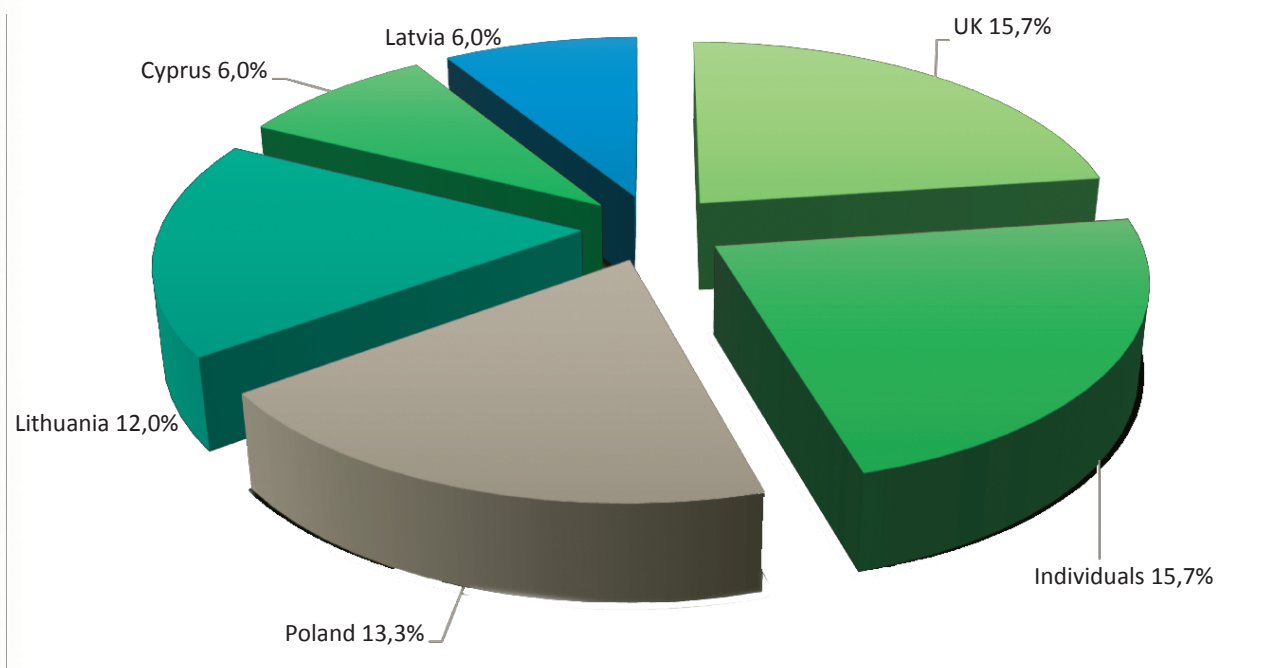


Fig. 2.48. Geography of registration of companies subject to inbound requests in 2018¹⁸⁵

In the course of the analysis of inbound requests, SFMS uncovered 81 bank accounts. Regarding the geography of bank account registration, Poland was found to be the leader in this regard with almost 28.4% (23).

184 Plotted according to SFMS data

185 Plotted according to SFMS data

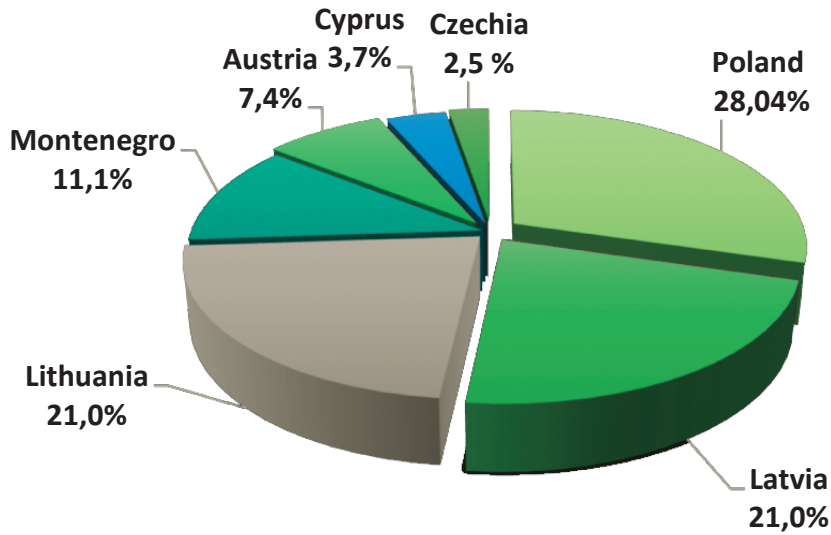


Fig. 2.49. Geography of bank account registration by incoming request subjects in 2018¹⁸⁶

In 2018, the SFMS received 24 messages / requests from 13 FIUs concerning FTs involving PEPs and related parties. Cooperation was most active with FIUs of Latvia, Jersey, Austria, Malta and the Isle of Man.

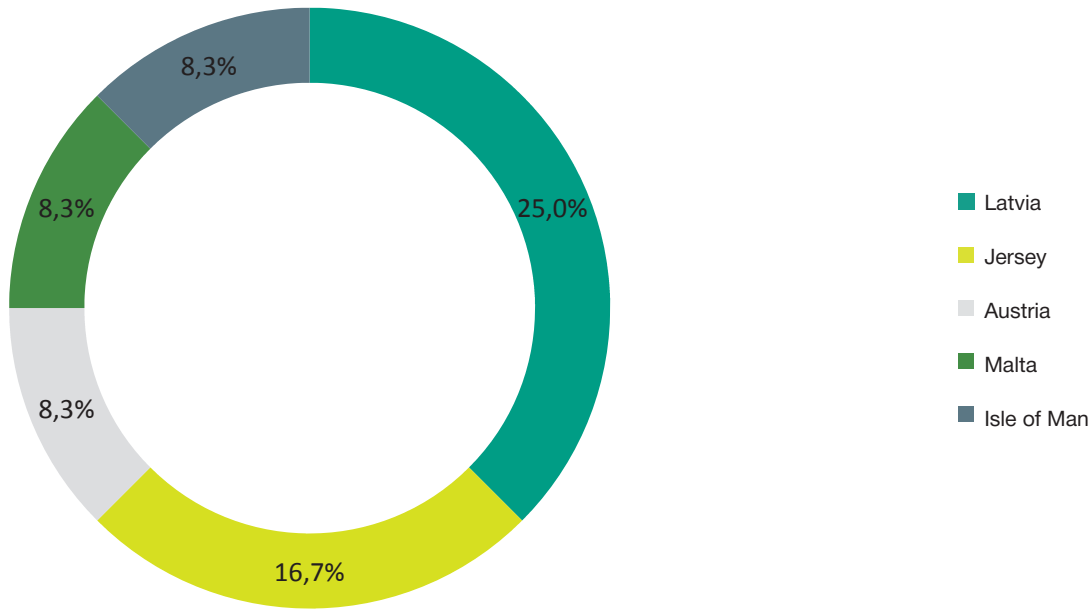


Fig. 2.50. Jurisdictions of bank accounts opened by PEPs and related parties in ML schemes¹⁸⁷

It was found that **PEPs and related parties own bank accounts** (Latvia, Isle of Man, BVI, Czech Republic, Lithuania) opened in their respective jurisdictions; are **beneficial owners of companies** (United Kingdom, Panama, BVI, Estonia, Cyprus, Malta); and **own real estate** (Austria, UK).

186 Plotted according to SFMS data

187 Plotted according to SFMS data

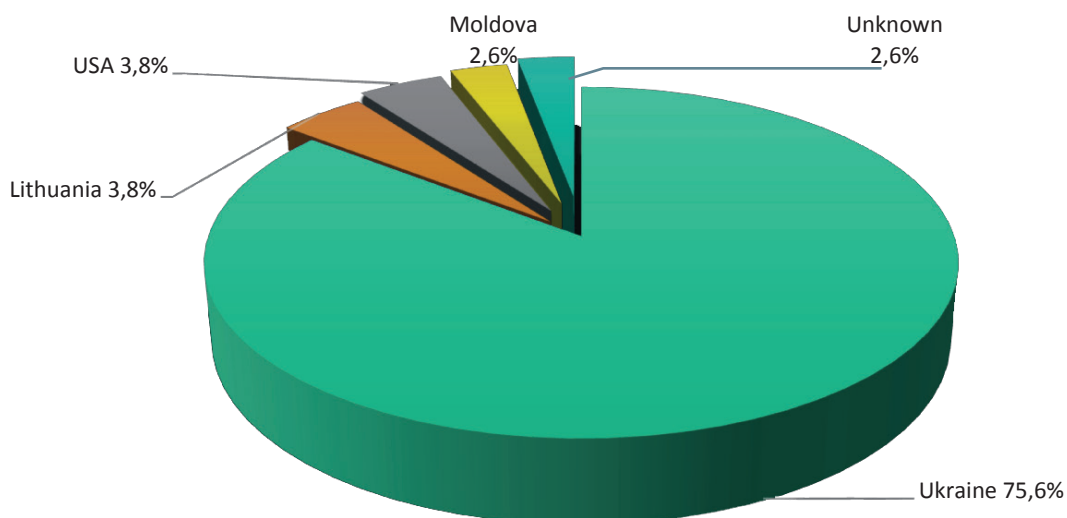


Fig. 2.51. Geography of beneficiary ownership in inbound requests in 2018¹⁸⁸

In the course of analyzing incoming messages received by SFMS from foreign FIUs in 2018, 78 individuals were identified who, according to foreign FIUs, had beneficial ownership of legal entities mentioned in requests, were account signatories, authorized to represent the company. Thus, 75.6% (59 persons) are Ukrainian citizens, 3.8% (3 persons) each are Lithuanian and US citizens, 2.6% (2 persons) are Moldovan citizens and persons whose citizenship has not been determined in the request. 1.3% (1 person) each were also identified as citizens of Poland, Latvia, Russia, Romania, Belarus, Azerbaijan, Germany, the Netherlands and Seychelles.

When analyzing the inbound requests by financial instruments used in FTs, it was found that 72.1% (62) requests were related to wire transfer of funds.

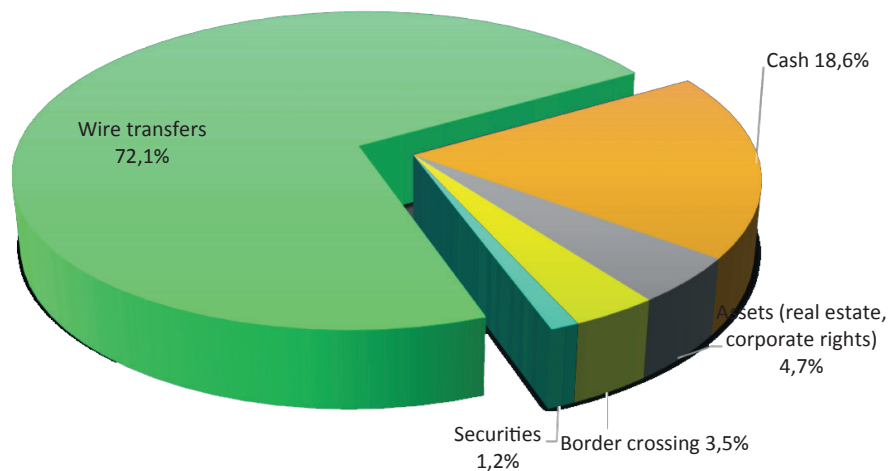


Fig. 2.52. Financial Instruments used by request subjects in the 2018¹⁸⁹

In 18.6% (16) of requests, cash was referred to as a primary FT financial instrument. 4.7% (4) requests referred to assets (real estate, corporate rights), 3.5% (3) requests cited transportation of funds across borders, 1.2% (1) request referred to the purchase / sale of securities.

188 Plotted according to SFMS data

189 Plotted according to SFMS data

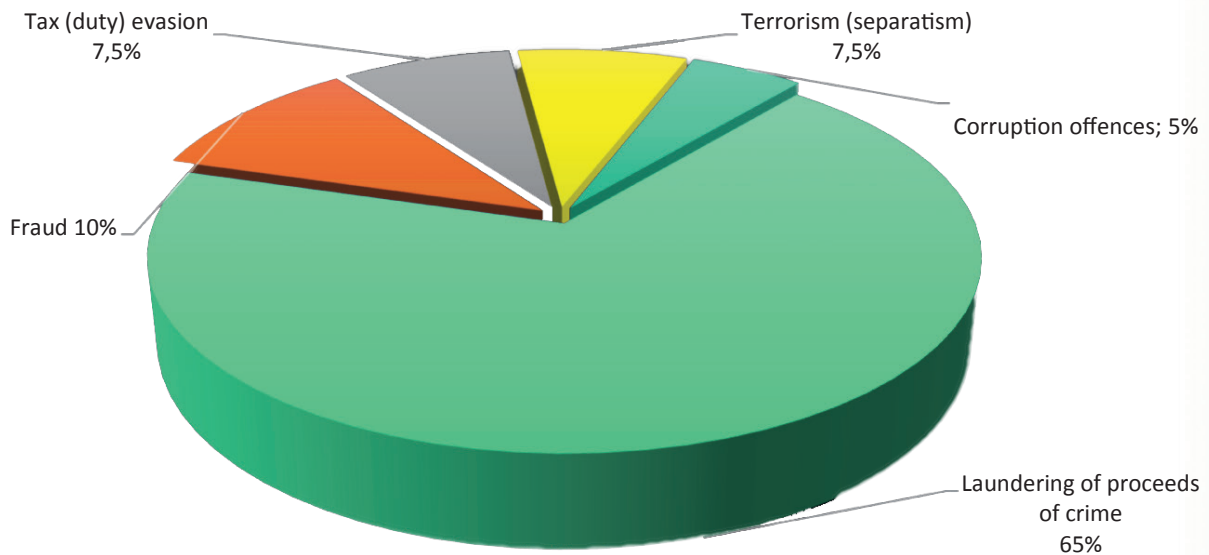


Fig. 2.53. Inbound requests by type of crime in 2018¹⁹⁰

Given the specificity of incoming requests or, in some cases, failure to specify ML/FT predicate offence by foreign FIUs, identifying specific types of predicates is problematic. Thus, in 2018, 65% (52) of incoming requests were related to financial transactions or other activities suspected by foreign FIUs of ML. 10% (8) of requests concerned suspected fraudulent activities of entities subject to request. Such predicate crimes as tax evasion and terrorism (separatism) account for 7.5% (6) of requests. Requests concerning corruption offences account for 5% (4) of the total amount of requests received. 5% of requests concerned such predicate offenses as: unlawful actions by bank executives, owners or supervisors on misappropriation of banking assets and subsequent legalization – 2.5% (2), bogus entrepreneurship – 1.25% (1) and smuggling – 1.25% (1).

Based on the analysis of information exchange between SFMS and FIUs of other countries, the following conclusions were drawn:

1. Financial transactions using these jurisdictions may carry an increased risk:
 - BVI;
 - The United Kingdom;
 - Cyprus;
 - Latvia;
 - Lithuania;
 - Poland;
 - Czech Republic;
 - Montenegro.

2. Operations conducted through or with the involvement of the following jurisdictions also need attention:
 - Russian Federation (especially in terms of FT);
 - Switzerland;
 - Austria;
 - The United States of America;
 - The Netherlands;
 - Germany;
 - Liechtenstein;
 - Luxembourg;
 - Estonia.

3. Increased risks by jurisdiction:

¹⁹⁰ Plotted according to SFMS data

- Registration of non-resident companies in ML schemes: UK, Poland, Lithuania, Cyprus and the British Virgin Islands;
 - use of bank accounts of non-resident companies in ML schemes: Latvia, Cyprus, Czech Republic, Poland, Lithuania, Montenegro.
 - beneficial owners (trustees or authorized signatories) of non-resident companies are citizens of Ukraine;
 - use of non-resident companies registered in jurisdictions that allow for the unrestricted remote opening / acquisition of such companies by non-resident individuals.
4. The sheer number of corruption related SFMS CRs/ACRs, increased cooperation with NABU and the fact, that 65.6% of SFMS requests to foreign FIUs contained information regarding suspected corruption offenses, all point towards PEPs laundering corruption proceeds in foreign jurisdictions.
 5. The share of cash-related transactions has increased to 18.6%, which may indicate an increase in the risk of illegal export of cash abroad bypassing the Ukrainian financial system with a view to ensure its further legalization in foreign countries.
 6. Cash couriers with non-typical transit traffic of funds through Ukraine.

According to the results of the analysis of information on SFMS activities, we can state the following:

- increase in efficiency of detection of suspicious FTs by SFMS and, consequently, the number of submitted ML related CRs;
- increase in the number of CPs that either have been initiated based on or used SFMS CRs;
- effective international cooperation of SFMS with FIUs of foreign countries.

These facts may point to the following threats:

- lack of effectiveness in LEA investigations of ML and FT criminal offenses;
- lack of effectiveness of judicial consideration of ML related CPs;
- the inadequacy of sanctions resulting from court sentences in ML cases;
- insufficient level of interagency cooperation between LEA and SFMS in terms of keeping parties updated on the progress of CPs.

These threats affect corresponding risks, in particular:

- the avoidance of punishment for ML and FT crimes and, as a consequence, the undermining of the principle of inevitability of punishment;
- the absence or inadequacy of punishment for ML and FT crimes leads to increase in crime levels;
- deterioration of interagency coordination due to insufficient feedback between the LEA and SFMS;
- ML involving national PEPs and senior officials.

2.2. Regulatory and oversight authorities

National Bank of Ukraine (NBU)

The NBU exercises state regulation and oversight in the field of AML/CFT with respect to non-resident financial institutions that are payment institutions and / or members or participants of payment systems insofar as it relates to provision of money transfer services on the basis of relevant licenses, including from the NBU (except money transfer services by postal operators), branches of foreign banks, banks.

Department of Financial Monitoring is the NBU unit entrusted with regulatory and oversight powers in the field of AML/CFT. As of 31.12.2018 the Department of Financial Monitoring employs 138 staff.

The NBU is continuously cooperating with various foreign financial monitoring bodies, especially with the supervisory authorities of countries with which the NBU has Memoranda of Understanding, including on requests for information.

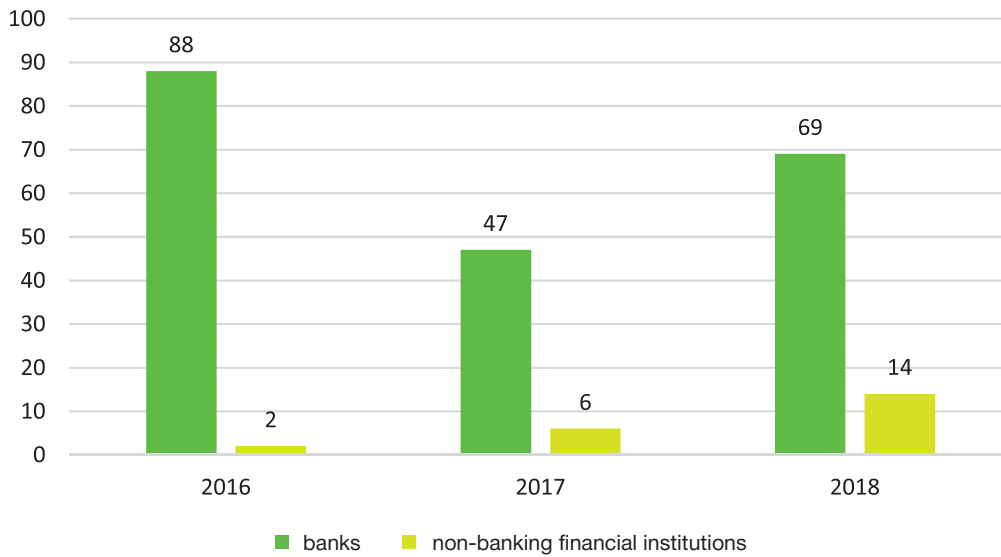


Fig. 2.54. The number of NBU inspections of REs conducted in 2016-2018¹⁹¹

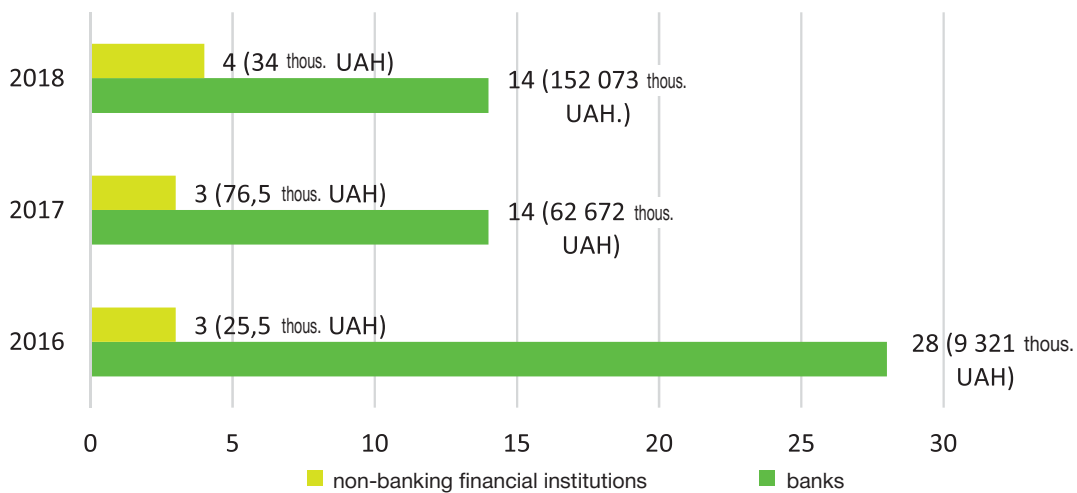


Fig. 2.55. The number and amounts of fines imposed on REs for violation of the AML/CFT legislation¹⁹²

As a result of NBU inspections in 2016-2018, numerous FTs with ML signs carried out by banks were identified that may be related to:

- conversion (transfer) of non-cash funds into cash;
- using nominal UBOs (controllers);

191 Plotted according to the Financial and Banking Sector ML/FT Risk Assessment Report (2019): National Bank of Ukraine

192 Plotted according to the Financial and Banking Sector ML/FT Risk Assessment Report (2019): National Bank of Ukraine

- bogus entrepreneurship;
- tax avoidance;
- extraction of capital abroad;
- generation of artificial income to display apparent legality of proceeds, including during their declaration by PEPs.

In 2016, overall average fines imposed on banks for violation of AML/CFT legislation amounted to UAH 332,893, UAH 4,476,571 in 2017; and UAH 10,862,356 in 2018.

The average fines imposed on non-banking financial institutions in 2016 was UAH 8,500, UAH 25,500 in 2017, and UAH 8,500 in 2018.

National Securities and Stock Market Commission (NSSMC)

NSSMC regulates and supervises AML/CFT with respect to professional participants in the stock market (securities market) (except banks).

NSSMC has a department of financial monitoring, slotted for 6 staff, responsible for inter-agency coordination with SFMS and other supervisory authorities, coordination and inspection of professional stock market participants on AML/CFT issues, monitoring the implementation by stock market participants of the AML/CFT legislation, as well as analyzing the effectiveness of the AML/CFT interventions in the securities market.

NSSMC regional offices have designated personnel responsible for the state financial monitoring and inter-agency coordination with the central office, local executive authorities, LEA.

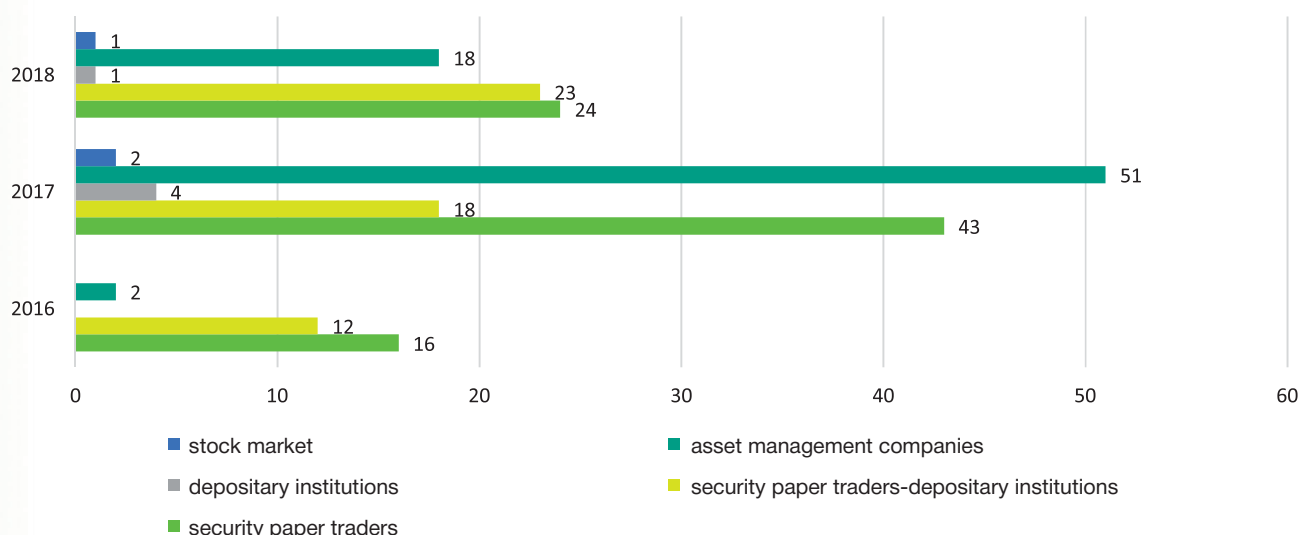


Fig. 2.56. Number of AML/CFT inspections of REs by NSSMC¹⁹³

The 2017 was marked by an increase in the number of inspections compared to 2016, which has to do with lifting of the ban on inspections of enterprises, institutions and organizations with revenues of up to UAH 20 million for the previous calendar year, according to the Law of Ukraine № 71-VIII dated December 28, 2014. Thus, in comparison with 2016, the number of inspections in 2017 increased by 88 (or 293.33%).

¹⁹³ Plotted according to NSSMC data

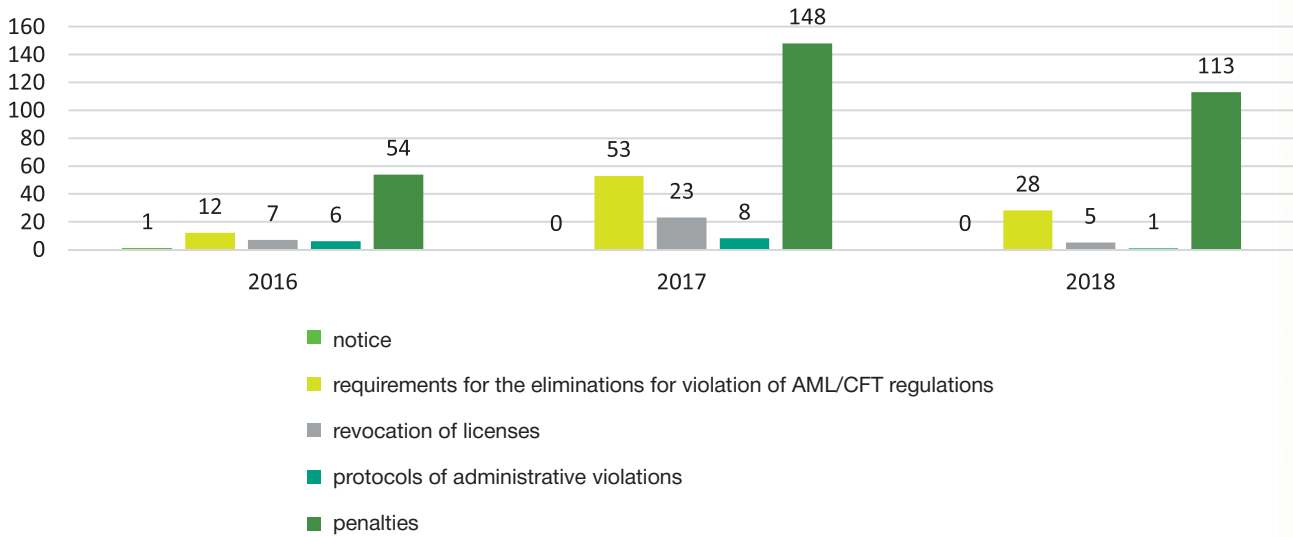


Fig. 2.57. NSSMC enforcement measures based on REs inspections results in 2016-2018¹⁹⁴

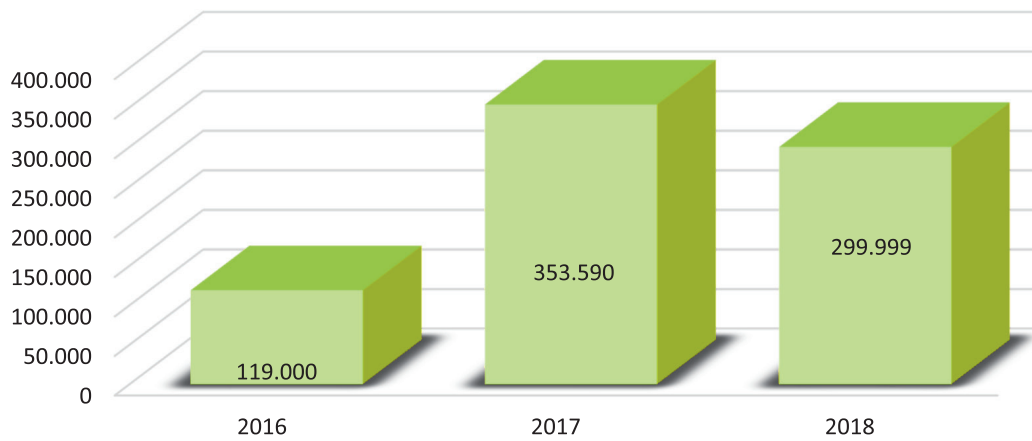


Fig. 2.58. Amounts of fines (UAH)¹⁹⁵

The overall average value of fines for violation of AML/CFT legislation in 2016 – UAH 9,917, in 2017 – UAH 2,544, in 2018 – UAH 2,941.

National Commission for State Regulation of Financial Services Markets of Ukraine (NC)

NC exercises state regulation and oversight in the AML/CFT field with respect to payment systems institutions and participants or members of payment systems (in relation to financial services, except money transfer services), insurers (reinsurers), insurance (reinsurance) brokers, pawnshops and other financial institutions, as well as legal entities that, in accordance with the law, provide financial services with exception of financial institutions and other legal entities, for which state regulation and supervision in the field of AML/CFT is exercised by other SFMEs.

The NC includes a unit that is tasked with monitoring compliance of reporting entities with the legislation on financial monitoring. This unit is a structural subdivision of the Department for the Development of Financial Services Markets and International Cooperation. The unit currently employs 5 staff, which remained unchanged over the 2013-2018 period.

194 Plotted according to NSSMC data

195 Plotted according to NSSMC data

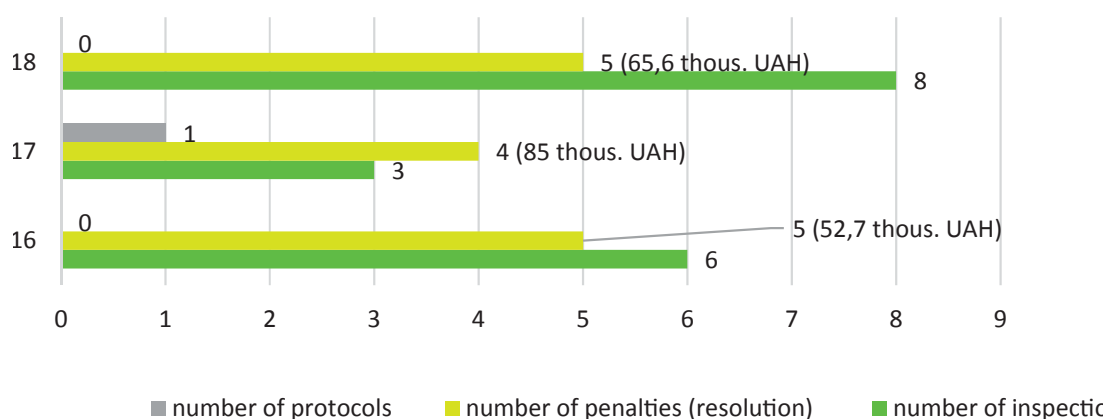


Fig. 2.59. NC AML/CFT oversight of insurance companies¹⁹⁶

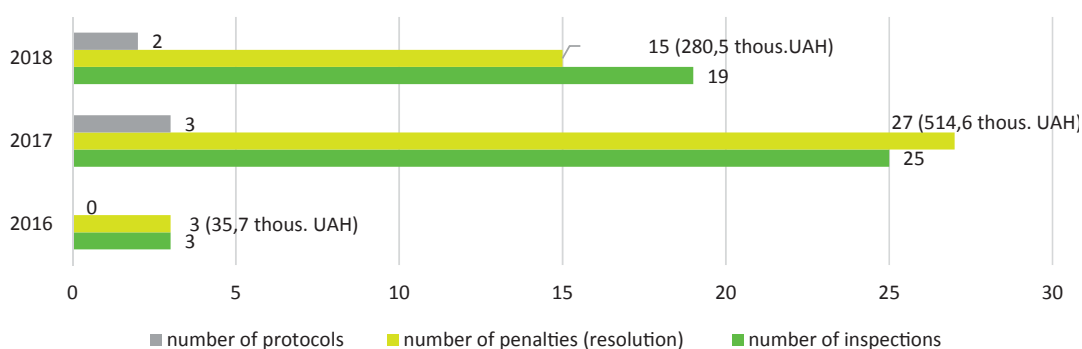


Fig. 2.60. NC AML/CFT oversight of financial companies¹⁹⁷

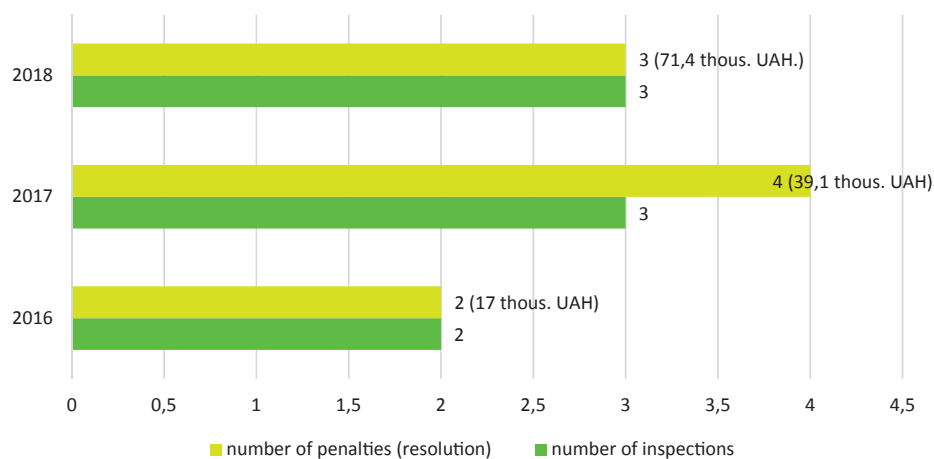


Fig. 2.61. NC AML/CFT oversight of credit unions¹⁹⁸

In 2016 the overall average fines amounted to UAH 11,830, UAH 18,249 in 2017, and UAH 17,591 in 2018.

196 Plotted according to National Commission for State Regulation of Financial Services Markets of Ukraine Plotted according to NC data

197 Plotted according to National Commission for State Regulation of Financial Services Markets of Ukraine Plotted according to NC data

198 Plotted according to National Commission for State Regulation of Financial Services Markets of Ukraine Plotted according to NC data

Ministry of Finance of Ukraine (MoF)

MoF is the main central executive authority, tasked with development and implementation of state policy in the field of AML/CFT.

MoF exercises state regulation and oversight in the AML/CFT field in relation to business entities involved in lotteries or any other type of gambling business; business entities that trade in precious metals and precious gems and products thereof, auditors, audit firms, individual entrepreneurs providing accounting services (except for individuals providing services within the framework of employment relationships).

In MoF, the Department of Tax Policy and Oversight of Fiscal Authorities includes a unit for state financial monitoring, which consists of 5 staff.

In 2016-2018 the MoF focused its AML/CFT compliance inspections on audit firms.

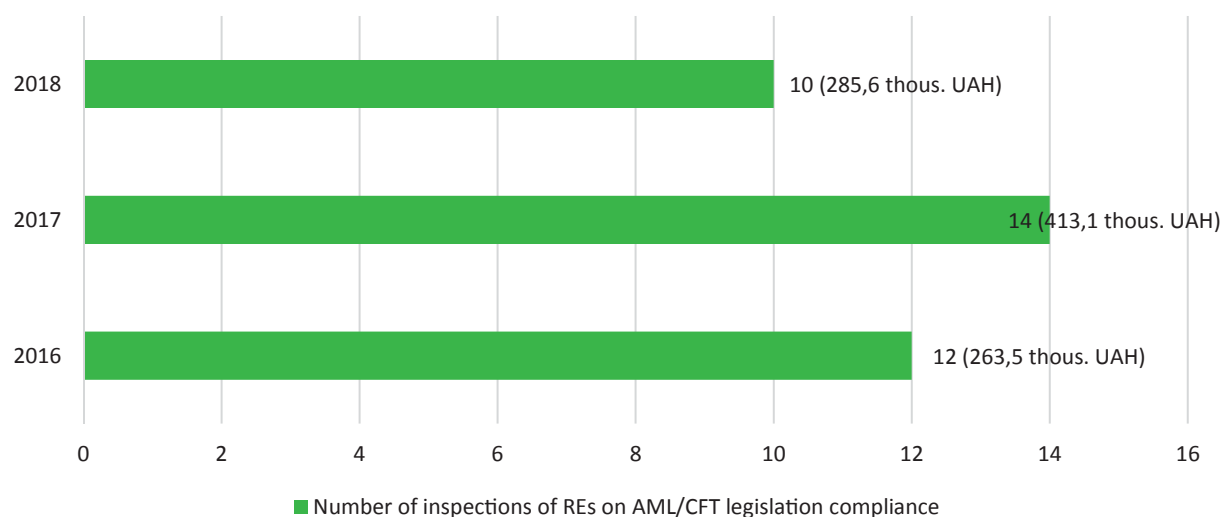


Fig. 2.62. Number of MoF inspections of REs (audit firms) and the amount of sanctions imposed for violation of AML/CFT regulations ¹⁹⁹

Overall average penalties for violation of AML/CFT legislation in 2016 – UAH 21,958; in 2017 – UAH 29,507, in 2018 – UAH 28,560.

Table 2.5

Number of detected violations of the regulatory requirements in the AML/CFT field, by type of violation²⁰⁰

Type of violation	2016	2017	2018
1	2	3	4
inconsistency of internal documents with the requirements of the AML/CFT legislation	5	5	6
violation of compliance officer appointment rules	1	5	6
failure to undergo training and advanced training by compliance officer	9	5	5
failure to submit to the SFMS the information required for registration as RE	7	11	8
violation of the identification / verification procedure	1	0	3
failure to submit information / documents at request of SFME (Ministry of Finance) required by state regulation and oversight functions	4	7	6
other violations	2	2	3
Total	29	35	37

¹⁹⁹ Plotted according to Ministry of Finance of Ukraine MoF data

²⁰⁰ Plotted according to Ministry of Finance of Ukraine MoF data

Ministry of Justice of Ukraine (MoJ)

The Ministry of Justice exercises state regulation and oversight in the field of AML/CFT in respect of notaries, lawyers, law bureaus and associations and business entities providing legal services (except for individuals providing services within the framework of employment relationships).

State regulation and oversight in the field of AML/CFT in MoJ falls within the scope of the notarial organization and financial monitoring unit of the Notary Directorate of the Department for State Registration and Notarial System currently employing 5 staff.

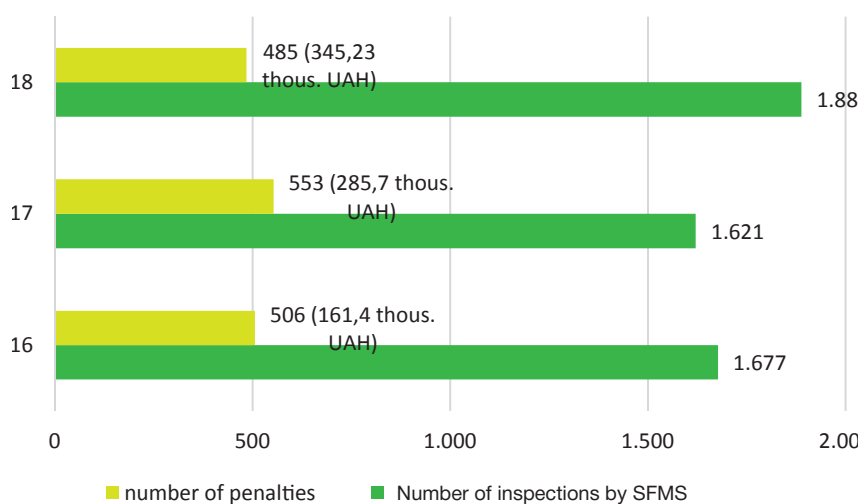


Fig. 2.63. Results of MoJ AML/CFT oversight of relevant REs²⁰¹

Table 2.6

Results MoJ AML/CFT supervision²⁰²

Indicator	2016	2017	2018
Number of RE compliance inspections in the field of AML/CFT, including:	1 677	1 621	1 888
notaries	1 666	1 564	1 867
lawyers	5	27	6
law associations	1	4	1
law firms	-	5	1
business entities providing legal services	5	21	13

Overall average penalties for violation of the AML/CFT legislation in 2016 – 319 UAH, in 2017 – 517 UAH, in 2018 – 712 UAH.

201 Plotted according to MoJ data

202 Plotted according to MoJ data

Ministry of Economic Development, Trade and Agriculture of Ukraine (MEDT)

The MEDT exercises state regulation and oversight in the field of AML/CFT with respect to commodity and other exchanges, conducting FTs with regard to goods and commodities.

From August 2014 to December 2016, MEDT had not carried out any inspections of commodity exchanges in view of the effect of the moratorium established by the Laws of Ukraine “On Amendments to and Expiration of Some Legislative Acts of Ukraine” and “On Amendments to the Tax Code of Ukraine and Some Legislative Acts of Ukraine on Tax Reform”.

Currently, the MEDT is working on harmonizing regulatory and legal acts that govern commodity exchanges to ensure accordance with the requirements of the Law. As a result, no inspections are currently being carried out in respect of commodity exchanges.

It should be noted that the MEDT does not have a functional unit directly tasked with financial monitoring.

Ministry of Infrastructure of Ukraine (Mol)

The Mol exercises state regulation and oversight in the field of AML/CFT with respect to postal service providers (in relation to money transfer services).

The Ministry of Infrastructure has a structural unit for financial monitoring – the State Financial Monitoring Sector within the Directorate for Prevention of Corruption, Internal Investigations and State Financial Monitoring, currently employing 2 staff.

In 2016-2018, the Ministry of Infrastructure conducted 10 AML/CFT inspections of postal service providers. As a result of these inspections, 7 fines totaling UAH 10,574 were applied.

State Financial Monitoring Service of Ukraine (SFMS)

SFMS exercises state regulation and oversight in the field of AML/CFT in relation to business entities providing intermediary services for real estate purchase and sale operations.

The SFMS is slotted for 237 staff. As of 01.01.2019, only 213 staff are employed.

In SFMS, the regulation and supervision in the field of AML/CFT is carried out by RE coordination unit, employing 6 staff.

As of December 31, 2018, SFMS oversees 189 REs.

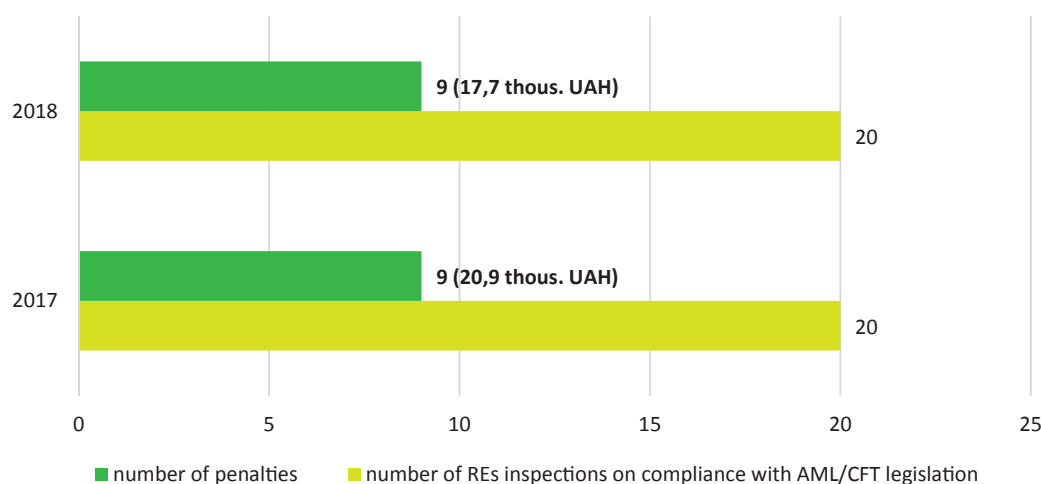


Fig. 2.64. SFMS oversight in the AML/CFT field ²⁰³

203 Plotted according to SFMS data

The most frequent violations of AML/CFT legislation committed by realtors have to do with inconsistency of internal documents with the requirements of AML/CFT legislation, appointment of compliance officers and missing reporting deadlines in accordance with AML/CFT laws.

In addition, due to the moratorium on inspections, the SFMS did not carry out any inspections in 2016.

Table 2.7

The most common violations detected by SFMS in the course of inspections of realtors²⁰⁴

Number of detected violations of the regulatory requirements in the AML/CFT field, by type of violation:	2016	2017	2018
		-	38
inconsistency of internal documents with the requirements of the AML/CFT legislation	-	6	5
violation of compliance officer appointment rules	-	10	5
failure to undergo training and advanced training by compliance officer	-	4	2
lack of training on financial monitoring for RE staff	-	3	1
missing reporting deadlines in accordance with the AML/CFT legislation	-	4	5
violations of the identification procedure	-	2	5
violations of the documents storage procedure	-	1	1
violations in conducting risk assessment	-	1	-
other violations	-	7	3

²⁰⁴ Plotted according to SFMS data

2.3. Law enforcement and intelligence system

Prosecutor General’s Office of Ukraine (PGO)

The Prosecutor’s Office of Ukraine is a unified system which, in the manner provided by this Law, performs functions set out by the Constitution of Ukraine for the purpose of protecting human rights and freedoms, general interests of society and the state.

The prosecutor’s office has the following functions:

- support of state prosecution in court;
- representing interests of a citizen or the state in court in cases determined by this Law;
- oversight of the observance of law by authorities conducting the operative-search activity, inquiry, pre-trial investigation
- oversight of the observance of the law in the enforcement of court decisions in criminal cases, as well as in the application of other coercive measures related to restriction of personal freedom of citizens.

System of the prosecutor’s office of Ukraine:

- 1) PGO;
- 2) regional prosecutor’s offices;
- 3) local prosecutor’s offices;
- 4) military prosecutor’s offices;
- 5) SAPO.

The PGO is a higher-level prosecuting authority for regional and local prosecutors.²⁰⁵

The PGO organizes and coordinates the activities of all prosecuting authorities in order to ensure the effective performance of prosecutorial functions.

Within the structure of the PGO there is a unit for coordination of investigation of c AML/CFT crimes operating as a part of the department of observance of law by the State Fiscal Service of Ukraine. The unit has 3 staff members: the head of the department and 2 prosecutors. The unit’s competence does not extend to counteracting terrorist financing and proliferation of weapons of mass destruction and is limited solely to the oversight of CPs where pre-trial investigations are conducted by regional divisions of the SFS of Ukraine.

The PGO is the holder of an automated electronic database system that is used to collect, store, protect, record, search, and compile criminal records and CPs pre-trial investigations – the URPI.

Promising areas the PGO is working on include improving legislation on criminal responsibility for autonomous money laundering, concept of confiscation, criminal liability of legal entities, financial investigations and instruments of the criminal process, including ways to reduce and simplify the trial stage (CPs take years to try).²⁰⁶

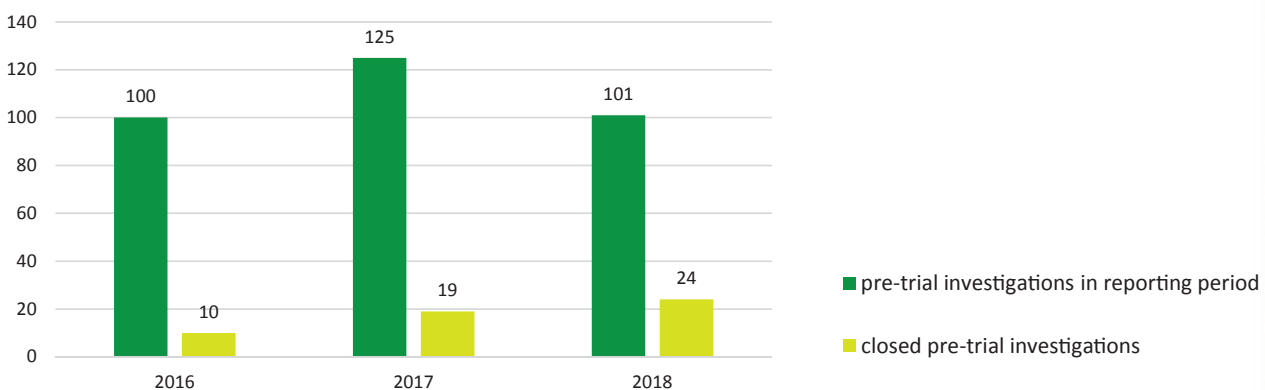


Fig. 2.65. Pre-trial investigations of criminal offenses by PGO under Art. 209 of the CC of Ukraine in 2016-2018²⁰⁷

205 On Prosecutor General’s Office of Ukraine: Law of Ukraine, October 14, 2014, No. 1697-VII: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/1697-18>

206 Source: According to the PGO.

207 Plotted according to PGO Reports on Counteracting Legalized Income, Form 1-LV: PGO: [Online resource]. - Access at: https://www.gp.gov.ua/ua/stst2011.html?dir_id=112659&libid=100820&c=edit&_c=fo
 “On the Security Service of Ukraine” Law of Ukraine, March 25, 1992 No. 2229-XII: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/2229-12>

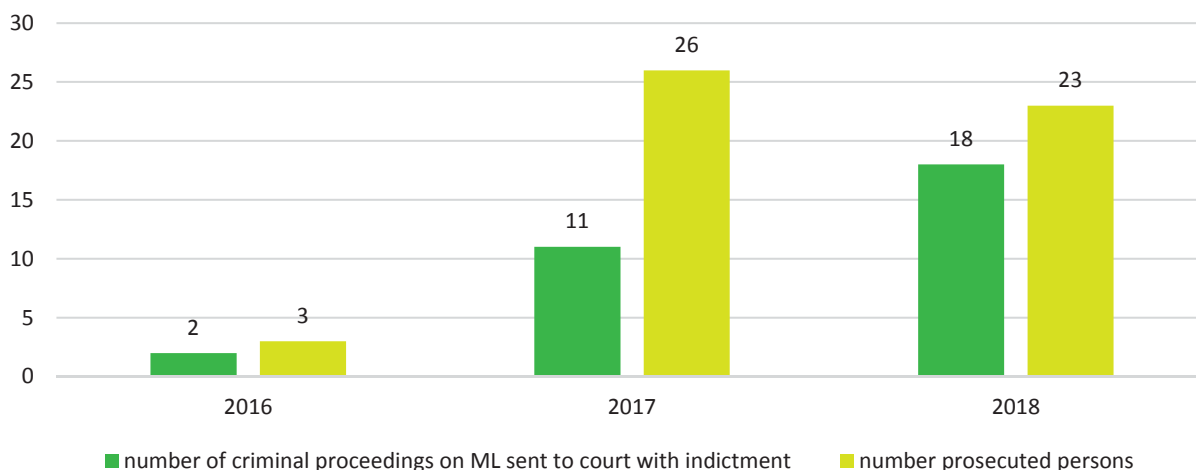


Fig. 2.66. ML CPs by PGO that resulted in indictments in 2016-2018²⁰⁸

Security Service of Ukraine (SSU)

The Security Service of Ukraine is a state special purpose authority with law enforcement functions that ensures the state security of Ukraine. The SSU reports to the President of Ukraine.

Within the competence defined by the legislation, the Security Service of Ukraine is responsible for the protection of state sovereignty, constitutional order, territorial integrity, economic, scientific, technological and defense potential of Ukraine, legitimate interests of the state and citizens' rights from intelligence and subversive activity of foreign special services, individual organizations, groups and individuals, as well as securing state secrets.

The SSU's tasks also include prevention, detection, interruption and clearance of crimes against the peace and security of mankind, terrorism, corruption and organized criminal activity in the areas of governance and the economy and other unlawful acts that directly threaten Ukraine's vital interests.

The SSU system is composed of the Central Administration of the Security Service of Ukraine, subordinate regional branches, military counterintelligence units, military formations, as well as educational, research and other institutions of the Security Service of Ukraine.

The SSU Anti-Terrorism Center is tasked with organizing and conducting counter-terrorism operations as well as coordinating activities of other agencies engaged in counterterrorism or counter-terrorism operations.²⁰⁹

The total strength of the SSU is 27 thousand. During the special period this number is 31 thousand, and for the duration of the martial law – in accordance with the Mobilization Plan of Ukraine for the special period²¹⁰.

The SSU, which is the leading authority in the nationwide counter-terrorism system, is taking effective measures to counter the risks and threats of terrorism and separatism.

Actions taken by the SSU in 2016:

More than 10 acts of terrorism had been thwarted at preparation stage. 15 times improvised explosive devices intended for a terrorist act were prevented from being planted. 11 manifestations of terrorism were uncovered. 110 members of terrorist and sabotage-reconnaissance groups involved in the preparation or perpetration of terrorist acts were identified and 56 detained.

208 Plotted according to PGO Reports (form 1-LV) "Report on counteraction to legalization of criminal proceeds [Online resource]. [Online resource]. Based on information from the PGO Reports on Counteracting Legalized Income, Form 1-LV: PGO: [Online resource]. - Access at: https://www.gp.gov.ua/ua/stst2011.html?dir_id=112659&libid=100820&c=edit&c=fo

"On the Security Service of Ukraine": Law of Ukraine, March 25, 1992 No. 2229-XII: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/2229-12>

209 "On the Security Service of Ukraine": Law of Ukraine, March 25, 1992 No. 2229-XII: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/2229-12>

210 "On the General Structure and Strength of the Security Service of Ukraine": Law of Ukraine, October 20, 2005 No. 3014-IV: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/3014-15>

2. Government component

168 anonymous phone calls regarding possible imminent explosions at facilities of different forms of ownership were solved.

In cooperation with foreign partner intelligence services, 11 “transfer stations” for members of the “Islamic State” (ISIS) international terrorist organization were identified and shut down; 2 ISIS cells which provided stay for militants in Ukraine and their subsequent transfer to Syria and Iraq were dismantled.

In the course of the liquidation of channels of illegal smuggling of fighters and their families from the Caucasus and Central Asia to the Syrian-Iraqi zone, 9 foreign ISIS supporters were identified and detained. Under Art. 582 (“Specifics of arrests of persons suspected of committing a crime outside Ukraine”) of the CPC of Ukraine seven foreign members of ISIS and “Al-Nusra Front” wanted by Interpol were detained. 21 foreign nationals and 1 stateless ISIS supporter were extradited to their countries of residence.

Based on the information received through international cooperation, 602 foreign nationals involved with international terrorist organizations were banned from entering Ukraine, 443 of whom were active ISIS participants who could have used Ukraine for their illegal purposes.

Actions taken by the SSU in 2017:

In terms of counter-terrorism efforts, 17 terrorist acts were prevented.

154 anonymous telephone callers who made threats of a terrorist nature have been found.

In terms of international counter-terrorism efforts, 166 persons involved with international terrorist and religious extremist organizations were identified and 46 detained.

2 international transit channels for members of terrorist organizations and 3 ISIS cells whose members, in order to finance terrorist activities, carried out extortion, robbery, and other criminal offenses, as well as provided support to members and supporters of ITOs trying to enter Ukraine were shut down.

5 transfer stations used to harbor militants in a number of regions were discontinued.

627 foreign nationals involved with international terrorist and religious extremist organizations, including 393 active ISIS participants were banned from Ukraine. 57 foreign nationals were expelled to their country of origin, including 15 ISIS supporters.

Actions taken by the SSU in 2018:

In terms of counter-terrorism efforts, 6 terrorist acts were prevented, 11 persons were detained. 3 terrorist acts were solved, and 7 persons involved in their perpetration were detained.

244 anonymous reports regarding imminent explosions at facilities of different form of ownership were solved, including 123 such anonymous reports regarding state authorities, local self-government and court facilities of Ukraine. 228 people were found.

422 foreign nationals involved with international terrorist and religious extremist organizations were banned from Ukraine as a part of the fight against international terrorism. In Ukraine, 248 persons were found, and 17 individuals involved with international terrorist and religious extremist organizations were detained. 116 people were extradited to their country of origin, 6 were expelled.

National Police of Ukraine (NPU)

The NPU is the central executive authority that serves society by ensuring protection of human rights and freedoms, combating crime, maintaining public safety and order.

The tasks of the NPU are to provide police services in the following areas:

- public safety and order;
- protection of human rights and freedoms, interests of society and the state, combating crime;
- assisting persons who, for personal, economic, social or emergency situations, require such assistance.

The police system is made up of a central police authority and territorial police bodies. The structure of the central police and territorial police authorities is approved by the Head of Police in agreement with the Minister of Internal Affairs of Ukraine.

The NPU includes criminal police, patrol police, pre-trial investigation bodies, security police, special police, special-purpose police²¹¹.

Thus, the criminal police include the Department for Protection of Economy – an interregional territorial body consisting of an apparatus and territorial units.

Also, in 2017, the criminal police established Hazardous Materials Support Department. This unit is designed to detect and terminate criminal offenses related to illicit handling of hazardous (radioactive, chemical, biological and nuclear) materials, as well as to implement international conventions on the physical protection of nuclear material, on nuclear safety, and other international treaties ratified by Ukraine.

Since one of the NPU priorities is the fight against organized crime, a criminal analysis unit has been set up within the Strategic Investigations Department. Also, the SOCTA methodology is currently being implemented that will allow strategic analysis of criminal groups and predict most dangerous and interesting areas of activity for the criminal world²¹².

Actions taken by NPU in 2016:

There was a total of 214 ML related CPs (Article 209 of the CC of Ukraine), of which 56 had their pre-trial investigation stage completed (22 resulted in indictment, 33 were closed), and by the end of 2016 there were 106 criminal cases left.

In addition, 315 CPs were initiated in relation to ML predicate offenses, of which 177 resulted in an indictment, of which 28 CPs were related to organized groups and criminal organizations (OGs and COs). Most crimes that preceded ML crimes were crimes against property – 232 of the total number detected and investigated in 2016, as well as crimes in the field of economic and professional activity – 63 criminal offenses.

Actions taken by NPU in 2017:

There was a total of 264 ML CPs (Art. 209 of the CC of Ukraine), of which 88 CPs had their pre-trial investigation stage completed (47 resulted in indictment, 41 were closed), at by the end of the year there were 127 criminal cases left.

In addition, 345 CPs were initiated in relation to ML predicate offenses, of which 215 resulted in an indictment, of which 133 were related to organized groups and criminal organizations (OGs and COs). Most crimes that preceded ML crimes were crimes against property – 237, as well as crimes in the field of economic and professional activity – 53 criminal offenses.

Actions taken by NPU in 2018:

There was a total of 281 ML CPs (Art. 209 of the CC of Ukraine), of which 48 resulted in indictment or request for compulsory medical treatment, and 29 were closed. As of the end of 2018, there were still 145 CPs left.

In addition, 428 CPs were initiated in relation to ML predicate offenses (172 of which resulted in an indictment. The most were crimes against property – 393 (54 – theft, 1 – robbery, 252 – fraud, 78 – misappropriation, embezzlement, or seizure of property through abuse of office, 6 – aggravated assault), as well as crimes in the field of economic and professional activities (16 and 5, respectively). Of the ML predicate crimes on trial, 85 were committed by organized groups and criminal organizations (OGs and COs).

211 On the National Police: Law of Ukraine. July 2, 2015, No. 580-VIII: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/580-19>

212 Source: Official Website of the National Police of Ukraine: [Online resource]. - Access at: <https://www.npu.gov.ua/>

State Fiscal Service of Ukraine (SFS)

SFS is the central executive authority tasked with implementing state tax policy in the field of customs, state policy on administration of a single compulsory state social insurance payment, state policy in the field of combating tax related offences, as well as offences in the field of customs legislation, and legislation regarding the single payment.

In accordance with its functions, the SFS takes steps to identify, analyze and verify FTs that may be related to ML/FT²¹³.

To this end, the SFS has a Department for combatting laundering of criminal proceeds, whose objectives include implementing and improving comprehensive anti ML system as well as fighting corruption within SFS. One of the main functions of this Department is to take steps to identify, analyze, organize and conduct inspections of entities conducting financial transactions that may be associated with ML/FT²¹⁴.

Table 2.8

Main analysis and oversight results of the SFS for 2016-2018²¹⁵

Indicator	2016	2017	2018
1	2	3	4
Suspicious FT reports (ML signs)	1 221	1 210	2 305
Referrals with the signs of criminal offenses, including:	1 573	1 133	1 191
with ML signs (Article 209 of the CC of Ukraine)	395	324	401
total amount of uncovered legalized proceeds, UAH thousand	5 929 605	12 107 260	42 857 102
predicate crimes	1242	857	870
total amount of established losses, UAH thousand	13 275 181	13 898 739	76 563 439
other crimes	241	193	123
total amount of losses, UAH thousand	3 299 531	21 168 976	4 002 070
Property arrested, UAH thousand	147 511	52 294	143 919
Real estate seized, UAH thousand	22 692	5 000 200	2
Movable property seized, UAH thousand	13 655	203 699	49 001
Damage recovered, UAH thousand	52 226	39 056	73 024

National Anti-Corruption Bureau of Ukraine (NABU)

NABU is a state LEA tasked with countering criminal corruption offenses committed by senior officials authorized to perform functions of state or local governance and pose threat to the national security.

NABU's responsibilities include:

- operative and search activities for prevention, detection, termination and clearance of criminal offenses within its jurisdiction according to the law, as well as operative and search activities requested by other LEA;
- pre-trial investigation of criminal offenses within its jurisdiction according to the law (including crimes under Article 209 of the CC of Ukraine), as well as other criminal offenses in cases determined by the law;

213 On the State Fiscal Service of Ukraine: CMU Resolution of the CMU, May 21, 2014 No. 236: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/236-2014-%D0%BF>

214 Source: SFS official website: [Online resource]. - Access at: <http://sfs.gov.ua/pro-sfs-ukraini/struktura-apat-departament-borotbi-z-vidmivannyam/zavdannya-i-funktsii/>

215 According to SFS official SFS data

- search and arrest of funds and other property that may be the subject to seizure or special confiscation in criminal offenses attributable to NABU's jurisdiction, as well as storage of arrested funds and other property;
- coordination with other state authorities, local self-government and other entities in the course of performing its duties.

NABU consists of central and territorial offices.

Table 2.9

NABU results for 2016-2018²¹⁶

Indicator	2016 ²¹⁷	2017 ²¹⁸	2018 ²¹⁹
1	2	3	4
Number of CPs²²⁰	264	489	635
Number of court cases	50	107	176
Number of indicted persons (indictments made against persons)	69	165	292
Damage recovered (UAH million)	-	253,3	452,37

Administration of the State Border Guard Service of Ukraine (SBGS Administration)

The SBGS Administration implements state policy in the field of protection of the state border and Ukraine's sovereign rights in its exclusive (maritime) economic zone.

The SBGS Administration manages the State Border Guard Service of Ukraine, territorial units – regional departments, Maritime Guard, state border protection units, support units, educational establishments and research institutions.

The main functions of the SBGS include fight against OC and combatting illegal migration at the state border of Ukraine and within controlled border areas, as well as participation in combating terrorism, dismantling illegal paramilitary and armed groups (militias), organized groups and criminal organizations violating Ukraine border crossing rules.

The total number of the SBGS is 53,000, including 45,000 servicemen²²¹.

216 Summarized based on information from the 2016-2018 NABU activity reports: [Online resource]. - Access at: <https://nabu.gov.ua/reports>

217 NABU Information of NABU as of January 27, 2018

218 NABU Information of NABU as of December 31, 2017

219 NABU Information of NABU as of December 31, 2018

220 Number of proceedings of the NABU detectives at the end of each reporting year

221 "On the State Border Guard Service of Ukraine": Law of Ukraine, April 36, 2003 No. 661-IV: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/661-15#o304>

2. Government component

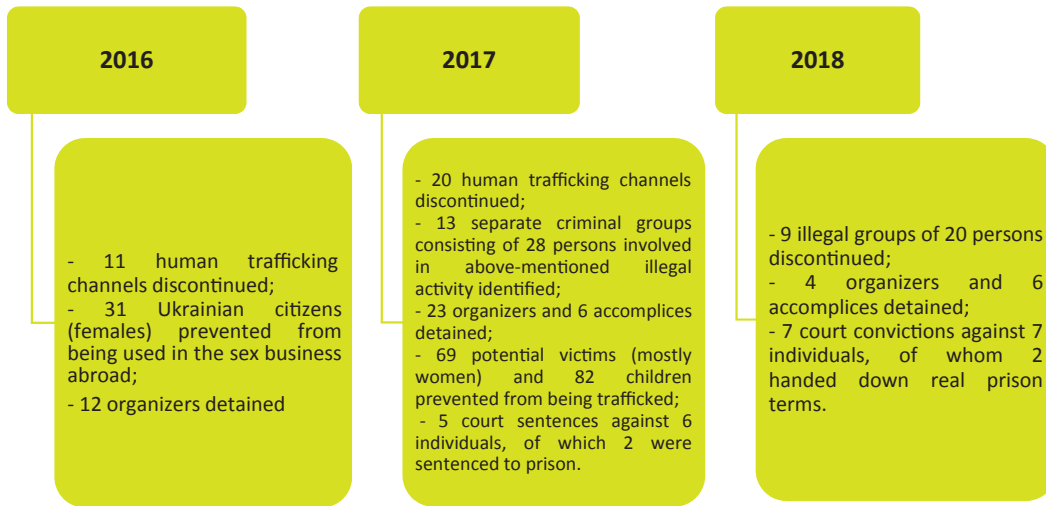


Fig. 2.67. SBGS activities to detect trafficking in human beings or other illegal agreements ²²²

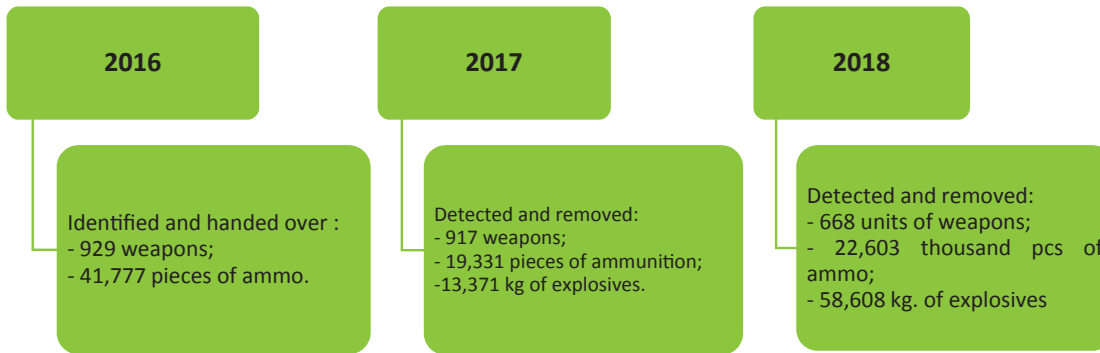


Fig. 2.68. SBGS activities to combat illicit movement of weapons, ammunition and explosives ²²³

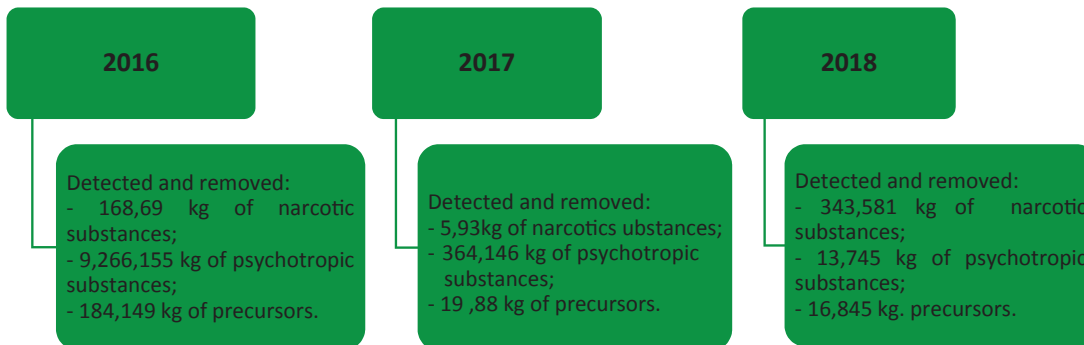


Fig. 2.69. The SBGS activities to combat illicit movement of drugs²²⁴

²²² According to official information of the State Border Guard Service
According to official SBGS data

²²³ According to official SBGS data

²²⁴ According to official SBGS data

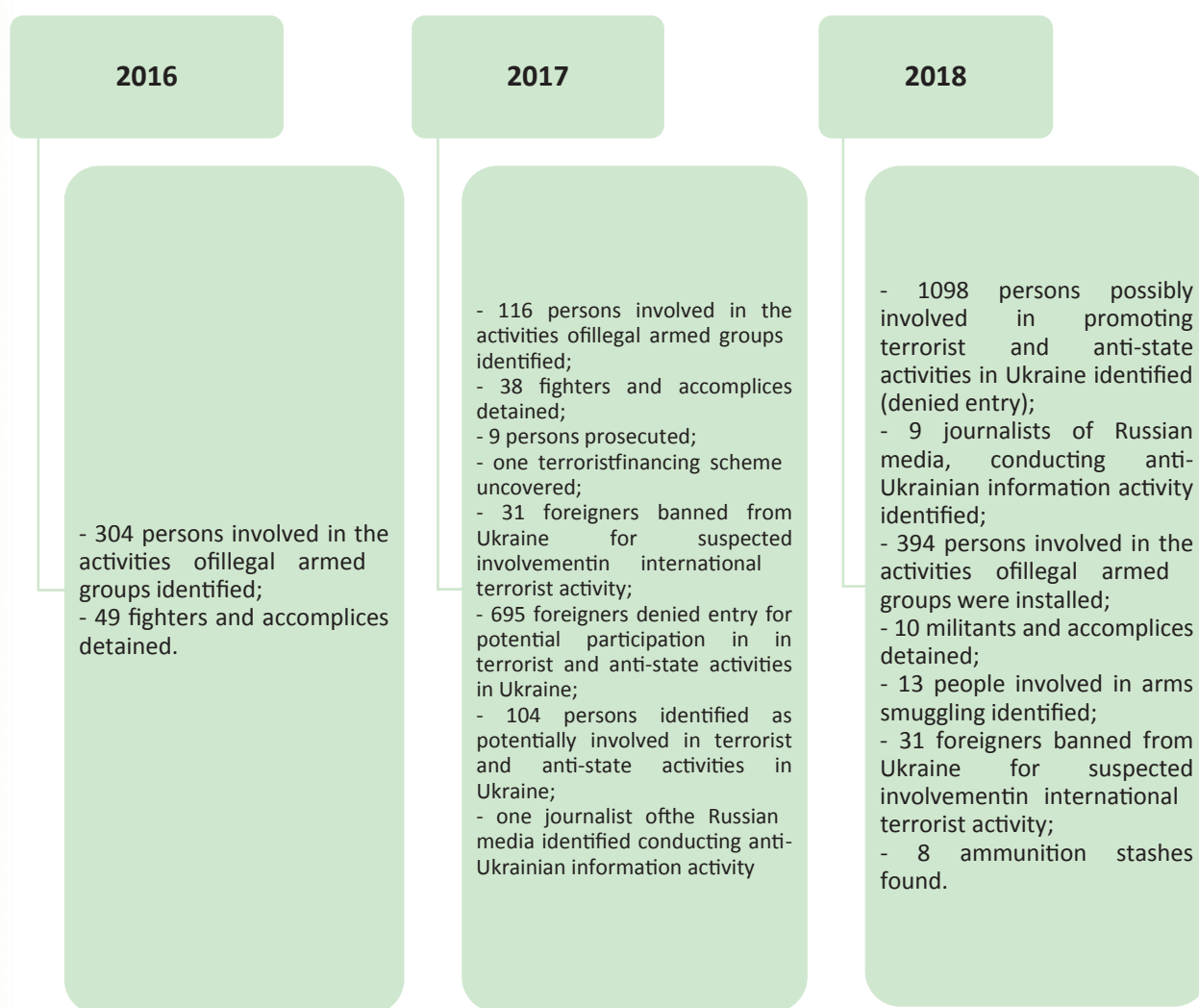


Fig. 2.70. The SBGS activities to counter terrorist threats ²²⁵

Foreign Intelligence Service of Ukraine (FISU)

The FISU is a state authority tasked with carrying out intelligence activities in the political, economic, military, technical, scientific, technical, information and environmental fields. The FISU reports to the President of Ukraine and is under control of the President of Ukraine and the VRU. The military personnel, officers and employees of the Foreign Intelligence Service of Ukraine are members of the FISU as a military unit.

FISU tasks, include participation in combatting terrorism, international organized crime, drug trafficking, illicit arms and technology trafficking, illegal migration, as well as taking measures to counter the external threats to Ukraine's national security, including in cyberspace, life and health of its citizens and state-owned facilities outside Ukraine²²⁶.

The intelligence agencies of Ukraine are devoid of any law enforcement functions. FISU units and their employees direct their efforts solely on ensuring security of the state from external threats, and not have criminal procedural powers, and are therefore deprived of the right to open criminal cases, conduct investigations or detain, arrest or interrogate people²²⁷.

²²⁵ According to official SBGS data

²²⁶ "On Foreign Intelligence Service of Ukraine": Law of Ukraine, December 1, 2005 № No. 3160-IV: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/3160-15?find=1&text=%F2%E5%F0%EE%F0%E8%E7#w11>

²²⁷ Source: Official web site of the Foreign Intelligence Service of Ukraine website: [Online resource]. - Access at: <http://szru.gov.ua/>

In 2016–2018, FISU worked on obtaining intelligence on ISIS activities (including sources of funding), identifying its efforts in Ukraine, etc., incl. in the context of possible use of our state in the interests of financial support of the said terrorist organization. This intelligence was shared with the SSU, foreign partners and other entities, and was considered in further attempts to thwart ISIS activities to the detriment of Ukraine's interests.

State Bureau of Investigation (SBI)

SBI is a central executive body that conducts law enforcement activities to prevent, detect, terminate, clear and investigate crimes within its jurisdiction.

The tasks of the SBI are to prevent, detect, terminate, clear and investigate crimes:

- committed by officials holding high office in accordance with part one of Article 9 of the Law of Ukraine “On Civil Service”, individuals whose positions are assigned to the first – third categories of civil service posts, judges and LEA employees, except when these crimes fall under the jurisdiction of NABU;
- committed by NABU officials, Deputy Prosecutor General - Head of the Specialized Anti-Corruption Prosecutor's Office or other prosecutors of the Specialized Anti-Corruption Prosecutor's Office, except when the pre-trial investigation of these crimes is within the jurisdiction of NABU internal control unit;
- against the established order of military service (war crimes), except for crimes stipulated by Article 422 of the CC of Ukraine (Disclosure of information of military nature constituting a state secret, or loss of documents or materials containing such information).

Also, in accordance with its tasks and within its competence, the SBI conducts information and analytical activities to establish systemic causes and preconditions of organized crime and other types of crimes that fall within the SBI competence and takes measures to eliminate them.²²⁸

The SBI consists of a central office and seven territorial offices. The SBI central office includes 15 departments and 4 separate units. The maximum number of employees of the central and territorial offices is 1500 people. The SBI structure does not include a functional unit tasked with counteracting ML/FT²²⁹.

The statements and crimes reports are collected by the SBI itself, through online web forms, and the hotline.

Between November 27, 2018 and March 1, 2019, the total number of crime reports and notifications was 5794.²³⁰

As of March 1, 2019, SBI investigators are conducting pre-trial investigations in 4,761 CPs. 510 CPs were referred to court. The rest were transferred to other LEA according to jurisdiction, closed or suspended.

The vast majority of suspects are LEA officials – 2,826; second largest group is war criminals – 2,294, judges – 202, high officials – 7.

2.4. Judiciary

The Revolution of Dignity has become a powerful internal catalyst for judicial reform in Ukraine, which has enabled the society to respond radically to the inability of the existing judiciary to secure law and justice in the state.

The main achievement of judicial reform is undoubtedly the introduction of amendments to the Constitution of Ukraine on justice, which at the highest state level have ensured full compliance of the judiciary in Ukraine with the leading European standards in the field.²³¹

The independence of the judiciary and every individual judge is a guarantee of citizens' confidence in the system and a guarantee of a fair resolution of disputes.

228 “On the State Bureau of Investigation”: Law of Ukraine, November 12, 2015 № No. 794-VIII [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/794-19>

229 Source: State Bureau of Investigation official website: [Online resource]. Source: SBI Official Website [Online resource]. - Access at: <https://dbr.gov.ua/>

230 State Bureau of Investigations 2018 Report: [Online resource]. - Access at: <https://dbr.gov.ua/report/zvit-pro-diyalnist-derzhavnogo-byuro-rozsliduvan-za-2018-rik>

231 On the state to ensure the ensuring independence of the courts in Ukraine: Annual report for 2017:2018 [Online resource]. - Access at] // High Council of Justice. – 2018. – Access at: http://www.vru.gov.ua/content/file/%D0%A9%D0%BE%D1%80%D1%96%D1%87%D0%BD%D0%B0_%D0%B4%D0%BE%D0%BF%D0%BE%D0%B2%D1%96%D0%B4%D1%8C_%D0%B7%D0%B0_2017_%D1%80%D1%96%D0%BA_.pdf

Unfortunately, there has been no significant change in the minds of citizens regarding the judge as a procedurally independent figure. Attempts to interfere with judges continue on and involve LEA, lawyers and NGOs. More than 800 cases have been reported to the High Judicial Council since the launch of the registry of judge activity interference reports.

At the same time, the cooperation between the High Council of Justice, PGO and the NPU shows that the facts of apparent interference with the activities of judges are being investigated too slowly; and this is the only effective method of stopping such violations.

Interference with the activities of judges in the administration of justice is by far not the only problem of judicial independence. Equally urgent is the issue of creating new courts, overcoming the shortage of personnel in the judicial system, completing the judicial evaluation of judges, ensuring equal level of judicial remuneration and proper judicial protection, and so on.

The USAID “The New Justice” program conducted, for the second year in a row, a national survey of citizens, judges and lawyers regarding confidence in the judiciary, its independence, accountability and efficiency, judicial reform and the perception of corruption in Ukraine.

According to the survey, experts noted that the level of the judiciary over the last four years has been slowly but steadily increasing and now stands at 16% against 5% in 2015.

The level of trust in the judiciary depends directly on the credibility of the state in general and vice versa.

Considering the findings of international experts, it is necessary to evaluate the corruption situation of Ukraine’s judicial system more objectively.

According to numerous reports by judges on interference in their administration of justice, received by the High Council of Justice as well as available media information on these issues, citizens actively use rights granted to them forthwith and notify LEA of any circumstances which, in their opinion, give rise to doubts regarding integrity of judges or create suspicions of them committing corruption offenses.

Special attention should be paid to the fact that the official website of the High Council of Justice contains a list of judges suspended from the administration of justice (in connection with criminal or disciplinary action). No other government agencies provide such information.

According to the SJA, as of the end of 2018, 5,276 judges are exercising justice in Ukraine. The High Council of Justice list mentioned above contains names of only 16 judges, who, in 2018, were temporarily suspended from the administration of justice in connection with the acquisition of the status of suspects or defendants in CPs on grounds of crimes under Articles 190, 368, 369, 369-2 of the CC of Ukraine²³².

In other words, it is only with respect to these judges that the pre-trial investigation agencies have collected evidence that allows them to be reasonably suspected of committing criminal offenses.

If we compare the number of judges who have been requested by the Prosecutor General or their deputy to be suspended from administration of justice in connection with criminal prosecution, with the total number of judges who administer justice in Ukraine, we can conclude that in 2018 only 0.3% of judges were reasonably suspected of corruption offenses.²³³

Currently, according to various estimates in Ukraine, about 2,000 judges are lacking for the proper functioning of the judicial system. At the same time, as of the beginning of 2019, with the total number of 7,200 judges, only 2,151 judges were successfully qualified. As of April 1, 2019, out of 5,285 judges, only 4,128 had authority to administer justice. That is, more than a thousand judges have had their powers terminated, and for various reasons, were not reappointed indefinitely after the expiration of the five-year term. There are no judges in two dozen courts at all, with only one judge working in several dozen courts. During the qualification period, more than two thousand judges were dismissed, which significantly affected the staffing of the courts and the ability to ensure a fair trial within a reasonable time. Today, in the country, 14 courts do not administer justice due to the lack of judges or powers of judges, in 154 courts the number of judges administering justice is less than 60 percent of the full-time staff. As a result, the right of citizens to access to justice is violated. On July 02, 2019 the High Qualifications Commission of Judges of Ukraine announced a competition for the occupation of 505 vacant posts of judges

232 The Criminal Code of Ukraine: Code of Ukraine; Code, Law, April 5, 2001, №. No. 2341-III: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/2341-14/stru#Stru> (Article 190 “Fraud “, (fraud), Article 368 “Acceptance of an offer, promise or undue gain of service”, Article (acceptance of an offer, promise or receipt of an improper benefit by an official), Article 369 “Offering, promising or misappropriating an official “, Article 369-2 “Abuse of Influence”) (offer, promise or provision of undue benefit to an official))

233 On the state to ensure the ensuring independence of the courts in Ukraine: Annual report for 2018. [Електронний ресурс] // [Online resource] // Supreme High Council of Justice. - - 2019. -- Access at: http://www.vru.gov.ua/content/file/%D0%A9%D0%BE%D1%80%D1%96%D1%87%D0%BD%D0%B0_%D0%B4%D0%BE%D0%BF%D0%BE%D0%B2%D1%96%D0%B4%D1%8C_%D0%B7%D0%B0_2018_%D1%80%D1%96%D0%BA.pdf

2. Government component

in local general courts, which is still pending (decision of the Council of Judges of Ukraine, July 5, 2019 No. 35 “Concerning the execution of the decision of the Congress of Judges of Ukraine on issues of determining the staffing needs of the courts”).

According to the SJA, as of October 1, 2019, the number of judges administering justice in local general courts over the reporting period was 2,795 (the number judge positions according to SJC orders was 4339), in general courts of appeal – 617 (the number judge positions according to SJC orders was 964).

Highly complex personnel situation has a negative impact on the amount of CPs considered, including ML related CPs as well as the duration of trial.

Judicial consideration of ML related crimes

According to the SJA²³⁴, the number ML related CPs submitted to court for consideration in 2018 has almost doubled since 2016.

At the same time, the annual rate of judicial consideration of such CPs has remained almost unchanged over the 2016-2018 period (an average of 72 CPs per year).

The number of CPs that resulted in court sentences during this period has also remained almost unchanged (an average of 26 CPs per year).

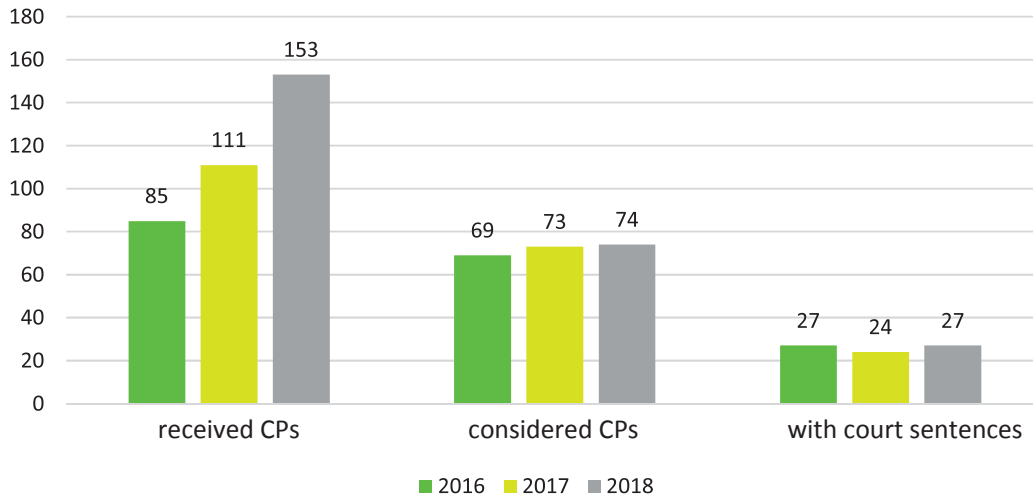


Fig. 2.71. Results of consideration of ML related CPs (Art. 209 of the CC of Ukraine)²³⁵

Consideration of ML related CPs in 2016-2018 resulted in conviction of 59 people (15% of the individuals referred to in CPs), 19 persons (32% of total convicts) had their money and property seized.

234 Source: Information from official web portal the Official Web Portal of Judicial authorities the Judiciary of Ukraine (form number (Form 1-L ““Court Report of the state courts on status of consideration of criminal cases of crimes on legalization (laundering) of incomes, obtained by criminal way of proceeds from crime and financing of terrorism”” [Online resource]. - Access at: https://court.gov.ua/inshe/sudova_statystyka

235 Plotted according court reports on the status of criminal cases related to the legalization (laundering) of proceeds from crime and terrorist financing: Form 1-IL: SJA: [Online resource]. - Access at: https://court.gov.ua/inshe/sudova_statystyka/

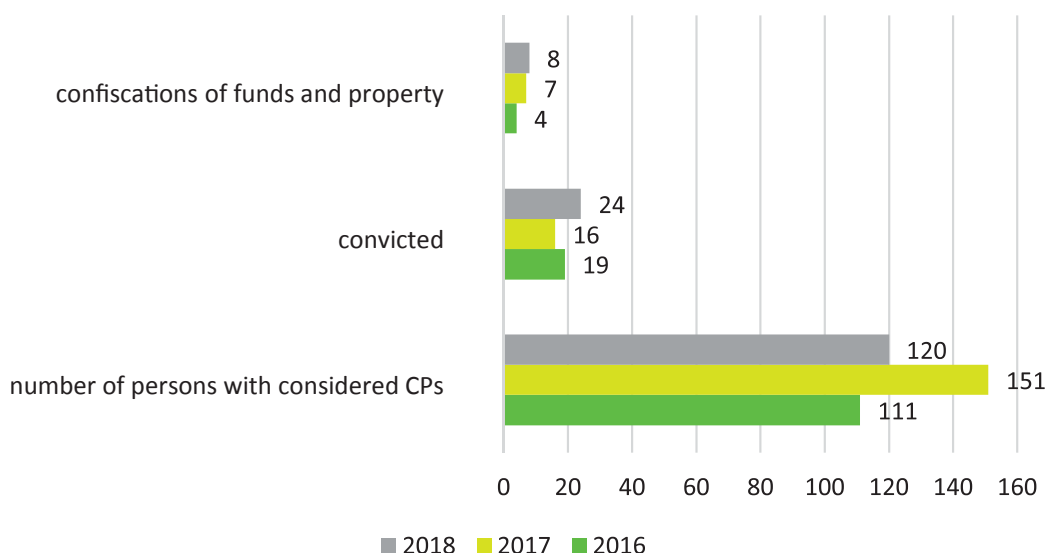


Fig. 2.72 Results of consideration of ML related CPs (Art. 209 of the CC of Ukraine)

In 2016-2018, courts of Kyiv, L'viv, Odessa, Luhansk and Vinnitsa regions convicted greatest number of people for ML crimes.

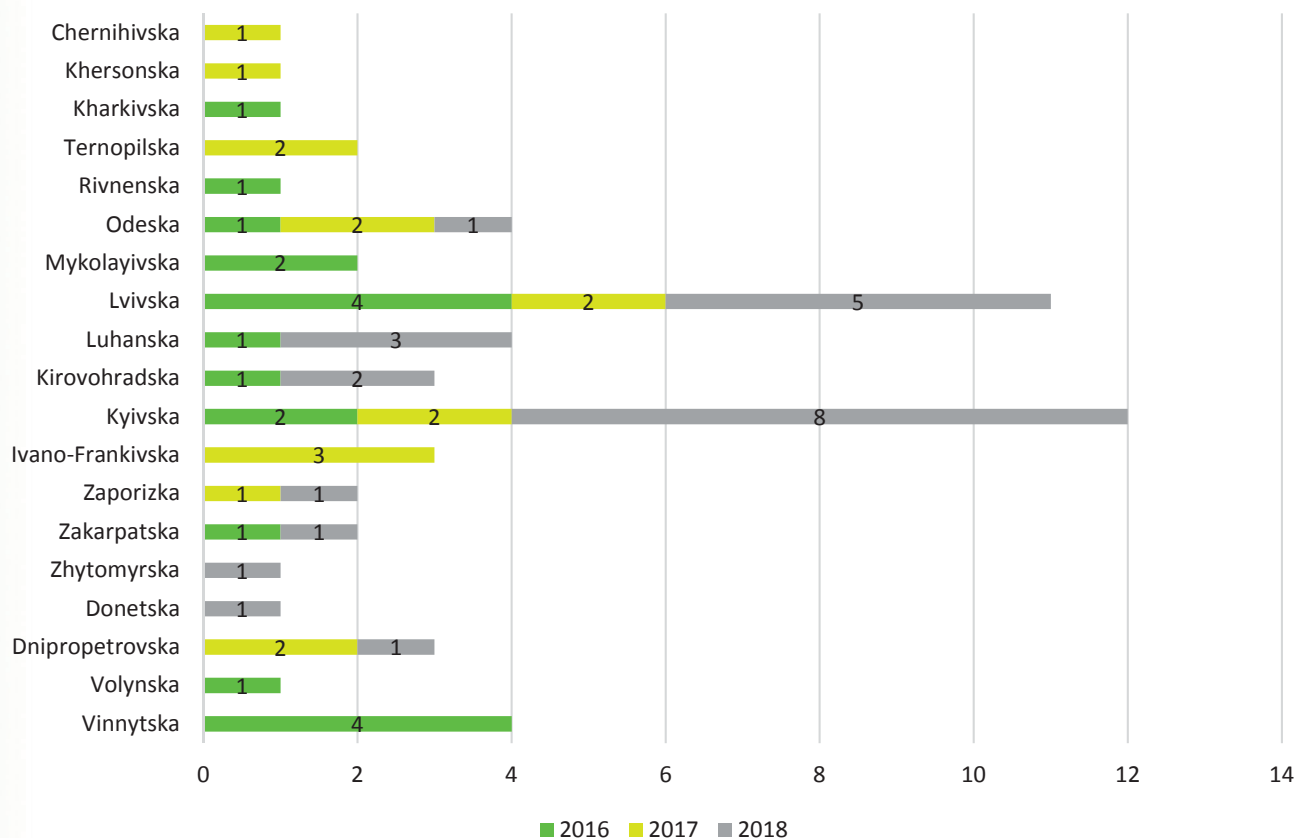


Fig. 2.73. Regional distribution of people, convicted for ML crimes in 2016-2018²³⁶

236 Plotted according the analysis of court sentences in ML crimes in the register of court decisions: [Online resource]. - Access at: <http://reyestr.court.gov.ua/>

Table 2.10

Information regarding persons, convicted for ML crimes in 2016-2018 whose sentences entered legal force²³⁷

	2016	2017	2018
Number of persons convicted of crimes, whose respective sentences entered into force, including:	10	17	13
in respect of which it was decided to seize funds and property	2	7	5
The amount of legalized income (funds, property) established by court decision (UAH.)	33 939 669	2 055 756 270	1 346 671

In addition, courts considered CPs, related to the use of proceeds from illicit traffic in narcotics, psychotropic substances, their analogues and precursors, toxic or potent substances or toxic or potent pharmaceuticals (art. 306 of the CC of Ukraine).

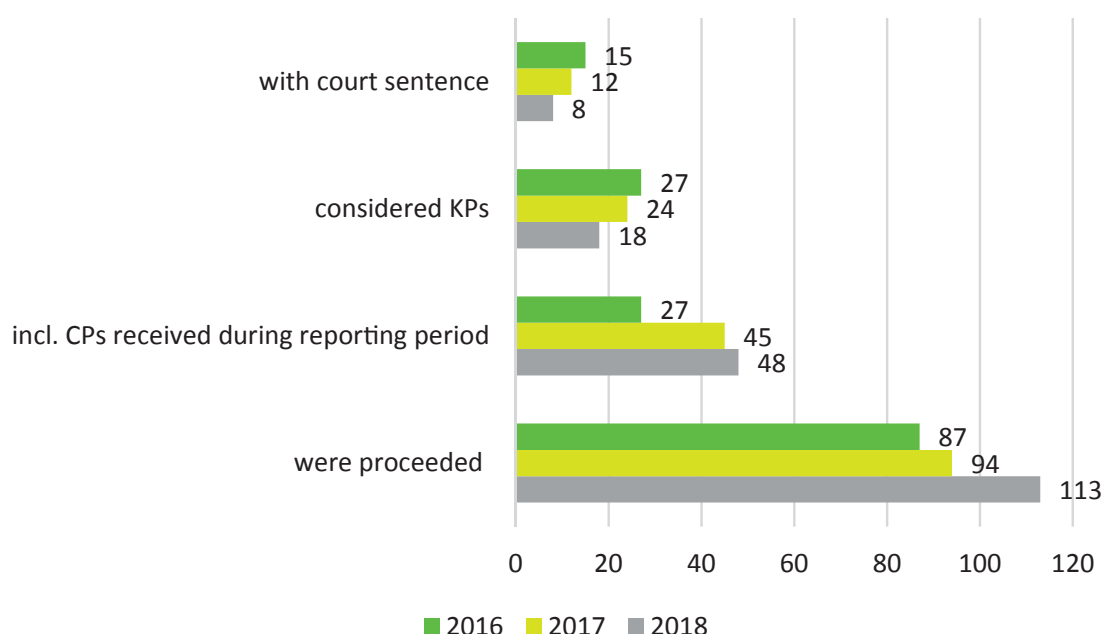


Fig. 2.74. Judicial consideration of CPs under Art. 306 of the CC of Ukraine, 2016-2018²³⁸

The data in the figure indicate a tendency towards increase of the number of CPs under Art. 306 of the CC of Ukraine sent to court and the reverse tendency regarding judicial consideration of these cases.

²³⁷ Plotted according court reports on the status of criminal cases related to the legalization (laundering) of proceeds from crime and terrorist financing: Form 1-IL: [Online resource]. - Access at: https://court.gov.ua/inshe/sudova_statystyka/

²³⁸ Plotted according court reports on the status of criminal cases related to the legalization (laundering) of proceeds from crime and terrorist financing: Form 1-IL: [Online resource]. - Access at: https://court.gov.ua/inshe/sudova_statystyka/

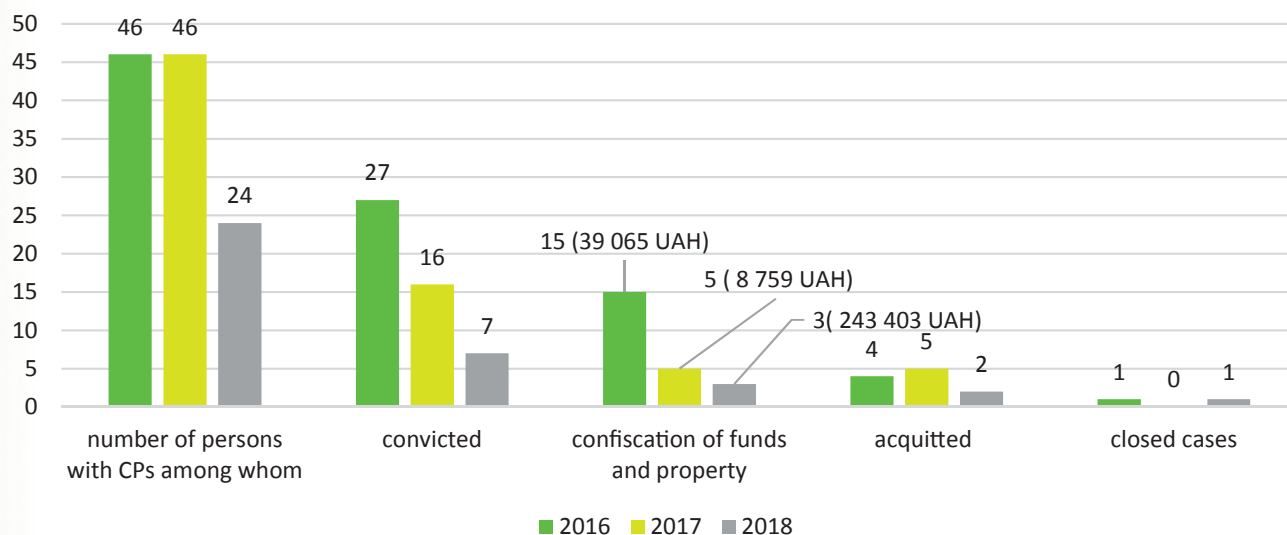


Fig. 2.75. Information on persons convicted in 2016-2018 on criminal charges under Art. 306 of the CC of Ukraine²³⁹

The data of the figure indicate a tendency towards the decrease in number of persons convicted under Art. 306 of the CC of Ukraine.

The courts of Volyn, Kharkiv and Kyiv regions in 2016-2018 convicted the largest number of persons for crimes related to the use of proceeds of trafficking in illicit drugs, psychotropic substances, their analogues, precursors, poisonous or potent substances or poisonous or potent pharmaceuticals.

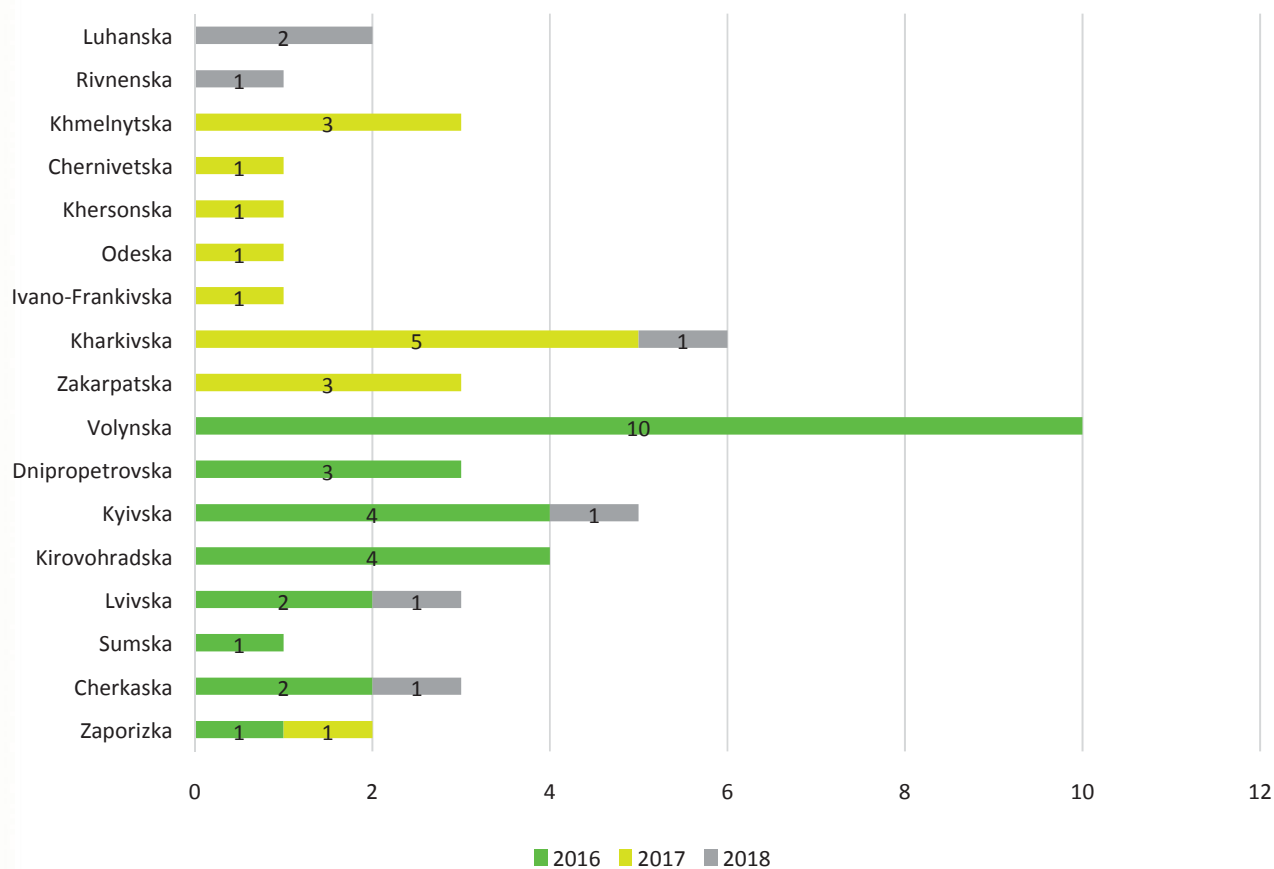


Fig. 2.76. Regional distribution of persons convicted under Art. 306 of the CC of Ukraine²⁴⁰

239 Plotted according court reports on the status of criminal cases related to the legalization (laundering) of proceeds from crime and terrorist financing: Form 1-IL: SJA: [Online resource]. - Access at: https://court.gov.ua/insh/sudova_statystyka/

240 Plotted according to SJA data

Judicial consideration of FT related CPs

According to SJA²⁴¹ and USRCD²⁴², in 2016-2018, courts sentenced 19 persons for FT related criminal offenses (Art. 258-5 of the CC of Ukraine “FT”), of which 4 persons had their funds and property confiscated.

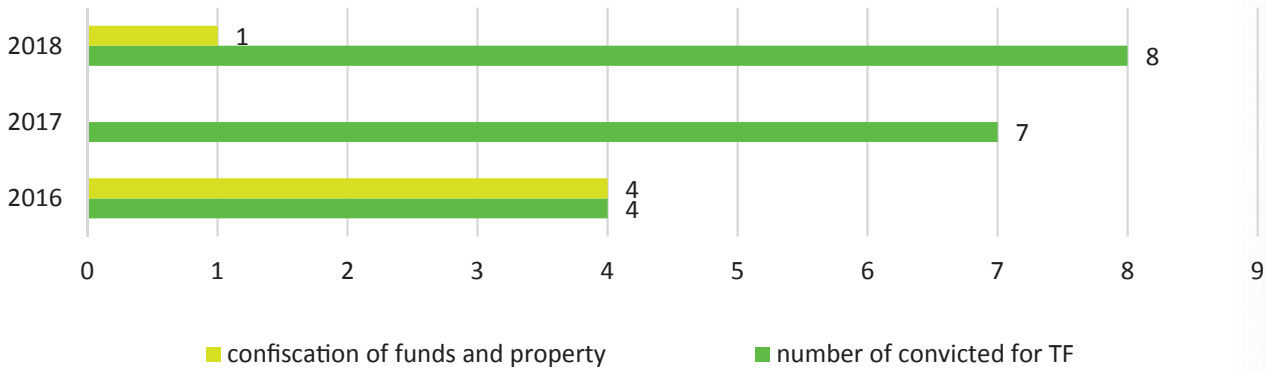


Fig. 2.77. Judicial consideration of FT related CPs²⁴³

The courts of Donetsk and Luhansk regions convicted the largest number of persons for crimes related to FT in 2016-2018.

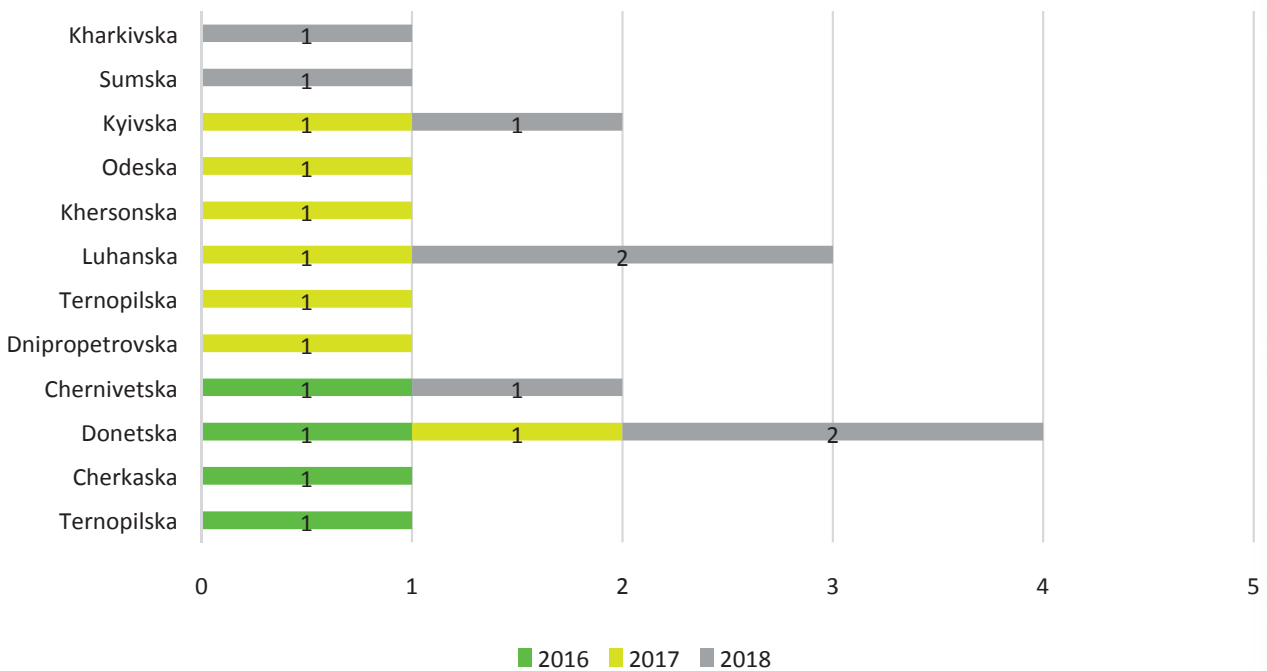


Fig. 2.78. Regional distribution of persons convicted for FT crimes²⁴⁴

It should be noted that, at present, there is no statistical reporting system in Ukraine that would allow to collect representative data in the context of all criminal procedural aspects that arise in the judicial process, making objective systematic analysis of crimes and punishments impossible at this stage.

241 Source: Official Web Portal of the Judiciary of Ukraine (Form No.1-L “Court report on status of criminal cases for of legalization (laundering) of crime proceeds from crime and financing of terrorism” [Online resource]. - Access at: https://court.gov.ua/inshe/sudova_statystyka

242 Source: information from the Unified State Register of Court Decisions [Online resource]. Source: information from the State Register of Court Decisions: [Online resource]. - Access at: <http://reyestr.court.gov.ua/>

243 Plotted according court reports on the status of criminal cases related to the legalization (laundering) of proceeds from crime and terrorist financing: Form 1-IL: [Online resource]. - Access at: https://court.gov.ua/inshe/sudova_statystyka/

244 Plotted according to SJA data

2.5. National cooperation and coordination

National cooperation of SFMS and other state authorities is focused on coordination of the national financial monitoring system, in particular:

- legislative framework for cooperation and coordination;
- supporting the AML/CFT Council and the established working groups;
- coordination of the implementation of the Action Plan to improve national financial monitoring system following the results of Round 5 of Ukraine's evaluation by the MONEYVAL Committee;
- signing joint documents of interagency nature with state authorities and NGOs;
- engaging the public

Legislative framework for cooperation and coordination

The legislative basis for cooperation and coordination is developed by SFMS and approved by the CMU Strategy for The Development of the AML/CFT System until 2020 (hereinafter – the Strategy)²⁴⁵.

SFMS coordinates the implementation of the Strategy through preparation and implementation by the state authorities of the Plan of Prevention and AML/CFT.

Thus, the CMU decree № 601-r dated 30.08.2017 approved the 2017-2019 Action Plan for implementation of the Strategy for The Development of the AML/CFT System until 2020 (hereinafter – the Action Plan).

The Action Plan includes 88 legislative, organizational and institutional measures aimed at ensuring sustainable and efficient functioning of the national AML/CFT system and preventing the occurrence and / or reduction of adverse effects of risks identified in the 2016 NRA.

At the same time, one of the key elements of coordination is to amend national legislation on financial monitoring.

In 2016-2018, as a part of the implementation of Regulation (EC) 2015/847 of the European Parliament and of the Council of 20 May 2015, on information accompanying transfers, and Directive (EC) 2015/849 of the European Parliament and of the Council of 20 May 2015 “On the prevention of the use of the financial system for the purposes of money laundering or terrorist financing”, the SFMS, MoF, NBU and other SFMEs, involving Supreme Court representatives, conducted work on amending national legislation and drafted the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction”.

Currently, the draft has been approved by the Government as the Draft Law of Ukraine “On Prevention of Legalization (Laundering) of Proceeds from Crime Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction”, registered in VRU on 25 September, 2019, under No. 2179 and voted for by the VRU as the basis, on January 11, 2019.

Supporting the AML/CFT Council and the established working groups

In order to improve interagency coordination of the AML/CFT system, and enhance financial monitoring information exchange, an AML/CFT Council (hereinafter – the Council) was established, approved by CMU Resolution No. 613 of August 09, 2016.

The Council includes representatives of SFMS, state authorities, LEA, self-regulatory organizations.

The Council is a temporary CMU advisory body, whose main tasks include facilitation of coordination between executive authorities and other state bodies with respect to activities in the AML/CFT area.

Several working groups have been set up to improve interagency coordination within the Council, namely:

- Working Group on issues of banking institutions REs.
- Working Group on issues of non-banking institutions REs effectiveness of their AML/CFT efforts.
- Expert Working Group on Analysis of MONEYVAL Mutual Assessment of AML/CFT Systems.
- AML/CFT Sectoral Risk Assessment Working Group.
- Working Group on prevention and countering financing of the proliferation of weapons of mass destruction.

²⁴⁵ On approval of the Strategy for the development of a system for preventing and combating the legalization (laundering) of criminal proceeds, terrorism financing and financing the proliferation of weapons of mass destruction for the period to 2020: CMU Order of December 30, 2015 No. 1407-r: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/1407-2015-%D1%80>

Signing joint documents of interagency nature with state authorities and NGOs

Since the beginning, the SFMS has concluded 95 joint acts with 6 SFMEs, 20 state authorities and 22 self-regulatory organizations.

Engaging the public

Throughout its entire existence, SFMS has ensured close cooperation with members of the civil society, including:

- Establishment of the Public Council at SFMS;
- Public examination of draft laws;
- Media relations.

In general, as a part of its public engagement campaign, the SFMS:

- is conducting working meetings with REs and self-regulatory organizations to resolve ongoing financial monitoring issues;
- is ensuring public participation in international scientific AML seminars organized under the auspices of the OSCE, MONEYVAL and other international organizations;
- has published on its official web site some 3000 reports in the field of financial monitoring;
- has published SFMS information on the Government Web Portal;
- is reporting to the CMU on a monthly basis regarding electronic consultations with the public, etc.

AML/CFT training

According to the law, one of the main SFMS tasks is the organization and coordination of training for government financial monitoring officials, REs' compliance officers and employees involved in financial monitoring, on combatting ML/FT. This training is carried out at the academy managed by SFMS.

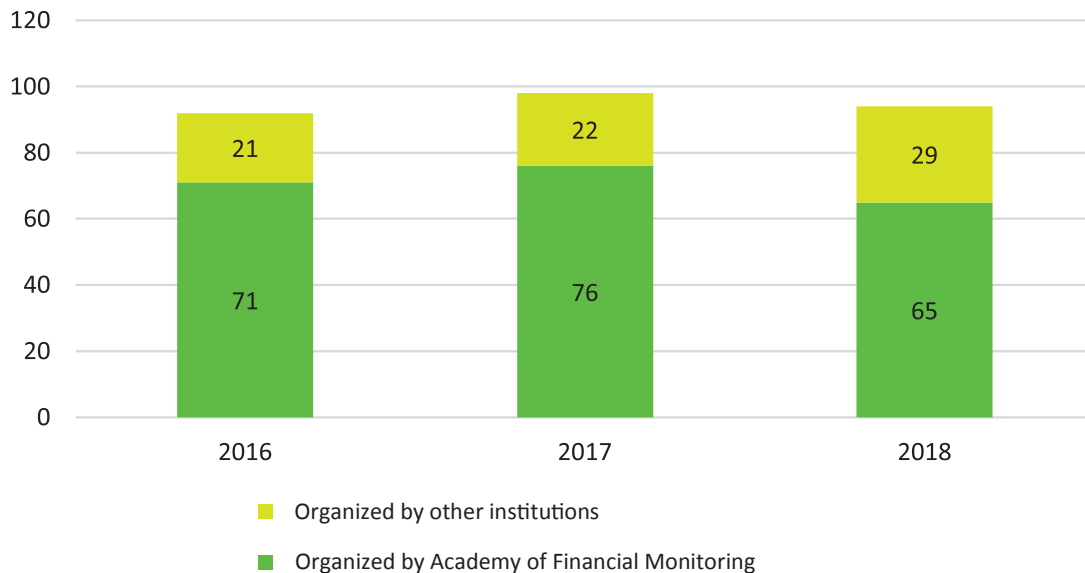


Fig. 2.79. Training events for subjects of financial monitoring and scientific community involving SFMS²⁴⁶

In 2005 (first classes of students) – 2018, The Financial Monitoring Academy²⁴⁷ trained 13,507 financial monitoring specialists, of which 7,663 were trained in 2014-2018.

²⁴⁶ Plotted according to SFMS data

²⁴⁷ CMU Resolution No. 610 of August 19, 2015 "On approval of the Procedure for organizing and coordination of retraining and professional development of financial monitoring specialists": [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/610-2015-%D0%BF>

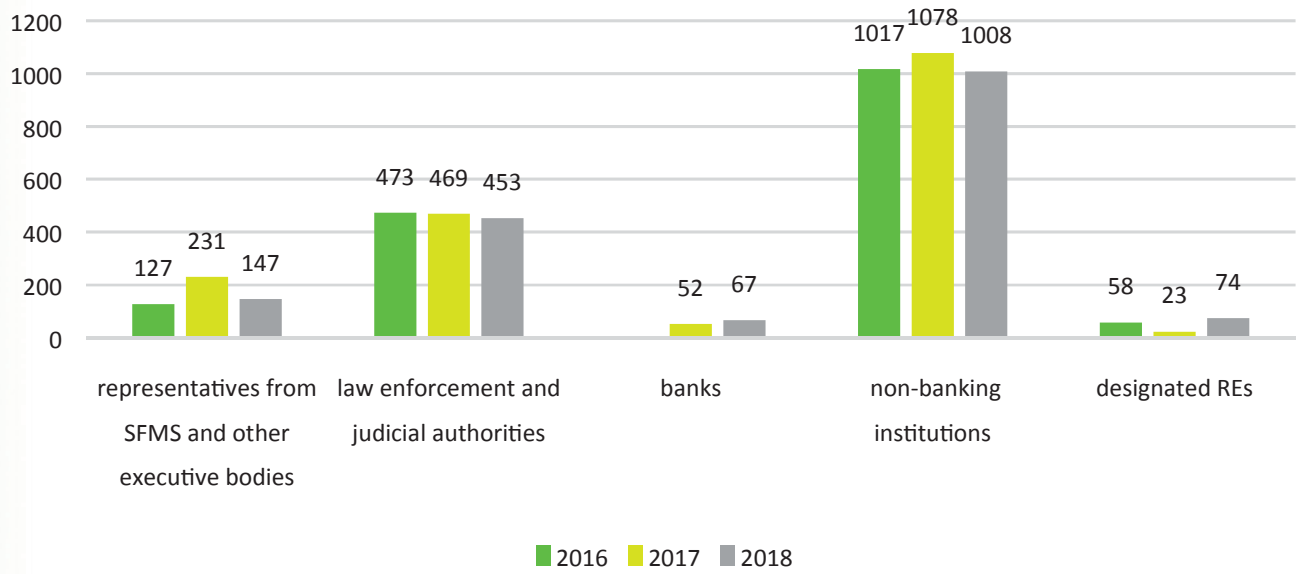


Fig. 2.80. Results of the Financial Monitoring Academy in 2016-2018²⁴⁸

248 Plotted according to Financial Monitoring Academy data



3. SECTORAL RISK ASSESSMENT

3.1. Sectoral assessment of the risks of using REs for ML/FT

3.1.1. Financial and banking sector

The financial and banking sector includes:

- Banking sector;
- NBFIs.

Banking sector

The banking sector is one of the most attractive areas of ML. As a rule, this segment is characterized by a number of high risk factors: geographical risks associated with customers (offshore companies, companies registered in high risk countries, etc.), product and service risks (cash transactions, international transfers, operations with securities), customer risks (NGOs, PEPs, etc.), as well as supply channels risks for products and services (e-commerce, corporate cards with an unreasonably large number of card users, etc.).

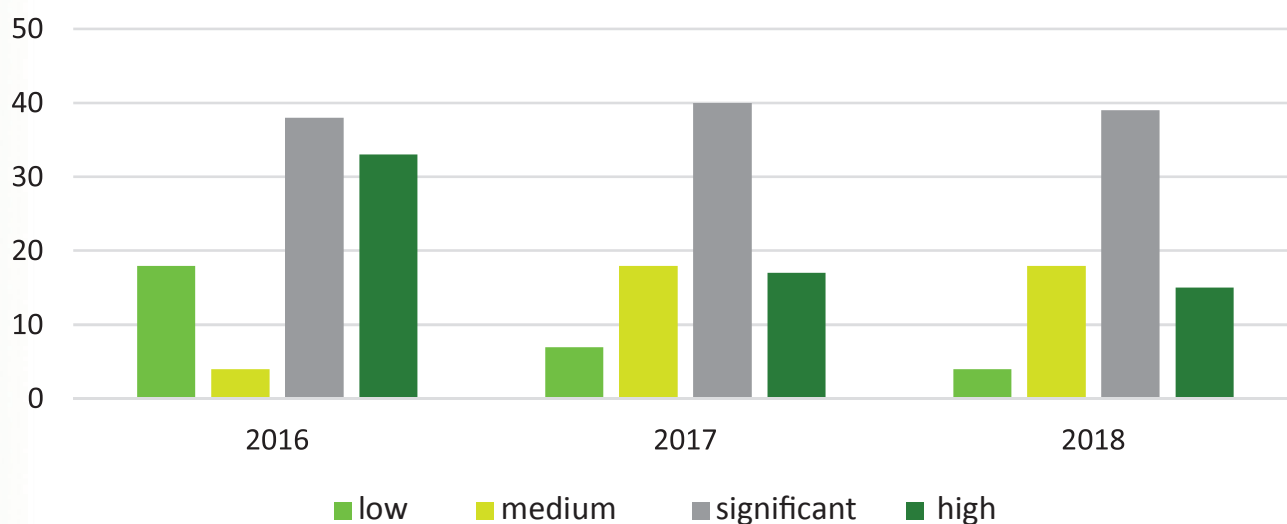


Fig. 3.1. Distribution of Ukrainian banks by risk level ²⁴⁹

If we trace the distribution of banks on the basis of the ML/FT risk assessment, we can conclude that the category of banks that had a significant level of risk remained almost unchanged, with a gradual increase in the category of medium risk banks and a decrease in the number of banks that were categorized as low and high risk.

²⁴⁹ Ukrainian Financial and Banking Sector ML/FT Risk Assessment Report (2019): National Bank of Ukraine

3. Sectoral risk assessment

At the same time, in order to objectively analyze the data on banks' distribution by risk categories, it should be noted that, over the 2016-2018 period, the number of banks overseen by the NBU decreased by 44 institutions (from 120 at the beginning of 2016 to 76 at the end 2018).

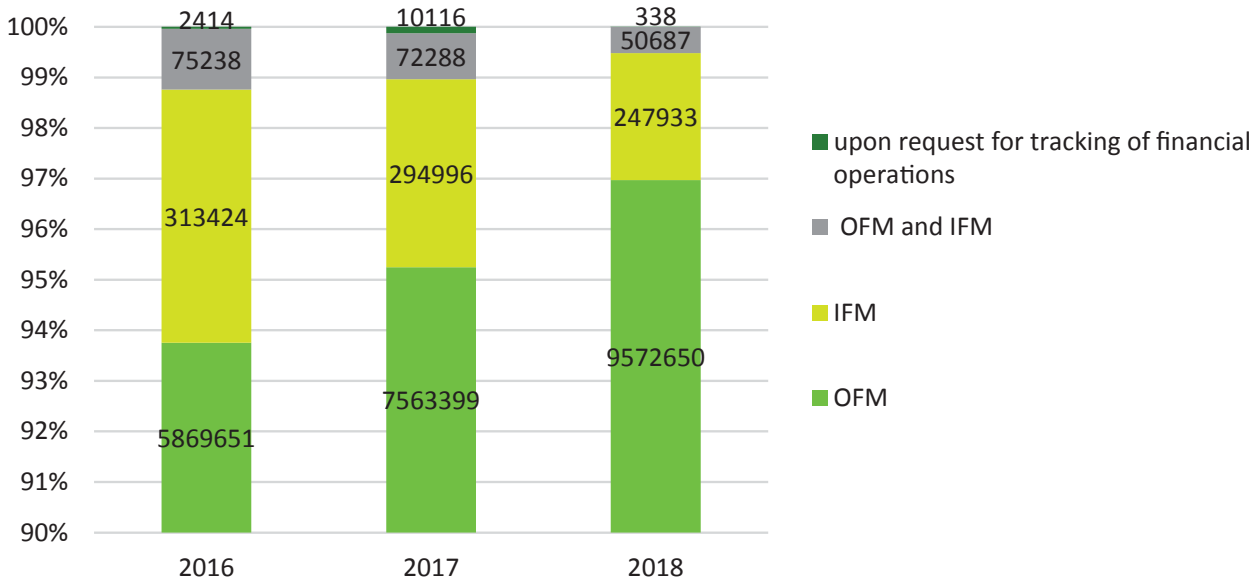


Fig. 3.2. Information on suspicious FTs reported to SFMS by banks²⁵⁰

2016-2018 was marked by increase in the amount of information with indications of financial monitoring reported by banks to SFMS: from 6,260,727 messages in 2016 to 9,871,608 in 2018. At the same time, there is a tendency to increase the share of information with signs of obligatory financial monitoring and decrease the share of information with signs of internal financial monitoring in the total amount of information submitted by banks.

Banks offer a wide range of financial products and services with specific features, namely:

- cash nature of some products;
- extensive online transaction capabilities;
- payments to jurisdictions that do not have appropriate AML/CFT;
- access to third-party banking services, such as depositing funds into third-party accounts;
- currency exchange services that may be provided to non-bank customers.

The large size of the banks' customer base makes the sector vulnerable to ML or FT. The client base may include wanted persons and / or persons conspiring to commit ML.

In addition, individual customer categories by activity or status may carry additional risks:

- business entities operating mainly with cash payments, for example,
- charitable and other NPOs;
- PEP;
- NGOs;
- complex corporate structures.

Reducing the level of interaction between banks and their clients through emergence and development of online banking services is a significant challenge for banks, especially in terms of customer identification and verification, which in turn increases the importance of adequate customer due diligence and monitoring of their operations.

Banks use different channels of service delivery. Vast majority of transactions are conducted without personal contact with customers, including large number of online transactions and electronic payments. The number of clients, the frequency of their transactions, and their volumes are very high and can often be complex and transnational, involving high-risk jurisdictions, complicating the origin and flow of funds.

The above factors, as well as the broad demographic coverage of the client base and cross-border nature of transactions, create additional sources of high risk for ML / FT.

²⁵⁰ Plotted according to SFMS data

With the use of effective risk-oriented banking supervision by the NBU, there has been a recent trend of shifting the focus of criminals away from the banking sector to other financial sectors where regulation and supervision are less sophisticated.

Cash Operations

Ukraine still has a low penetration rate for non-cash payments compared to European countries. Among developed countries, Ukraine stands out by its high weight ratio of cash to GDP (14.6 % in 2015). But at the same time, there is a stable positive trend towards the growth of non-cash transactions – new generations of customers are in demand for modern banking services.

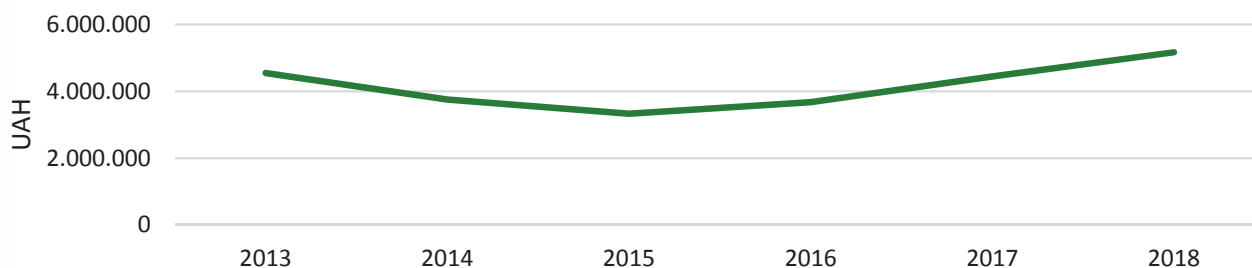


Fig. 3.3. Volumes of cash transactions by clients of banks through cash desks of Ukrainian banks²⁵¹

According to the statistics on the volume of cash transactions by customers of banks through cash desks of banks (cash turnover), an upward trend has been observed over the last three years.

In view of the above, the risk of using cash for the purpose of ML in Ukraine is assessed as high.

When assessing the vulnerability of cash use to FT, it should be noted that the risk level is increased by the ability to transfer funds quickly and anonymously, to move large amounts of cash across borders, involving high-risk regions and clients.

Based on the above, the risk of using cash for FT in Ukraine is estimated to be very high.

Cash deposits in bank accounts

In the context of the ML/FTs risk analysis of bank deposits, it is worth noting that in 2017, the inflow of deposits into the banking system accelerated. Total balances of deposits increased by more than 13% at the end of the year. National currency funds were growing at an accelerating pace, which contributed to both the gradual improvement in financial condition of the business and the increase in household income. Hryvnia funds on household accounts grew most actively – their growth for the year was about 20%. In turn, the business increased its hryvnia deposits in solvent banks by 12%. This was facilitated by gradual improvement of financial condition of the business, as well as the growth of nominal incomes of the population. At the same time, foreign currency balances (in dollar terms) remained almost as at the end of 2016.

In 2018, the banking system has completed a return to pre-crisis indicators. Trust in banks continued to strengthen, as evidenced by the inflow of household deposits. Active lending continued, mainly due to the growth of consumer loans.

As a rule, depositing funds in bank accounts is a prerequisite for the continued use of a wide range of banking products. If the funds are deposited into the account in cash, the REs may not always be able to identify the sources of their origin. Often, such transactions are performed by high-risk clients (PEPs or other entities located in high-risk areas).

Money transfers

The legislation of Ukraine enables operations of domestic and international payment systems in Ukraine.

The payment system must comply with the requirements of the legislation of Ukraine.

There are approximately the same number of payment systems in Ukraine, created by resident banks (16 payment systems) and NBFIs (14 payment systems). These data indicate a significant level of competition from alternative (non-bank) funds transfer services.

In 2018, 35 funds transfer systems operated in Ukraine, 28 of which were created by residents and 7 by non-residents (3 systems from USA, 1 from Georgia, UK, Canada, Azerbaijan each).

²⁵¹ Ukrainian Financial and Banking Sector ML/FT Risk Assessment Report (2019): National Bank of Ukraine

The risk of using money transfers for ML in Ukraine is estimated as very high, the risk of using money transfers for FT or international armed conflict in eastern Ukraine is rated as high.

Foreign economic (trade) transactions

Main factors contributing to the use of international trade operations for ML/FT are:

- large volumes of transactions facilitate the concealment of one-off illegal transactions and complicate the process of tracking and detecting them;
- abuse of the exchange rate when determining the currency of the commodity's price and the currency of the commodity settlement;
- movement of goods through several transshipment points and involvement of third parties complicates the tracking of the movement of funds;
- engaging in operations involving countries that have strategic deficiencies in their AML/CFT systems;
- Differences in the legal, cultural or religious environment of the parties to a cross-border agreement.

The use of international trade tools for the purpose of ML/FT requires criminals to have an in-depth knowledge of the financial system, as well as the involvement of external experts (gatekeepers), who may not be employees of financial institutions.

TBML schemes²⁵² may also be used by international terrorist groups along with sophisticated financing methods for the purpose of illicit movement of wealth abroad to further finance terrorist attacks.

At the same time, funders of terrorist organizations may use various mechanisms that are characteristic of money laundering, for example, delivery of goods into conflict zones (food, clothing, pharmaceuticals, etc.) at below-market price (under-invoicing). In future, terrorist groups could sell the goods received at the market price and obtain the necessary funds for FT.

For Ukraine, the issue of extraction of criminal proceeds abroad, including in offshore zones, using international trade instruments is urgent. As mentioned above, corruption, the shadow economy, tax evasion are the main drivers of criminal income in Ukraine.

Special attention should be paid to the risks of using correspondent accounts for AML/CFT purposes. Since Ukrainian economy is import-dependent, Ukrainian banks overwhelmingly open and conduct foreign economic operations using correspondent accounts of foreign banks. At the same time, transactions on loro-accounts in Ukrainian banks are insignificant. Therefore, the risks of using correspondent accounts of banks is assessed as low.

Given the above, the risk of ML using trading transactions is rated as high. The risk of FTs using trading transactions is estimated as average.

Electronic money

The peculiarity of electronic money is that they must be prepaid, that is, fiat money must first be used to further convert and transfer it to an electronic device (for example, a chip contained on a plastic card or other media, computer memory etc.) in the form of electronic money. In addition, regulatory limits for conducting electronic money transactions allow participants in such transactions to remain anonymous.

As of December 31, 2018, 23 banks were entitled to issue electronic money in accordance with the legislation of Ukraine.

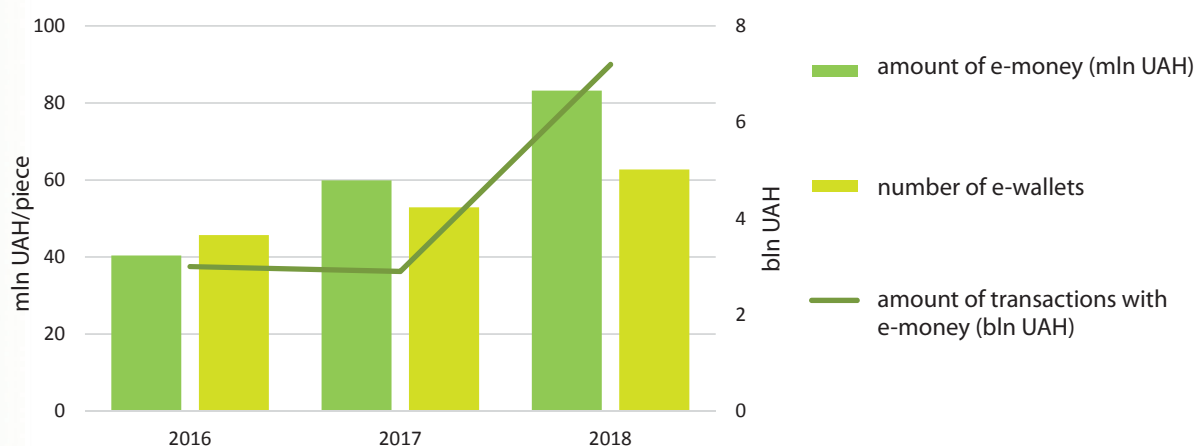


Figure 3.4. Use of electronic money in Ukraine ²⁵³

Electronic money is an attractive financial tool for ML/FT, especially when using prepaid cards, as they can be used to launder money and finance terrorist activities anonymously without identifying criminals.

Given the limited amount of electronic money used, as well as the ability to conduct transactions without identifying their participants, the level of FT risk is assessed as high, the risk of ML is estimated to be average.

Currency exchange

The cash nature of the currency exchange service increases its vulnerability to ML/FT, as it can be used to place cash by criminals. Currency exchange is an attractive mechanism for ML/FT, because it makes it difficult to identify the source of funds and to avoid identifying individuals.

Customers of exchange offices are mainly individuals, including tourists, foreigners. Transactions are generally one-off and infrequent in nature, during which no business relationship is established.

The level of risk of using currency exchange services for ML is estimated to be low and the risk of FT is estimated to be low.

Securities transactions

Indicators of riskiness of such transactions include lack of economic sense, purchase of securities for too short a term, the cycle of transactions, the connectedness of participants and presence, among other things, of signs of fictitiousness, as well as posting regular losses by one party and regular profits by the other, the size of which is significantly greater than the amount of investment.

Risk of using banks:

- ▶ for ML is rated as **medium**
- ▶ for FT is rated as **low**

²⁵³ Ukrainian Financial and Banking Sector ML/FT Risk Assessment Report (2019): National Bank of Ukraine

Sector of non-banking financial institutions (as regards funds transfer services)

Features of funds transfer services provided by NBFIs include:

- possibility to transfer funds anonymously (without identifying criminals);
- speed and ease of transfer;
- wide geographical coverage (high risk areas);
- online access to services;
- use of remote access channels (payment terminals).

These product features lead to increased vulnerability to being used in ML and accordingly increased the probability of ML risks.

The nature of the services provided by NBFIs carries a high risk of ML/FT due to its high availability and significant geographical coverage. In addition, NBFIs generally conduct large numbers of instant cash transfers in insignificant amounts. ML/FT risks are increased since NBFIs tend to prefer one-off operations rather than expanding existing customer base.

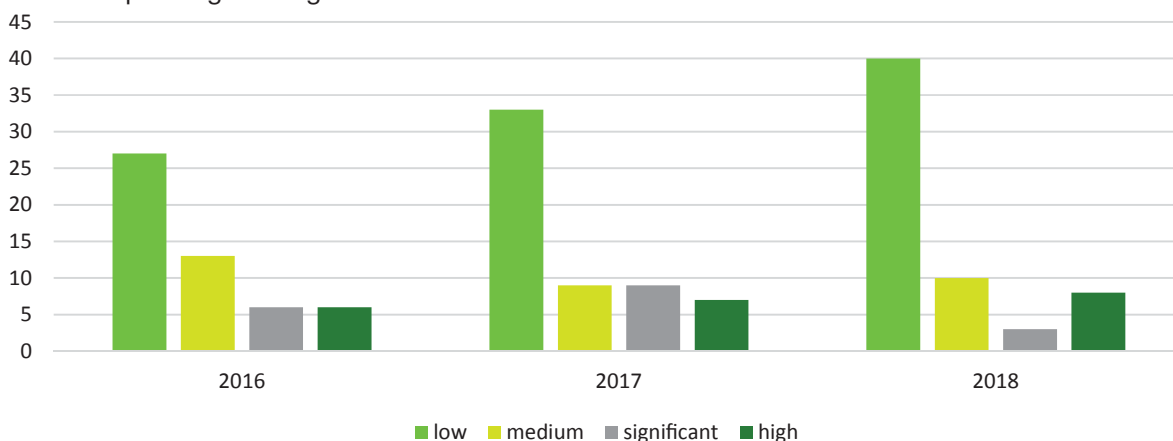


Fig. 3.5. Distribution of NBFIs by risk level ²⁵⁴

The figure shows that low-risk NBFIs are predominant and, in addition, the dynamics of this category have improved over the last 3 years. This increase was mainly due to falling numbers of NBFIs in the medium and significant risk categories as the share of NBFIs in the high-risk category remained almost unchanged.

In addition, due to effective risk-oriented supervision of banks by the NBU, there has been a recent trend of attackers shifting their focus away from the banking sector to other financial sectors where regulation and supervision are less sophisticated.

Funds transfer services through international money transfer systems and national payment systems, cash transactions and the use of electronic money are among main generators of FT risks in NBFIs. FT risks primarily arise due to speed and ease of FTs, combined with their large number, anonymity and the ability to use Internet, payment terminals, and other remote access technologies.

Yet, the complexity of tracking FT related FTs may be due to the fact that in most cases, these transactions are carried out in small amounts, disguised as ordinary transfers such as “family care”, “donations for treatment” and so on.

The low effectiveness of the mitigation measures required to reduce the risk of using NBFIs for ML/FT purposes is primarily due to:

- legislative restrictions on the maximum level of fines;
- low qualification level of NBFIs staff;
- low level of automation of ML/FT risk management processes;
- AML/CFT regulation and oversight carried out by two state regulators

Risk of using NBFIs funds transfer services:

▶ for ML is rated as **high**

▶ for FT is rated as **medium**

²⁵⁴ Ukrainian Financial and Banking Sector ML/FT Risk Assessment Report (2019): National Bank of Ukraine

3.1.2. Non-banking financial services sector

The risk assessment of non-banking financial services sector is best defined through the prism of REs involved in financial services delivery, namely:

- insurance;
- guarantees and sureties;
- services related to accumulative pension plans with respect to administration of non-state pension funds and supervision of non-state pension funds activities;
- attraction of financial assets under obligations regarding their subsequent return;
- property management to finance construction and / or real estate operations;
- administration of financial assets for the purchase of goods in groups;
- lending, including financial facility;
- financial leasing;
- factoring;
- trust management of financial assets.

All financial services are subject to licensing in accordance with the Law of Ukraine “On Licensing of Business Activities”²⁵⁵.

The non-banking financial services market, as well as financial services market in general, is associated with increased risks arising from the accumulation of temporarily free financial resources of households through financial institutions that subsequently redistribute them, providing financial services to direct consumers of financial services including non-banking services.

Insurance service providers

2016-2018 were marked by a decrease in the number of insurance companies. The excess of insurance services providers registered with the SFMS over the actual number of financial institutions registered in the State Register is primarily due to the failure of these entities to comply with the legal requirement to deregister with SFMS in case of termination of activity.

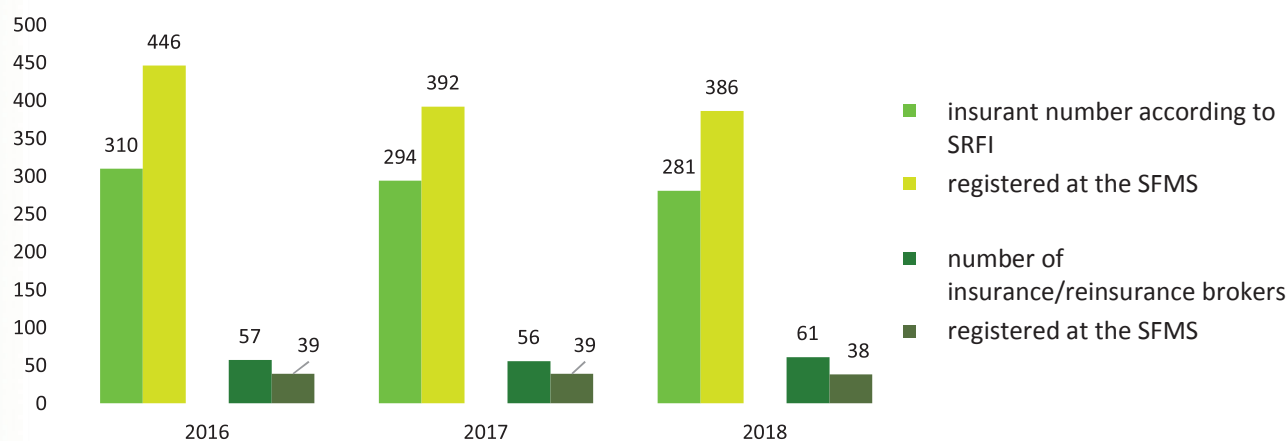


Fig. 3.6. Number of entities providing insurance services ²⁵⁶

At the same time, with the decrease in the number of entities providing insurance services during 2016-2018, the number of reports submitted to the SFMS tends to grow.

²⁵⁵ On Licensing. Law of Ukraine of 2 February 2015, No. 222-VIII: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/222-19>

²⁵⁶ Plotted according to NC and SFMS data

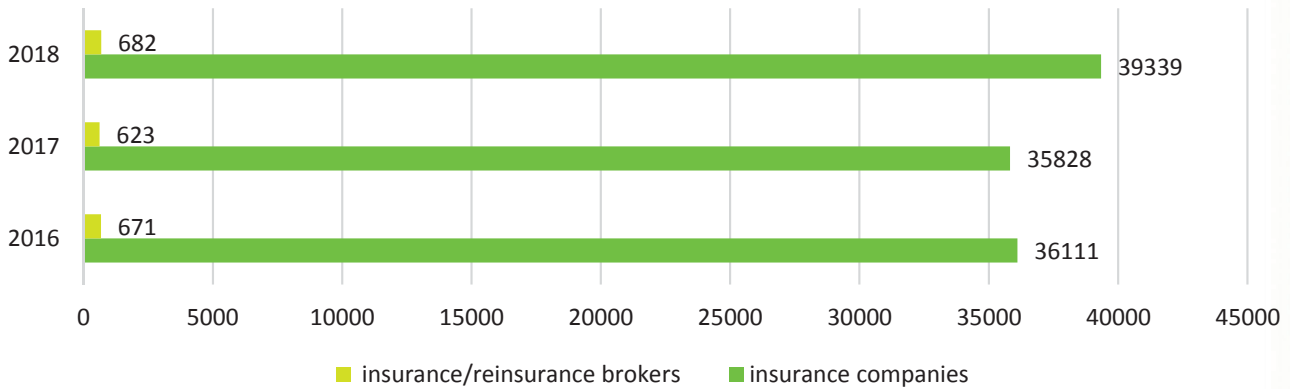


Fig. 3.7. Amount of information with signs of financial monitoring reported to SFMS ²⁵⁷

Likelihood of risk of using insurance services providers for AML / CFT is affected by following factors:

- insurance can be used as a mechanism of direct ML;
- insurance can be an intermediate link in the ML chain;
- insurance can be used to optimize taxation.

Insurance widely uses foreign counterparties and provides opportunities for cross-border operations, primarily – reinsurance.

For certain types of insurance, the probability of occurrence of an insured event can be determined from and depends solely on the will of the parties to the contract (mostly, the insurer).

The insurance market, in addition to protecting consumers of these services from possible financial losses, also performs a socio-economic function, including relieving the government by compensating the population (payments to victims of disasters, traffic accidents, man-made disasters, retirement benefits, etc.).

Accordingly, a high level of crime in this market reduces trust, adversely affects its development, and thus diminishes its positive role in the country’s economy, which can also lead to additional government spending.

Given the use of foreign counterparties in their activities, criminal acts can also adversely affect the reputation of an individual company abroad, as well as the market and the country as a whole in the international arena.

Among all non-banking financial institutions, insurance legislation is the most diverse.

Risk of using insurance services providers:

- ▶ for ML is rated as **medium**
- ▶ for FT is rated as **low**

257 Plotted according to SFMS data

Financial companies

Financial institutions providing guarantees and surety services, property management for financing of construction and / or real estate operations, administration of financial assets for purchase of goods in groups, granting of loans, including on the terms of financial credit, financial leasing and factoring are collectively accounted for as financial companies.

2016-2018 were marked by a trend towards increase in the number of financial institutions registered with SFMS and increase in the amount of information received by SFMS with indications of financial monitoring from these entities.

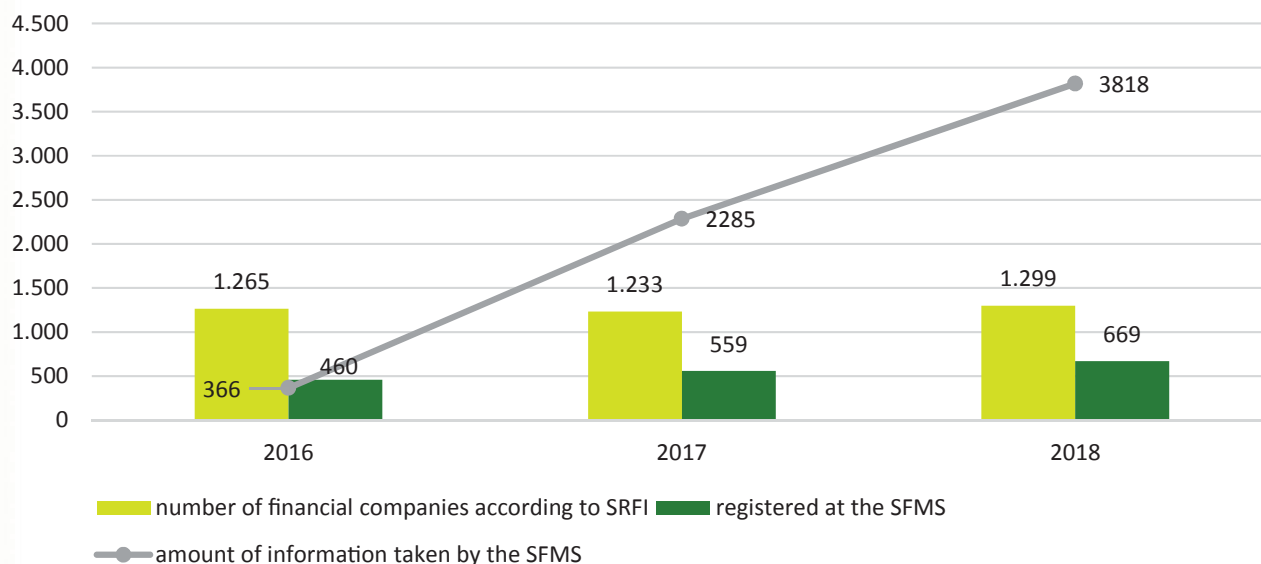


Fig. 3.8. Information regarding financial institutions registered with SFMS and their reporting activity on ML ²⁵⁸

According to inspection results, most widespread violations of legislation in the field of financial monitoring made by REs were:

- violation of the procedure for submitting information to a specially authorized body;
- failure to detect, late detection and violations of registration procedures for FTs that, according to the law, are subject to financial monitoring;
- violation of the procedure for the appointment and exercise of their duties by RE compliance officer.

Guarantees and sureties

This type of service is compatible with the following types of financial services: lending, including a financial loan, financial leasing and factoring.

Most financial institutions applying for a license prefer to list all 4 of these services in the application.

The SRFI contains information on 940 such financial companies as of December 31, 2018 and with total assets of 125.3 billion UAH.

The volume of guarantees and surety services provided in 2016-2018 showed the largest growth among all markets of non-banking financial services and amounted to:

- in 2016 - UAH 1,962 million;
- in 2017 - UAH 5,455 million;
- in 2018 – UAH 9,475 million.

Although a guarantee and surety service is licensable, there are no specific requirements for providing such a service.

Requirements for financial institutions providing these types of services are basic.

²⁵⁸ Plotted according to NC and SFMS data

Risk of using financial institutions providing guarantees and surety services:

- ▶ for ML is rated as **average**
- ▶ for FT is rated as **low**

Property management to finance construction and / or real estate operations

Activity of CFF / RTF trustees is governed by a special law, as well as by a number of NC regulations, which determine the requirements for establishment of a trustee, minimum capital requirements, liquidity standards, reserve requirements, other prudential requirements, including requirements for rating of banks carrying funds raised from principals.

However, a number of peculiarities remain unsettled, in particular the specific conditions regarding conflicts of interest between the trustee and the developer, the trustee and the principal, the identification of sources of origin of funds and beneficial owners, meaning that a number of mitigation measures need additional adjustment.

The activities of trustees are subject to licensing.

Risk of using financial companies that provide property management services to finance construction and / or real estate operations:

- ▶ for ML is rated as **medium**
- ▶ for FT is rated as **low**

Lending, including loan facility

The proper functioning of the market for financial institutions engaged in lending activities in Ukraine is very important in view of the social functions this market should perform as an alternative to the banking sector, especially in terms of micro-credit, simplified access to lending services, despite at a higher interest.

In addition, rapid increase in demand for this service in recent years, including among the population, may have a negative impact on the reputation of the market and, accordingly, on the economy if ML risks materialize.

Although licensable, there are no specific requirements for the service.

Requirements for financial institutions providing such services are basic.

Risk of using financial companies that provide lending services, including loan facilities:

- ▶ for ML is rated as **high**
- ▶ for FT is rated as **medium**

Financial leasing

This type of service is compatible with the following types of financial services: providing guarantees and sureties, lending, including under loan facility terms and +factoring.

Most financial institutions applying for a license prefer to list all 4 of these services in the application.

Table 3.1

Value and number of financial leasing contracts in effect at the end of the reporting period ²⁵⁹

As of 31.12	Cost of financial leasing contracts at the end of the reporting period (UAH million)		Number of financial leasing agreements (pcs) at the end of the reporting period	
	legal persons	financial companies	legal entities	financial companies
2016	22 904,4	273,1	17 314	56
2017	22 417,9	340,2	13 939	84
2018	24 920,9	305,5	14 472	360

Given the profile of the main consumer of this market, which is mainly legal entities with the aim of purchasing fixed assets, materialization of ML risks in some cases will have a moderate impact on this market, its consumers and the economy.

Risk of using financial companies that provide financial leasing services:

- ▶ for ML is rated as **medium**
- ▶ for FT is rated as **low**

Factoring

The SRFI contains information on 940 such financial companies as of December 31, 2018 with total assets of UAH 125.3 billion.

The volumes of financial services in factoring amounted to:

- for 2017 – UAH 31,363,4 million;
- for 2018 – UAH 48,105 million.

On the one hand, this market is most closely linked to the market for lending, the proper functioning of which in Ukraine is very important in view of the social functions this market performs as an alternative to the banking sector, especially in terms of micro-credit, simplified access to lending services, despite at a higher interest.

Still, financial institutions are the most frequent clients under factoring contracts.

Although licensable, there are no specific requirements for the service.

Requirements for financial institutions providing these services are basic.

Risk of using financial companies that provide factoring services:

- ▶ for ML is rated as **medium**
- ▶ for FT is rated as **low**

²⁵⁹ Plotted according to NC data

Entities providing accumulative pension services with respect to administration of non-state pension funds

Non-state pension coverage is based on non-state pension funds (NPFs), which can be defined as legal entities having NPO status that carry out their activities solely for the purpose of accumulating pension contributions for the benefit of members of the pension fund and subsequent management of pension assets, as well as making pension payments to participants. Funds accumulated in the individual retirement account, as well as those of other participants, are invested for the purpose of obtaining investment income.

In addition to providing the population with an adequate level of financial support in the event of retirement or other possible disability, the pension market also carries out an important socio-economic function, including relieving the government by making pension payments to the population.

Accordingly, a high level of crime in this market reduces trust, adversely affects its development, and thus diminishes its positive role in the country’s economy, which can also lead to additional government spending.

The activity of NPF administrators is governed by a special law and a number of NC regulations, which determine the requirements for establishment of an administrator, personalized accounting procedures, limited payment cases, long-term nature of investments in the accumulative pension system, documents required to claim pension payments, limited list of investment instruments where pension assets may be placed, etc.

The activities of NPF administrators are subject to licensing.

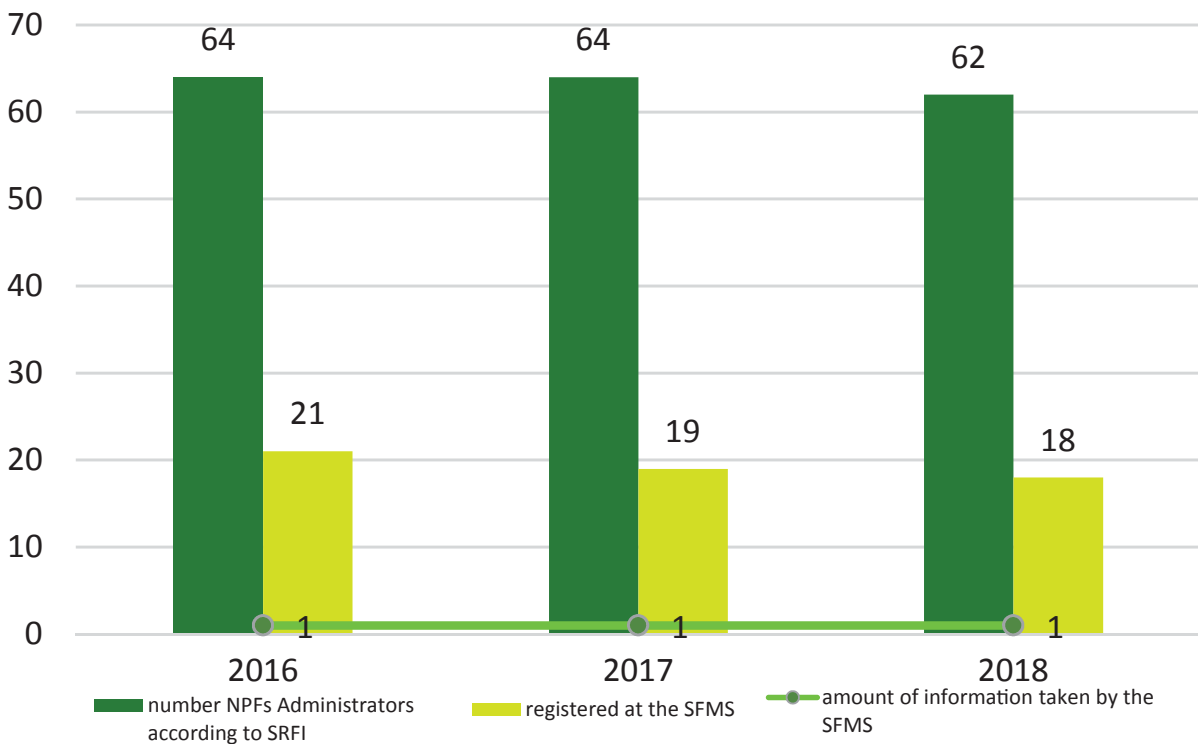


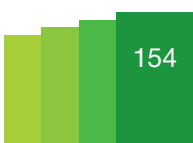
Fig. 3.9. Registration of NPFs with SFMS and reporting of FTs with evidence of financial monitoring ²⁶⁰

On average, the number of NPF administrators registered with SFMS makes up 31% of the total number of NPF administrators listed in SRFI and tends to decrease.

In addition, over the reporting period, only 3 financial transactions with features of financial monitoring were reported to SFMS by NPF administrators.

Thus, given the limited number of one-off payments by NPF administrators and the considerable waiting time for payments on a general basis and presently small market size, the likelihood of using NPF administrators for FT is negligible.

260 Plotted according to NC and SFMS data



Risk of using entities providing accumulative pension services in with respect to administration of non-state pension funds:

- ▶ for ML is rated as **low**
- ▶ for FT is rated as **low**

Credit unions

Currently, only credit unions have the right to solicit financial assets with a commitment to return them to institutions overseen by the NC. This service is analogous to a bank deposit.

Credit unions also have the right to provide lending services, including loan facility.

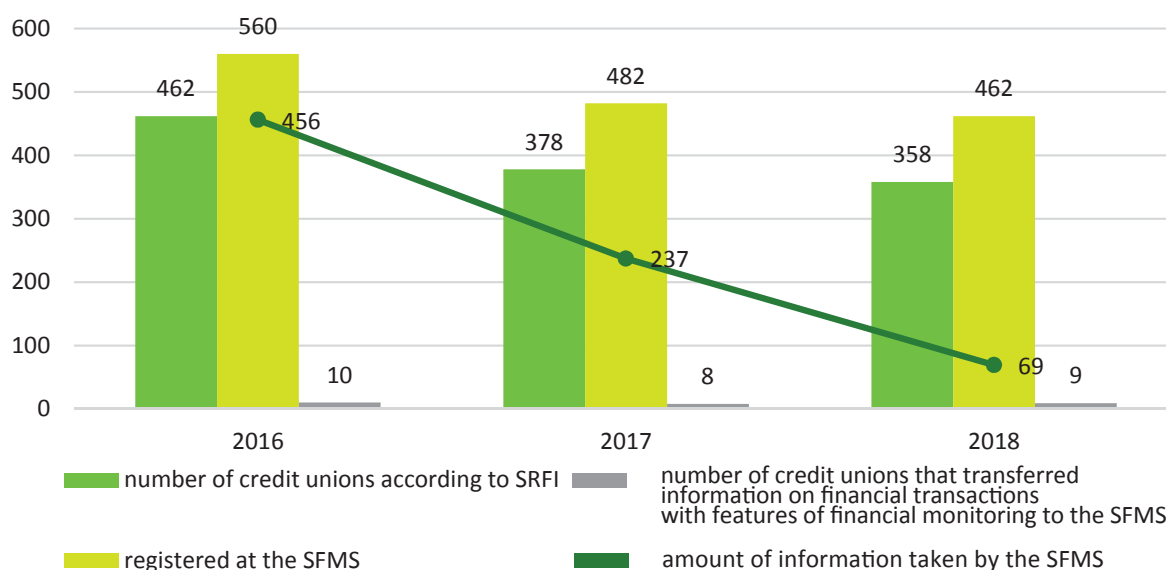


Fig. 3.10 Information on compliance by credit unions with the requirements of the AML / CFT legislation ²⁶¹

In 2016-2018 there was a downward trend in respect of the number of credit unions and the number of respective suspicious FT reports.

In 2016-2018 only 1.8% of credit unions among those registered with SFMS detected suspicious FTs and reported them to SFMS.

Considering specificities of the cooperative credit market, which consists of unions of individuals, mostly related by a certain characteristic (for example, a village or a city), seeking to obtain loans for consumer purposes or for the purpose of conducting certain activities (e.g., farming), and also, given that credit union depositors and borrowers must be members of the credit union (its participants and beneficiaries), this market is mostly unattractive for ML purposes. In addition, this market has smallest total assets of all non-banking financial services markets.

Special legislation in the field of credit unions contains a fairly wide range of requirements, norms and criteria, which mostly prevent them from carrying out risky activities and transactions and minimize the effects of ML risk exposure, mostly by setting requirements on:

- the minimum regulatory reserve capital of the credit union;
- asset quality;
- capital adequacy;
- credit solvency;
- limited loans to a single member of the credit union;
- limiting the total high-risk debt;
- upper threshold on funds attracted from other legal entities;
- liabilities to one of its members;
- liquidity (instant and short-term) and profitability of the credit union.

²⁶¹ Plotted according to NC and SFMS data

3. Sectoral risk assessment

However, the issue of mandating credit unions to maintain reserves for overdue interest payments is not yet settled.

Any manifestations of terrorist financing crimes, including the involvement of the non-banking financial sector, are a threat to Ukraine’s national security.

However, given the small volume of this market, this threat does not appear to be significant.

Risk of using credit unions:

- ▶ for ML is rated as **low**
- ▶ for FT is rated as **low**

3.1.3. Securities market sector

In accordance with Article 2 of the Law of Ukraine “On Securities and Stock Market”²⁶²:

- stock market (securities market) – a set of stock market participants and the relationship between them regarding the placement, circulation and accounting of securities and derivatives;
- stock market participants – issuers (including foreign ones), issuers of non-issuing securities, securities investors, institutional investors, professional stock market participants, associations of professional stock market participants, including self-regulatory organizations of professional stock market participants.

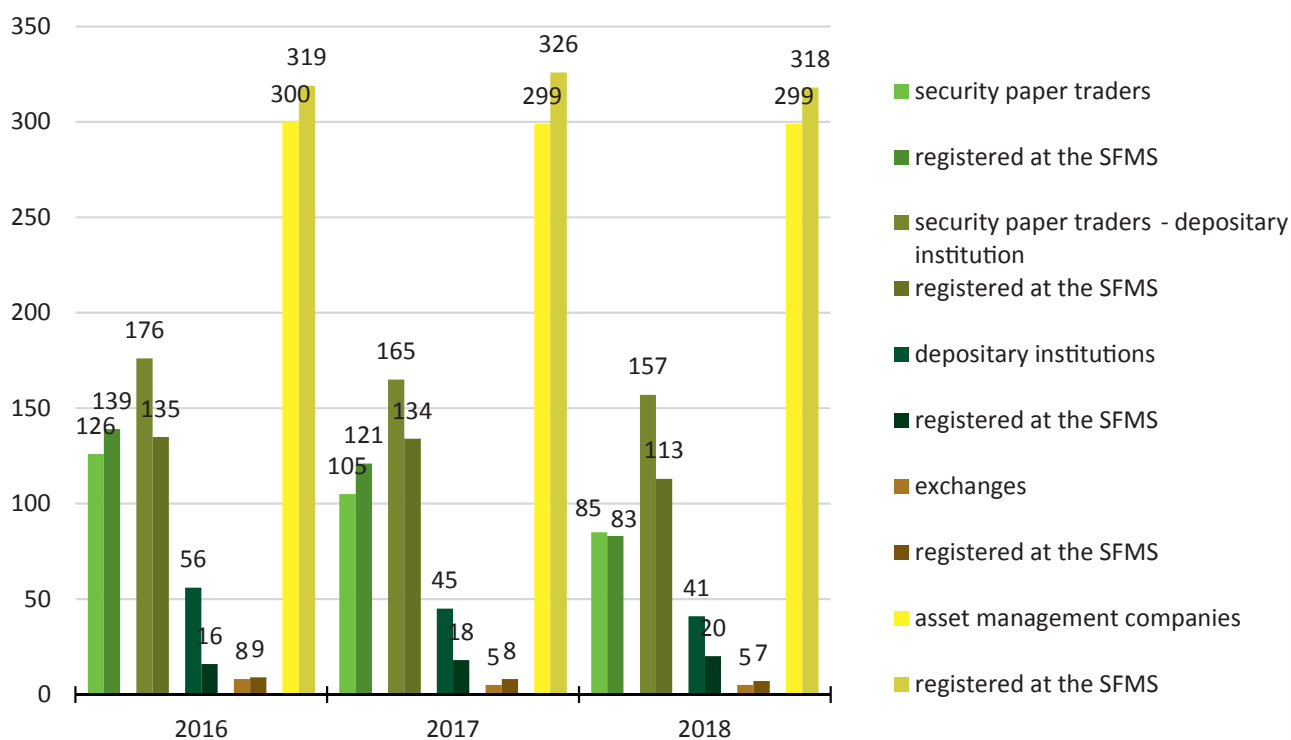
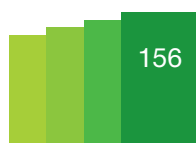


Fig. 3.11. Number of stock market participants ²⁶³

2016-2018 period was marked by a trend towards decrease in the total number of stock market participants.

262 On Securities and the Stock Market: Law of Ukraine of February 23, 2006 No. 3480-IV: (Bulletin of the Verkhovna Rada of Ukraine (BVR), 2006, No. 31, p. 268): [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/3480-15>

263 Plotted according to NSSMC and SFMS data



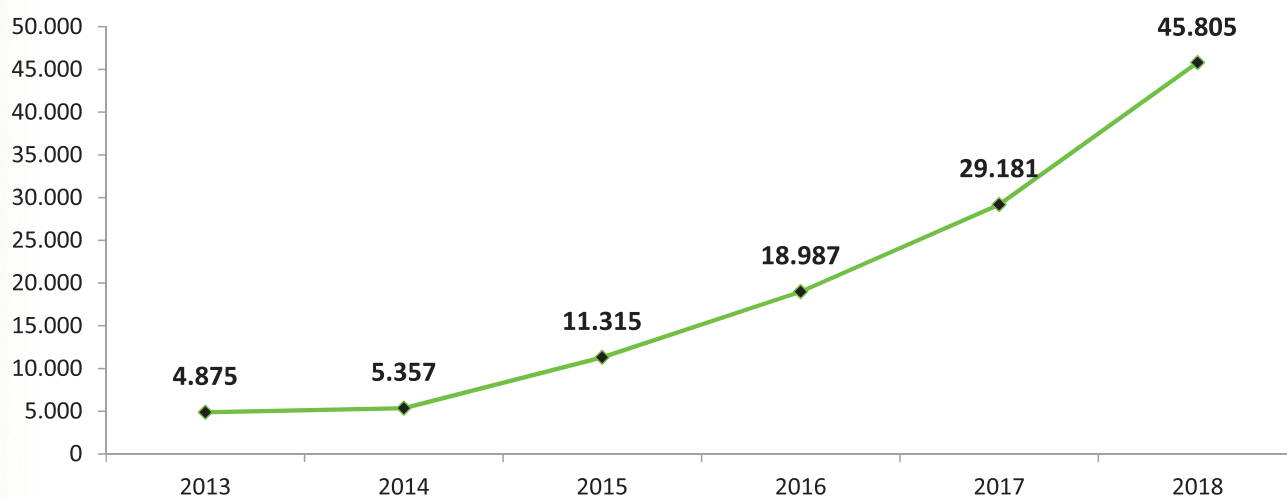


Fig. 3.12. Number of FTs reported to SFMS submitted by stock market participants ²⁶⁴

However, in 2013-2018 the number of FTs with evidence of financial monitoring reported by stock market participants generally grew.

Typically, there are risks of using professional stock market participants in ML.

Promissory notes are one of the most common financial instruments on the stock market for ML. Their ease of use for ML is primarily caused by lack of a single state register of promissory notes, which is an obstacle for proper control over their issue and circulation. The large nominal value of promissory notes does not correlate with the authorized capital and volume of economic activity of the promisor, long-term repayment periods indicate that there is no real need to cash them in.

Shares of companies bearing signs of fictitiousness are primarily used as assets with high / low value or as a way to transfer funds using shares sale contracts between entities.

In the stock market, there are times when assets of an investment fund are full of shares of bogus companies, which, in turn, leads to the artificial value of investment certificates of these funds. Artificial increase in the statutory assets of insurance companies and economic entities is achieved in a similar fashion.

Investment certificates can also be a tool to minimize tax liability. Typically, transactions for the sale and purchase of certain investment certificates are carried out within a group of companies that are linked by legal and economic relations, and are under the direct or indirect control of a legal or a natural person (group of persons), which may signal the attempt to minimize tax obligations, since there is no economic benefit to these operations.

Corporate investment funds may be used to obtain criminal proceeds. As an example, dividends received in cash from business entities involved in illegal activity by straw persons (ownership rights acquired right before the decision on payment of dividends).

Risks involving operations with BDSL are manifested through lack of economic sense, buying securities for too short a term, etc., cyclical transactions, relatedness of participants, fictitious features, one party posting regular losses, the other – regular profits exceeding investment amounts.

In addition, use by PEPs and related parties of schemes for the acquisition by non-residents of BDSL for the purpose of ML, both on the stock exchange and over the counter market, for the purpose of artificially generating income and further displaying the legality of proceeds.

According to the NSSMC, offshore jurisdictions are often used in ML schemes.

For example, transactions involve entities that are incorporated in countries of other jurisdictions (including non-transparent reporting systems, reduced requirements for controllers), acted on behalf of by securities trader, related to them through representatives and affiliated parties.

The following stock market instruments are used for ML:

- securities of companies with fictitious features;
- securities of mutual investment institutions;
- promissory notes with circulation of over 3 years or issued by newly established enterprises;
- BDSL.

²⁶⁴ Plotted according to SFMS data

3. Sectoral risk assessment

In addition, the NSSMC believes that FT risks in the securities (stock market) may manifest through:

1. FTs with securities by professional stock market participants located in ORDLO.
2. FTs with securities by professional stock market participants involving business entities registered in ORDLO.
3. FTs with securities by professional stock market participants involving clients with UBOs registered in ORDLO.

At this time, there remains a very limited number of stock market participants - securities traders and asset management companies incorporated in ORDLO. Some of them do provide administrative data on securities transactions to the NSSMC, some do not report and exist only legally. As the financial system of Ukraine has no connection with the financial system of ORDLO, securities purchase contracts involving business entities located in ORDLO should be impossible and may indicate attempts to conceal real FTs as well as involvement in FT.

Among the features that may be characteristic of FT there are:

With respect to the clients (participants):

- single person is the founder, manager and accountant of the enterprise (sole founder and position holder);
- founders are residing in a region other than the region of registration of the entity;
- founders are registered in areas not controlled by Ukraine (Crimea) or in the conflict zone (ORDLO zone);
- location of the client and transaction counterparty is the same legal address.

With respect to content of FTs:

- confusing or unusual nature of the contract (agreement, transaction), which has no economic meaning or obvious legitimate purpose;
- inconsistency of financial transaction with activities of a client (participant);
- multiple transactions or contracts involving a single type of securities;
- regular FTs with promissory notes;
- FTs in amounts inconsistent with financial means of the client.

Schemes that can be used by criminals for FT:

- use of securities with signs of fictitiousness, promissory notes;
- concluding contractual obligations that do not exist or are fake.

Risk of using stock market participants:

- ▶ for ML is rated as **medium**
- ▶ for FT is rated as **medium**

3.1.4. Legal Services Sector

The legal services sector includes the following REs:

- notaries;
- attorneys, law firms and associations;
- business entities providing legal services (except for persons providing services within the framework of employment relations).

However, the implementation of the reporting functions by legal services sector entities is not efficient enough due to specifics of their activities as representatives of the non-financial profession.

Notaries

The procedure for legal regulation of notary activity in Ukraine is established by the Law of Ukraine “On Notarial System”²⁶⁵.

The certificate of performance of notarial functions is issued and canceled by MoJ based on a decision of the High Qualification Commission of Notaries.

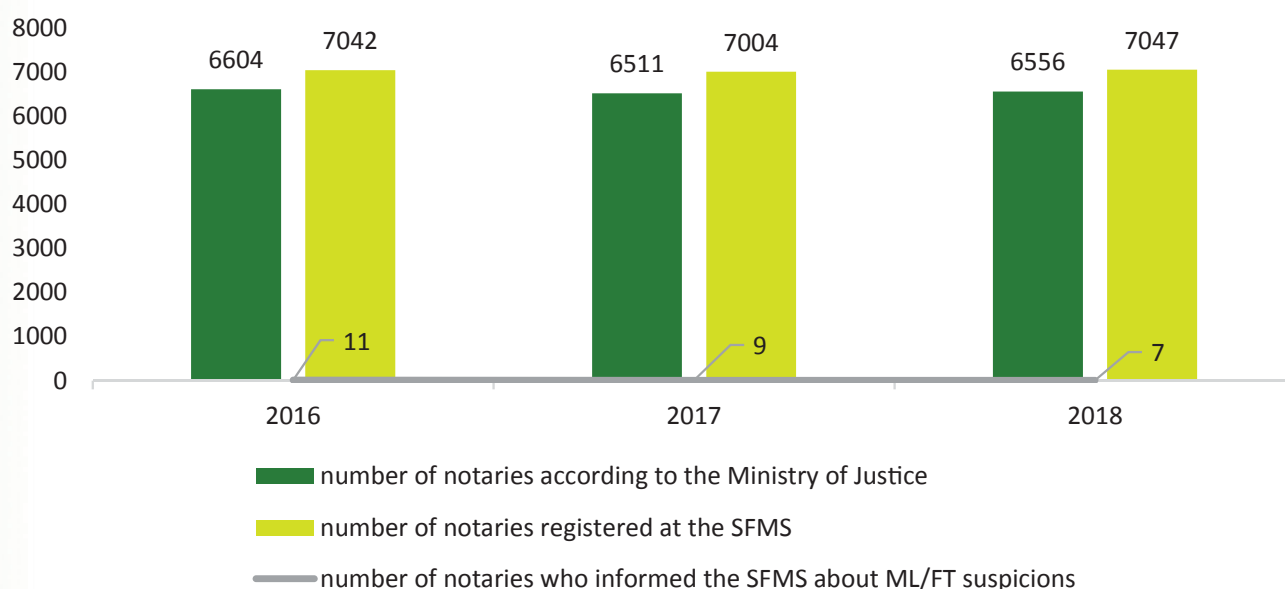


Fig. 3.13. Information on notaries as reporting entities²⁶⁶

Number of notaries, registered with SFMS as reporting entities is higher than the actual number of notaries, according to MoJ, indicating improper deregistration with SFMS in case of termination of activities.

Thus, of the total number of notaries registered with SFMS only 9 notaries on average per year (0.1% of the total) reported their suspicions of ML to SFMS, and this figure decreases every year.

²⁶⁵ On Notarial System: Law of Ukraine of September 2, 1993 No. 3425-XII: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/3425-12>

²⁶⁶ Plotted according to MoJ and SFMS data

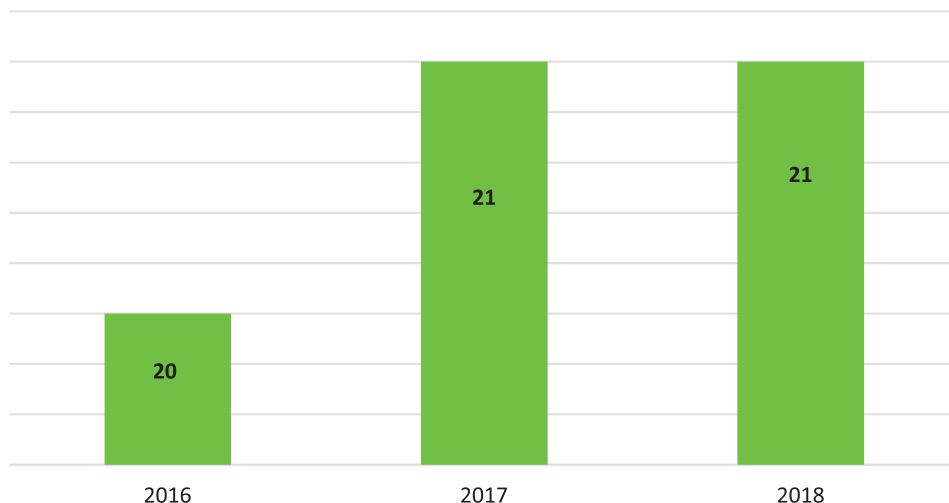


Fig. 3.14. Number of messages with evidence of financial monitoring reported by notaries to SFMS

Majority of violations of legal requirements relates to cases of improper reporting to the SFMS of information required for registration and deregistration of REs, as well as amendments to this information.

Likely ML/FT schemes involving REs from legal services sector include:

- forgery of documents submitted for notarial acts;
- providing an individual with a certain remuneration for their personal data used for registration as the founder of the legal entity;
- acquisition of property in the occupied territory;
- speculation in the field of real estate sales due to artificial overstatement of its value, which may include falsification of valuation documentation for real estate and is revealed when comparing the real and market value of real estate, as well as when identifying repeated sales and purchases of this real estate;
- lack, in some cases, of the possibility to identify a UBO (controller), especially with respect to founders of foreign legal entities and the inability to verify the origin of the funds used for the financial transaction.

Risk of using notaries:

- ▶ for ML is rated as **medium**
- ▶ for FT is rated as **medium**

Lawyers, law firms and associations

The procedure of legal regulation of the activity of the bar in Ukraine is established by the Law of Ukraine “On Bar and Practice of Law”²⁶⁷.

At the same time, the bar self-government is exercised, through the qualification and disciplinary commissions of the bar, which are formed with the purpose of determining the level of professional qualification of persons who have expressed their intention to obtain a certificate to hold the right to practice law, and resolution of issues concerning disciplinary responsibility of lawyers. The bar’s qualification and disciplinary commission is under the control and supervision of the region’s bar conference.

²⁶⁷ On Bar and Practice of Law: Law of Ukraine of July 05, 2012 No. 5076-VI (Bulletin of the Verkhovna Rada (VRU), 2013, No. 27, p.282): [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/5076-17>

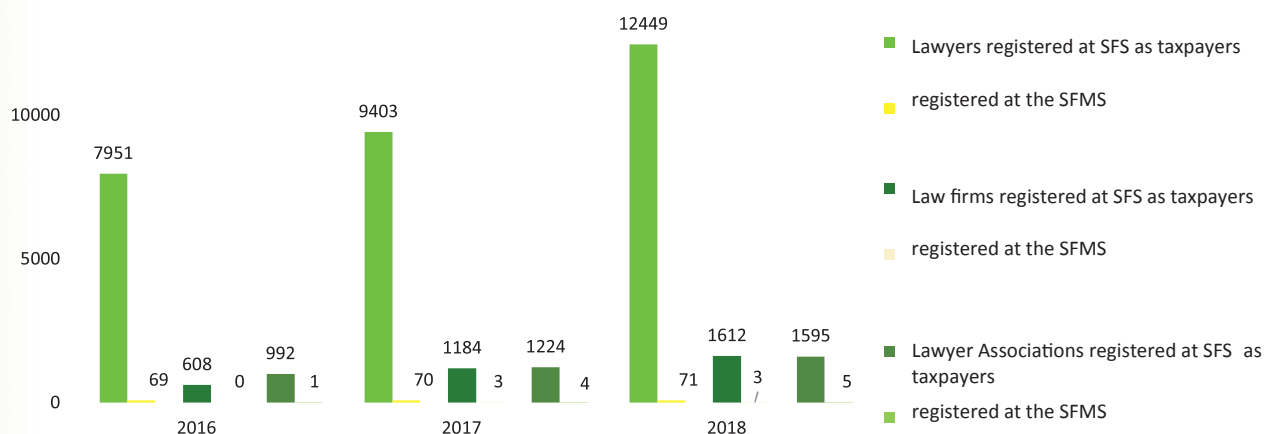


Fig. 3.15. Number of lawyers, law firms and associations²⁶⁸

The number of lawyers, law firms and associations registered by SFMS as reporting entities remains low. At the same time, in 2010–2018 there were no reports of any ML/FT related suspicions by these entities, which indicates an inadequate (insufficient) level of compliance and understanding of the ML/FT risks.

Risk of using lawyers, law firms and associations:

- ▶ for ML is rated as **medium**
- ▶ for FT is rated as **medium**

Business entities providing legal services

There is no Law in Ukraine that comprehensively regulates procedural issues of providing legal services. The legislation does not provide for licensing or obtaining certain permissions to provide legal services in Ukraine. Only business entities populate this category.

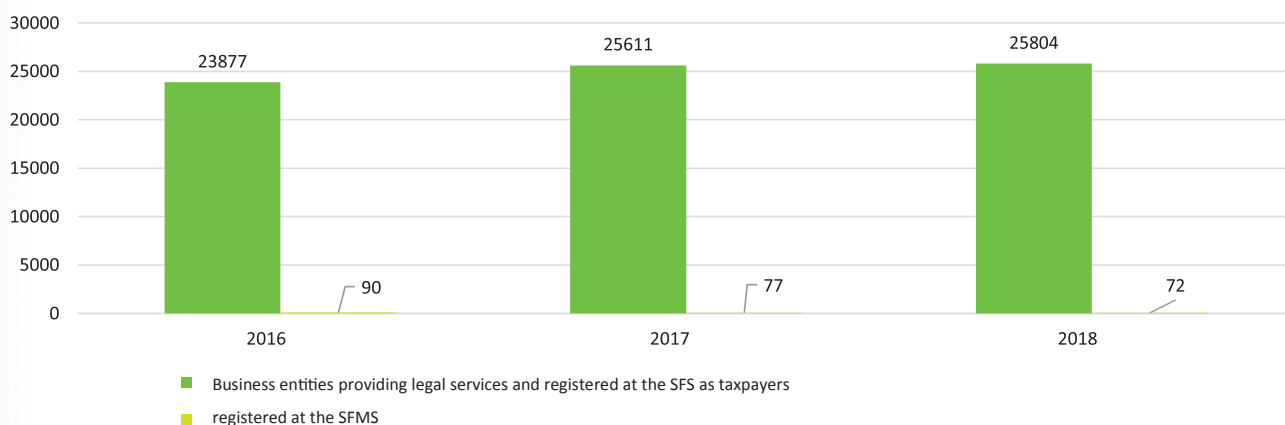


Fig. 3.16. Number of business entities providing legal services²⁶⁹

In 2016–2018 there was an increase in the number of business entities providing legal services and a simultaneous decrease of those registered with SFMS as reporting entities.

This tendency may be related to imperfection of legislative regulation of these entities and desire of such entities to avoid additional duties and responsibilities.

At the same time, in 2010–2018 there were no reports of any ML/FT related suspicions by these entities, which indicates an inadequate (insufficient) level of compliance and understanding of the ML/FT risks.

268 Plotted according to MoJ and SFMS data

269 Plotted according to MoJ and SFMS data

Risk of using business entities providing legal services:

- ▶ for ML is rated as **high**
- ▶ for FT is rated as **high**

The overall risk of using the legal services sector for ML is rated as **medium**, for FT is rated as **medium**.

3.1.5. Real estate market sector

This risk assessment was carried out through the prism of activities of entities directly involved in brokerage in the real estate market, especially business entities providing brokerage services in the sale and purchase of real estate (realtors).

In Ukraine, there is no legal regulation of realtors, which makes it impossible to carry out a sufficiently effective state policy in the field of the national real estate market. At present, real estate activities in the real estate market are not subject to mandatory certification, are not licensed or patented, and therefore barely controlled by the state with respect to conditions and effects they associate with.

As a rule, such services take form of information service provision business.

The lack of proper legal regulation of real estate activity, as a separate type of business activity in provision of services related to real estate transactions, leads to a wide spread of “gray” realtors in real estate market. These realtors act in a semi-legal manner, which is detrimental, primarily, in terms of protecting rights and legitimate interests of consumers of real estate services.

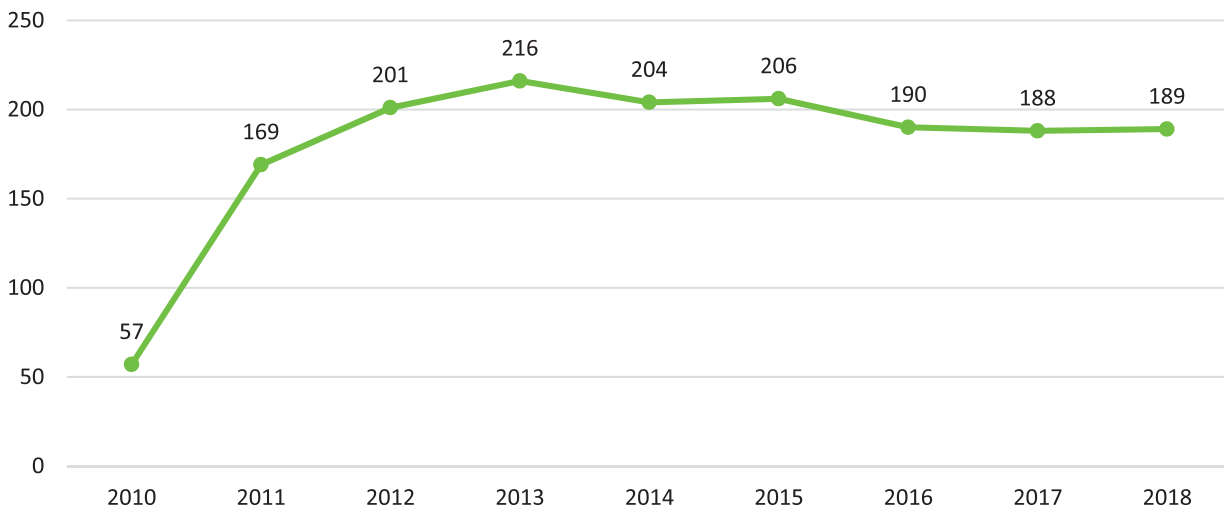


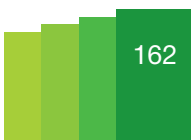
Fig. 3.17. Number of realtors registered with SFMS²⁷⁰

According to SFS, some 10,000 realtors are registered as taxpayers. Yet, only very few are registered with SFMS. In 2011-2017 realtors made only 3 suspicious transaction reports to SFMS.

The general state of compliance with requirements of the Law by intermediaries operating in the real estate market is low, especially in terms of:

- registration of REs, especially realtors;

270 Plotted according to SFMS data



- reporting FTs subject to financial monitoring;
- training and advanced training of REs employees.

Risk of using realtors:

- ▶ for ML is rated as **high**
- ▶ for FT is rated as **medium**

3.1.6. Postal operators' sector

The MoI provides methodological, practical and other assistance to postal operators in their capacity as REs.

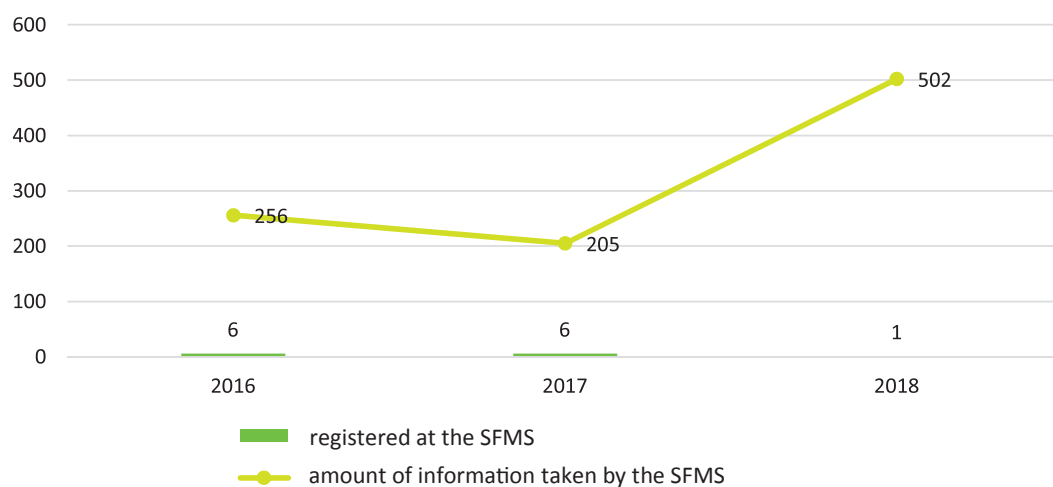


Fig. 3.18. Information on postal operators registered with SFMS ²⁷¹

While the number of postal operators was in decline in 2016-2018, the number of FTs subject to financial monitoring reported to SFMS by these entities was growing.

Majority of violations of legal requirements relates to cases of improper reporting to the SFMS of information required for registration and deregistration of REs, as well as amendments to this information.

Other violations of the legislation in this field include failure of REs to report FTs subject to financial monitoring and shortcomings in the procedure for dealing with the list of individuals involved in terrorist activities or subject to international sanctions.

Risk of using postal operators:

- ▶ for ML is rated as **low**
- ▶ for FT is rated as **low**

²⁷¹ Plotted according to SFMS data

3.1.7. Sector of commodity and mercantile exchanges

The 2016-2018 period was marked by increase of the total number of commodity exchanges (according to SSS data), while the number of those registered with SFMS as REs had decreased.

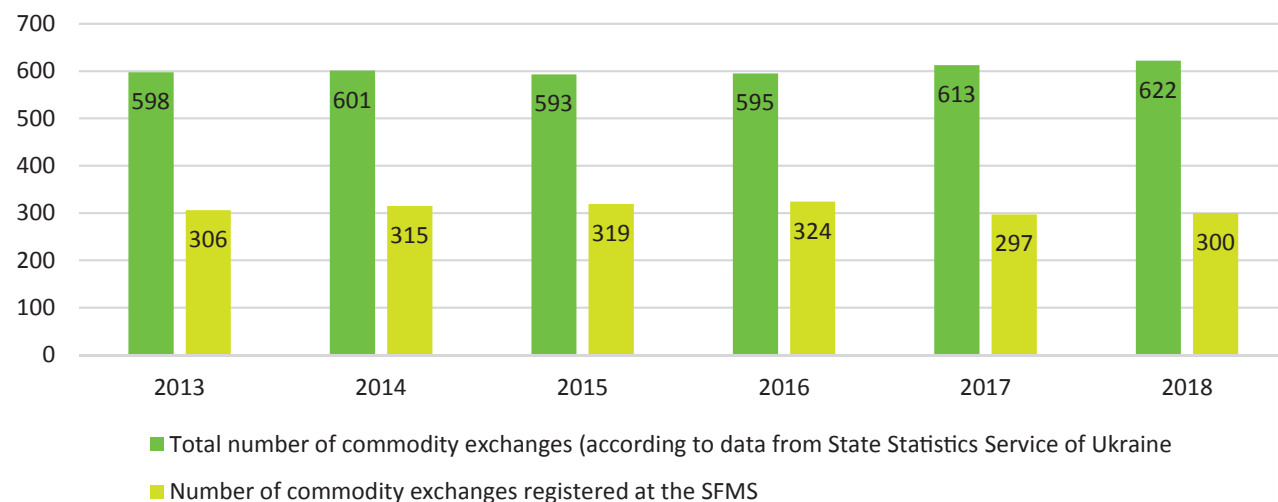


Fig. 3.19 Number of commodity and other mercantile exchanges²⁷²

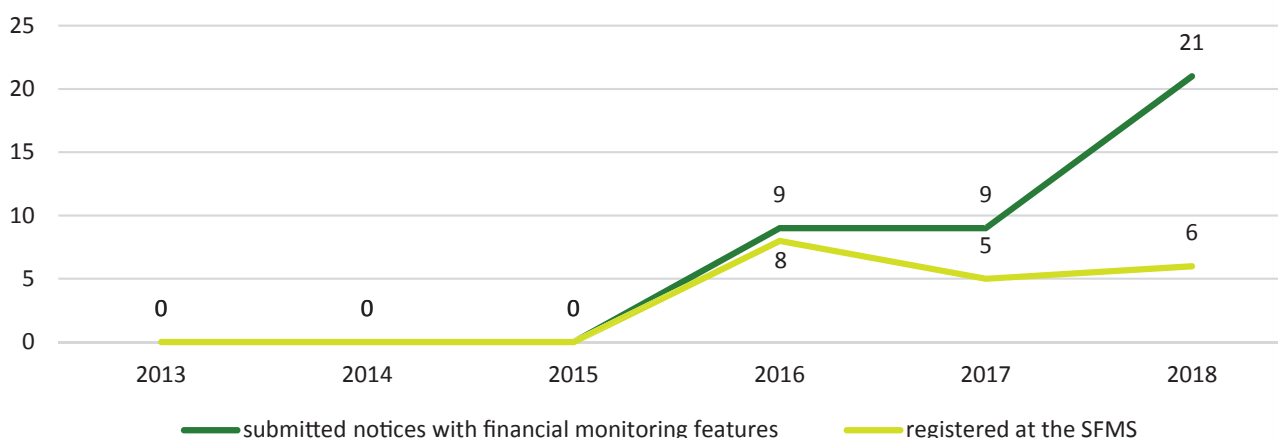


Fig. 3.20 Number of FTs reported by commodity and other mercantile exchanges to the SFMS²⁷³

The 2016-2018 period was marked by increase in the number of financial monitoring reports by commodity and mercantile exchanges to the SFMS. At the same time, the number of messages submitted correctly (without errors) remains low, which may indicate a lack of understanding by REs of the tasks and responsibilities assigned to them by the Law, as well as the responsibility that comes from failure to comply with the requirements of the Law.

Considering that:

- all exchange transactions / auctions in commodity exchanges are divided into directions / sections based on the commodity. Exchange operations may only be performed by identified individuals under accreditation / identification procedure in accordance with the internal documents of the commodity exchange;
- in accordance with Article 9 of the Law, a commodity exchange carries out the identification, verification and examination of the client during participant registration;
- the accounts are opened in banking institutions, and preliminary identification, as well as studying the purpose of the transaction is done by the bank. FTs in cash can't be done;
- commodity exchange is not a financial institution, but only registers agreements between clients;

272 Plotted according to MoE and SFMS data

273 Plotted according to SFMS data

- participants use a Qualified Signature, EDS, or FS (Electronic Signatures) by agreement with the commodity exchange,

the risk of using commodity and mercantile exchanges:

- ▶ for ML is rated as **low**
- ▶ for FT is rated as **low**

3.1.8. Lottery and gambling sector including casinos, electronic (virtual) casinos

According to Article 2 of the Law of Ukraine “On Prohibition of Gambling in Ukraine”²⁷⁴ gambling business and gambling is prohibited in Ukraine.

The powers of the MoF as a licensing body for issuing and holding lotteries are limited by Article 6 of the Law of Ukraine “On Licensing of Economic Activities”²⁷⁵, according to which the licensing authority controls the compliance by licensees with the requirements of license conditions. As of today, no business operator in Ukraine has valid licenses for issuing and holding of lotteries. Issuing and holding lotteries without a license is prohibited in accordance with the Economic Code of Ukraine, Laws of Ukraine “On Licensing of Business Activities” and “On State Lotteries in Ukraine”. The concept of “state” lottery in the Law of Ukraine “On State Lotteries in Ukraine”²⁷⁶ does not actually indicate any possibility of state management of lottery activities.

However, according to the Law of Ukraine “On Prohibition of Gambling in Ukraine”, the lottery is not considered a gambling game, although it contains all the features of gambling.

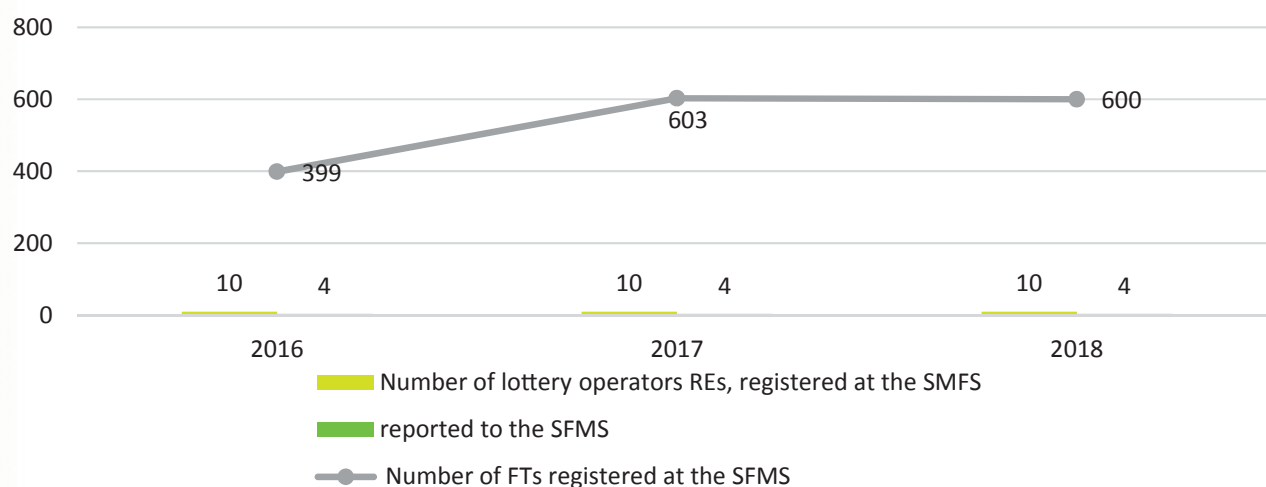


Fig. 3. 21. Lottery operators as REs under the Law²⁷⁷

274 On Prohibition of Gambling Business in Ukraine: Law of Ukraine of May 15, 2009 No.1334-VI: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/1334-17>

275 On Licensing of Business Activities: Law of Ukraine of March 2, 2015 No. 222-VIII: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/222-19>

276 On State Lotteries in Ukraine: Law of Ukraine of September 6, 2012 No. 5204-VI: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/5204-17>

277 Plotted according to SFMS data

3. Sectoral risk assessment

Schemes that can be used by criminals for ML:

- organizing (distribution) of lotteries, involving payment services (non-banking financial institutions), including on the Internet, through which funds, both electronic and not, are illegally converted into cash, using essential details of bogus and transit enterprises and extracted outside of Ukraine;
- legalization through winning in the lottery of illicit proceeds by individuals holding high office.

Risk of using lotteries and gambling entities, including casinos, electronic (virtual) casinos:

- for ML is rated as **medium**
- for FT is rated as **low**

3.1.9. Audit services sector

The 2016-2018 period was marked by an increasing volume of audit services provided by audit entities registered with SFMS as REs.

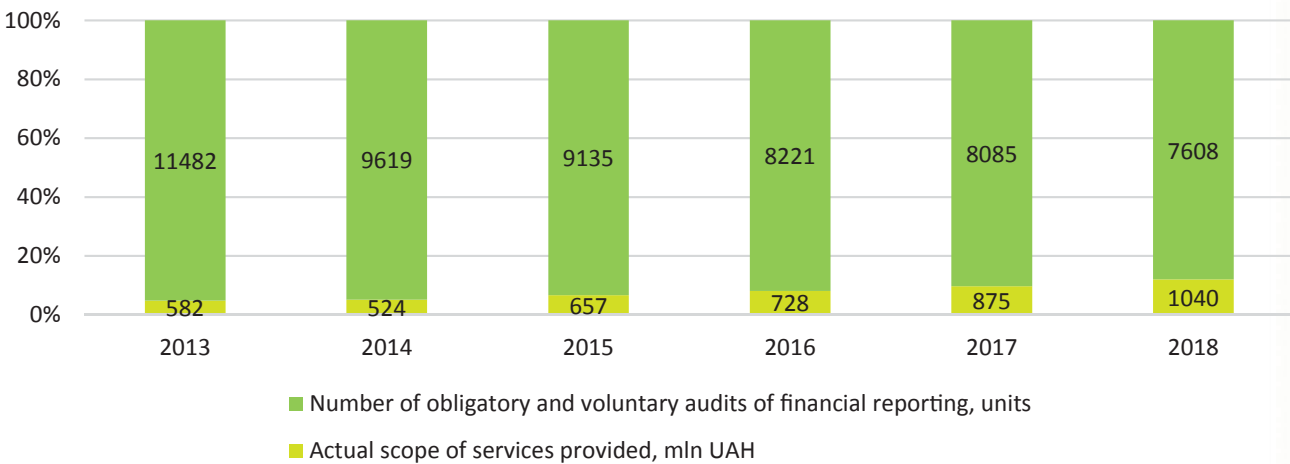


Fig. 3.22. Information on the scope of audit services provided ²⁷⁸

The 2016-2018 period is characterized by a trend towards increase of the number of audit firms registered with SFMS as reporting entities was observed



Fig. 3.23. Number of REs providing audit services²⁷⁹

No FTs subject to financial monitoring were reported by these REs to SFMS in 2016-2018.

Given the small number of auditors in the audit services sector, the threat of their use for ML purposes is low:

278 Plotted according to MoF data

279 Plotted according to SFMS data

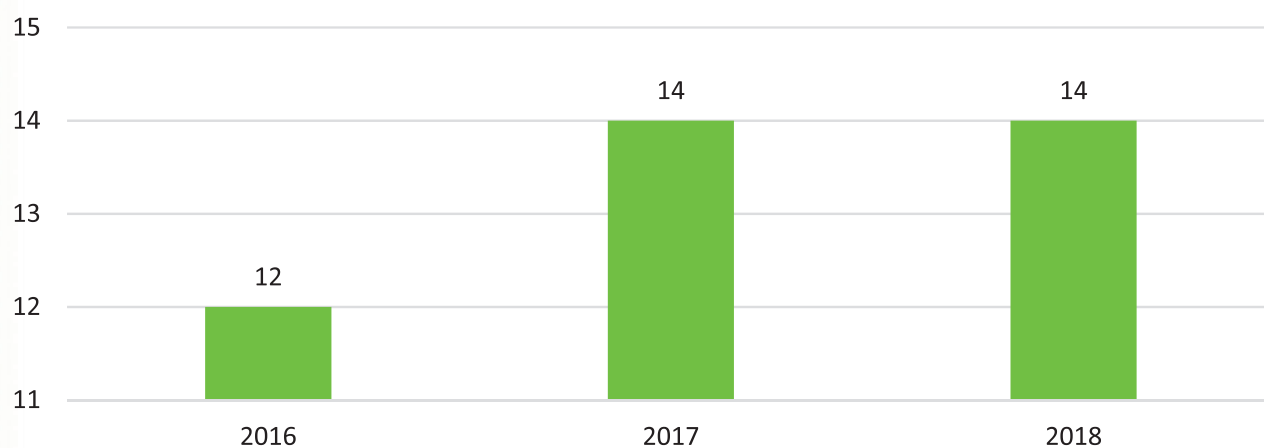
for ML is rated as medium;

▶ for ML is rated as **medium**

▶ for FT is rated as **low**

3.1.9. Sector of accounting services provided by individual entrepreneurs

The MoF provides methodological, practical and other assistance to individual entrepreneurs who provide accounting services as REs (except for persons providing services within the framework of employment relationships).



■ Number of individual entrepreneurs who provide accounting services and registered at the SFMS

Fig. 3.24. Number of individual entrepreneurs who provide accounting services as REs, registered with SFMS

No suspicious FTs were reported by these REs to SFMS in 2016 -2018.

Given the low volume of FOPs that provide accounting services in the accounting services sector, the threat of their use for ML purposes is low.

Risk of using individual entrepreneurs providing accounting services:

▶ for ML is rated as **low**

▶ for FT is rated as **low**

3.1.10. Trading in precious metals, gems and jewelry sector

Considering the NBU restrictions on cash payments²⁸⁰ exceeding UAH 50 thousand, in the case of entities trading in cash for precious metals, gems and jewelry, there are no “conditions” under which they must fulfill their responsibilities as REs.

From 2016 to 2018, the number of REs that trade in cash for precious metals, gems and jewelry has decreased.

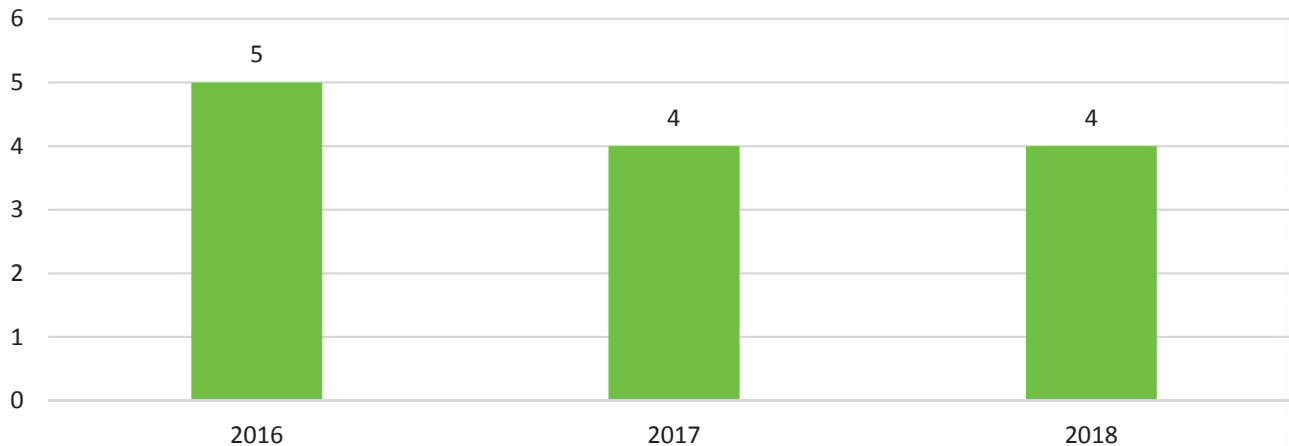


Fig. 3.25. Information on REs that trade in cash for precious metals, gems and jewelry, registered with SFMS ²⁸¹

Risk of using entities that trade in cash for precious metals, gems and jewelry:

- ▶ for ML is rated as **low**
- ▶ for FT is rated as **low**.

²⁸⁰ On approval of the Regulations on cash transactions in local currency in Ukraine: NBU decree of December 29, 2017 No. 148: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/v0148500-17>

²⁸¹ Plotted according to SFMS data

Table 3.2

Summary of results of sectoral risk assessments of the use of REs for ML purposes

N.	RE Sector	Likelihood of risk	Consequence of risk	Overall level of risk	Effectiveness of mitigation measures	Net risk level
1	Banking sector	3	3	9	2	6
2	Sector of non-banking financial institutions (as regards funds transfer services)	3	3	9	3	9
3	Non-banking financial services sector, including:	2	3	6	3	6
3.1	<i>Entities providing insurance services</i>	3	3	9	2	6
3.2	<i>Entities providing services accumulative pension services with respect to administration of non-state pension funds</i>	1	3	3	2	2
3.3	<i>Guarantees and sureties</i>	3	2	6	3	6
3.4	<i>Property management to finance construction and / or real estate operations</i>	2	3	6	2	4
3.5	<i>Lending, including financial facility</i>	3	3	9	3	9
3.6	<i>Financial leasing</i>	3	2	6	3	6
3.7	<i>Factoring</i>	3	2	6	3	6
3.8	<i>Credit unions</i>	1	2	2	2	2
4	Securities market sector	2	2	4	2	4
5	Legal services sector, of which:	3	2	6	3	6
5.1	<i>Notaries</i>	2	2	4	2	4
5.2	<i>Lawyers, law firms and associations</i>	3	2	6	3	6
5.3	<i>Business entities providing legal services</i>	3	3	9	3	9
6	Real estate market sector	3	3	9	3	9
7	Postal operators' sector	2	2	4	2	4
8	Sector of commodity and mercantile exchanges	1	2	1	2	2
9	Lottery and gambling sector including casinos, electronic (virtual) casinos	3	2	6	3	6
10	Audit services sector	2	2	4	2	4
11	Sector of accounting services provided by individual entrepreneurs	1	2	1	2	2
12	Trading in precious metals, gems and jewelry sector	1	2	1	2	2
Overall sector score		2	2	4	2	4

Table 3.3

Summary of results of sectoral risk assessments of the use of REs for FT purposes

N.	RE Sector	Likelihood of risk	Consequence of risk	Overall level of risk	Effectiveness of mitigation measures	Net risk level
1	Banking sector	3	3	9	1	3
2	Sector of non-banking financial institutions (as regards funds transfer services)	3	3	9	2	6
3	Non-banking financial services sector, including:	1	2	2	2	4
3.1	<i>Entities providing insurance services</i>	1	3	3	2	2
3.2	<i>Entities providing services accumulative pension services with respect to administration of non-state pension funds</i>	1	2	2	1	1
3.3	<i>Guarantees and sureties</i>	1	3	3	2	2
3.4	<i>Property management to finance construction and / or real estate operations</i>	1	2	2	2	2
3.5	<i>Lending, including financial facility</i>	2	2	4	2	4
3.6	<i>Financial leasing</i>	1	1	1	2	2
3.7	<i>Factoring</i>	1	1	1	2	2
3.8	<i>Credit unions</i>	1	2	2	2	2
4	Securities market sector	1	1	1	2	2
5	Legal services sector, of which:	3	2	6	3	6
5.1	<i>Notaries</i>	2	2	4	2	4
5.2	<i>Lawyers, law firms and associations</i>	3	2	6	3	6
5.3	<i>Business entities providing legal services</i>	3	3	9	3	9
6	Real estate market sector	3	3	9	2	6
7	Postal operators' sector	2	2	4	2	4
8	Sector of commodity and mercantile exchanges	1	2	1	2	2
9	Lottery and gambling sector including casinos, electronic (virtual) casinos	1	2	2	2	2
10	Audit services sector	1	1	1	2	2
11	Sector of accounting services provided by individual entrepreneurs	1	1	1	2	2
12	Trading in precious metals, gems and jewelry sector	1	2	1	2	2
Overall sector score		2	2	4	2	4

Based on the results of the analysis of data obtained and processed during sectoral risk assessments, the following areas of high and low risk of using REs for ML/FT were identified:

Low risk area:

1.1. Minimal risk area

This segment includes individuals, enterprises, institutions, organizations that carry the lowest ML / FT risk for REs, provided there are no suspicions ML / FT including corruption. In terms of RBA, REs may apply simplified customer identification, verification and examination defined in their internal AML / CFT documents, in the absence of ML/FT suspicions, including corruption:

Table 3.4

Minimum risk area entities

N.	Categories of entities that pose the lowest ML/ FT risk	Grounds for applying simplified due diligence measures
1	State authorities of Ukraine ²⁸²	They include legislative, executive and judiciary authorities, as well as any other state bodies acting on behalf of the state and endowed with state powers. They are established on the basis of a legal act and are state-owned.
2	International institutions or organizations in which Ukraine participates in accordance with international treaties of Ukraine, ratified by the VRU	Ukraine's participation in these institutions is defined by international treaties at the state level. Pursuant to Article 9, paragraph 1, it is carried out on the principle of reciprocity in accordance with the Prevention Law, international treaties of Ukraine, ratified by the VRU, other regulatory and legal acts.
3	Institutions, bodies, offices or agencies of the European Union	Guided by European public law, they act at the interstate level and are created to help regulate the activities of individual sectors at EU level
4	Diplomatic Missions of a foreign country - a member of the Organization for Economic Cooperation and Development, duly accredited in Ukraine ²⁸³	These are state institutions whose task is to support and develop official relations with the host country and to protect the rights and interests of its state, its citizens and legal entities. Establishment by mutual agreement between States
5	Issuers who, under the laws or conditions of public offering of shares on internationally recognized exchanges, are obliged to publicly disclose information about UBOs (controllers) or are subsidiaries or representative offices of such issuers.	If a legal entity is admitted to listing on internationally recognized exchanges, it means that it has submitted all the necessary documents and that it complies with certain requirements, including the disclosure rules in accordance with applicable law
6	Persons who have accounts solely for the purpose of receiving wages, scholarships, pensions or other social benefits;	Persons using a highly specialized set of REs services (verifiable target use of services)
7	Association of co-owners of apartment buildings	NPOs that operate through contributions from their members
8	Individuals making regular payments for housing and utility services for a small amount, as well as housing and utility companies, Internet and television service providers, that financial institutions (REs) enter into contracts with to receive regular small payments from individuals without opening accounts, provided that such contracts operate on a non-cash basis only and funds are transferred exclusively to client's account opened with another financial institution	Targeted use of REs services identified

²⁸² Bearing in mind that the state authorities of Ukraine are created on the basis of a legal act, are state-owned and act on behalf of the state, REs may apply simplified measures of identification, verification and study of clients representing state authorities. However, the REs should apply additional anti-corruption scrutiny measures to such clients in view of the high level of corruption in Ukraine.

²⁸³ Bearing in mind that REs can apply simplified measures to identify, verify and study clients representing OECD foreign diplomatic missions, taking into account risks of such states and their diplomatic missions being involved in the ML/FT, based on economic criteria and international reputation.

3. Sectoral risk assessment

The implementation of simplified measures of identification, verification and examination of clients will facilitate free access of ordinary citizens to REs services, simplify activities of low-risk categories of REs clients, and enable the release of REs resources to focus on areas of greatest risk.

1.2. Low risk area

This segment includes companies involved in FTs easily understood by reporting entities, conduct normal business activity and pay taxes and are not suspected of ML / TF operations, have no fictitious traits and are not engaged in large-scale operations. The REs apply measures to identify, verify and examine these clients in accordance with provisions of the AML / CFT legislation.

High risk area:

2.1. High risk area

Customers belonging to this area need special attention from REs in view of their high ML/FT risks. This category includes:

- PEP;
- Public associations;
- NPOs
- Political parties.

In addition, clients suspected of ML / FT operations or affiliation with shell companies (bogus companies), as well as of other offenses all fall in high ML/FT risk category.

Virtual asset operations have features that make them vulnerable to ML / FT use. Given lack of proper legislative regulation, adequate supervision and control of the virtual assets market in Ukraine, in particular in the area of financial monitoring, the risk of utilizing virtual assets ML and FT purposes remains high, requiring special attention and increased control by REs.

Whenever features or categories of clients are identified as presenting greatest risk, REs should apply enhanced measures of identification, verification and examination.

2.2. Unacceptably high risk area

This risk area includes clients who pose the highest risk that cannot be accepted by the REs in accordance with internal AML / CFT documents, namely:

- Persons included in the list of persons involved in terrorist activities
- Persons subject to international sanctions
- Persons suspected of being engaged in bogus business or are shell companies for the purpose of ML / FT
- Clients suspected of involvement in ML/FT operations, other crimes and / or affiliation with shell companies (bogus companies).

REs should effectively prevent their services from being used for ML / FT by denying clients attempts to conduct FTs and ending business relationships.

3.2. Non-profit sector

The international and domestic fight against FT has demonstrated that terrorists and terrorist organizations use the NPO sector to obtain and transfer funds, provide logistical support, encourage terrorist recruitment, or otherwise support terrorist organizations and operations.

NPOs can be used as a direct source of income and as a cover for the flow of funds between countries in complex ML and FT schemes. They can also be used to cover movement of terrorists, provide them with organizational support and the like.

That is, the use of NPOs for FT can take many forms. A very common example of one of these forms is the creation of NPOs with declared charitable goals, which, in reality, exist only for the purpose of transferring funds for the benefit of terrorists or terrorist organizations.

Another possibility is the penetration of terrorists or their supporters into NPOs created for legitimate humanitarian or charitable purposes. Once these persons have assumed leading roles in an NPO, they may transfer some of the funds raised for charitable purposes, either directly or indirectly, to support terrorists or terrorist organizations. Sometimes this is done without the direct knowledge of the founders, management and employees of the NPO itself.

As for terrorist organizations operating in the non-Ukrainian-controlled Donetsk and Luhansk regions, NPOs can be used to obtain financial support for “DNR / LNR”.

To conduct unsupervised ML / FT related FTs, NPOs use banned non-bank electronic payment systems (“WebMoneyTransfer”, “Money.Yandex.ru”, “Qivi Wallet”).

Electronic money transfer and cash transfer mechanisms enable the concealment of data on electronic wallet owners and movement of funds between payment systems and banking institutions, terrorist and separatist groups.

In addition, NPOs can carry out “zero ICO” (Initiation Offering, or “Initial Coin Offering”, a relatively new form of investment, closely linked with blockchain technology and cryptocurrency). This method involves setting up a primitive ICO project with head office in the region where you want to move funds to.

After the preparation, the initial sale of tokens (usually closed) is announced, with the ICO initiator purchasing 100% of the tokens issued.

Thus, investor funds are deposited in bank accounts of an ICO initiating company located in the right region. This way, fiat money can be illegally moved outside Ukraine for transfer to the accounts of international criminal groups, terrorist organizations, groups and individuals working for foreign intelligence agencies.

Today, the role of ML/ FT monitoring through NPOs is particularly important.

Current ML/FT threats have the following features:

- fast pace of change associated with continually emerging threats caused by factors previously considered non-critical;
- growth of the shadow economy as an environment that generates these threats;
- increasing transnationality of threats traditionally regarded as internal, and external threats at the regional or national level becoming global;
- lack of distinction between internal and external threats, as well as between global, national, regional and local as a result of trans-nationalization of social life, creation of a unified social environment;
- globalization of threats, their universal nature.

As of January 01, 2019, there are 1,298,435 legal entities registered in the USR, of which 197,952 are NPOs, or 15% of the total number.

In 2018, SFMS received 169,312 FT reports by 7,681 NPOs, totaling over UAH 439 billion.²⁸⁴

²⁸⁴ Survey of use of non-profit organizations for illegal purposes in 2018: [Online resource]. - Access at: http://www.sdfm.gov.ua/content/file/Site_docs/2019/20190405/oglad_npo_2018.pdf

Table 3.5

Distribution of FT reports concerning NPOs received by SFMS in 2018 ²⁸⁵

Indicator	Number of FTs	%	FTs amount, UAH million	%
Total	169 312	100%	439 731.3	100%
OFM	167 399	98.9%	436 963.1	99.37%
IFM	869	0.5%	141.5	0.03%
OFM and IFM	1 044	0.6%	2 626.7	0.6%

It should be noted that 98.9% of FTs involving NPOs were reported on the basis of obligatory financial monitoring.

The majority of FT reports involving NPOs contained following financial monitoring features:

- **obligatory financial monitoring features** (these features are common across 75.7% of reports involving NPOs received on the basis of obligatory financial monitoring):
 - transfer of funds by NPO (28.0%);
 - receiving funds by NPO (25.2%);
 - funds transfer FTs by entities considered high risk (11.8%);
 - receipt of funds FTs by entities considered high risk (10.7%);
- **internal financial monitoring features** (these features are common across 81.7% of reports involving NPOs received on the basis of internal financial monitoring):
 - other FTs in relation to which, REs have grounds to believe that a financial transaction is carried out for ML / FT purposes (59.1%);
 - receipt of funds (payment documents) by REs from persons transferring funds to the other party of a civil contract, such that the funds are returned, and financial transaction is considered incomplete due to the refusal of acceptance (11.8 %);
 - regular receipt of financial assistance, including from non-residents, or providing financial assistance to non-residents (10.8%).

Detailed information on the analysis of FTs participants is provided in the table.

Table 3.6

Detailed analysis of FTs participants ²⁸⁶

N.	NPO Type	Number of entities	%	Number of FTs	%	FTs amount, UAH million	%
Total		7 861	100%	16 312	100%	439 731.3	100%
1	NGOs	1 566	20%	31 469	18.6%	73 677.4	16,8%
2	Charitable foundations (organizations)	998	13%	27 950	16.5%	26 225.6	6%
3	Trade unions, associations and trade union organizations	1 218	15.9%	21 320	12.6%	11 951.7	2,7%
4	Housing cooperatives, associations of co-owners of apartment buildings	1 346	17.5%	19 349	11.4%	9 161.3	2,1%
5	Other legal entities whose activity does not involve receiving profits	378	4.9%	16 043	9.5%	18 348.1	4,2%
6	Institutions and organizations created by state authorities of Ukraine, funded from respective budgets	511	6.7%	15 866	9.4%	15 877.5	3,6%
7	Other types of NPOs	1 664	21.7%	37 315	22.0%	284 499,7	64,7%

In 2018, 65 CRs regarding suspected transactions involving NPOs were submitted to LEA by SFMS.

²⁸⁵ Plotted according to SFMS data

²⁸⁶ Plotted according to SFMS data

Table 3.7

Distribution of CRs submitted to LEA by type of possible crimes²⁸⁷

Indicator	Number of CRs	%
Total	65	100%
ML	36	55.4%
FT	4	6.2%
Other crimes according to CC of Ukraine	119	38.5%

CRs in respect of 2,890 FTs carried out by 127 NPOs, totaling UAH 2,994.8 million were submitted to LEA.

Table 3.8.

Distribution of reported FTs by type of NPO²⁸⁸

N.	NPO Type	Number of entities	%	Number of FTs	%	FTs amount,	%
Total		127	100.0%	2890	100.0%	2994.8	100,0%
1	Charitable foundations (organizations)	26	20.5%	1222	42.3%	1701.8	56.8%
2	Housing cooperatives, associations of co-owners of apartment buildings	53	41.7%	882	30.5%	553.8	18.5%
3	Other legal entities whose activity does not involve receiving profits	9	7.1%	376	13.0%	223.5	7.5%
4	NGOs	13	15.7%	33	2.2%	19.3	1.4%
5	Political parties	3	2.4%	4	0.1%	0.9	0.03%
6	Other types of NPOs	19	15.0%	344	11.9%	486.6	16.2%

287 Plotted according to SFMS data

288 Plotted according to SFMS data

Table 3.9

Distribution of FTs subject to financial monitoring reported to LEA,²⁸⁹

Indicator	Number of FTs	%
Total	2890	100%
OFM	2749	95.1%
IFM	22	0.8%
OFM and IFM	119	4.1%

The most common risk signs of using NPOs for ML/FT are:

- misleading, creating bogus NPOs;
- splitting NPO FTs;
- FTs made by NPOs without clear explanation of the nature of such transactions;
- transfer of funds by NPOs to legal entities whose activities have nothing in common;
- participation in financing the acquisition of dual-use items;
- conducting NPO activities in areas adjacent to hostilities;
- transfer of funds to NPO affiliates;
- spending NPO funds without appropriate reporting on their use;
- third parties acting as proxies are used to open NPO accounts;
- NPO expenses don't match stated area of activities;
- involvement of criminals in NPOs activities;
- bogus NPO activities.

These features are not exhaustive but merely indicators for further detailed analysis of NPO activities. Combination of several of these signs indicates high ML/FT risk for such an NPO.

This analysis indicates high risks of using NPOs to commit predicate offences and/or ML and/or FT/FWMD, and to serve as a cover for other illegal activities.

New emerging threats appear posed by hybrid wars and use of entire territories.

NPOs are used to commit predicate crimes and ML, especially:

- misappropriation, embezzlement or seizure of property;
- bogus entrepreneurship;
- misuse of budget funds;
- tax evasion;
- financing of terrorism;
- abuse of power or office;
- illicit enrichment.

The most vulnerable among NPOs are the following:

- NGOs;
- housing cooperatives, associations of co - owners of apartment buildings;
- charitable foundations.

The most common ways and risks of criminal NPO use:

- redirection of financial flows;
- connection with criminal cells;
- non-compliance of the NPO's activities with the stated goals;
- complicity in financing crime cells;
- setting up fictitious NPOs for criminal purposes.

Understanding the threats and ways of utilizing NPOs illegally and assessing appropriate risks will make it possible to reduce the likelihood of their use by terrorists.

SFS conducted a legislation violation risk analysis by type of NPO with results presented in the table below.

²⁸⁹ Plotted according to SFMS data

Table 3.10
Analysis of legislation violation risks by type of non-profit organization ²⁹⁰

Non-profitability code	Name of non-profitability trait	Risk level
1	2	3
0031	budgetary institutions;	average
0032	public associations;	high
0033	political parties;	high
0034	creative unions;	average
0035	religious organizations;	average
0036	charitable organizations;	high
0037	pension funds;	average
0038	unions;	average
0039	association and other unions of legal entities;	average
0040	housing cooperatives	high
0041	summer cottage cooperatives;	high
0042	gardening and garage cooperatives and partnerships;	average
0043	apartment building co-owner unions and associations of residential buildings owners;	average
0044	trade unions, associations and organizations of trade unions;	average
0045	employers' organizations and their associations;	average
0046	agricultural service cooperatives;	high
0047	cooperative associations of agricultural service cooperatives;	average
0048	other legal entities meeting requirements set forth in paragraph 133.4, Article 133 of the Code.	high

In conclusion, NPOs are used for bogus entrepreneurship, tax evasion, misuse, misappropriation, embezzlement or seizure of property, abuse of power or office, ML/FT.

²⁹⁰ Plotted according to SFS data

3.3. Analysis of legal and corporate forms of entities

The explanatory note to FATF Recommendation 24 (Transparency and Beneficiary Ownership of Legal Entities) states that countries should have mechanisms that assess risks of money laundering and terrorist financing related to different types of legal entities established in the country.

In view of the above, during the second round of NRA Ukraine carried out a risk assessment of various legal and corporate forms of legal entities.

According to the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Formations (USR), as of January 01, 2019, there were 1,298,435 registered legal entities.

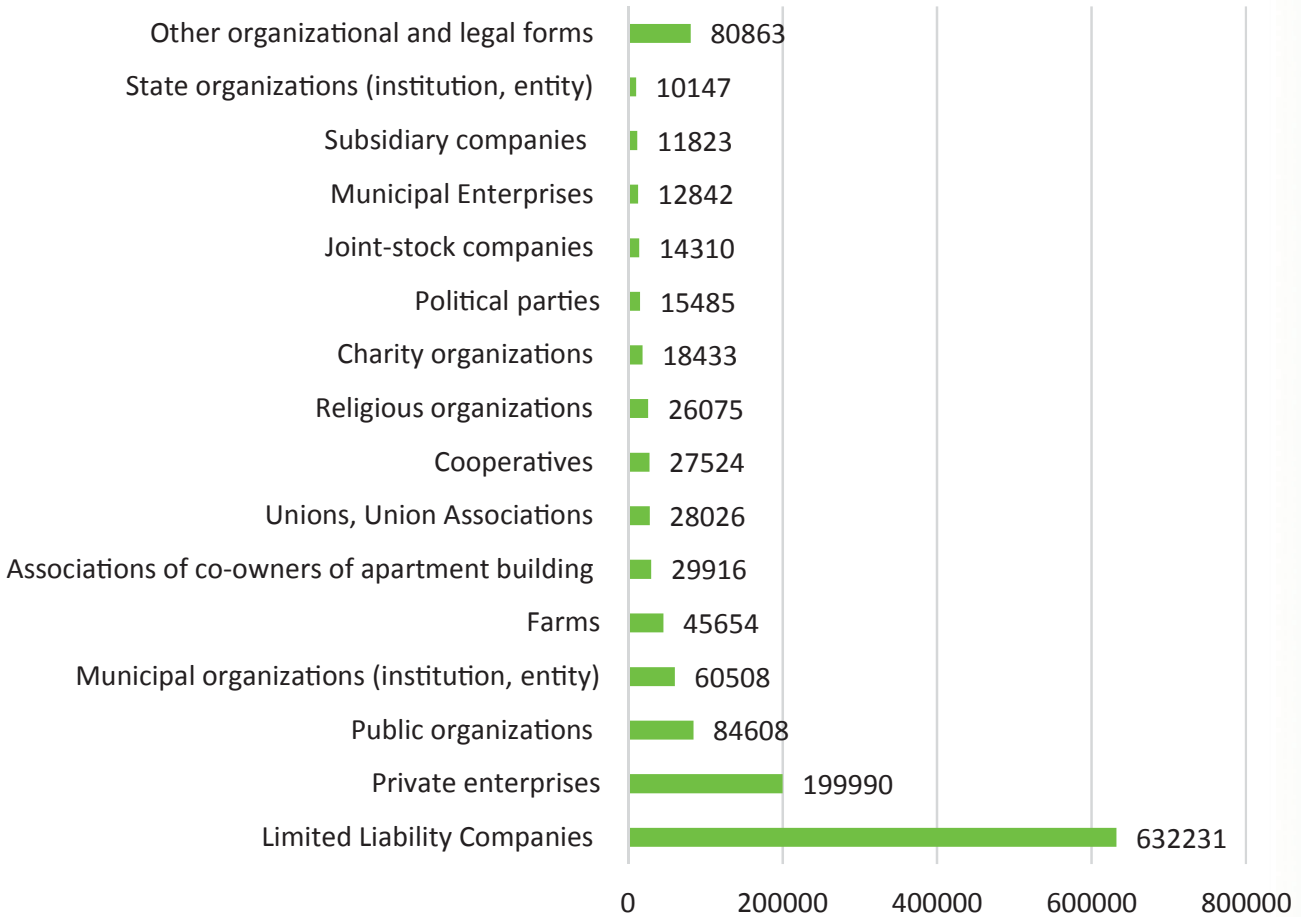


Fig. 3.26. Distribution of legal entities (according to their legal and corporate forms), representing the majority of USR registered entities²⁹¹

291 Plotted according to State Statistics Service of Ukraine data: [Online resource]. - Access at: http://www.ukrstat.gov.ua/edrpoj/ukr/EDRPU_2019/xls/ks_opfg_0119.xls

Distribution of legal entities by organizational form, representing the minority of USR registered entities is shown in the following figure.

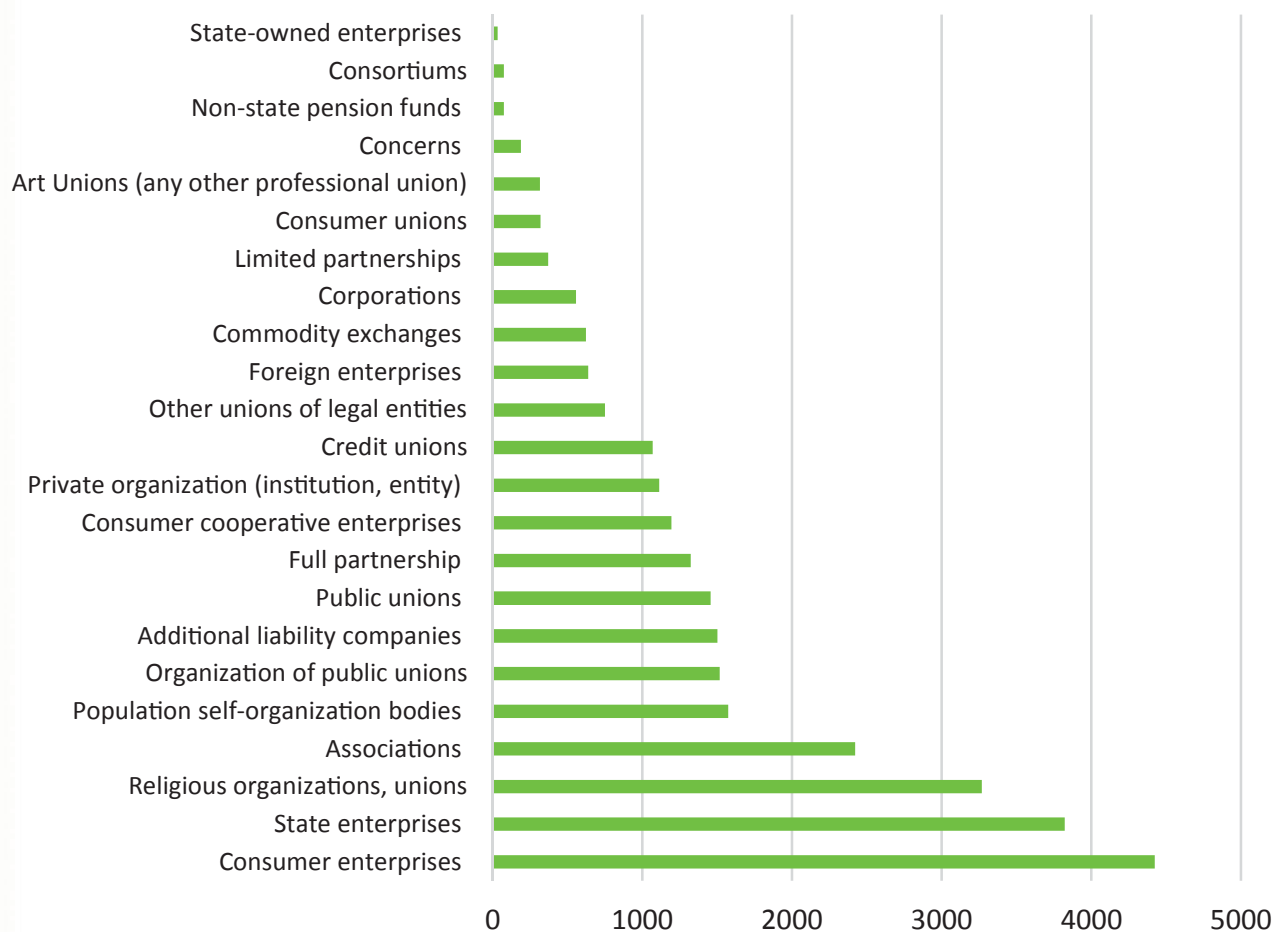


Fig. 3.27. Distribution of legal entities (by their legal and corporate forms), representing the minority of USR registered entities²⁹²

292 Plotted according to State Statistics Service of Ukraine data: [Online resource]. - Access at: http://www.ukrstat.gov.ua/edrpy/ukr/EDRPU_2019/xls/ks_opfg_0119.xls

3. Sectoral risk assessment

The largest number of legal entities is registered in Kyiv, Dnipropetrovsk, Donetsk, Odesa, Kharkiv, L'viv and Kyiv regions.

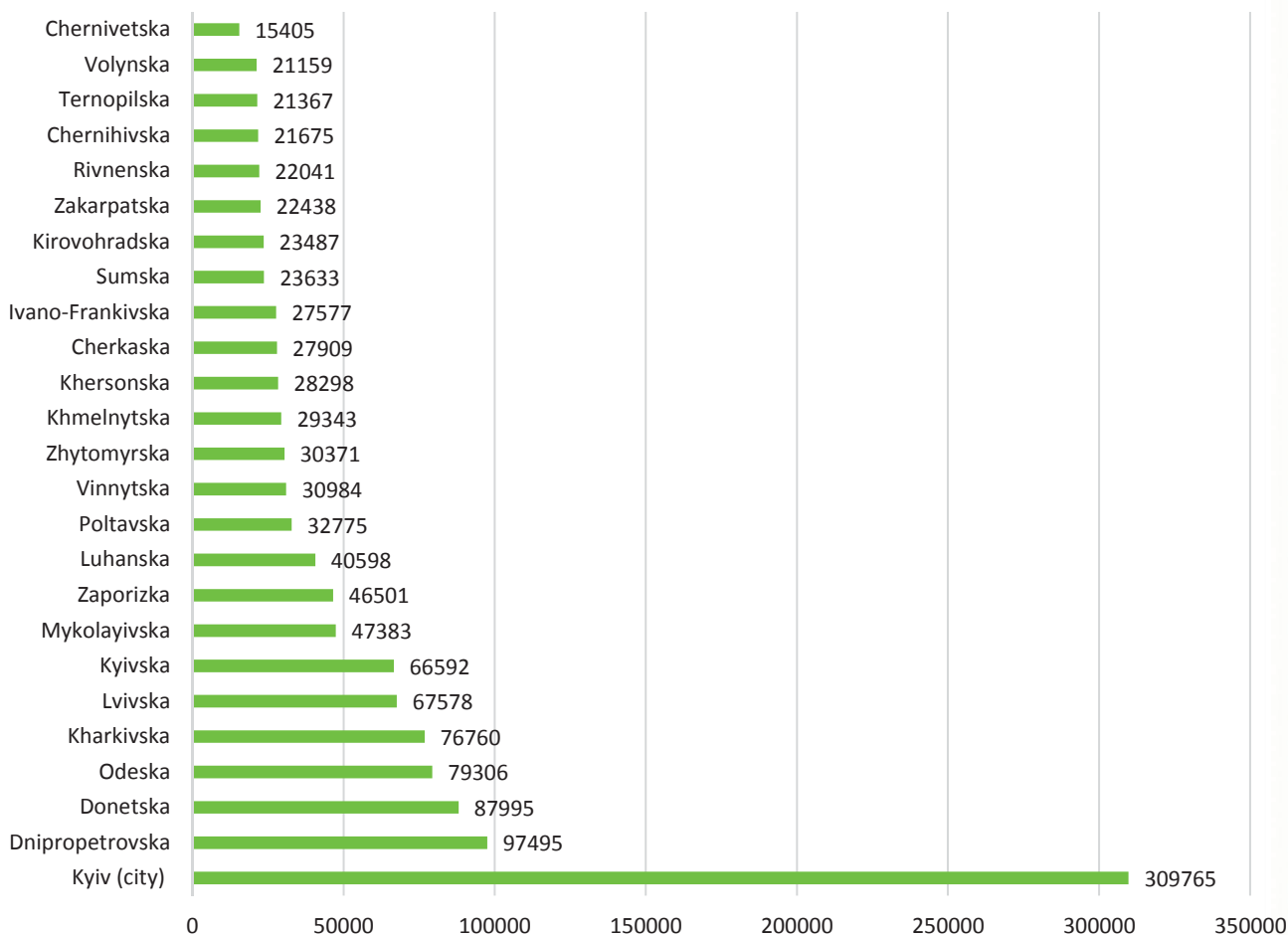


Fig. 3.28. Regional distribution of registered legal entities²⁹³

According to respondents of the survey of public and private sectors most commonly used ML/FT schemes include entities with opaque ownership structure or straw (informal) beneficiary owners.²⁹⁴

Most often, such entities are used for:

- hiding real UBO / end beneficiary, including PEP;
- avoiding international sanctions (UNSC sanctions) and national sanctions (NSDC sanctions) that apply to real business owners;
- tax evasion;
- fraud with direct and indirect taxes;
- concealment of corrupt practices in the implementation of public procurement where founders of legal persons participating in public procurement, are government officials (which influence decisions regarding procurement) or any similar entity;
- use in the ownership structure of non-resident nominee holders for the removal of capital abroad, especially as dividends;
- concealment of documents shedding light on sources of origin of UBO's capital, incl. PEP;
- avoiding responsibility, incl. criminal, by real owners of companies engaged in illegal activity;
- avoidance of reputational risks by real business owners engaged in illegal activities;
- concealing control of the national PEP over a public procurement participant, for the purpose of enrichment by misappropriating budget funds;

293 Plotted according to State Statistics Service of Ukraine data: [Online resource]. - Access at: http://www.ukrstat.gov.ua/edrpoj/ukr/EDRPU_2019/xls/ks_za_ps_0119.xls

294 State Financial Monitoring Service of Ukraine: Typological study "Risks of using actors with opaque ownership structure in criminal proceeds laundering schemes: [Online resource]. - Access at: http://www.sdfm.gov.ua/content/file/Site_docs/2019/20190403/Typology2018_UA.pdf

- concealing sources of income, including corruption proceeds;
- concealing persons involved in illegal activities.

At the same time, in July 2018 a program was started in Ukraine called “Project Laboratory for the Implementation of the Association Agreement between Ukraine and the EU” (EU Association Lab). The program was supported by Consulting Support Fund of Ukraine-EU Association implemented by German agency “Cooperation with Germany for development GIZ Ukraine” on behalf of the German Government, together with its beneficiary, the Government Office for the Coordination of European and Euro-Atlantic integration with the participation of “1991 Open Data Incubator”.²⁹⁵

As part of this program, given that hiding real owners of companies is one of the most significant risks of the anti-money laundering system – the State Financial Monitoring Service of Ukraine put together a team whose main goal was to develop a mechanism to help validate and verify UBO data to ensure transparency of corporate ownership in Ukraine. The team also included other government agencies and NPOs. After several months of work, the team developed a 33-step concept prototype. The essence of the Concept is to fill in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Formations (USR) with complete, up to date (timely updated) and reliable (validated and verified) information on UBOs of legal entities. The concept includes legislative proposals, procedures for their implementation and implementation of advanced IT solutions.

The State Financial Monitoring Service of Ukraine continues to work on the implementation of the Concept prototype and, together with its team of partners, continues to work towards establishing a mechanism for the verification of UBO of legal entities registered in Ukraine.

One of the important milestones for the project team was to analyze the existing status quo associated with current state of affairs regarding UBO disclosure in Ukraine. Main conclusions are as follows.

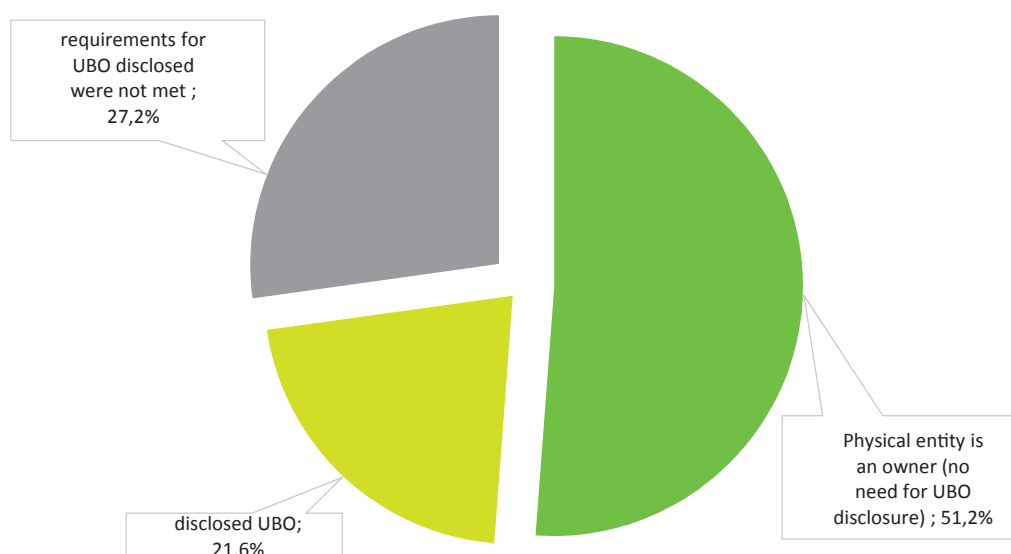


Fig. 3.29. Disclosure of UBO information by a total of 1,672,576 legal entities registered in the USR as of June 25, 2019.²⁹⁶

Of the 360,660 legal entities that disclosed UBOs, 78% indicated at least one individual as a UBO, while 22% indicated that UBO was another legal entity or that it was impossible to establish the UBO. 47 legal entities disclosed more than 20 UBOs, 137 – disclosed 11 to 19 UBOs; a record – 568 UBOs in a single legal entity.

Analysis of the open USR API, allowed experts of the NPO called Anti-Corruption Action Center to establish that: 47,000 legal entities indicated that they had no UBOs or UBOs were impossible to establish, 165,406 legal entities indicated their boss as UBO; every 5th legal entity in Ukraine has a parent company which is no longer operational.

Cases of disclosure of nominal beneficiaries without any prior business history are quite numerous. Also, quite frequent are the cases of “circular” ownership structure (the “Ouroboros” model): 2,040 legal entities are co-owners of themselves; over 1,700 legal entities “own” themselves through a circular ownership structure;

²⁹⁵ EU Association Lab: [Online resource]. - Access at: <https://www.eulab.com.ua/>

²⁹⁶ Plotted according to the analysis by Anti-Corruption Action Center project team.

3. Sectoral risk assessment

in order to conceal real UBOs, a “third party” person with a share of ownership from 0.01% to 20% is introduced into the ownership structure.

The geographical structure of the beneficial ownership of Ukrainian companies is characterized by the following facts: more than 19,000 Ukrainian legal entities have foreign nationals as UBOs; 2,780 legal entities indicated Cypriots as their beneficiaries; 37 citizens of Cyprus are beneficiaries of 613 Ukrainian companies; a record – one Cypriot lady is beneficiary of 48 legal entities. A more detailed geographical structure of UBOs of Ukrainian legal entities is shown in Fig. 3.30:

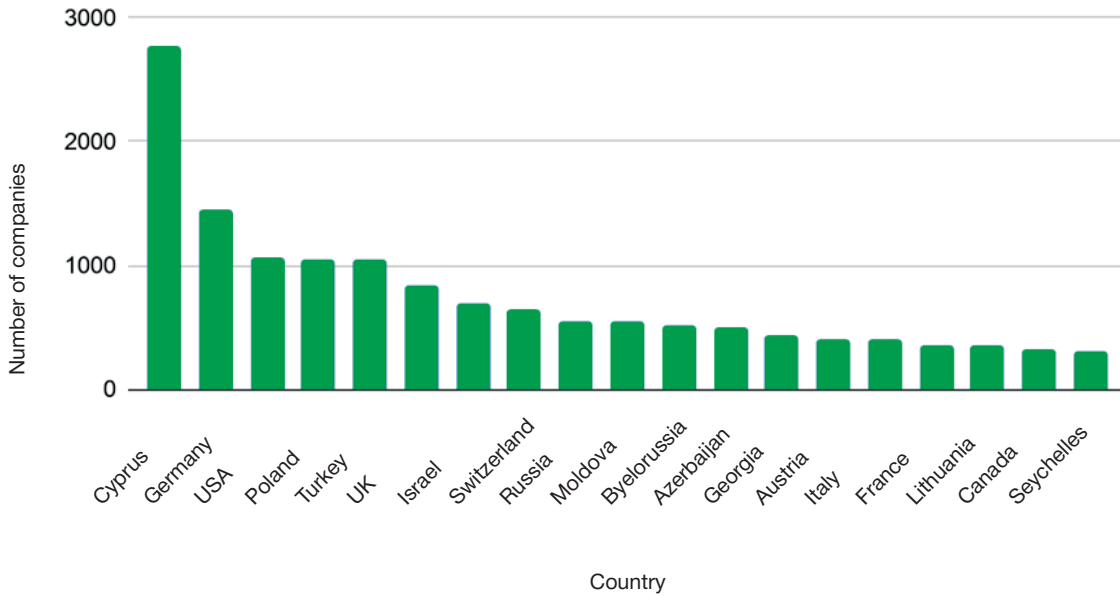


Fig. 3.30. The geographical structure of UBOs of Ukrainian legal entities.²⁹⁷

297 Plotted according to the analysis by Anti-Corruption Action Center project team.

In terms of legal and corporate forms, the proportion of disclosure of UBOs is shown in Fig. 3.31:

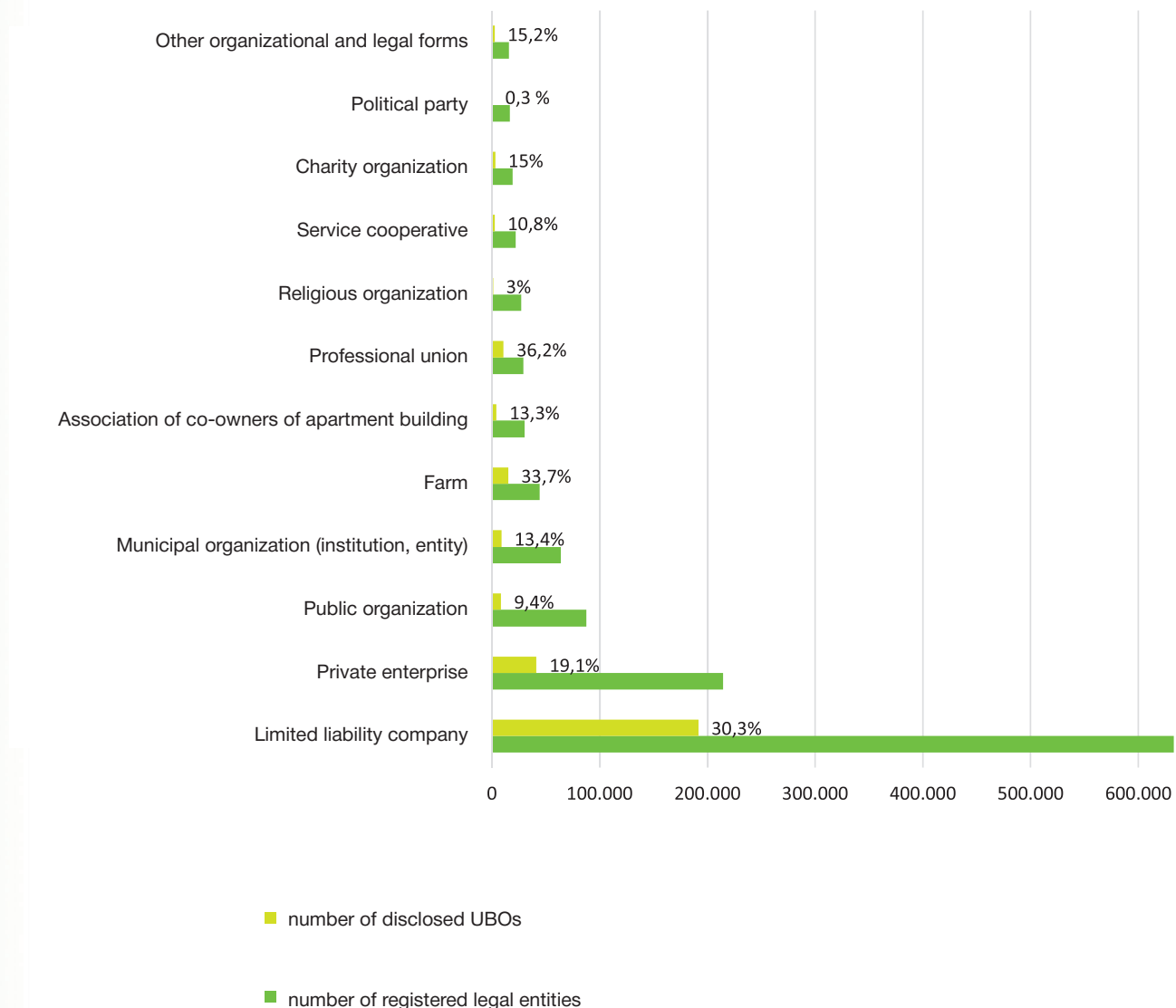


Fig. 3.31. Distribution of legal entities that disclosed their UBOs, by organizational and legal form according to the USR (as of August 16, 2018)

Today, clients of Ukrainian banks are increasingly non-residents registered in legal and corporate forms not envisaged by laws of Ukraine, such as investment funds, trusts and other forms of property management.

Such non-resident clients differ in their organizational and legal aspects, which in turn complicates the process of establishing their actual UBOs, as well as identifying persons entitled to dispose of accounts and / or property and persons representing such clients for the purpose of identification of such persons in accordance with the requirements of Ukrainian legislation.

In view of the above, it should be emphasized that, in terms of legal and corporate forms, any entity may be involved in criminal proceeds laundering schemes. However, business ownership structure chosen by UBOs can make a difference in terms of further analysis.

Table 3.11.

Assessment of ML/FT risks for different legal forms of clients ²⁹⁸

№	Type of client	Risk assessment	
		ML	FT
1	2	3	4
1	individual	5	4
2	individual entrepreneur	4	4
3	Legal entity by organizational and legal form:		
3.1	farming enterprise	2	1
3.2	private enterprise	5	4
3.3	state - owned enterprise	4	1
3.4	state enterprise	4	1
3.5	utility company	2	1
3.6	subsidiary company	2	3
3.7	foreign enterprise	3	3
3.8	public association (religious organization, trade unions)	6	7
3.9	consumer cooperative enterprise	3	2
3.10	public limited company	3	3
3.11	private joint stock company	3	2
3.12	limited liability company	6	5
3.13	additional liability company	3	3
3.14	full partnership	2	2
3.15	limited partnership	2	2
3.16	production cooperative	2	1
3.17	service cooperative	3	2
3.18	consumer cooperative	2	2
3.19	agricultural production cooperative	2	1
3.20	agricultural service cooperative	2	1
3.21	state organization (institution, agency)	3	2
3.22	municipal organization (institution, agency)	3	1
3.23	private organization (institution, agency)	3	2
3.24	organization (institution, agency) of a public association	6	7
3.25	association	2	2
3.26	corporation	2	2
3.27	consortium	2	2
3.28	concern	2	1
3.29	union of consumer societies	2	1

298 According to the National Bank of Ukraine, including a survey of banks

№	Type of client	Risk assessment	
		ML	FT
1	2	3	4
3.30	other associations of legal entities	2	2
3.31	commodity exchange	2	1
3.32	credit union	7	5
3.33	consumer society	3	1
3.34	non-state pension fund	2	1
3.35	political party	7	7
3.36	public organization	6	7
3.37	public union	6	7
3.38	religious organization	7	9
3.39	union, association of trade unions	2	2
3.40	creative union (other professional organization)	1	2
3.41	charitable organization	7	9
3.42	association of co - owners of apartment building	1	1
3.43	body of self-organization of the population	1	1

When assessing risks of different legal corporate forms, **foreign banks assign higher levels of risk to different types of legal corporate forms than do banks with Ukrainian capital**. At the same time, provision of banking services to individuals is considered by foreign and state banks as high-risk.

Banks reported an increased risk of using following legal corporate forms for ML/FT: foreign enterprises, public associations (religious organizations, trade unions), limited liability companies, credit unions, political parties, civil society organizations, charitable and religious organizations. Regarding NGOs and religious organizations, banks indicated that high ML risk is associated with using cash / donations without identifying sources of funds, while high FT risk is associated with using donations to recruit terrorists, prepare terrorist acts, affect morale of organization members.



4. ASSESSMENT OF THREATS, VULNERABILITIES AND RISKS OF THE AML / CFT SYSTEM

4.1. Implementation of management measures for 2017-2019 based on the results of the first round of the National Risk Assessment

AML / CFT Strategy Action Plan for 2017-2019 identified 88 actions for 2017-2019 necessary to achieve financial monitoring objectives of reducing and managing risks identified during the first NRA round, in particular:

- ensuring Ukraine's status as a reliable partner of the international community in the AML/CFT area;
- taking steps to prevent the emergence of prerequisites for laundering of criminal proceeds, terrorist financing and proliferation of weapons of mass destruction;
- improvement of AML/CFT legislation and minimizing risks of using Ukraine's financial system for laundering of criminal proceeds, terrorist financing and proliferation of weapons of mass destruction;
- increased efforts by LEA and other state authorities in the field of AML/CFT;
- improvement of the REs regulation and oversight mechanism;
- professional development of specialists, effective international cooperation and informing the public on AML/CFT actions taken.

As a result of the implementation by the state authorities of the Action Plan to minimize and manage identified risks, the list of risks identified during the first NRA was revised.

Based on the above analysis, 22 risks remain relevant, considering the threats and vulnerabilities identified during the second NRA round.

Table 4.1

Table of adjusted and minimized risks identified in the first NRA round and risk management actions

Risks identified in first NRA	Risks identified in second NRA	Comments on risk management actions taken
1	2	3
1. Low income of population	1. Low income of population	<p>Owing to faster pace of economic growth and improved state social guarantees, the incomes of the population significantly increased. The average wage in Ukraine as of December 2018 amounted to 10,573 hryvnia, which is 2.8 times higher than the MW indicator.</p> <p>MW in 2018 increased by 16.3% compared to 2017 and amounted to UAH 3,723. As of January 1, 2019, the MW is 4,173 UAH. Overall, over the period of the Government's work, the MW has tripled.</p> <p>Thanks to the measures taken to improve the solidarity pension system in 2018, it was possible to significantly increase (by 35.6 %) the size of the average pension, which made it possible to keep increasing pensions in the 2016-2018 period at a rate higher than the inflation rate. As of January 1, 2019, the minimum pension, for men with 35 and, for women, with 30 years of insurance record is UAH 1,497, the maximum pension is UAH 14,970, the average pension is UAH 2,645.7.²⁹⁹</p>
2. Insufficient logistical support for FIU	The risk does not require further monitoring	<p>In 2017, additional allocations were made to the budget program 3509010 "Management and Administration in the Field of Financial Monitoring", parts of which, in the amount of UAH 81,377,89 thousand have been set aside to ensure the functioning of FMIS and its development according to project FMIS Modernization project.</p> <p>In 2018, the pilot run of the FMIS hardware and software suite (FMIS HSS) updated at the end of 2017 confirmed high performance and reliability of the implemented solutions.</p> <p>The first stage of FMIS modernization, in addition to improving technical capabilities, and data protection, also ensured the improvement of the functional capacity of SFMS units.</p>
3. Low pay for FIU staff	The risk does not require further monitoring	The Government has taken several steps aimed at increasing the budgetary allocations for salaries to SFMS personnel by 77.1% in 2017 compared to 2016 and by 13% in 2018 compared to 2017.
4. Low level of trust in the financial system	2. Low level of trust in the financial system	Financial sector reform is one of the most important reforms enshrined in the Ukraine 2020 Sustainable Development Strategy ³⁰⁰ . The main task of reforming the financial system, based on current realities, is to restore confidence in the banking system, kickstart lending, strengthen the protection for financial services consumers and others.
5. Outdated (inefficient) suspicious financial transactions analysis system	The risk does not require further monitoring	<p>The SFMS runs information analysis software, and procedures for collecting, processing and analyzing incoming messages are being developed and constantly updated. The primary analytical processing of information is carried out in the closed analytical segment of the Single Financial Monitoring Information System.</p> <p>All reports received by SFMS are divided by risk level and subject to thorough analysis considering all available data. The results of such an analysis are compiled in a file for financial investigation.</p> <p>SFMS conducts FTs analysis based on a risk-based approach and international AML / CFT experience.</p> <p>Also, in 2018, SFMS updated its MicroStrategy analytical data processing system as well as software and services for updating the i2 information analysis visualization system.</p>

299 Government Report 2018, Online resource, Access at: <https://www.kmu.gov.ua/ua/diyalnist/programa-diyalnosti-uryadu/zvit-uryadu-za-2018-rik>

300 On "Ukraine – 2020" Sustainable Development Strategy, Presidential Decree of December 01, 2015, [Online resource]. - Access at: <https://zakon1.rada.gov.ua/laws/show/5/2015>

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risks identified in first NRA	Risks identified in second NRA	Comments on risk management actions taken
1	2	3
6. Ineffective system of investigation of FIU materials	3. Ineffective system of investigation of FIU materials	<p>In 2017, the PGO submitted proposals to SFMS regarding possible expedient and high-quality cooperation in reviewing and updating on the results of CR review.</p> <p>In order to ensure proper CR review, a suggestion was made to direct CRs exclusively to the PGO for review as well as to monitor the URPI regarding suspects mentioned in CRs and direct materials to local prosecutor's offices and LEA.</p>
7. Insufficient cooperation of law enforcement agencies with FIU		<p>SFMS cooperates with LEA and RA in accordance with the Basic Law and joint orders of the MoF. Periodically, (every six months) the reconciliation of CRs is performed.</p> <p>The SFMS conducts quarterly monitoring of the status of CRs review by LEA and identifies risks, threats and trends in the AML/CFT area.</p>
8. Inconsistency of punishment with seriousness of ML / FT crimes	4. ML crimes are not subject to effective, proportionate and persuasive sanctions	<p>According to the results of investigations of ML related CPs during 2016-2018, 59 persons were sentenced by courts (15% of the total number of persons appearing in CPs), the decision to confiscate funds and property was made against 19 persons (32% of the total number convicts).</p> <p>The amount of funds seized in 2016-2018 for ML crimes, with sentences having entered into force is UAH 2,091 million.</p>
9. Lack of legal regulation of some DNFBPs representatives	5. Lack of legal regulation of some DNFBPs representatives	<p>In June 2019, at request of SFMS, the State Property Fund of Ukraine, together with NGOs and state stakeholders, drafted of the Law "On Real Estate Brokerage".</p> <p>Government drafted Law "On State Regulation of Activities In the Organization And Conduct of Gambling" was registered with the VRU (reg. No. 2285 dd. October 17, 2019), which establishes a new system of gambling licensing, with a limited number of licenses differentiated fees, depending on the type of gambling, quantity of gambling equipment and location of the gambling establishment. Licenses will be issued based on the results of electronic auctions for which gambling organizers are required to meet the qualification and financial requirements set out in the draft Law. Financial, administrative and criminal liability for violations of gambling legislation is increasing.</p>
10. Manifestations of terrorism and separatism	6. Manifestations of terrorism and separatism	<p>In 2016-2018, more than 10,000 terrorism and separatism related CPs were investigated by the SSU.</p> <p>As a part of their anti-terrorist efforts, SSU thwarted 6 terrorist acts, and arrested 11 people. 3 terrorist acts were discovered, and 7 persons involved in their perpetration arrested.</p> <p>244 anonymous reports regarding imminent explosions at facilities of different form of ownership were solved, including 123 such anonymous reports regarding state authorities, local self-government and court facilities of Ukraine. 228 people were found.</p> <p>422 foreign nationals involved with international terrorist and religious extremist organizations were banned from Ukraine as a part of the fight against international terrorism. In Ukraine, 248 persons were found, and 17 individuals involved with international terrorist and religious extremist organizations were detained. 116 people were extradited to their country of origin, 6 were expelled.</p>
11. Progression of political risk and political instability	The risk does not require further monitoring	<p>Elections of different levels are held on time in accordance with applicable law without significant violations and are recognized as legitimate by the international community. Mass protest sentiment (desire for street protests) is low.</p> <p>At the same time, according to the results of the fifth round of evaluation of Ukraine by the MONEYVAL Committee, Ukraine is recognized as a reliable jurisdiction in the field of AML/CFT, which does not require special control measures (beacons) by the Council of Europe Committee MONEYVAL and FATF. Therefore, political risks do not currently carry significant threats and impacts on ML/FT risks, as confirmed by the international MONEYVAL assessment.</p>

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risks identified in first NRA	Risks identified in second NRA	Comments on risk management actions taken
1	2	3
12. Inadequate detection and sanctioning of suspicious financial transactions by PEPs	7. Inadequate detection and sanctioning of suspicious financial transactions by PEPs	<p>In 2018, given the increase in the total number (by 1,945,79 thousand messages) and the volume (by UAH 4,752,1 billion) of messages received by SFMS in comparison with 2017, in absolute terms, the number and volumes of reported FTs by PEPs and related parties increased accordingly:</p> <ul style="list-style-type: none"> - the number has increased by 506,240 messages; - the amounts have increased by UAH 2,895.6 billion. <p>Based on the abovementioned reports, in 2018 the SFMS prepared and submitted to Ukrainian LEA 83 CRs and 34 ACRs, which contained reports on FTs carried out by PEPs and related parties. According to the feature codes, this is 12.5% of total CRs (934 CRs and ACRs) submitted to LEA in 2018. Compared to last year, this indicator decreased by 1.4% (13.9%, or 99 CRs and ACRs in 2017). It should be noted that, compared to 2017, the number of referrals containing above-mentioned messages increased by 18 CRs and ACRs.</p> <p>The 117 CRs contained 8.09 thousand reports on FTs made by PEPs and related PEPs, totaling UAH 17.04 billion.</p>
13. Ineffective actions to identify and control ultimate beneficial owners (controllers)	8. Ineffective actions to identify and control ultimate beneficial owners (controllers)	<p>In 2017, the CMU identified actions required for the implementation of the AML/CFT System Development Strategy up to 2020, especially in terms of improving efficiency in identification and control of UBOs.</p> <p>Among these actions, the Government intends to:</p> <ul style="list-style-type: none"> - introduce tools to verify validity of UBO information provided by legal entities; - draft proposals to strengthen the responsibility for non-submission, untimely submission, and provision of false information on UBOs during registration procedures.
14. Inadequate detection and improper mitigation of shadowing and offshoring of the financial system	9. Shadowing and offshoring of the national economy	<p>The State Fiscal Service of Ukraine has developed and, in accordance with Protocol No. 6 dd. June 26, 2018 of the Academic Council of the University of the State Fiscal Service of Ukraine, published a textbook on "ADMINISTRATIVE AND LEGAL SUPPORT OF DE-SHADOWING"³⁰¹, issued in 2019.</p>
15. High cash turnover	10. High cash turnover	<p>At present, the current regulatory act defining the procedure for conducting cash transactions in the national currency of Ukraine by business entities and the marginal amounts of cash payments for individuals and business entities is the Regulation 148³⁰², according to which business entities are entitled to make cash payments within one day on one or several payment documents:</p> <ol style="list-style-type: none"> 1) between each other – up to UAH 10 thousand; 2) with individuals – up to UAH 50 thousand.
16. Financial capital outflow from the country	11. Financial capital outflow from the country	<p>Ukraine has signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI Multilateral Convention).</p>

301 ADMINISTRATIVE AND LEGAL SUPPORT OF DE-SHADOWING OF ECONOMY: THEORY AND PRACTICE [Online resource]. - Access at: http://www.nusta.edu.ua/wp-content/uploads/2016/11/aref_Tilchik_O.V.pdf

302 On approval of the Regulations on cash transactions in local currency in Ukraine: NBU decree of December 29, 2017 No. 148: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/v0148500-17>

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risks identified in first NRA	Risks identified in second NRA	Comments on risk management actions taken
1	2	3
17. Insufficient actions taken by competent authorities to counter terrorist and separatist financing	12. Ineffective investigation of FT crimes	In 2016-2018, 447 FT and separatism related CPs were investigated by the SSU. Detailed information on that effort is available in the general section of the Report.
18. Ineffective investigation of terrorist crimes		<p>In 2016-2018, more than 10,000 CPs related to the fight against terrorism and separatism were investigated by the SSU.</p> <p>Also, in 2016, the SSU prevented more than 10 acts of terrorism. 15 times improvised explosive devices intended for a terrorist act were prevented from being planted. 11 manifestations of terrorism were uncovered.</p> <p>110 members of terrorist and sabotage-reconnaissance groups involved in the preparation or perpetration of terrorist acts were identified and 56 detained.</p> <p>In 2017, 17 terrorist acts were prevented as part of the fight against terrorist acts. 154 anonymous telephone callers who made threats of a terrorist nature have been found.</p> <p>In terms of international counter-terrorism efforts, 166 persons involved with international terrorist and religious extremist organizations were identified and 46 detained.</p> <p>In terms of counter-terrorism efforts, 6 terrorist acts were prevented, 11 persons were detained. 3 terrorist acts were solved, and 7 persons involved in their perpetration were detained.</p> <p>244 anonymous reports regarding imminent explosions at facilities of different form of ownership were solved, including 123 such anonymous reports regarding state authorities, local self-government and court facilities of Ukraine. 228 people were found.</p>
19. Inconsistency of organizational and legal structure of the SFMS Training and Methodological Center with the requirements of the Law	The risk does not require further monitoring	According to SFMS order dated December 14, 2017 No.179, the Training Center for professional development in the field of AML / CFT financial monitoring was restructured into State Postgraduate Establishment "The Financial Monitoring Academy".
20. Ineffective sanctions for violation of the AML/CFT legislation	13. Ineffective sanctions for violations of the AML/CFT legislation	<p>Draft Law of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction" (reg. September 25, 2019 No.2179) changes approaches to imposition of penalties on REs based on assessment of compliance with the AML/CFT legislation.</p> <p>The Draft Law significantly increases penalties for violations of financial monitoring legislation.</p>
21. Ineffective investigation of ML crimes	14. Ineffective investigation of ML crimes	The 2016-2018 period was marked by a decrease in the number of closed cases filed under Art. 209 of the CC of Ukraine from 13% in 2016 to 8% in 2018. Nevertheless, the period saw a growth of the number of criminal offenses under LEA investigation that resulted in indictments under Art. 209 of the CC of Ukraine from 13 % in 2016 to 24% in 2018, which indicates a gradual increase in the efficiency of the law enforcement system.

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risks identified in first NRA	Risks identified in second NRA	Comments on risk management actions taken
1	2	3
22. Rise of the organized crime	15. Rise of the organized crime	Coordination between SSU, NPU, State Migration Service of Ukraine, SBGS, SFS and other executive authorities in the development and implementation of anti-OC measures is continuously ensured to the extent necessary for the performance of operational tasks
23. Ineffective investigation of OC crimes		<p>According to PGO statistics, in 2017 LEA exposed a third more criminal groups - 210, responsible for almost two thousand criminal offenses. More than a thousand members of criminal organizations have been prosecuted. 32 firearms, nearly one and a half tons of drugs and psychotropic substances, and over UAH 2.2 billion were seized.</p> <p>The courts examined 109 CPs in this category. 281 members of criminal groups were sentenced, of who 144 were sentenced to real imprisonment.</p> <p>In 2018 LEA exposed 288 organized criminal groups that committed responsible for 2,513 crimes, almost twice as much as in previous two years: 2017 – 1,727, in 2016 – 1,235.</p> <p>Court sentences were passed in 137 crimes committed by OCG, and in 14 crimes committed by CO (including 8 sentences with guilty pleas).</p> <p>In 2018, UAH 518 million in damages resulted from crimes committed in this category, of which UAH 44.4 million were recovered during the pre-trial investigation.</p>
24. Ineffective investigation of ML predicate crimes	16. Ineffective investigation of ML predicate crimes	After trials in 2016-2018 of 14,341 individuals for predicate crimes, courts convicted 10,214 persons (71%). Most were convicted of fraud (Article 190 of the CC of Ukraine) – 5,865 persons or 57.4%; forgery of documents, seals, stamps (Article 358 of the CC of Ukraine) – 2,041 persons or 20.0% and misappropriation, embezzlement of property through abuse of office (Article 191 of the CC of Ukraine) – 1,261 persons or 12.3%.
25. Ineffective investigation of tax crimes		<p>According to SFS materials, in 2016, signs of crimes were detected, and 192 CPs were initiated concerning almost UAH 2 billion worth of illegal VAT refund claims and UAH 104.8 million of illegally refunded VAT. Signs of criminal offenses were identified and 1,026 pre-trial investigations were initiated into facts of VAT evasion in the amount of UAH 8.3 billion.</p> <p>According to SFS, in 2017, signs of crimes were detected and 13 CPs initiated concerning UAH 2.3 billion worth of illegal VAT refund claims and UAH 303.5 million of illegally refunded VAT. Signs of criminal offenses were identified and 493 pre-trial investigations were initiated into facts VAT evasion in the amount of UAH 2.4 billion.</p> <p>According to SFS, in 2018, signs of crimes were detected, and 178 CPs initiated concerning UAH 1.3 billion worth of illegal VAT refund claims and UAH 345.8 million of illegally refunded VAT.</p>
26. Use of gambling business for ML/FT		<p>In 2017, according to the SSU, 5 CPs were initiated, and in 2018 – 4 CPs under Art. 203 - 2 (Gambling Business) of the CC of Ukraine.</p> <p>In 2017 NPU initiated 647 CPs under Art. 203 - 2 (Gambling Business) of the CC of Ukraine. There was a total of 1,735 CPs under NPU investigation into facts of committing crimes under Art. 203 - 2 of the CC of Ukraine in 2018.</p>
27. Use of non-profit organizations for ML/FT	17. Use of non-profit organizations for ML/FT	<p>SFS and SSU assessed the risks of using NPOs for ML/FT for 2016-2018.</p> <p>The SFMS wrote and published on its official website the Review of NPO use for illegal purposes in the first half of 2018 and in 2018.</p>
28. Failure by DNFBPs to report suspicious financial transactions	18. Use of REs for ML 19. Use of REs for FT	<p>SFMS keeps up-to date recommendations on its official website for DNFBPs concerning detection of FTs subject to financial monitoring and the procedure for reporting this information.</p> <p>In addition, SFMS maintains a “hot line” on all issues pertaining to financial monitoring.</p>
29. Insufficient staff and resources for efficient oversight		In 2017, SFMS increased its staff involved in auditing REs. NC is attempting to reassign its existing inspection staff to various financial markets to be able to conduct audits of respective REs. NSSMC, MoJ and MoI will all suggest increasing their oversight staff provided their overall numbers will increase.

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risks identified in first NRA	Risks identified in second NRA	Comments on risk management actions taken
1	2	3
30. Insufficient understanding of ML/FT risks		SFMS, in conjunction with the SFMEs, as well as state authorities, including LEA and RA, conduct annual typological studies. In 2017, typological studies were done on: "Cash Risks" and "Risks of Terrorism and Separatism", outlining main methods and schemes used by criminals and criminal groups to cash funds and finance terrorism (separatism). In 2018, the study was on: "The risks of using entities with non-transparent ownership structure in criminal proceeds laundering schemes", which aimed to explore the issue of concealing beneficial ownership in criminal proceeds laundering schemes and terrorist financing.
31. Inability to verify the information provided by the client to DNFBPs representatives		At the beginning of 2017, State Migration Service launched online service containing a database of invalid, stolen or lost identity documents. The new service allows to check a Ukrainian citizen's passport against MIA and SMS databases, keeping records of invalid documents. In addition, the new online service enables not only passports, both travel and domestic to be checked by series and the number, but also a number of other identification documents, such as identity cards of individuals in need of additional protection that can be forged and used in fraudulent schemes. The MIIA website allows one to independently find the stolen or lost Ukrainian passport.
32. Imperfect system of initial detection of suspicious financial transactions		CMU decree of August 23, 2016 No. 608-r approved the Strategy of reforming the AML / CFT reporting system. Draft Law of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction" (Sept 25, 2019, No.2179) contains detailed provisions on the use of risk-based approach in the analysis and detection of FT.
33. ML / FT via remote services	20. ML / FT via remote services or using virtual currencies	In 2017, 14 CRs were submitted to the NPU by SFMS in connection with attempts to withdraw funds from clients' accounts without their knowledge. In 2017, SFMS exposed 48 facts of fraudulent misappropriation of funds of citizens and legal entities by deception (21 CR and 1 ACR submitted to LEA). In 2018 SFMS identified 18 facts of misappropriation of funds by individuals and legal entities through commission of cybercrime and sent 14 referrals (12 CRs and 2 ACRs) related to attempts to withdraw funds from clients' accounts. In 2018, the SFMS has identified facts of fraudulent misappropriation of funds of citizens and legal entities by deception (29 CR and 8 ACR submitted to LEA). On its website NC has recommendations for REs on risk management of clients, risks of remote services, risks related to financing of separatist and terrorist activities in Ukraine, and during audits of REs services built around using latest technologies. In addition, the NC decision of March 07, 2018 No.149 obliged the depository institutions to set up IPS for depository accounting telecoms systems. The NBU has developed Regulations on information protection in the banking system of Ukraine, approved by the NBU Board of Directors No. 95 dated September 28, 2017, and developed recommendations for REs to minimize risks involved in providing remote services. The NBU constantly monitors the state of information security in banking and other institutions that use NBU data protection tools. In 2017, the SSU recorded a large number of cyber-attacks targeting information and telecommunication systems of diplomatic institutions, law enforcement agencies, defense industrial complex of Ukraine, and 3 CPs were initiated. In 2018, 5 criminal acts were exposed. In addition, to improve the cybersecurity system of Ukraine, SSU specialists participated in development of the Law of Ukraine "On Basic Principles of Cyber Security of Ukraine" of October 10, 2017 No. 2163-VIII, the decision of the National Security Council of Ukraine of December 29, 2016 "On Cyber Security Threats And Urgent Mitigation Measures", implemented by Presidential Decree No. 32 of February 13, 2017. Also, a Cyber-Security Situational Center was established at the SSU in January 2018. The NPU detected 6,974 cybercrimes in 2017 (764 indictments referred to court). In 2018 NPU investigated 8,559 criminal offenses committed using high-tech data tools (305 indictments were made).

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risks identified in first NRA	Risks identified in second NRA	Comments on risk management actions taken
1	2	3
34. Non-transparent financing of political parties	The risk does not require further monitoring	<p>In October 2015, the VRU approved the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Prevention of Political Corruption”, according to which, on July 1, 2016, the state funding of parties was introduced proportionate to the level of electoral support. Only parties elected to VRU at elections held in 2014 (above the 5% threshold) are eligible for state funding.</p> <p>NACP ensures quarterly transfers of funds allocated from the state budget for financing statutory activities of political parties to separate accounts of respective political parties. The funds are transferred to accounts of these parties in the amount of 25% of the total amount of annual state funding for each political party at the beginning of each quarter.</p> <p>In 2018, UAH 513,671,000 was allocated for financing statutory activities of political parties. The 2019 increase in expenditures under “Financing of Statutory Activities of Political Parties” budget program is due to the increase in minimum wages for working age individuals, used to calculate funding for parliamentary political parties.</p> <p>NACP receives and processes quarterly reports of political parties on property, income, expenses and financial liabilities (hereinafter – Reports). In 2017 – 14 parties, and in 2018 – 6 parties had CPs initiated against them for disclosing false information in the reports. 245 administrative protocols were made in 2017, and 401 in 2018. In 2017 courts-imposed fines totaled UAH 26.7 thousand, confiscated contributions – UAH 1.2 million, while in 2018 these figures amounted to UAH 401 thousand and UAH 289 thousand, respectively.</p>
35. Insufficient training of AML/ CFT system participants	21. Insufficient training of AML/ CFT system participants	<p>13,507 financial monitoring specialists had received their training over the 2005 (first groups of students) – 2018 period, of them, 7,663 were trained in 2014-2018. In 2018, 1,749 students (12.9% of the total students over 2005-2018) were trained at the Financial Monitoring Academy, representing state authorities, LEA, RA, judiciary, and REs, including 600 specialists endorsed by the state, 147 of them – representatives of state authorities, 453 – representatives of LEA, RA and the judiciary.</p> <p>In 2018, 20 representatives of anti-corruption agencies of Ukraine were trained at the Academy.</p>
36. Lack of sectoral AML / CFT assessment by REs	The risk does not require further monitoring	<p>Paragraph 53 of the 2017-2019 Action Plan for implementation of the of AML / CFT Development Strategy until 2020 provides for AML / CFT risk assessment of REs to be held by SFMEs in the first quarter of 2019 and subsequently using it to plan compliance inspections of REs with respect to AML / CFT legislation.</p> <p>All SFMEs conducted sectoral risk assessments.</p>
37. Incomplete implementation of EU Directive 2015/849 of the European Parliament and of the Council on The Prevention of Money Laundering and The Fight Against Terrorism in the national law	22. Non-compliance of national AML / CFT legislation with international requirements	<p>Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction” was jointly developed by MoF, SFMS, NBU, and experts of the Supreme Court and passed as a whole by the VRU on November 1, 2019 in order to fully comply with the rules set forth in the Fourth Directive (EU) 2015/849 “On the prevention of the use of the financial system for the purposes of money laundering or terrorist financing” and the Regulation 2015/847 EC of the European Parliament and of the Council on Information Accompanying Transfers.</p>

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risks identified in first NRA	Risks identified in second NRA	Comments on risk management actions taken
1	2	3
-	23. Ineffective fight against corruption	<p>According to available SJA data in 2017-2018 4,253 persons were convicted, including:</p> <ul style="list-style-type: none"> - 1,110 (26%) of persons under Article 191 of the CC of Ukraine (misappropriation, embezzlement of property or seizure of property through abuse of office); - 745 (17.5%) persons under Article 366 (official forgery) of the CC of Ukraine; - 611 persons (14.4%) under Article 3661 (declaring false information) of the CC of Ukraine; - 433 persons (10.2%) under Article 368 (acceptance of an offer, promise or receipt of an improper benefit by an official) of the CC of Ukraine; - 396 persons (9.3%) under Article 369 (offer, promise or unlawful benefit to an official) of the CC of Ukraine; - 393 persons (9.2%) under Article 367 (official negligence) of the CC of Ukraine; - 333 persons (7.8%) under Article 3692 (abuse of influence) of the CC of Ukraine; - 232 persons (5.5%) under Articles 364 (abuse of power or official position) of the CC of Ukraine, 364-1 (abuse of authority by an official of a legal entity of private law irrespective of corporate legal form) of the CC of Ukraine, 365 (abuse of power or office) by LEA official) of the CC of Ukraine, 365-2 (abuse of authority by persons providing public services), 368-3 (bribery of an official of a legal entity of private law irrespective of corporate legal form) of the CC of Ukraine, 368-4 (bribery of a person providing public services) of the CC of Ukraine, 369-3 (unlawful influence on results of official sporting events) and other crimes in the field of official activities.
-	24. Risk of falsification of invoices in foreign economic activity (risk of illegal financial outflows from the country)	<p>In June 2018, the CMU, together with the MIA, PGO, NABU, SAPO, SFS, and SSU developed an action plan aimed at effectively combating smuggling and shadow schemes at customs. The program was named "Ukraine free of smuggling".</p>

4.2. Identified threats, vulnerabilities, and risks of the AML / CFT system

As a result of the analysis of factors that may affect the efficiency of the national AML / CFT system several external and internal threats to AML / CFT system were identified.

External threats are threats that can cover any event in the financial market or in the economy. External threats are generated outside the AML / CFT system and cannot be countered by the efforts of the national financial monitoring system.

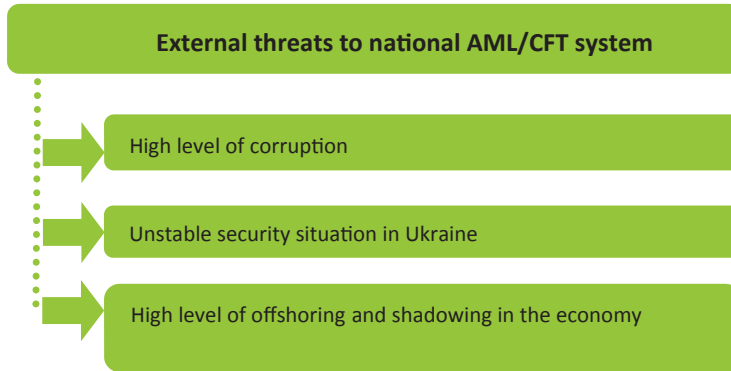


Fig. 4.1. External threats to the AML/CFT system

Internal Threats – threats that may cover events related to the operation of the AML/CFT system.

Internal threats are generated within the AML / CFT system and are counteracted by the financial monitoring system own efforts.

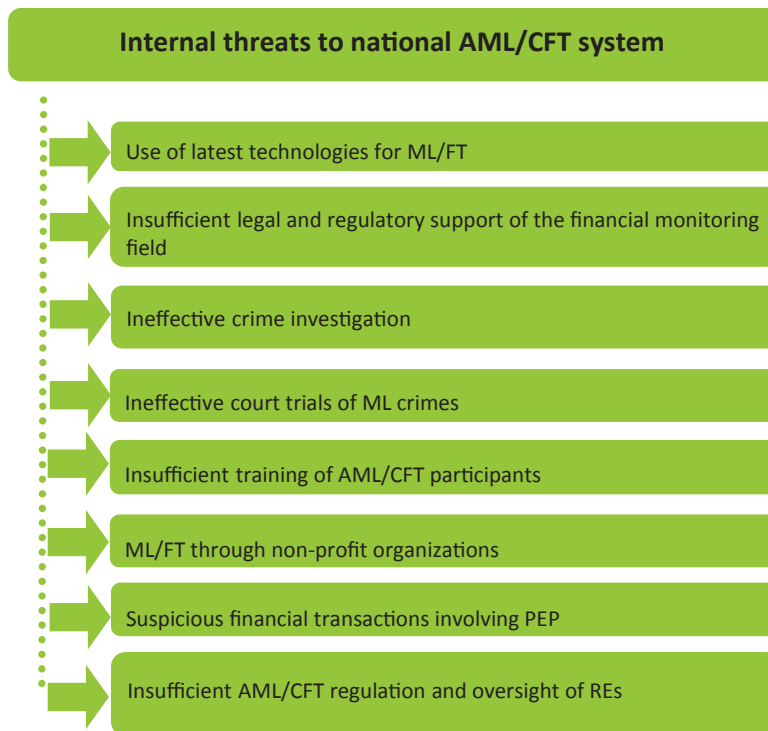


Fig. 4.2. Internal threats to the AML / CFT system

Analysis of threats allows one to define a set of AML / CFT vulnerabilities, their nature, source, probability and impacts.

Identified risks were assessed by combining the causes, vulnerabilities and consequences of their manifestation.

Table 4.2

Assessment of identified risks

Risk 1		Ineffective fight against corruption	
Threat		High level of corruption	
Vulnerability		Public administration, defense-industrial complex	
Risk probability	3	Comments	<p>Corrupt practices exist primarily due to failed reform of economic relations in the state, unreasonable political decisions, failure to follow ethical rules of conduct for public officials as a result of poor management culture in government and poor material conditions of the population.</p> <p>National PEPs are endowed with extensive powers of authority, enabling them to exercise control over significant financial flows of the state, and use their official position for their own gain.</p> <p>Public procurement remains most vulnerable to corruption. Manifestations of corruption in this area are expressed in bribery for winning tenders, embezzlement of budget funds by signing fictitious acts by officials, favoring affiliates through unjustified rejection of competitive bids for other potential suppliers, disclosure of bidding information by officials.</p> <p>Quite widespread is the so-called "trade" in official powers, that is, the use of official positions by officials for economic gain. Such risks arise, in particular, from the likelihood of abuse of officials during preparation, drafting, use and issuance of documents, and discretionary powers of administrative services officials, officials with administrative powers or oversight (control) roles.</p> <p>Other areas of government activity are vulnerable to corruption due to the likelihood of the appointing non-compliant persons to positions, fuzzy definition of each employee's tasks and functional responsibilities, inefficient use of budgetary funds, and lack of integrity by officials auditing use of budget funds by subordinate agencies, disclosure of classified pre-trial investigation information, etc.</p> <p>In addition, the risks of corruption in the activities of state bodies can occur with regard to bad procedures of dealing with corruption reports by whistleblowers, inadequate whistleblower privacy protection, and lack of integrity by officials when notified of a potential or actual conflict of interest.</p> <p>Another possible prerequisite for corruption is the legal and regulatory imperfection in the area of licensing of exports and imports of military goods and goods constituting state secrets.</p> <p>The proceeds from the implementation of corruption schemes are subsequently used to purchase of luxury housing, VIP cars, yachts, precious metals and gems, antiques, securities, refined leisure, or invested in business and other own needs. The laundering of corruption proceeds is of a cross-border nature, where a crime may occur in one country and end in another.</p> <p>Therefore, corruption proceeds used for laundering can come from both internal and external sources.</p>
Risk impact	3	Comments	<p>According to Transparency International, in 2018, Ukraine ranked 120th among 180 countries in the Corruption Perceptions Index.</p> <p>The main consequences of corruption in Ukraine:</p> <ul style="list-style-type: none"> - slowing down and distorting socio-economic reforms; - deepening of social inequality of citizens; - increased social tensions in the society; - undermining economic foundations of the state; - reduction of foreign investments; - "shadowing" of the economy; - growth of organized criminal groups influence; - undermining political system; - harming legitimacy of political authorities within the country as well as internationally; - violation of principles of formation and functioning of democratic society and state. <p>As a result, corruption threatens the national security of Ukraine, slows economic development of the country, complicates Ukraine's relations with foreign partners and undermines public confidence in state authorities and local governments.</p> <p><i>Information on damage caused by corruption and corruption-related offenses:</i></p> <p><i>Prosecution agencies</i></p> <p>In 2016, CPs investigated by the Prosecutor's Office contained evidence of corruption offenses totaling UAH 3 billion 331 million; in 2017 – UAH 13 billion 37 million; in 2018 – UAH 2,063 million.</p> <p>In 2016, corruption-related administrative offenses resulted in damages in the amount of UAH 148 thousand; 2017 – UAH 232 thousand.</p> <p><i>NABU</i></p> <p>In 2016, in CPs investigated by NABU detectives and referred to court, the total amount of damages was UAH 82.9 billion; in 2017 – UAH 153.3 billion; 2018 – UAH 220 billion.</p> <p><i>NPU</i></p> <p>In 2016 total damages established in CPs investigated by the NPU amounted to UAH 432,999,784 and in 2017 – UAH 87.287 million.</p> <p>Corruption related administrative offenses in 2017 caused damage amounting to UAH 225 thousand.³⁰³</p>
Overall risk level			9

303 National Reports on the Implementation of the Anti-Corruption Policy Framework in 2016-2018: NACP: [Online resource]. - Access at: <https://nazk.gov.ua/wp-content/uploads/2019/06/Natsdopovid-2016.pdf>; <https://nazk.gov.ua/wp-content/uploads/2019/06/Natsdopovid-2017.pdf>; <https://nazk.gov.ua/wp-content/uploads/2019/07/Natsdopovid-2018.pdf>

Risk 1	Ineffective fight against corruption		
Effectiveness of risk mitigation actions	2	Comments	<p>In order to properly fulfill Ukraine’s international commitments under GRECO membership, the Ukrainian delegation participated in the 76th GRECO plenary meeting (June 19-23, 2017), which approved the Evaluation Report on Ukraine following the Fourth Round of Anti-Corruption Assessment among MPs, judges and prosecutors, which identified 31 recommendations. 5 recommendations relate to improving the activity of newly created anti-corruption bodies, 7 to preventing corruption among People’s Deputies of Ukraine, 9 to preventing corruption in the courts, and the remaining 10 to preventing corruption among prosecutors. In terms of specifying strategic actions for the development of anti-corruption policy in Ukraine, the following actions are of note.</p> <p><i>Proper and efficient functioning of the Unified State Register of Declarations</i> As of the end of 2018, the Registry contained more than 1 million 256 thousand users, submitted over 2 million 885 thousand electronic documents, including: more than 2 million 457 thousand electronic declarations, about 313 thousand corrected electronic declarations and almost 115 thousand reports of significant changes in the property.</p> <p>In order to improve efficiency of full verification of declarations, the NACP has implemented a system for verifying electronic declarations. The information and telecommunication system of logical and arithmetic control of declarations was fully commissioned, the Rules of operation – finalized and approved, and the Procedure for complete verification of declarations – amended.</p> <p>Electronic declarations control system enables automatic exchange of information with 16 registries and databases of state authorities of Ukraine. NACP has already approved appropriate automated information exchange procedures and protocols for access to 13 state registries.</p> <p><i>Improving integrity of public servants and the public</i> At the end of 2018, 97% of state authorities, with the active participation of members of the public and experts, established corruption risk assessment commissions; 129 anti-corruption programs were submitted for approval to NACP, of which 115 were approved.</p> <p>All anti-corruption programs are published on the NACP web site, and the public and expert participation is exercised by way of submitting proposals regarding content of such programs.</p> <p><i>Ensure effective communication support for the reform</i> To ensure effective communication, in 2018 NACP approved a Communication Strategy for 2018-2020 and conducted a series of media campaigns for identified target audiences.</p> <p><i>Improvement of the system of control over party finances</i> In 2018, a draft Law of Ukraine “On amendments to some legislative acts of Ukraine concerning improvement of the procedure for prosecution for violations related to the provision of financial support to political parties and their financial reporting” was developed and submitted to the VRU. Its adoption will allow for efficient, proportionate and effective sanctions for violations in the area of party financing and ensure the inevitability of administrative responsibility for relevant offenses.</p> <p>Currently, the NACP is continuing to develop its Unified State Registry of Political Parties and Candidates, which will ensure the publicity of reports and automate verification of parties and candidates reports.</p> <p><i>SFMS</i> In 2016-2018 SFMS submitted 803 referrals to LEA (including 229 CR and 574 ACR) in respect of corruption-related FTs, incl. to: - PGO - 289 referrals; - SSU - 30 referrals; - NABU - 472 referrals; - NPU - 10 referrals; - SFS - 2 referrals.</p> <p>These referrals contain evidence of suspicious FTs that may be associated with ML or other crimes totaling UAH 298.4 billion.</p> <p><i>NABU</i> As of January 27, 2017, NABU detectives, with support of SAPO prosecutors, charged 158 and indicted 69 persons with crimes, subsequently referred to court.</p> <p>As of December 31, 2017, NABU detectives jointly with SAPO prosecutors charged 149 and indicted 165 persons with crimes, subsequently referred to court. According to NABU detectives, as of December 31, 2018, 153 persons were charged, and 292 persons were indicted with crimes subsequently referred to court.</p> <p>In 2016, NABU detectives sent 17 prescriptions to implement remedial action in respect of causes and conditions contributing to criminal offenses under NABU’s jurisdiction, 2018 – 20 requests.</p> <p>Corruption damages recovered as of December 31, 2017 amounted to UAH 253.3 million, as of December 31, 2018 – UAH 452.37 million UAH.</p> <p><i>SBI</i> In 2018, the process of establishing the SBI continued, and as a result of competitive selection more than 500 employees joined the organization, 285 of them as investigators. A regional network was also under development – territorial SBI offices were opened in Kyiv, Kramatorsk, L’viv, Melitopol, Mykolaiv, Poltava, Khmelnytsky, their terms and annual programs approved.</p> <p>As of January 01, 2019, SBI carried out pre-trial investigation of over 2,400 CPs, of which 569 were initiated by SBI investigators. 70 CPs were referred for trial.</p>

Risk 1	Ineffective fight against corruption
	<p><i>ARMA</i> In 2018, steps were taken to complete the process of implementation of ARMA's assigned capabilities for identifying, searching and managing assets. The Agency's central office was fully staffed, six territorial offices were established. ARMA's efforts garnered over UAH 9 million in revenues from management of seized assets, and the sale of seized assets brought in additional UAH 3.1 million.</p> <p><i>High Anticorruption Court</i> On July 06, 2018 the VRU passed the Law of Ukraine No.2447-VIII "On the High Anti-Corruption Court", which came into force on July 14, 2018, with exception of sub-paragraph 3 paragraph 2 of section VI "Transitional provisions" (amendments to the CPC of Ukraine), which will become effective on first day of High Anti-Corruption Court work.</p> <p><i>NACP</i> In 2016-2018, facts of possible violation of the Law of Ukraine "On Prevention of Corruption" resulted in NACP drafting and sending to court of 2,310 protocols on administrative offenses, including these qualifications: - violation of restrictions on compatibility and reconciliation with other activities (Article 172-4 of the CUoAO) – 138 protocols; - violation of statutory restrictions on gratuities (Article 172-5 of the CUoAO) – 36 protocols; - violation of requirements for prevention and settlement of conflicts of interest (Article 172-7 of the CUoAO) – 2,132 protocols; - failure to fulfill the legal requirements (prescriptions) of the NACP (Article 188-46 of the CUoAO) – 4 protocols. In 2016-2018 Heads of the relevant authorities, enterprises, institutions, and organizations were issued 146 prescriptions for violation of legal requirements on ethical behavior, prevention and settlement of conflicts of interests, and other violations of the Law of Ukraine "On Prevention of Corruption"³⁰⁴.</p>
Net risk level	6

304 National Reports on the Implementation of the Anti-Corruption Policy Framework in 2016-2018: NACP: [Online resource]. - Access at: <https://nazk.gov.ua/wp-content/uploads/2019/06/Natsdopovid-2016.pdf>; <https://nazk.gov.ua/wp-content/uploads/2019/06/Natsdopovid-2017.pdf>; <https://nazk.gov.ua/wp-content/uploads/2019/07/Natsdopovid-2018.pdf>

Risk 2		Risk of falsification of invoices in foreign economic activity (risk of illegal financial outflows from the country)	
Threat		High level of offshoring and shadowing of the national economy	
Vulnerability		Financial sector, non-financial sector, taxation	
Risk probability	3	Comments	<p>A common way to avoid taxes and duties on imports is to reduce the import (customs) value of imported goods (products). In this case, as a rule, of documents are forged, most often – cargo customs declarations and invoices. Other documents (certificates, annexes to contracts, etc.) are also falsified.</p> <p>Often details of bogus firms are used in the temporary importation of excise goods mode. After importation of excise goods, the goods (products) under customs control simply disappear.</p> <p>Fictitious agreements are widely used in imports, both for illegal use of tax benefits, and to conceal payments made to real suppliers and to conceal inventory origin sources.</p> <p>The falsification of contracts for processing customer supplied raw materials by non-residents is one of the options for reducing tax.</p> <p>In addition to foreign economic contracts and railway bills of lading for shipment of customer supplied raw materials, customs declarations, invoices, certificates, product specifications, export statements are falsified as well. Such actions are applicable to the importation of excise goods under the guise of partially similar non-excise goods.</p> <p>Often, business entities use humanitarian funds and charitable organizations to cover their purchase costs.</p>
Risk impact	3	Comments	<p>According to “Ukrtyutyun”, in 2018 the volume of legal sales of cigarettes fell by 19%, consumption fell by 10%, and circulation of illegal products increased by 70%. “In 2018, the level of illegal trade has reached a historic high over the last 3 years and is now 4% of the total volume, excise tax revenue loss on tobacco products amounted to 10%, or almost 5 billion UAH”</p> <p>For the second consecutive year (2017-2018), Ukraine continues to rank first among source countries of cigarettes smuggled to the EU. More than 4.8 billion cigarettes are smuggled from Ukraine, accounting for almost 11% of total volume of smuggling to EU countries and over 1 billion euros in lost revenue (See Fig. 1.43). This information is taken from a study of the illicit cigarette market in Europe in 2017, published by KPMG³⁰⁵</p> <p>During 2014-2018, mass facts of illegal amber production were recorded in four regions of Ukraine. By world standards, there is not much amber in Ukraine, but it is of high quality. About 90% of the world’s reserves are located in the Kaliningrad region of Russia, and the rest is distributed between Poland, Lithuania, Ukraine and other countries. Illegal mining boom occurred in 2016-2017. Official annual production in recent years ranged from 2.5 to 5 tons, while illegal mining, by various estimates – from 70 to 350 tons year³⁰⁶.</p> <p>The Government of Ukraine states that the area of illegal production is 5500 hectares large³⁰⁷.</p> <p>Ukraine is a major exporter of illegal timber and its primary processing products to the European Union. This is stated in the report of the British non-governmental organization Earthsight, which deals with the study of illegal logging in the world.</p>
Overall risk level		9	

305 A study of the illicit cigarette market in the European Union, Norway and Switzerland [Online resource]. - Access at: https://assets.kpmg/content/dam/kpmg/uk/pdf/2018/08/project_sun_exec_summary.PDF

306 Driving amber from the shadows. [Online resource]. - Access at: <https://biz.liga.net/ekonomika/all/opinion/vyvesti-yantar-iz-teni-cto-predlagaet-kabmin-i-pomojet-li-eto>

307 Black amber. What are the authorities involved and what should be done to stop illegal production (Analytical note). [Online resource]. - Access at: http://texty.org.ua/pg/news/editorial/read/95763/Chornyj_burshtyn_Jaki_derzhorgany_zadjijani_ta_shho?a_offset=

Risk 2	Risk of falsification of invoices in foreign economic activity (risk of illegal financial outflows from the country)	
Effectiveness of risk mitigation actions	3	<p data-bbox="705 250 1471 376">Comments In 2017, SFS investigators conducted pre-trial investigations in about 300 CPs, related to possible illegal manufacture of tobacco products; in 2018 – 240. In 2017 – 64 and in 2018 – 50 CPs were initiated against persons suspected of crimes under Art. 204 of the CC of Ukraine concerning actions, connected with the illegal manufacture of tobacco products³⁰⁸.</p> <p data-bbox="705 383 1471 432">A similar situation is observed with the illicit manufacture of alcoholic products and pharmaceuticals.</p> <p data-bbox="705 439 1471 510">LEA constantly publish information exposing illegal activities related to manufacture of counterfeit pharmaceuticals and their subsequent sale. In most cases, these products are sold through the Internet.</p> <p data-bbox="705 517 1471 723">In June 2018, the CMU, together with the Ministry of Internal Affairs, the PGO, NABU, SAPO, SFS, and SSU, developed an action plan designed to effectively combat smuggling and shadow schemes at customs. The program was named “Ukraine free of smuggling”. According to various estimates, the amount of smuggling in Ukraine has reached UAH 70-100 billion, and for some commodity items shadow imports reached 60-80%. Smuggling has become a real threat not only to the revenue side of the state budget, but also to the development of entire branches of national industry.³⁰⁹</p>
Net risk level	9	

308 Tobacco billions: How does black cigarette market work: Censor NET: Online resource, Access at: <https://censor.net.ua/r3095756>

309 Head of Government on forest smuggling: We follow the entire chain of conspiracy, by mid- September we will have a report: Government portal. - Access at: <https://www.kmu.gov.ua/ua/news/glava-uryadu-pro-kontrabandu-lisu-proslidkuyemo-ves-lancyug-zmovi-na-seredinu-veresnya-pidgotuyemo-zvit>

Risk 3		Low level of trust in the financial system	
Threat		High level of corruption	
Vulnerability		Financial sector, stability of national currency, financial literacy of the population	
Risk probability	3	Comments	<p>An enabling environment for the financial sector of any country is largely based on two major components: 1) sufficiency of the legislative, regulatory and oversight framework of the financial markets and 2) level of public confidence in financial institutions and market practices.</p> <p>A special survey on awareness of Ukrainians conducted by the Fund with support “The transformation of the financial sector” USAID Project has shown that the level of awareness of Ukrainians of the deposit guaranty system has increased to 50% over past two years, and is reaching 70% on some issues. Ukrainians’ confidence in financial institutions is around 20%. Only 3% fully trust financial institutions.</p> <p>All this is reflected in the attitude and behavior of consumers of financial services. People are generally not interested in and do not want to be interested in financial services, use only a minimal set of, usually mandatory services (insurance, cards), and only a very small number are interested in or have deposits with a bank. About 55% said they had no money in banks and cited two main reasons: low income and distrust of the banking system; 45% do not hold funds in banks because of lack of trust. For comparison, in 2015 this figure was 19%.</p>
Risk impact	2	Comments	<p>The distrust of individuals and legal entities in the financial system of the country as a whole and in banking institutions in particular, which are the system-forming institutions of the domestic financial system, leads to the transition of individual wealth and financial resources of legal entities into the shadow sector, and encourages the flight of capital abroad.</p> <p>Information asymmetry in the financial market, which is a key cause of the extremely low level of trust in financial institutions, leads to emergence in Ukrainian socio-institutional space as a whole and in the banking sector, in particular, of forced consumer syndrome and adverse selection, which are characterized by inefficient operation of the financial market and inefficient allocation of resources in it.</p>
Overall risk level			6
Effectiveness of risk mitigation actions	2	Comments	<p>The NBU has announced the creation of a new mechanism for protecting the rights of consumers of financial services, which will assume the responsibility of banks and non-banking financial institutions for the quality of their services. To this end, the NBU has drafted the Financial Services Consumer Protection Concept, which alters approaches to disclosure by banks and non-banking financial institutions of the value of services and the rules for their communication with clients. In addition, a separate department was created within the NBU structure, which will take care of protecting the rights of clients of financial institutions.³¹⁰</p> <p>To build confidence and increase openness, the NBU first developed and publicly presented its Strategy, a public presentation of which took place on March 16, 2018, one of the key areas of which was development of financial inclusion. USAID Project “Financial Sector Transformation” together with the NBU and the Independent Association of Ukrainian Banks announced a “FinTech Challenge” to promote the financial inclusiveness in Ukraine.</p> <p>In June 2018 for the first time, Ukraine hosted a large-scale Forum on Financial Inclusion “Finclusion UA”, organized by the NBU and Mastercard.</p> <p>In addition, NBU and the US Agency for International Development USAID developed a joint educational project “Days of financial awareness” as a part of the “Financial Sector Transformation” project implemented jointly with Visa international payment system.</p> <p>On February 7, 2018, the Law of Ukraine of June 21, 2018 No. 2473-VIII “On Currency and Currency Transactions” came into force. This law defines the legal basis for conducting currency transactions, currency regulation and oversight, etc.</p>
Net risk level			4

310 National Bank plans to introduce new approaches to protecting the rights of consumers of financial services: National Bank of Ukraine: [Online resource]. - Access at: https://bank.gov.ua/control/uk/publish/article?art_id=96706968&cat_id=55838

Risk 4		Manifestations of terrorism and separatism	
Threat		Unstable security situation in the country	
Vulnerability		Activation of separatist movements, aggressive actions of the Russian Federation against Ukraine, illegal circulation of firearms, ammunition, explosives and toxic substances	
Risk probability	3	Comments	<p>In February 2014 Ukraine lost part of its territory – there was a temporary occupation of the Autonomous Republic of Crimea.</p> <p>Also, from April 2014 and to the present day, large swaths of Donetsk and Luhansk regions of Ukraine are occupied by illegal terrorist-separatist entities, the so called “DNR” and “LNR”.</p> <p>Against this background, an anti-terrorist operation was launched in Donetsk and Luhansk regions on April 14, 2014, lasting until April 30, 2018. After the conclusion of the ATO in the east of the country, Ukraine launched the JFO.</p> <p>According to the 2018 Global Terrorism Index (GTI) report³¹¹ by the Institute of Economics and Peace (including 2017 data), Ukraine ranks 21st among 163 countries in the world with an indicator of 6,048, classified as a “high” terrorist threat. At the same time, compared to the previous year, the state improved its positions (down by four points). Among the major trends in the global terrorism index for 2018, experts point to a nearly 27% decrease in the number of fatalities from acts of terrorism (18,814 people killed), compared to the previous year, and in the context of the highest growth in 2014</p>
Risk impact	3	Comments	<p>According to the UN, as a result of the unstable security situation, which arose in 2014 and continues to this day, about thirteen thousand people, including Ukrainian military and civilians, have been killed.</p> <p>In addition, fighting in the east of Ukraine and the temporary occupation of the Autonomous Republic of Crimea result in large economic losses for Ukraine, in particular:</p> <ul style="list-style-type: none"> - there was a sharp decline in industrial production and export earnings; - much of the transport infrastructure of Donetsk and Luhansk regions was destroyed or damaged; - thousands of houses and energy facilities destroyed; - large budget-forming metallurgical and other enterprises put out of action; - fuel and energy complex lost half of coal mines, etc. <p>According to the Institute of Strategic Studies of Ukraine, during the undeclared war, Ukraine lost about 20% of its economic potential, losses from temporary occupation of the Crimea amount to 1 trillion 200 billion hryvnias, and every day of the war in the east costs Ukraine about USD 5 million a day.</p>
Overall risk level		9	
Effectiveness of risk mitigation actions	3	Comments	<p>The SSU, which is the leading authority in the nationwide counter-terrorism system, is taking effective measures to counter the risks and threats of terrorism and separatism.</p> <p>In 2016–2018 there were over 10,000 terrorism and separatism related CPs under SSU investigation.</p> <p>Other actions were taken as well:</p> <p>In 2016:</p> <p>More than 10 acts of terrorism had been thwarted at preparation stage. 15 times improvised explosive devices intended for a terrorist act were prevented from being planted. 11 manifestations of terrorism were uncovered.</p> <p>110 members of terrorist and sabotage-reconnaissance groups involved in the preparation or perpetration of terrorist acts were identified and 56 detained.</p> <p>168 anonymous phone calls regarding possible imminent explosions at facilities of different forms of ownership were solved.</p> <p>In cooperation with foreign partner intelligence services, 11 “transfer stations” for members of the “Islamic State” (ISIS) international terrorist organization were identified and shut down; 2 ISIS cells which provided stay for militants in Ukraine and their subsequent transfer to Syria and Iraq were dismantled.</p> <p>In the course of the liquidation of channels of illegal smuggling of fighters and their families from the Caucasus and Central Asia to the Syrian-Iraqi zone, 9 foreign ISIS supporters were identified and detained. Under Art. 582 (“Specifics of arrests of persons suspected of committing a crime outside Ukraine”) of the CPC of Ukraine seven foreign members of ISIS and “Al-Nusra Front” wanted by Interpol were detained. 21 foreign nationals and 1 stateless ISIS supporter were extradited to their countries of residence.</p> <p>Based on the information received through international cooperation, 602 foreign nationals involved with international terrorist organizations were banned from entering Ukraine, 443 of whom were active ISIS participants who could have used Ukraine for their illegal purposes.</p> <p>In 2017:</p> <p>In terms of counter-terrorism efforts, 17 terrorist acts were prevented.</p> <p>154 anonymous telephone callers who made threats of a terrorist nature have been found.</p>

311 Global-Terrorism-Index-2018: Measuring the impact of terrorism: [Online resource]. - Access at: <http://visionofhumanity.org/app/uploads/2018/12/Global-Terrorism-Index-2018-1.pdf>

Risk 4	Manifestations of terrorism and separatism
	<p>In terms of international counter-terrorism efforts, 166 persons involved with international terrorist and religious extremist organizations were identified and 46 detained.</p> <p>2 international transit channels for members of terrorist organizations and 3 ISIS cells whose members, in order to finance terrorist activities, carried out extortion, robbery, and other criminal offenses, as well as provided support to members and supporters of ITOs trying to enter Ukraine were shut down.</p> <p>5 transfer stations used to harbor militants in a number of regions were discontinued.</p> <p>627 foreign nationals involved with international terrorist and religious extremist organizations, including 393 active ISIS participants were banned from Ukraine. 57 foreign nationals were expelled to their country of origin, including 15 ISIS supporters.</p> <p>In 2018:</p> <p>In terms of counter-terrorism efforts, 6 terrorist acts were prevented, 11 persons were detained. 3 terrorist acts were solved, and 7 persons involved in their perpetration were detained.</p> <p>244 anonymous reports regarding imminent explosions at facilities of different form of ownership were solved, including 123 such anonymous reports regarding state authorities, local self-government and court facilities of Ukraine. 228 people were found.</p> <p>422 foreign nationals involved with international terrorist and religious extremist organizations were banned from Ukraine as a part of the fight against international terrorism. In Ukraine, 248 persons were found, and 17 individuals involved with international terrorist and religious extremist organizations were detained. 116 people were extradited to their country of origin, 6 were expelled.</p>
Net risk level	9

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risk 5		The rise of organized crime	
Threat		The unstable security situation in the country	
Vulnerability		Smuggling, drug trafficking, human trafficking, financial fraud	
Risk probability	3	Comments	<p>The reasons and conditions that most contribute to emergence of OC have to do primarily with the military conflict in the east of the country, occupation of the Autonomous Republic of Crimea, imperfection of legislation in the field of LEA interagency coordination in the fight against OC, devaluation of the national currency; high level of shadow economy; significant unemployment; low minimum and average monthly wage compared to EU countries; ongoing processes of creating or reforming entities involved in the fight against OC, namely: police, prosecutors, SBI, SFS. In the context of falling purchasing power of the population, a significant social stimulus was imparted by the unpopular Government decision to raise housing and utility tariffs serving as a reason for protests and public outrage.</p>
Risk impact	3	Comments	<p>Modern OC poses a threat not only to the national interests of individual states, but also a direct threat to international security, becoming transnational in nature. OC is especially dangerous to countries with unstable socio-political and economic conditions that are in a state of economic and political transformation which include Ukraine.</p> <p>According to a rating compiled by experts of the World Economic Forum, Ukraine ranked 113th out of 137 countries in the world in terms of the OC impact on business and found itself next to Latin America and Africa, sitting right next to Uganda (112th) and Trinidad and Tobago (114th).</p> <p>In terms of business expenses to satisfy requests from racketeers and extortionists representing organized crime groups, Ukraine received an index of 3.9 on a seven-point scale – “1” means that the demand leads to huge costs for entrepreneurs, and “7” – does not incur costs.</p> <p>Organized economic crime is integrated into highly profitable sectors of the economy and is one of the factors that pose a real threat to Ukraine's national security.</p> <p>The economy of Ukraine is vulnerable to the effects of OC. Economic crime, fueled by corruption, presents a real and imminent threat to the national security of Ukraine, affects nearly all spheres of public life – social, legal, political, etc. Modern economic OC is transnational in nature. OGs and COs create transnational companies that are engaged in criminal business in various sectors of the economy. Being connected to illegal operations involving moving tangible and intangible assets across borders bringing in significant economic benefits, OGs and COs, using favorable market conditions of other countries, significant differences in criminal justice systems of different countries, modern communication technologies, electronic payment systems, penetrate legal economies of other countries through corruption and violence.</p>
Overall risk level			9
Effectiveness of risk mitigation actions	2	Comments	<p>To the extent necessary for the accomplishment of operational and operational tasks, the interaction between the SSU, NPU, the State Migration Service of Ukraine, the State Border Guard Service, the State Fisheries Service and other state authorities in the development and implementation of measures in the fight against OC is constantly ensured.</p> <p>In addition, the SSU official website's "Areas of Action / Counteracting Corruption and Organized Crime" section regularly highlights the actions taken by the SSU in conjunction with the LEA aimed at combating national and transnational OC. In 2018, in order to optimize and improve anti-OC efforts, NPU created a new division – the Department of Strategic Research and Analysis, which will be engaged in the fight against OC.</p> <p>In 2016-2018, LEA representatives participated in meetings and exercises to identify and discontinue organized crime groups, including:</p> <ul style="list-style-type: none"> - "Financial Disruption Workshop" held at UN Headquarters in Vienna (Austria) on international ML networks (July 2018); - meeting of the EUBAM-led Special Group on Tobacco Control in Odesa (October 2018). The event was dedicated to discussing the cooperation of LEA, customs services and businesses in the area of combating illicit manufacture and circulation of tobacco products. - international conference organized by INTERPOL, held in Kyiv (March 13-15) on "Combating the Illicit Traffic in Counterfeit Products and Protecting Intellectual Property Rights"; - visit of the delegation of the Customs Service of the Republic of Bulgaria, organized by the SSU and held in Kyiv (June 4-6), on issues of bilateral cooperation in the field of counteracting large scale smuggling of excisable goods (tobacco products) through Ukraine to the EU countries); - within the framework of the Eastern Partnership Police Cooperation Program (EuroEastPolice) a study visit to Paris and a "Thieves in Law" workshop were held from January 22 to 26, 2018

Risk 5	The rise of organized crime
	<ul style="list-style-type: none">- April 17, 2018 – a working meeting to discuss issues CML issues with “Action-EU: EU measures to combat drugs and organized crime” project.- June 06-13, 2018, representatives of the Federal Criminal Police Office of the Republic of Germany conducted trainings for NPU counter-narcotics officers on: “Fighting Narcotics as a Special Form of Organized Crime”.- November 12-16, 2018 INL office of the US Embassy in Ukraine conducted an “Advanced drug trafficking investigations course” for NPU counter-narcotics officers.- June 11-15, 2018, SBGS representatives participated in a five-day seminar on “Illegal financing of terrorism, criminal groups, mass unrest in Europe”. The seminar was held in Kyiv, organized by the US European Command.- others. <p>In 2016-2018 LEA identified 634 OGs, of which 89 and 22 had interregional and transnational ties respectively. Among the OGs and COs identified, 476 were in operation for up to 1 year, 95 – up to 2 years, 17 – from 3 to 6 years, and 3 – for more than 6 years. 2,976 persons who have committed criminal offenses have been identified as members of COs and OGs, including 491 persons with interregional ties and 106 persons with transnational ties.</p> <p>In 2018 LEA initiated 780 CPs into criminal offenses committed by the COs and OGs, 731 CPs were completed, 722 resulted in indictments against 3,245 individuals. Total damages resulting from CO and OG activities were identified as being UAH 3,781,658.81 thousand.</p> <p>UAH 158,793.04 thousand worth of damages were recovered. Property worth UAH 2,603,819.14 thousand was seized.</p>
Net risk level	6

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risk 6		High cash turnover	
Threat		High level of offshoring and shadowing of the national economy	
Vulnerability		The country's economy and the financial system as a whole	
Risk probability	3	Comments	<p>According to the results of the 5th round of evaluation, the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) has determined that the level of cash circulation in Ukraine is high and is considered a significant threat to the country's financial system and economy. Experts also emphasized that the actual volumes of cash circulation contribute to shadow economy and activities of conversion centers.</p> <p>Unfortunately, Ukraine still suffers from a low level of penetration of non-cash payments in comparison with European countries. Among developed countries, Ukraine stands out by its high weight ratio of cash to GDP (14,6% in 2015).</p> <p>Organization of cash circulation, emission of cash, cash transactions, transportation of valuables are all expensive and costly for the state, NBU, banking institutions, traders and citizens.</p> <p>However, more than 2/3 of cash in circulation is withdrawn at ATMs by cardholders instead of being used in non-cash transactions.</p> <p>Expansive shadow economy in the country and low level of trust in banks create the demand for cash.</p> <p>As of January 1, 2019, Ukraine's cash circulation amounted to UAH 400.1 billion, including coins – UAH 2.2 billion (13.1 billion coins) and banknotes – UAH 397.8 billion (2.95 billion banknotes).</p> <p>The average quantity of banknotes per one Ukrainian was 69, and of exchange coins – 293. It should also be noted that cash is in high demand among terrorist groups, which enables them to avoid payment tracking and does not require any special knowledge to use it. When assessing the vulnerability of cash use to FT, it should be noted that the risk level is increased by the ability to transfer funds quickly and anonymously, to mix large amounts of cash across borders, while involving high-risk regions and clients</p>
Risk impact	3	Comments	<p>The high level of cash in the economic turnover slows down economic growth, reduces transparency and delays active development of modern services and technologies. It should also be noted that the rise in cash circulation, which is indirectly linked to an increase in shadow money circulation in the economy, tax avoidance by businesses, complicates the fight against corruption, ML, crime and terrorism.</p>
Overall risk level		9	
Effectiveness of risk mitigation actions	3	Comments	<p>In accordance with Article 33 of the NBU Law, in order to ensure proper cash circulation, NBU determines the procedure for conducting cash transactions for banks, other financial institutions, enterprises and organizations.</p> <p>At present, the current regulatory act defining the procedure for conducting cash transactions in the national currency of Ukraine by business entities and the marginal amounts of cash payments for individuals and business entities is the Regulation 148³¹², according to which business entities are entitled to make cash payments within one day on one or several payment documents:</p> <ol style="list-style-type: none"> 1) between each other – up to UAH 10 thousand; 2) with individuals – up to UAH 50 thousand. <p>At the same time, individuals have the right to make payments in cash:</p> <ol style="list-style-type: none"> 1) with business entities within one day on one or several payment documents - up to UAH 50 thousand inclusive. 2) between each other under sale and purchase contracts subject to notarization, up to UAH 50 thousand inclusive. <p>One of the strategic directions of the banking system of Ukraine is to implement cashless payments project – cashless economy. Priority area of Cashless economy implementation is the possibility of making daily transactions using payment cards (payment for transport, utilities, etc.). Overall, the payment card market indicators in 2016-2018 showed a steady increase in the number and volume of non-cash payments using Ukrainian banks' payment cards.</p> <p>NBU continues to implement measures for the development of the National Payment System "Ukrainian Payment Space" (hereinafter – "PROSTIR" NPS), which is an important part of the Cashless economy project, particularly in the 2nd half of 2018 with respect to "PROSTIR" NPS:</p> <ul style="list-style-type: none"> • the network of payment terminals accepting cards of the national payment system has been expanded up to 95%; • wider product range of the system: new card products "PROSTIR-Classic" and "PROSTIR-Reward" were introduced; • A project based on "PROSTIR" NPS electronic money was implemented in partnership with Kyivstar – the largest telecoms operator in Ukraine; • New technologies introduced: two-factor authentication of online payments, inter-bank P2P transfers. <p>As of December 2018, there are 51 institutions participating in the "PROSTIR" NPS, 50 banks and 1 national postal operator – PJSC "Ukrposhta".</p>
Net risk level		9	

312 On approval of the Regulations on cash transactions in local currency in Ukraine: NBU decree of December 29, 2017 No. 148: [Online resource]. - Access at: <https://zakon.rada.gov.ua/laws/show/v0148500-17>

Risk 7		Shadowing and offshoring of the national economy	
Threat		High level of offshoring and shadowing of the national economy	
Vulnerability		Public finance management, fiscal administration, hidden unemployment	
Risk probability	3	Comments	<p>The shadowing of the economy is evidenced by activities of various participants in the economic process outside state control with violation of legal requirements, which is a key feature. It is this trait that defines the shadowing of the economy as a national security threat and allows to find ways to improve state influence to prevent such threats in the future. According to MoE reports, in 2017-2018 the shadow economy accounted for about 32 percent of GDP, and at present, remains obscenely large.</p> <p>Analysis of regulatory acts highlights problems of institutional support to counteract shadowing, lack of consistent systemic features, presence of controversial administrative and legal acts of a by-law nature.</p> <p>Lack of legislative regulation of important economic definitions and concepts is yet another threat in the legislative field.</p> <p>For example, the Law of Ukraine of June 21, 2018 No.2469-VIII “On National Security of Ukraine” does not contain the definition of “economic security”.</p> <p>Enforcement of moratoriums and regulatory acts limiting rights and duties of fiscal authorities.</p> <p>There’s is an insufficient level of legislative support in the tax legislation of crime prevention activities.</p> <p>The main reasons for offshore popularity:</p> <ul style="list-style-type: none"> • tax avoidance within the country (legal reduction of tax burden); • reduction of risks and simplification of judicial protection of their interests (capital flight due to low level of protection of investments / savings); • extraction of proceeds of corruption. <p>The relevance of all three of the above factors is explained by the fact that over the last three years Ukraine’s de-offshore achievements are of a purely cosmetic, demonstrative nature – of note are formal accession to the BEPS Plan (23.11.2016), ratification of the MLI Convention (08.08.2019) and ratification of the FATCA between the Government of Ukraine and the US Government (29.10.2019). Thus, the offshore continues to be the most popular national tax evasion and wealth extraction tool.</p>
Risk impact	3	Comments	<p>Despite some deflation of the shadow economy, according to the estimates of the Ministry of Economy, it remains high leading to some major negative consequences, including:</p> <ul style="list-style-type: none"> - failure to receive significant revenues by the state budget in the form of unpaid taxes; - distortions of internal competition, due to the competitive advantage of the shadow sector enterprises using various tax minimization schemes; - overall growth of corruption and declining trust in state institutions, etc. <p>According to the Financial Secrecy Index - 2018 study, the global volume of illicit cross-border financial flows is estimated to be in the range of 1-1.6 trillion USD per year, and the amounts placed in offshore jurisdictions and tax havens reach an astronomical sum of 32 trillion USD. According Organization for Economic Cooperation and Development (OECD), as a result of harmful tax practices, countries loose up to 250 billion USD in revenues annually.</p> <p>The scale of the offshore component of Ukrainian economy is striking:</p> <ul style="list-style-type: none"> • Offshore is a locomotive of foreign economic activity. The share of foreign trade contracts, where a product has to pass through companies registered in tax havens currently exceeds 80%, at the same time, in 2012-2013 this figure did not exceed 40%; • Offshore plays an important role in investment. Of the 32.3 billion USD of foreign direct investments made in Ukraine as of 31.12.2018, 8.9 billion USD or 27,5 % have a Cypriot origin (according to the State Statistics Service). Cyprus, an officially recognized offshore jurisdiction, has remained Ukraine’s largest investor for many years in the row; • Offshore is a major capital flight and tax evasion tool. Huge amounts of wealth are being extracted (4.5 to 9% of GDP per year), Ukraine was among the TOP-15 developing countries affected by the flight of capital to offshore and tax haven jurisdiction. According to estimates based on the Global Financial Integrity, in 2011-2018, some 113 billion USD in wealth were extracted from Ukraine to low-tax jurisdictions. Assuming that this trend continues, and the above data indicate that it is likely, we are talking about the extraction of capital in 2017 amounting to USD 8.9 billion with corresponding revenue losses from non-payment of income tax of about UAH 50 billion annually.
Overall risk level		9	

Risk 7	Shadowing and offshoring of the national economy		
Effectiveness of risk mitigation actions	2	Comments	<p>In order to improve foundations of administrative and legal support of counteracting the shadowing of the economy, the SFS developed ways of improving current legislation in the field of counteracting shadowing of the economy and creation of a network of agencies involved in counteraction activities including institutions tasked with: development of state policy in the field of economy; implementation of state policy on proper control in the economic field, prevention of corruption, fight against crime and ML, protection of human and citizen's rights and freedoms. Action Plan to implement the Strategy of Public Finance Management Reform for 2017-2020, approved by CMU order of May 24, 2017, No. 415-r, includes an area called "Managing fiscal risk" with designated authorities being MoF and MoE along with other central executive authorities. Implementation of this area will result in:</p> <ul style="list-style-type: none"> - inclusion of fiscal risks related to the activities of public sector enterprises in the budget declaration for 2018-2020 in compliance with the IMF Fiscal Transparency Code; - inclusion of an expanded fiscal risks assessment in the budget declaration for 2019-2020, also in compliance with the IMF's Fiscal Transparency Code; - the publication of an annual expanded fiscal risks report, which would include measures to minimize the underlying fiscal risks, - implementation of an information analysis system for processing fiscal risks data. <p>To identify areas of risk, reduce vulnerability of the SFS revenue collection system, scientific, practical and educational activities are conducted, involving the scientific staff of the relevant institution – the University of the State Fiscal Service of Ukraine.</p> <p>The State Fiscal Service of Ukraine has developed and, in accordance with Protocol No. 6 dd. June 26, 2018 of the Academic Council of the University of the State Fiscal Service of Ukraine, published a textbook on "ADMINISTRATIVE AND LEGAL SUPPORT OF DE-SHADOWING", issued in 2019.</p> <p>Two international forums were held to identify threats to the state economic security, identify institutional and programmatic risks of the SFS:</p> <ol style="list-style-type: none"> 1) May 31 – June 1, 2018 International Forum "Financial and Customs Security of Ukraine: International Cooperation in the Harmonized European Area". 2) June 06, 2019 II International Forum on "Financial and Customs Security of the State: Informational, Analytical, Regulatory and Institutional Support". <p>The practical implementation of the above measures enables SFS authorities to develop and improve mechanisms to counteract negative forces of shadowing, reducing economic security threats and having positive effect on sustainable development of Ukraine. This way SFS finds new directions of exercising its powers, ensuring cooperation with state authorities and international organizations.</p>
Net risk level	6		

Risk 8		Financial capital outflow from the country	
Threat		High level of offshoring and shadowing of the national economy	
Vulnerability		Extraction of wealth offshore, weak state support for private business, lack of favorable investment climate	
Risk probability	3	Comments	<p>Capital is usually extracted in the form of money, done in two main ways:</p> <ul style="list-style-type: none"> - by legal transfer of funds from one country to another; - illegally, i.e. in violation of national currency and foreign trade law. <p>The outflow of financial capital is linked, on one hand, to a low level of trust and respect for the state as a whole, state institutions, and the national financial system, and the inability of these state institutions to perform their functions to a high standard on the other.</p> <p>As for Ukraine, these are the reasons for outflow of capital:</p> <ul style="list-style-type: none"> - long period of statelessness and, especially during Soviet occupation, there was pressure from then-authorities on local population, forcing the latter to somehow cheat. This trend continues today; - unwillingness to pay taxes, which is linked, on one hand, to the sentiment of future ineffective spending of budgetary funds or their theft and the complicated administrative procedures of taxation and other frequently changing payments, on the other, or to show disrespect for the state; - a significant part of manufacturing has no added value, resource-oriented exports, including those from crop production in the agricultural sector (when large quantities of labor are not needed), do not help create interest in improvement of production processes or development of local communities; - poor protection of investor rights, investments, as well as fraudulent schemes of using foreign grant funds; - there are no traditions of patronage.
Risk impact	3	Comments	<p>Foreign capital outflows are one of the major threats to the country's economic security. The capital outflow causes several negative consequences, including:</p> <ul style="list-style-type: none"> - reduction of state and local budgets revenues, leading to lack of funding for different state and local development programs, compelling the state to resort to external borrowing – as a result there is a decrease in foreign exchange reserves and own sources of repayment of external debt; - reduction of financing of public-private partnership activities; - reduction of balance of payments indicators through transfer operations; - decrease in production volumes and slowdown of GDP growth due to lack of investment in production development. <p>Also, the problem of unproductive capital outflows poses a significant risk to financial stability and consequently hinders liberalization of currency regulation, especially with regard to transactions by individuals.</p>
Overall risk level	9		
Effectiveness of risk mitigation actions	2	Comments	<p>The second port control unit (first port control unit has been operating in Odesa since March 2018) went operational at the “Boryspil-Airport” international port of entry of the Kyiv Customs Service. The Schedule for implementation of interconnectedness between SFS and SBGS information systems at motor vehicles ports of entry has been approved.</p> <p>The NBU approved a new wording of the Regulation on the Procedure for Granting Non-Banking Financial Institutions, the National Postal Operator, of General Licenses for Currency Transactions (approved by NBU Board Resolution No. 137 December 21, 2017). In addition, NBU made requests to MoF to transition currency exchange points under a simplified tax system in order to get them out of the shadows.</p> <p>The new Law of Ukraine of June 21, 2018 No. 2473-VIII “On Currency and Currency Transactions” introduces a new regime of currency regulation that is closer to European Union norms.</p> <p>In order to improve the investment climate, Ukraine adopted Laws “On Amendments to Some Legislative Acts of Ukraine Concerning the Elimination of Barriers to Foreign Investments”, “On Amendments to the Tax Code of Ukraine Concerning the Taxation of Income of Non-resident Investors in Securities” developed draft Law “On Amendments to the Budget Code of Ukraine on Improvement of the Regional Development Financing Mechanism”, “On Amendments to the Tax Code of Ukraine in order to implement the Tax Base Anti-erosion and Anti-evasion Plan” and on introduction of the tax on extracted capital.</p> <p>By order of the CMU dated March 21, 2018 No. 174-r a state institution “Office for Attraction and Investment Support” was created. CMU Resolution No. 226 of March 21, 2018 established an interagency working group on preparation of proposals for solving systemic problems and establishing effective cooperation and dialogue with foreign investors to implement their proposals on improving the investment climate.</p>

Risk 8	Financial capital outflow from the country
	<p>On April 03, 2018 VRU adopted the first reading of a Draft Law “On Concessions” No. 8125. The purpose of the Draft Law is to achieve balance of interests of all stakeholders in order to modernize infrastructure and improve public services quality.</p> <p>On March 15, 2017, the Agreement between the Government of Ukraine and the Organization for Economic Cooperation and Development on Ukraine’s accession to the Declaration on International Investments and Multinational Enterprises was signed. Ukraine has also become an associate member of the OECD Investment Committee.</p> <p>NBU simplified the procedure for return of investments and corresponding incomes for foreign investors and allowed repatriation of dividends.</p> <p>NBU also introduced effective tools for preventing and controlling illicit capital outflow.</p> <p>At the same time, Action Plan of the Strategy for Development of Small and Medium-Sized Entrepreneurship in Ukraine up to 2020 (CMU Decree No. 292 of May 10, 2018) was approved, the Concept of Reform of the Institute of Self-Regulation in Ukraine (CMU Decree No. 308 of May 10, 2018) was approved; a state entity “Agency for Supporting Public-Private Partnership” as well as the advisory body (under MoE) – Office for Development of Small and Medium Business were created by MoE Order No. 1607 of November 02, 2018.</p>
Net risk level	6

Risk 9	Low income of population	
Threat	High level of offshoring and shadowing of the national economy High level of corruption	
Vulnerability	Stability of national currency, development of national economy, employment of vulnerable categories of the population, social protection of citizens	
<p>Risk probability</p>	<p>3 Comments</p>	<p>As a result of hostilities in the east, the standard of living of Ukraine’s population has deteriorated significantly. Enterprises put out of action in the occupied territories, millions of refugees, devaluation of the national currency and inflation without proper indexation of household income have led to a significant increase in the number of people with total incomes below the actual subsistence level. This led to significant increase in social protection spending, despite the high percentage of GDP spent on these goals (9.8% for the Pension Fund and 4.9% for social protection from the consolidated budget) their efficiency is low. Thus, according to CASE-Ukraine estimates, only 38.3% of housing subsidies have been received by truly poor Ukrainians, which means that almost two-thirds of the money is spent on supporting self-sufficient households. A similar picture also applies to other social expenditures. As a result, despite the high share of social protection expenditures, this assistance is not satisfactorily reaching its goal and a considerable part of citizens who really need assistance from the state under-receive it. One of the reasons for this situation is the lowering of the real subsistence level, which leads to distortions in an objective assessment of the situation in Ukraine. This significantly increases social tensions, leads to increased support for populist slogans and parties that trot them out, which in turn may lead to decisions that’ll worsen the country’s economy and destabilize its macroeconomic situation constituting a direct threat to the country’s economic security.</p> <p>Other socio-demographic trends are characterized by the following indicators:</p> <ul style="list-style-type: none"> - there is a significant stratification of society into a narrow circle of the rich and a considerable number of the poor. In particular, the World Bank estimated that in 2017 the net asset value of the three richest individuals exceeded 6% of Ukraine’s GDP, which is almost double that of Russia and three times that of Poland; - relatively high proportion of the poor creates social and criminal tensions, and causes the prevalence of drug addiction, alcoholism, prostitution, child and adolescent homelessness, vagrancy, etc.; - wage arrears remain; - reduction in the share of shadow wages as a result of lower SST rate observed in 2016-2017, was halted in 2018, since even after the fall of the SST, the tax burden on labor in Ukraine continues to be “excessive”, accounting for 41.5 percent of the wage rate paid. At the same time, the average among the OECD countries does not exceed 30%. According to estimates of the Pension Fund of Ukraine, losses from shadow employment last year amounted to UAH 30 billion, and the share of those illegally employed in the country reached 23.1 percent. Ineffective public policy in the area of remuneration is caused by over-regulation of labor relations, especially the outdated code of labor laws that does not meet modern requirements. Excessive requirements for formal employment often have the opposite effect: instead of enhancing the level of protection of workers’ rights and interests, they encourage employers and employees to refuse to formalize their employment relationship, resulting in the complete loss of all social guarantees and, consequently, lack of employee protection in the face of fraud. Severe penalties have no real effect, and given the level of development of Ukrainian institutions, only increase corruption of both the controlling authorities and the judicial system.

Risk 9		Low income of population	
Risk impact	3	Comments	<p>Low income is a major cause of population poverty. The poorest are those who are involuntarily deprived of normal housing, food, clothing, health, education. The problem of poverty is so urgent that many other problems are reduced to it. Poverty is directly linked to demographics, employment, unemployment; poverty has a direct impact on the health of population, the of education and culture of citizens, their upbringing, socialization and morality; it is one of the factors that hinder the development of science. Poverty contributes to the dehumanization of human relations, the rise of crime and terrorism, and leads to a decline in the standard and quality of life. It particularly affects political relations, the implementation of public policy at all levels, hindering the emergence of civil society. Poverty scale is striking as poverty is a hindrance to progress, both technical and economic (meaning narrowing of trade, dwindling production, low growth, etc.), and social (low living standards, lack of social well-being), etc. While Ukraine belongs to the category of “young and poor” countries, it does so only by the criterion of poverty, as the demographic trends in our country are completely in line with the rest of Europe. While India, Bangladesh, Mexico and China, whose populations are also actively migrating to the G20, have a growth rate of 1.1- 1.6%, Ukraine’s has been negative for a long time (See Fig. 2.3). Ukraine’s birth rates are unable to compensate for migration of working-age population abroad. And this is a problem: now, according to SSS of Ukraine, out of 42 million citizens, only 17.8 million are economically active. Of course, official statistics don’t account for those employed in the shadow sector, but even the age structure of the population makes one wonder. As of 2016, there were about 29 million Ukrainians aged 15-64. This means that labor migrants make up about 17% of the working age population today. If the number of Ukrainian guest workers increases and the population of Ukraine decreases and gets older, demographic and labor losses will have to be offset soon, as Poland does, for example. But the problem is that Ukraine does not belong to economically developed countries, and therefore is not attractive to foreign migrants. In our territory lies a powerful migration corridor, which they use to get to the EU. However, migrants do not want to stay here.</p>
Overall risk level			9
Effectiveness of risk mitigation actions	3	Comments	<p>Poverty Reduction Strategy was approved by order of the CMU 16, 2016, No. 161-r, which defines mechanisms for poverty reduction and main tasks of solving this problem until 2020. In addition, addressing poverty is one of the priority tasks of the world community regulated by the European Social Charter, as well as the 2015-2030 Sustainable Development Goals endorsed at the UN Summit. The draft strategy was developed by experts from UNDP, UNICEF, ILO. Strategic efforts to reduce poverty include promoting growth of employment income and payments in the public social insurance system. It also envisages ensuring access of the population to social services irrespective of their place of residence, minimizing the risks of social exclusion of the rural population. Increased attention will also be given to preventing outbreaks of chronic poverty and social exclusion among internally displaced persons.</p> <p>Average nominal wage of full-time employees of enterprises, institutions and organizations in December 2018 amounted to 10,573 UAH, which is 2.8 times higher than the minimum wage (3,723 UAH). The rate of change in the average nominal wage compared to November was 115.4%, and 120,5% compared to December 2017. The real wage index in December 2018, compared to November, amounted to 114.5%, compared to December 2017 – 109.7%.</p>
Net risk level			9

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risk 10	ML / FT via remote services or using virtual currencies	
Threat	Use of latest technologies for ML / FT	
Vulnerability	Lack of legislation on circulation of cryptocurrencies in Ukraine, e-banking, self-service terminals, online trading on the stock exchange, provision of online services.	
Risk probability	3	<p>Comments</p> <p>The popularity of smartphones and mobile applications using high-speed Internet, as well as rapid development of the FinTech industry in Ukraine, actively supported by a variety of NBU initiatives and activities, has helped increase the number of online transactions and electronic payments. Smart contracts are becoming popular, as well chat bots, regulatory technology (RegTech), mobile banking, equal lending (P2P lending), innovative insurance technology (Insurtech). Most FinTech solutions are possible thanks to Blockchain technology.</p> <p>The number of clients, frequency of their transactions, and their volumes are very high and can often be complex and transnational, involving high-risk jurisdictions, making tracing origin and flow of funds complicated. Broad demographic reach of the client base and the cross-border nature of transactions create additional sources of high ML / FT risk. In addition, poor financial literacy of Ukrainians and lack of consumer rights protection increases the risk of fraud and cybercrime, which precedes the risk of ML / FT.</p> <p>Internet has become not only a crime scene and a source of illicit proceeds, but also a place to legalize it. At the same time, diversity of cybercrime, combined with the variety of ways of laundering criminal proceeds, make it difficult to detect and investigate it.</p> <p>New technologies, products including virtual assets and related services will facilitate the spread of innovation, efficiency and financial inclusion, but also create opportunities for criminals and terrorists to launder criminal proceeds and fund their activities.</p> <p>Wealthy Ukrainians are increasingly diversifying their portfolios by adding cryptocurrency. 57 civil servants and deputies of different levels have indicated cryptocurrency as an intangible asset in their electronic declarations in 2015-2017. The total amount declared was BTC 21,027 (approximately USD 200 million at the exchange rate at the time of writing). Ukrainians were actively interested in cryptocurrency in 2017, attracted by the sharp rise in the bitcoin price.</p>
Risk impact	3	<p>Comments</p> <p>Development of Internet technologies leads to proportional increase in cybercrime: fraud with plastic payment cards, fake online auctions, purchase and registration of domain names, theft of services, creation of viruses, DDoS attacks, carding, phishing, vishing, online fraud, hacking, piracy, card-sharing, social engineering, malware, illegal content, refilling and so on.</p> <p>IT technologies and Internet are widely used by terrorist organizations to spread their propaganda on Web sites, forums and in the form of videos, especially to report their successes and attract supporters. There have been a number of instances in the history of the internet where homepages of websites (including the military or government) were defaced for political goals.</p> <p>Cyberterrorism – is one of the most dangerous types of crime. Cyber-attacks can cause enormous damage locally, nationally and even internationally, as external cyberattacks can pursue more serious goals than passive data collection, and cyberterrorism can be after financial and classified information, hardware for controlling space devices, nuclear power plants, military equipment, major computer nodes, etc. Today, cybercrime poses a more serious threat to Ukraine than it did 5 years ago. Despite the efforts of LEA aimed at combating cybercrime, the number is not decreasing, but on the contrary, it is on a constant rise. One of the types of cybercrime is unauthorized interference with the use of digital computers, automated systems, computer networks or telecommunication networks.</p> <p>Activities related to buying, selling, exchanging and converting cryptocurrency carry many risks³¹³.</p> <p>The main risks include:</p> <ul style="list-style-type: none"> - losing money through theft, such as through cyber-attacks on cryptocurrency exchange platforms or infrastructure; - no guarantee of return on funds invested in cryptocurrency. Savings held in cryptocurrency are not guaranteed by the Deposit Guarantee Fund, as such savings are not considered bank deposits; - fraud. Savings in cryptocurrencies can be used to build financial pyramids, which, due to the types of risk described above, can lead to investors losing their money in a relatively short time. In the case of a situation with national or foreign currency funds, CP may be the only available form of remedy. Due to uncertain status of cryptocurrencies, state consumer protection institutions in Ukraine will have no legal basis to assist both investors and users;

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Risk 10	ML / FT via remote services or using virtual currencies	
		<ul style="list-style-type: none"> - the complexity of using conventional methods of estimating market value of assets in cryptocurrencies; - significant price fluctuations of cryptocurrencies and related risks – speculation and uncertain commission fees for making transactions in cryptocurrencies; - lack of infrastructure. Cryptocurrencies are not common in commercial and service networks. They are neither legal tender nor currency. This means that trading companies have no legal obligation to accept cryptocurrencies as a means of payment.
Overall risk level		9
Effectiveness of risk mitigation actions	3	<p>Comments</p> <p>In the Comprehensive Program for the Development of the Financial Sector of Ukraine by 2020, among measures proposed to achieve the goal and fulfill the objectives of the program, is the development of the institute of financial sector intermediaries, and ensuring regulation of intermediaries (agents, brokers) in the financial sector (to promote development of fintech market companies). NBU actively monitors trends and addresses some of the issues involved in supporting technology development in the banking sector. At the level of legislation and regulations of the NBU, there were adopted acts aimed at increasing electronic document flow, electronic payments, creating a cashless economy in Ukraine. A law was adopted to provide electronic trust services. NBU introduced the possibility of providing cash services to clients using an electronic signature. Work is underway to change the regulatory framework in the field of non-cash payments. In 2018, the MoE initiated the adoption of the Concept of Public Policy in the Field of Virtual Assets, which aims to create clear conditions for doing business in the field of virtual assets and currencies. The implementation of the Concept is scheduled for the period until 2021. The proposal is to legalize cryptocurrencies and cryptocurrency transactions in 2 stages. By 2019, determine the legal status of cryptocurrencies and entities conducting transactions with them, and monitor problems encountered in the market for these assets in Ukraine. In 2020-2021, develop specific legislation to regulate the use of virtual assets.</p>
Net risk level		9

Risk 11		ML crimes are not subject to effective, proportionate and persuasive sanctions	
Threat		Ineffective litigation of ML cases	
Vulnerability		Quality of charges brought by LEA, insufficient substantiation of the gravity of a ML crime, failure by LEA to use cassation and appeal complaints regarding the imposition of insufficiently severe sentences by courts	
Risk probability	3	Comments	Annual litigation of ML related CPs in 2016-2018 remains almost unchanged (on average 72 CPs per year) while the number of CPs brought by LEA continues to grow from 85 cases in 2016 to 153 cases in 2018. The number of CPs considered by courts that resulted in court sentences over this period is also almost unchanged (at an average of 26 CPs per year accounting for only 22% of the average amount of CPs received). In 2016-2018 only every third convict had their funds confiscated based on corresponding court sentences. According to USRC according to results of trials of ML crimes 2018, of 23 guilty verdicts in probationary imprisonment was applied in 13 cases, confiscation – in 5 cases, and fines were applied in 6 cases.
Risk impact	3	Comments	Inefficiency, disproportionality and inconclusiveness of sanctions for ML crimes leads to the increased number of committed ML offenses. Thus, if in 2016 LEA registered 181 ML related criminal offenses in URPI, in 2017 and 2018 there were 267 and 264 registered criminal offenses, respectively, indicating an average 48% increase in ML crimes since 2016. The number of persons charged with ML crimes grew from 25 in 2016 to 68 in 2018. At the same time, according to the ML related CPs alone, amounts of criminal proceeds established under indictments (PGO-1-LV Report) in 2016 amounted to UAH 68 million, UAH 6,403 million in 2017 and UAH 846 million in 2018. In addition, according to SJA, the number of CPs related to ML crimes sent to court for trial in 2018 increased almost twice compared to 2016.
Overall risk level		9	
Effectiveness of risk mitigation actions	2	Comments	Article 209 of the CC of Ukraine defines punishment for ML crimes, namely: imprisonment for a term of three to six years with ban on occupation of certain positions or engaging in certain activities for a term of up to two years with confiscation of property. For a repeat crime or for ML crime with prior conspiracy by a group of persons or in a large amount – imprisonment for a term of seven to twelve years with ban on occupation of certain positions or engaging in certain activities for a term of up to three years with confiscation of property. ML crime committed by an organized group or in a particularly large amount is punishable by imprisonment for a term of eight to fifteen years with ban on occupation of certain positions or engaging in certain activities for a term up to three years with confiscation of property. Consideration of ML related CPs in 2016-2018 resulted in conviction of 59 people (15% of the individuals referred to in CPs), 19 persons (32% of total convicts) had their money and property seized. At the same time, the amount of funds seized in 2016-2018 for ML crimes, with sentences having entered into force is UAH 2,091 million. In addition, it is not the court system, but the LEA system, which creates the threat of ineffective prosecution in courts (the principle of parties' competitiveness) of people charged by LEA of committing ML crimes, which manifests itself in the following aspects: - the possibility of poor quality of charges brought by LEA to court; - misuse of the right to enter into agreements with the indicted party; - failure by LEA to use cassation and appeal complaints regarding the imposition of insufficiently severe sentences by courts for ML crimes. These are the main reasons for adjusting the appropriate net risk level.
Net risk level		6³¹⁴	

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4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risk 12		Ineffective actions to identify and control ultimate beneficial owners (controllers)	
Threat		Insufficient regulatory support for the financial monitoring system	
Vulnerability		State registration of legal entities, client identification of legal entities by REs, lack of verification of information on ultimate beneficial owners of legal entities.	
Risk probability	3	Comments	The beneficial owner data of a legal entity is entered in the openly available Uniform State Register of Legal Entities, Individual Entrepreneurs and Public Associations (USR). However, this UBO data is not verified by the USR for accuracy and relevance, there is a low level of validation of the reported beneficial owner data, and no validation of the full beneficial ownership chain
Risk impact	3	Comments	As UBO data in the USR is not verified for accuracy and relevance, and there is no mechanism for imposing sanction for providing false information to the USR, the risk of using entities with non-transparent ownership structure in ML schemes is increased. The absence of broader global rules on the transparency of beneficial ownership for foreign companies and trusts allows companies and other entities to be used to promote corruption, serious crime and OC, as well as tax evasion. Transnational in nature, these criminal acts cause real losses to markets and people and cause real harm to the poorest segments of the population
Overall risk level			9
Effectiveness of risk mitigation actions	2	Comments	In 2017, the CMU identified measures for the implementation of the AML / CFT System Development Strategy up to 2020, especially in terms of improving efficiency in identification and control of UBOs. Government actions in this area include: - introduction of tools for verifying the validity of UBO data provided by legal entities; - drafting proposals to increase responsibility for non-submission, untimely submission, and submission of false UBO data during registration procedures. In 2018 MoJ set up a working group on the implementation of verification mechanism for beneficial owner (Controller) related data. Also, a series of meetings was held with SFMS representatives, MoJ and international experts of "PRAVO-JUSTICE" project leading to development by SFMS of principles of UBO data verification system operation, that's been reported to international experts. In December 2018, with the support of the German Development Agency – the GIZ, Skype conferences were held with representatives of Global Witness and the Republic of Austria on the exchange of information and experience regarding development of the UBO verification mechanism. Also, in October 2018, in Tirana, Albania, within the framework of the Council of Europe program on counteracting threats to rule of law and three joint programs of the European Union / Council of Europe, a representative of the SFMS together with MoJ representatives participated in the International Conference on "Transparency of Beneficial Ownership". During the conference, issues related to the development of UBO registers and UBO data validation and verification mechanisms were raised. As part of the action plan on the implementation of the Open Government Partnership Initiative for 2018-2020, one of the key areas for MoJ is to develop a concept for UBO data verification mechanism. As a part of their participation in the "Project Laboratory for the implementation of the Association Agreement between Ukraine and the EU" (EU Association Lab), a team put together at request of SFMS developed prototype 33 step Concept for implementation of the UBO verification mechanism. The purpose of the Concept is to fill the Uniform State Register of Legal Entities, Individual Entrepreneurs and Public Associations with reliable information on UBOs (controllers) of legal entities. Within the framework of the International Open Government Partnership Initiative, a Memorandum of Cooperation was signed to develop a UBO verification mechanism. This Memorandum is aimed at the implementation of the Action Plan of the Open Government Partnership Initiative, approved by the Cabinet of Ministers of Ukraine, which includes development UBO data concept. As a part of an "OpenOwnership" pilot program, Ukraine is working together with international partners on a concept of sharing USR data on real owners of companies with the Global Registry of Beneficial Owners, as well as the drafting of required legislation.
Net risk level			6

Risk 13		Ineffective sanctions for violations of the AML/CFT legislation	
Threat		Insufficient regulatory support for the financial monitoring system	
Vulnerability		Failure by REs to comply with requirements of the AML / CFT legislation	
Risk probability	3	Comments	<p>According to the conclusions of the 5th round of mutual evaluation of Ukraine by the MONEYVAL Committee of Experts, the NBU applies a number of sanctions to banks, including the revocation of licenses.</p> <p>However, experts noted that outside the banking sector fines are too low, and only NSSMC applies severe non-fine sanctions. There are significant technical drawbacks, and a system of sanctions outside the banking sector can only be partially effective.</p> <p>According to MONEYVAL experts, Ukraine is advised to review sanctions legislative provisions to ensure that there is a broad range of sanctioning powers and much stronger fining powers with regard to both individuals and REs.</p>
Risk impact	3	Comments	<p>According to the NBU, in 2013-2018 banks and their officials were subject to measures of influence in accordance with the requirements of the current legislation of Ukraine. So, average fines, applied to banks for violations of AML / CFT legislation in 2016 amounted to UAH 332,893, in 2017 – UAH 4,476,571 and UAH 10,862,356 in 2018. The biggest NBU fine ever amounted to UAH 94,737,499.80 (imposed in 2018) and was imposed for carrying out risky activities, posing threat to the interests of depositors or other creditors of the bank.</p> <p>Regarding NBFIs, 2016-2018 saw a gradual increase in the number of on-site and off-site inspections. At the same time, the number of detected violations increased significantly from 35 cases in 2016 to 78,437 cases in 2018. With respect to the NBFIs, in 2016-2018 NBU relied exclusively on fines as a means of punishment. The average fine in 2016 was UAH 8,500, in 2017 – UAH 25,500, in 2018 – UAH 8,500. NBU considers existing NBFIs sanctions system insufficient. Small fines for non-banking institutions result from legislative limitation of maximum fines.</p> <p>According to NCSSMC, in 2013-2018, 480 inspections of REs – stock market participants were carried out, revealing violations of requirements in the AML/ CFT area by 362 (75%) REs. Analysis of REs with respect to which the NCSSMC found irregularities in 2013-2018 shows clear increase in the number of violating REs from 61% in 2013 to 78% in 2018. At the same time, average fines for REs for violation of AML / CFT legislation amounted in 2016 to UAH 9,917, UAH 2,544 in 2017 and UAH 2,941 in 2018.</p> <p>According to NC, in 2016-2018 it conducted 72 inspections of reporting entities (11 in 2016, 31 in 2017 and 30 in 2018).</p> <p>Irregularities in the field of AML/CFT, revealed in 2016-2018 by the NC with respect to corresponding REs resulted in total fines in amount of UAH 1,161.6 thousand (UAH 118.3 thousand in 2016, UAH 638.7 thousand in 2017 and UAH 404.6 thousand in 2018). In 2016, the overall average fines amounted to UAH 11,830, in 2017 to UAH 18,249 and UAH 17,591 in 2018.</p> <p>According to MoJ in 2016-2018 it conducted 5,186 inspections of reporting entities of legal services sector. With respect to 30% of REs inspected, decisions had been made to impose fines for violations of the requirements of legislation in the field of AML / CFT. At the same time the average size of fines in 2016 amounted to UAH 319, UAH 517 in 2017 and UAH 711 in 2018.</p> <p>In 2016-2018, MoI conducted 10 inspections of reporting entities, and applied seven fines amounting to UAH 10,574.</p> <p>In 2017-2018, SFMS conducted 40 inspections of REs, resulting in 18 resolutions on imposition of fine sanctions amounting to UAH 38.6 thousand.</p>
Overall risk level			9
Effectiveness of risk mitigation actions	2	Comments	<p>Draft Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction” (reg. September 25, 2019 No.2179) changes approaches to imposition of penalties on REs based on assessment of compliance with the AML/CFT legislation.</p> <p>The Draft Law significantly increases penalties for violations of financial monitoring legislation. Thus, for failure to submit, untimely submission or submission of false information, penalties would amount of 50,000 NTMIs (instead of 2,000 NTMIs); for violation of FTs suspension procedure penalties would amount to UAH 1.7 million (instead of UAH 34 thousand). The maximum penalties will be up to UAH 170 million.</p>
Net risk level			6

Risk 14		Lack of legal regulation of some DNFBPs representatives	
Threat		Insufficient regulatory support for the financial monitoring system	
Vulnerability		Sector of advisory services in the sale and purchase of real estate	
Risk probability	3	Comments	<p>The activity of economic entities providing brokerage services in the real estate market is not regulated by law. The functions of specialists working in the field of real estate are not legally defined, and the responsibilities of business entities providing services in the field of real estate are not legally defined either. Today the brokerage activity in the real estate market is regulated on the basis of public regulation, ensured by non-governmental organizations of the relevant status in accordance with the Law of Ukraine "On Public Associations". This situation does not look good in terms of soliciting corresponding REs providing real estate services, to fulfill the requirements of the Basic Law. Moreover, it creates the basis for spontaneous provision of services, dissatisfaction with the quality of brokerage services, lack of trust on the part of the clients towards the activities of these entities. The lack of proper control in the field of brokerage leads to a wide spread of "gray" realtors acting illegally and the presence in the market of "black" brokers, whose main goal is not to provide brokerage services, but rather commit fraud. At the same time, the need to amend the legislation on auditing and accounting activities in order to bring it into line with European norms is becoming more urgent.</p>
Risk impact	3	Comments	<p>Specially designated reporting entities, including realtors, accountants and auditors demonstrate relatively low activity in terms of FTs reported to SFMS, or providing information for registration with SFMS as reporting entities. Thus, as of June 2019, the following entities are registered with the SFMS:</p> <ul style="list-style-type: none"> - 115 auditors and audit firms; - 189 entities providing brokerage services in the course of real estate purchase transactions; - 15 entities providing accounting services. <p>In 2016-2018, these entities did not submit to the SFMS any notification on financial transactions subject to financial monitoring.</p>
Overall risk level			9
Effectiveness of risk mitigation actions	2	Comments	<p>In June 2019, at request of SFMS, the State Property Fund of Ukraine, together with NGOs and state stakeholders, drafted of the Law "On Real Estate Brokerage". This draft law is supposed to define the legal basis of real estate brokering in Ukraine, its state and social regulation, establishing a system of brokerage services consumer protection in real estate, ensure proper level of professional activity of real estate agents. At the moment, draft law is undergoing interagency approval procedure.</p> <p>In addition, the Government draft law "On State Regulation of Activities In the Organization And Conduct of Gambling" (Reg. No. 2285 dated October 17, 2019) introduced in the VRU, provides for a new licensing system for gambling activities: with a limited number of licenses, differentiated the size of the fee, depending on the type of gambling, the amount of gambling equipment and location of the gambling establishment. Licenses will be issued based on the results of electronic auctions for which gambling organizers are required to meet the qualification and financial requirements set out in the draft law. Financial, administrative and criminal liability for violations of gambling legislation is increasing.</p>
Net risk level			6

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risk 15	Non-compliance of national AML / CFT legislation with international requirements		
Threat	Insufficient regulatory support for the financial monitoring system		
Vulnerability	Implementation of changes to FATF standards and requirements of EU Directives into national legislation		
Risk probability	1	Comments	On May 20, 2015, the fourth EU AML Directive was adopted entering into force on June 26, 2016. The Fourth Directive was presented to the Commission after the terrorist attacks and “Panama Papers” scandal and is a part of the European Commission’s Plan to strengthen the fight against financing of terrorism and ensure greater FTs transparency. In December 2017, the EU Council and the European Parliament agreed to amend the Fourth EU Directive and to adopt it in its new version – the Fifth EU Directive. Member states must implement the Fifth Directive into national law by mid-2019.
Risk impact	3	Comments	Inclusion of Ukraine in the FATF sanction lists. Given Ukraine’s EU policy, incompliance of Ukraine legislation with the requirements of EU directives may adversely affect Ukraine’s overall EU accession process. The imperfection of the legislation contributes to the spread of crime in the country.
Overall risk level	3		
Effectiveness of risk mitigation actions	2	Comments	To fully implement requirements of the Fourth Directive (EU) 2015/849 “On prevention of the use of the financial system for money laundering and terrorist financing” and the of the Regulation (EU) 2015/847 “On information accompanying transfers” MoF, SFMS and NBU developed, approved with concerned authorities and by letter of December 06, 2018 No.11010-02-3/32145 submitted to the Cabinet the draft Law of Ukraine “On Prevention of Legalization (Laundering) of Proceeds from Crime Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction. This draft Law was adopted as a basis on January 11, 2019 by the Verkhovna Rada of Ukraine.
Net risk level	2		

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risk 16		Insufficient training of AML/CFT system participants	
Threat		Insufficient training of AML/CFT system participants	
Vulnerability		Public sector, REs	
Risk probability	1	Comments	Lack of LEA attention to investigating FT crimes and lack of clarity in ML/FT cases, as well as the lack of convictions by courts could potentially be associated with inadequate training of law enforcement, intelligence and the judiciary on ML/FT related issues.
Risk impact	3	Comments	In terms of using risk-based approach inadequate training of REs may adversely affect ML/FT compliance risk management system as well as any preventive measures aimed at detecting and preventing use of their services for ML/FT.
Overall risk level		3	
Effectiveness of risk mitigation actions	2	Comments	<p>The AML / CFT System Development Strategy up to 2020 (CMU Decree No. 1407-r of December 30, 2015) defines development directions for the national financial monitoring system including retraining and professional development of specialists of public authorities and REs in the field AML/CFT, based on an educational institution managed by the SFMS.</p> <p>The resolution of the Cabinet of Ministers of Ukraine of August 19, 2015 No. 610 "On Approval of the Procedure for Organization and Coordination of Work on Retraining and Advanced Training of Specialists in Financial Monitoring" designates the Academy as the establishment to conduct retraining and advanced training in the field of financial monitoring for government endorsed participants. According to the Charter, one of the main tasks of the Academy is to provide educational services on financial monitoring in the AML/CFT area, as well as in the prevention and fight against corruption.</p> <p>It should be noted that during the visit of the MONEYVAL Committee within the framework of the 5th Round of Evaluation of Ukraine, the experts positively noted Academy activities in training of specialists in the field of financial monitoring. Much of the experts' focus was on training public sector representatives on financial monitoring, which is an important component of the assessment.</p> <p>13,507 financial monitoring specialists had received their training over the 2005 (first groups of students) – 2018 period, of them, 7,663 were trained in 2014-2018. In 2018, 1,749 students (12.9% of the total students over 2005-2018) were trained at the Financial Monitoring Academy, representing state authorities, LEA, RA, judiciary, and REs, including 600 specialists endorsed by the state, 147 of them – representatives of state authorities, 453 – representatives of LEA, RA and the judiciary.</p> <p>In 2018, 20 representatives of anti-corruption agencies of Ukraine were trained at the Academy.</p> <p>The SFMS regularly publishes guidance materials for AML / CFT system members, as well as annual typological surveys in the AML / CFT area.</p> <p>Representatives of the LEA and the judiciary are constantly involved in international scientific and practical workshops dedicated to sharing information and experience of investigating crimes in the AML/CFT area, and perspectives of the national financial monitoring system.</p> <p>To summarize and systematize all current regulations in the field of financial monitoring, in 2017, a Compilation of Legislation on AML/CFT was prepared (with comments and clarifications).</p> <p>In 2018, the Glossary on AML / CFT and Corruption was published. The Glossary is the first, since Ukraine's independence, systematic publication that combines terms and concepts in anti-legalization and anti-corruption fields. These include, about 3,000 terms found in international documents, codes and laws of Ukraine, by-laws of Ukraine, scientific and professional literature.</p>
Net risk level		2	

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risk 17		Ineffective system of investigation of FIU materials	
Threat	Number of CPs initiated on FIU referrals or in which FIU referrals were used, fact of such CPs being brought to court		
Vulnerability	Number of CPs initiated on FIU referrals or in which FIU referrals were used, fact of such CPs being brought to court		
Risk probability	2	Comments	In 2014-2018 the number of times LEA declined to initiate/terminate CPs based on SFMS CRs grew from 62.1% in 2015 to 80.7% in 2018, which reduces the overall number of CPs initiated on SFMS CRs or in which SFMS CRs were used from 37.9% in 2015 to 19.3 % in 2018.
Risk impact	3	Comments	<p>In 2014-2018 the number of times LEA declined to initiate/terminate CPs based on SFMS CRs grew from 62.1% in 2015 to 80.7% in 2018, which reduces the overall number of CPs initiated on SFMS CRs or in which SFMS CRs were used from 37.9% in 2015 to 19.3 % in 2018.</p> <p>In 2016-2018, the total number of CPs initiated by LEA based on or using information contained in CRs is 950 (2018 - 374; 2017 - 306; 2016 - 270) or 85.0% of the total CRs submitted - 1,117, incl. 2018 - 80.2%, 2017 - 80.1%, 2016 - 100.3%.</p> <p>In 2016-2018, 610 CPs initiated based on or using CRs had their pre-trial investigation stage completed (2018 - 166; 2017 - 230; 2016 - 214) in connection with:</p> <ul style="list-style-type: none"> - referral of the indictment to court - 128 or 21.0% (2018 - 32 or 19.3%; 2017 - 54 or 23.5%; 2016 - 42 or 19.6%); - a petition to court seeking a release from criminal liability - 20 or 3.3 % (2018 - 5 or 3.0%; 2017 - 11 or 4.8%; 2016 - 4 or 1.9%); - closing of CP - 462 or 75.7 % (2018 - 129 or 77.7%; 2017 - 165 or 71.7%; 2016 - 168 or 78.5%). <p>In 2016-2018 courts examined 183 criminal cases, of which 75 cases or 41% resulted in a guilty verdict.</p>
Overall risk level			6
Effectiveness of risk mitigation actions	2	Comments	<p>Reconciliation of CRs submitted by the SFMS to the SFS is done every six months. In 2017, the PGO submitted proposals to SFMS regarding possible expedient and high-quality cooperation in reviewing and updating on the results of CR review. In order to ensure proper CR review, a suggestion was made to direct CRs exclusively to the PGO for review as well as to monitor the URPI regarding suspects mentioned in CRs and direct materials to local prosecutor's offices and LEA. In the fourth quarter of 2017, PGO conducted a study of LEA compliance with requirements of the CPC of Ukraine and the Law of Ukraine "On Prevention and Counteraction of Legalization (Laundering) of Proceeds from Crime Financing Terrorism and Financing the Proliferation of Weapons of Mass Destruction" during registration, examination and adoption of decisions in CPs based on SFMS referrals.</p> <p>The study focused on regional prosecutors' offices and territorial LEA cooperation with SFMS, compliance with international standards for financial investigations in CPs on revenue-generating crimes, as well as the use of special confiscation at the stage of pre-trial investigation and judicial examination.</p> <p>According to the 2016-2018 LEA data, in CPs initiated based on CRs, convicts had their assets arrested and seized worth UAH 25,474.26 million.</p> <p>According to court rulings, 121 persons have been convicted of criminal offenses (only in cases on which the court has pronounced a verdict), in CPs initiated based on or using CRs (2016-2018).</p> <p>In total over the 2016-2018 period executive service bodies reported UAH 39,437.08 million in property value (or amount of funds), subject to recovery by state (2018 - 0,16; 2017 - 39,419,81; 2016 - 17.11).</p> <p>The amount of money received from the sale of confiscated property and actually transferred to the State Budget of Ukraine in 2016-2018 is UAH 39,413.87 million (2018 - 0,0; 2017 - 39,413,72; 2016 - 0.15).</p>
Net risk level			4

Risk 18		Ineffective investigation of ML crimes	
Threat		Ineffective crime investigations	
Vulnerability		Closing ML CPs during pre-trial investigation	
Risk probability	3	Comments	<p>Circumstances that cause commission of ML crimes are related to integration of economic systems of many countries, emergence of new financial instruments, development of high technology, etc. The transnational character of ML activities necessitates the cooperation of different states to effectively counteract this adverse phenomenon.</p> <p>The impunity solicits new offenses and gives rise to mistrust in the Ukrainian law enforcement system, both by victims and their relatives, and by the public at large. In 2016-2018, LEA registered 715 offenses under Article 209 of the CC of Ukraine on ML and 178 offenses under Article 306 of the CC of Ukraine "Use of funds obtained from illicit trafficking in narcotics, psychotropic substances, their analogs, precursors, potent or poisonous substances or potent or poisonous pharmaceuticals" At the same time, indictments were referred to court in 150 (21% of the number of registered) offenses under Article 209 of the CC of Ukraine and 157 (88.2% of the number of registered) under Article 306 of the CC of Ukraine. 10% of CPs were closed under Article 209 of the CC of Ukraine, and 0.6 % were closed under Article 306 of the CC of Ukraine</p>
Risk impact	3	Comments	<p>Public danger of ML comes from the fact that it creates a material basis for increased crime, strengthening of inflationary processes, violation of the principle of equality of business entities, strengthening of unfair competition, deterioration of Ukraine's international image and the like. ML facilitates persons engaged in criminal activities in their efforts to conceal their unlawful acts and to avoid criminal liability.</p> <p>Another consequence of money laundering is reduced effectiveness of fiscal policy. The macroeconomic effects of money laundering directly relate to Ukraine's financial security.</p> <p>No component of the financial sector suffers from ML in the same way as does monetary policy. ML forms the backbone of "black" cash circulation, provides economy with quasi-payment means. Because of this, macroeconomic indicators are inelastic in response to changes in the volume of money supply. This suppresses the function of monetary policy as a whole.</p> <p>ML causes unjustified spikes in demand for cash, and often a distortion of demand for real cash balances.</p> <p>ML also poses a significant threat to currency security, as it stimulates the dollarization of monetary aggregates, facilitates the mechanism of extraction from the country. ML causes the devaluation of the national currency relative to freely converted currencies by stimulating demand for the latter, which in turn leads to an increase in the debt service burden.</p> <p>Corruption in politics and the social spheres can be viewed as a consequence of the ML as well as a consequence of the shadow economy in general.</p> <p>There are threats of ineffective prosecution in courts of people charged by LEA of committing ML crimes, which manifests itself in the following aspects:</p> <ul style="list-style-type: none"> - the possibility of poor quality of charges brought by LEA to court; - misuse of the right to enter into agreements with the indicted party; - failure by LEA to use cassation and appeal complaints regarding the imposition of insufficiently severe sentences by courts for ML crimes.
Overall risk level			9
Effectiveness of risk mitigation actions	2	Comments	<p>Analysis of LEA statistics on pre-trial investigation of ML related crimes helps draw the following conclusion.</p> <p>The 2016-2018 period was marked by a decrease in the number of closed cases filed under Art. 209 of the CC of Ukraine from 13% in 2016 to 8% in 2018. Nevertheless, the period saw a growth of the number of criminal offenses under LEA investigation that resulted in indictments under Art. 209 of the CC of Ukraine from 13 % in 2016 to 24% in 2018, which indicates a gradual increase in the efficiency of the law enforcement system.</p> <p>According to the PGO (PGO-1-LV Report), in 2016-2018, in indictments on ML charges, the amount of criminal proceeds was set at UAH 7,318.9 million. In the course of the pre-trial investigation of ML crimes, the PGO arrested criminal proceeds in the amount of 4,359.5 million UAH</p>
Net risk level			6³¹⁵

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risk 19		Ineffective investigation of FT crimes	
Threat		Ineffective crime investigations	
Vulnerability		Closing FT CPs during pre-trial investigation	
Risk probability	3	Comments	The issue of terrorist financing becomes increasingly important for our country in connection with the events in eastern Ukraine (manifestations of separatism and terrorism in Donetsk and Luhansk regions, annexation of Crimea). Terrorist financing is a threat that enables existence and effective operation of terrorists making it easier to commit terrorist acts and engage in terrorism
Risk impact	3	Comments	<p>One of the main terrorism targets is national security as a state of protectedness of vitally important interests of an individual, citizen, society and the state from terrorist attacks and possible acts by terrorist groups.</p> <p>Another threat to national security is the fact that a significant amount of funds will be directed towards security measures, mitigation and (or) elimination of consequences of committed crimes as well prevention of further terror attacks instead of production and social support.</p> <p>In 2016-2018 LEA registered 209 criminal offenses related to FT (Art. 258-5 CC of Ukraine), including 84 in 2016, 74 in 2017 and in 51 in 2018 for an overall decrease of the number of registered offenses. At the same time, charges were brought against 8 people in 2016, 17 people in 2017 and 14 people in 2018. Of the registered offenses only 3 (4% of registered offenses) resulted in indictments brought to court in 2016, only 7 (9% of registered offenses) in 2017 and only 11 (22% of the registered) in 2018. There is a clear increase of the share of FT related criminal offenses that resulted in indictment from among those registered in 2016-2018, which is still low.</p> <p>In 2017 courts received 34 FT related CPs, examined 24 CPs concerning 28 persons, and handed down sentences in 7 CPs with respect to 7 people.</p> <p>In 2018 the courts received 36 FT related CPs, examined 23 CPs concerning 23 persons and handed down sentences in 11 CPs with respect to 11 people. At the same time, with respect to 1 person the decision was made to use confiscation of funds or other property.</p>
Overall risk level			9
Effectiveness of risk mitigation actions	2	Comments	<p>In 2017, the SSU established a way to keep SFMS informed on exposed facts of financing the separatist and terrorist activities of the “DNR” / “LNR”. Among other things, information was provided regarding persons convicted under Art. 258-5 of the CC of Ukraine.</p> <p>SSU jointly with foreign special services identified and dismantled 3 “Islamic State” ISIS cells, whose members, in order to finance terrorist activities, committed extortion, robbery, and other offenses in Kyiv, L’viv, Kharkiv and Odesa regions and assisted members and supporters of the international terrorist organization in entering Ukraine.</p> <p>In August 2017, the SSU, together with the SBGS, identified a Russian Federation citizen involved in financing, providing weapons and other means of terrorist activity to the international terrorist organization “Imarat Caucasus”.</p> <p>As a result of actions taken by the SSU aimed at eliminating channels of financing terrorist and extremist activities, 40 CPs were initiated on the facts of terrorist financing.</p> <p>In 2017, the SSU discontinued 2 channels of financing terrorist activities of terrorist organizations “DNR” / “LNR” using non-bank payment services.</p> <p>As a result of actions taken in 2018 by the SSU to eliminate the channels of financing terrorist and extremist activities, charges were brought under Part 2 of Art. 258-5 of the CC of Ukraine against a citizen of Ukraine, who in 2015–2016 re-registered some business entities with the “authorities” in the temporarily occupied territory of Ukraine and used their details to financially support LNR activities.</p> <p>For 2018, SFMS made 100 referrals to LEA (44 CRs and 56 ACRs) regarding FTs, potentially related to terrorism or conducted by individuals making public calls for violent change or overthrow of the constitutional order or change of the territory or the state border of Ukraine.</p> <p>In the 43 referrals (31 CRs and 12 ACRs) LEA information was used.</p> <p>Based on the analysis of FTs related to terrorism and separatism, SFMS made 51 referrals to LEA with view to terminate FTs (expenditure transactions). As a result of 117 actions taken some UAH 100.9 million were frozen.</p>
Net risk level			6

Risk 20		Ineffective investigation of ML predicate crimes	
Threat		Ineffective crime investigations	
Vulnerability		Classification of ML crimes	
Risk probability	3	Comments	<p>In 2013-2018 the structure of predicate offenses in CPs initiated by LEA based on SFMS CRs / ACRs was dominated by bogus entrepreneurship, misappropriation, embezzlement of property through abuse of office and fraud.</p> <p>By analyzing the structure of predicate offenses in ML related court sentences handed down in 2013-2018 in CPs based on SFMS CR/ACR, we can identify the main types of predicate offenses that are committed for money laundering purpose:</p> <ul style="list-style-type: none"> - misappropriation, embezzlement of property through abuse of office; - fraud, including through fraudulent computer operations; - bogus entrepreneurship; - abuse of power or office. <p>At the same time, by analyzing the structure of predicate offences in all ML related sentences handed down in 2018, we can distinguish the following main types of predicate crimes that are most often committed with the purpose of ML:</p> <ul style="list-style-type: none"> - appropriation, misappropriation of property through abuse of office (Article 191 of the CC of Ukraine); - official forgery (Article 366 of the CC of Ukraine); - fraud (Article 190 of the CC of Ukraine); - fictitious business (Article 205 of the CC of Ukraine); - forgery of documents, seals, stamps (Article 358 of the CC of Ukraine); - unlawful acts with transfer documents (Article 200 of the CC of Ukraine); - gambling (203-2 of the CC of Ukraine); - creation of a criminal organization (Article 255 of the CC of Ukraine); - abuse of power or office (Article 364 of the CC of Ukraine).
Risk impact	3	Comments	<p>According to the Uniform Criminal Offences Report, fraudulent offenses (Article 190 of the CC of Ukraine), forgery of documents, seals, stamps (Article 358 of the CC of Ukraine) and misappropriation, embezzlement of property through abuse of office (Article 191 of the CC of Ukraine) constitute the largest share of registered predicate offenses in 2016-2018, defined according to the analysis of court sentences in ML related crimes and make up 52.7%, 20% and 12.2% respectively.</p> <p>Moreover, fraudulent offenses (Article 190 of the CC of Ukraine) – 53.1% and gambling business (203-2 CC of Ukraine) – 35.3%, abuse of power or office (Article 364 of the CC of Ukraine) – 29.1%, forgery of documents, seals, stamps (Article 358 of the CC of Ukraine) – 25.1% and official forgery (Article 366 of the CC of Ukraine) – 20% account for the most closed CPs of those registered by LEA in 2016-2018.</p> <p>By analyzing the results of pre-trial investigations of predicate offenses, we can ascertain that illegal actions with transfer documents (Article 200 of the CC of Ukraine) – 76.9%, misappropriation, embezzlement of property through abuse of office (Article 191 of the CC of Ukraine) – 37.4%, official forgery (Article 366 of the CC of Ukraine) – 34.5%, bogus entrepreneurship (Article 205 of the CC of Ukraine) – 30.4 % and forgery of documents, stamps, seals (Art. 358 of the CC of Ukraine) – 26.4%, fraud (art. 190 CC of Ukraine) – 10.5% accounted for most indictments referred to courts.</p> <p>This information indicates low efficiency of pre-trial investigation of predicate crimes reflected in high share of cases closed during pre-trial investigation and low number of indictments referred to courts</p>
Overall risk level			9

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risk 20	Ineffective investigation of ML predicate crimes	
Effectiveness of risk mitigation actions	2	<p>Comments</p> <p>After trials in 2016-2018 of 14,341 individuals for predicate crimes, courts convicted 10,214 persons (71%). Most were convicted of fraud (Article 190 of the CC of Ukraine) – 5,865 persons or 57.4%; forgery of documents, seals, stamps (Article 358 of the CC of Ukraine) – 2,041 persons or 20.0% and misappropriation, embezzlement of property through abuse of office (Article 191 of the CC of Ukraine) – 1,261 persons or 12.3%.</p> <p>In 2016-2018 LEA took part in several joint training events to exchange experience on pre-trial investigation ML/FT related CPs.</p> <p>Thus, in 2018 the Financial Monitoring Academy and its regional offices conducted advanced training courses for 1,069 LEA officials on “Combating legalization (laundering) of criminal proceeds, terrorist financing and the financing of proliferation of weapons of mass destruction”.</p> <p>In addition, representatives of SSU took part in the following activities in 2018:</p> <ul style="list-style-type: none"> - Dark Web training with the assistance of the US FBI; - hands-on training on Bitcoin and Blockchain with the assistance of NCA UK; - SANS institute courses on SANS 500, SANS 508, SANS 610 on computer forensics and computer crime reporting.
Net risk level	6	

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risk 21		Use of non-profit organizations for ML/FT	
Threat		ML/FT through non-profit organizations	
Vulnerability		Redirection of financial flows, inconsistency with stated goals	
Risk probability	3	Comments	<p>The international and domestic fight against FT has demonstrated that terrorists and terrorist organizations use the NPO sector to obtain and transfer funds, provide logistical support, encourage terrorist recruitment, or otherwise support terrorist organizations and operations.</p> <p>NPOs can be used as a direct source of income and as a cover for the flow of funds between countries in complex ML and FT schemes. They can also be used to cover movement of terrorists, provide them with organizational support and the like.</p> <p>As for the terrorist organizations operating in the non-Ukrainian-controlled Donetsk and Luhansk regions, NPOs can be used to obtain financial support for DNR / LNR. To conduct unsupervised ML / FT related FTs, NPOs use banned non-bank electronic payment systems (“WebMoneyTransfer”, “Money.Yandex.ru”, “Qivi Wallet”).</p> <p>Activities of NPOs of various forms are governed by various laws, which are not universal and related and mostly take form of special laws.</p>
Risk impact	3	Comments	<p>As of January 01, 2019, there are 1,298,435 legal entities registered in the USR, of which 197,952 are NPOs, or 15% of the total number.</p> <p>In 2018, SFMS received 169,322 FT reports by 7,681 NPOs, totaling over UAH 439 billion.</p> <p>A significant threat is NPOs not reporting to SFS on their incomes (profits) as well as failure to submit financial statements in the absence of taxable objects or indicators to be declared in accordance with the requirements of the Tax Code, including in the financial statements.</p> <p>This allows NPOs to covertly conduct their activities or make illegal FTs without them being reflected in their financial and tax reporting.</p> <p>According to the SFS, NPOs are used for the purpose of fictitious entrepreneurship, tax evasion, misappropriation, or embezzlement of property, abuse of power or office, ML/FT</p>
Overall risk level			9
Effectiveness of risk mitigation actions	2	Comments	<p>In 2018, 65 CRs regarding suspected transactions involving NPOs were submitted to LEA by SFMS. CRs in respect of 2,890 FTs carried out by 127 NPOs, totaling UAH 2,994.8 million were submitted to LEA.</p> <p>In 2016, the SFMS conducted a national review of the non-profit sector’s activities to identify, prevent and combat the financing of terrorism from 2014 to the first half of 2016, which was made available for all participants of the national AML / CFT system.</p> <p>In the first half of 2018 and in 2019 SFMS conducted studies of the risks of NPO involvement in ML/FT schemes entitled “Using NPOs for illegal purposes”, which were published on the SFMS official web site and made available for SFMEs, REs and the public.</p> <p>SFS is taking steps to verify the data in the Registers, update information on enterprises with features of non-profitability and to exclude them from the Register of Non-Profit Organizations in case of finding inconsistencies.</p> <p>Actions implemented reduce the risk of NPOs being misused.</p> <p>SFS in 2016-2018 and on an ongoing basis conducts research and analysis of NPO activities to identify risks of violations of the law.</p> <p>SFS conducted an analysis of risks by types of NPO and identified the peculiarities of risks of violation of legislation by types of NPOs</p>
Net risk level			6

Risk 22	Inadequate detection and sanctioning of suspicious financial transactions by PEPs	
Threat	Suspicious FTs by PEPs	
Vulnerability	Financial sector, non-financial sector, stock market, DNFBPs	
Risk probability	3	Comments In 2016-2018 23.8% of FTs subject to obligatory financial monitoring were made by national and foreign PEP. At the same time, in 2018 SFMS database contained information on 3,191.4 thousand FTs made by PEPs and related parties, representing 32.0% of total FTs reported to SFMS in 2018. In monetary terms, the amount of FT performed with the participation of PEPs and related parties in 2018 is UAH 11 317.3 billion, which is 55.9% of the total amount of FT (UAH 20,258.2 billion).
Risk impact	3	Comments In the course of the analysis, it was found that 3,071.1 thousand FTs (96.2%) were carried out by individuals identified as parties related to national PEPs totaling UAH 10,591.2 billion (93.6%) and only 18.6 thousand FTs (0.7%) were carried out by national PEPs directly, totaling UAH 40.3 billion (0.5%) in relation to all FTs carried out by PEPs and related parties. At the same time, in the course of the analysis of FTs conducted by PEPs and related parties in the context of participants, it was found that: <ul style="list-style-type: none"> • PEPs and individuals associated with PEPs made 41.4 thousand FTs (1.3%) for the total amount of 61.6 billion UAH (0.5%); • legal entities affiliated with PEPs made 3,150.0 thousand FTs (98.7%), for a total amount of 11 255.7 billion UAH (99.5%). The share of FTs credited to accounts of PEPs and related individuals increased by 4.1% compared to the same indicator in 2017. At the same time, in 2018, the share of FTs debited from the accounts of legal entities affiliated with PEPs increased by 2% compared to the same indicator in 2017. In 2018, SFMS received 82.0 thousand foreign currency FT reports involving PEPs and related parties, representing 2.6% of FTs made involving PEPs and related parties in 2018. However, the volume of these foreign economic transactions amounted to UAH 757.7 billion (6.7%); and FTs made involved 7,341 national and foreign PEPs and related individuals and legal entities. USD, EUR, RUB, GBR, CHF and other currencies were used to make foreign economic transactions by PEPs and related parties Thus, according to the information received from REs, 900 foreign currency transactions were carried out by 386 national PEPs and related individuals for a total amount of UAH 3.2 billion, which is 0.4% of the total foreign economic transactions made by PEPs and related parties in 2018. The largest volume of transactions was made in USD and EUR, USD 83.4 million (UAH 2.3 billion) and EUR 13.3 million (UAH 0.8 billion). Analysis of foreign currency FTs reports involving PEPs and related parties shows that the significant portion of all funds transferred to and from abroad are foreign currency FTs of related legal entities affiliated with national PEPs totaling UAH 320.3 billion and UAH 430.8 billion, respectively.
Overall risk level		9
Effectiveness of risk mitigation actions	3	Comments The Basic Law requires REs to identify clients in the category of national, foreign PEPs and related parties. REs should consider these clients as high risk and take additional actions to identify, verify and examine such clients. In addition, the basic law stipulates the duty of reporting entities submitted to SFMS of information on financial transactions PEPs in the amount equal to or exceeding 150 thousand. UAH or if there are reporting entities suspected ML / TF or committing another crime defined by the CC of Ukraine. Based on the abovementioned reports, in 2018 the SFMS prepared and submitted to Ukrainian LEA 83 CRs and 34 ACRs, which contained reports on FTs carried out by PEPs and related parties. According to the feature codes, this is 12.5% of total CRs (934 CRs and ACRs) submitted to LEA in 2018. Compared to last year, this indicator decreased by 1.4% (13.9%, or 99 CRs and ACRs in 2017). It should be noted that, compared to 2017, the number of referrals containing above-mentioned messages increased by 18 CRs and ACRs. The 117 CRs contained 8.09 thousand reports on FTs made by PEPs and related PEPs, totaling UAH 17.04 billion. In addition, SFMS developed and published in 2016 on its official web site updated and revised Methodological guidelines for identification of PEPs and ensuring financial monitoring of their FTs. ³¹⁶
Net risk level		9

316 Methodological guidelines for identification of PEPs and ensuring financial monitoring of their financial transactions: SFMS, January 26, 2016 [Online resource]. - Access at: http://www.sdfm.gov.ua/content/file/Site_docs/2016/20160127/recomendacii.pdf

Risk 23		Using REs for ML	
Threat		Insufficient regulation and oversight of REs	
Vulnerability		Financial sector, non-financial sector, stock market, DNFBPs	
Risk probability	2	Comments	<p>The probability of using different sectors of REs for ML is as follows: Features of funds transfer services provided by NBFIs include:</p> <ul style="list-style-type: none"> • possibility to transfer funds anonymously (without identifying criminals) • speed and ease of transfer • wide geographical coverage (high risk areas) • Online access to services • use of remote access channels (payment terminals) <p>These product features lead to increased vulnerability to being used in ML and accordingly increase the probability of ML risks. In addition, due to effective risk-oriented supervision of banks by the NBU, there has been a recent trend of attackers shifting their focus away from the banking sector to other financial sectors where regulation and supervision are less sophisticated. The banking sector is the most attractive environment for criminals trying to launder criminal assets. This is primarily due to the features of the product offered by banks: transactions with highly liquid assets, cross-border nature of transactions, online access to services, the speed of transactions, the possibility of anonymous use of products and more. Characteristics of FTs with features of ML, revealed by NBU supervisory activity, indicate a high level of complexity of methods used for money laundering, especially, with respect to concealing sources of origin of funds, real UBOs of legal entities involved in transactions, as well as real beneficiaries. All this may indicate the significant and systematic focus of serious organized crime groups on the use of banks for ML purposes. In addition, the significant number of FTs with features of ML revealed by NBU supervisory activity very likely points to a significant number of ML cases involving banks. In the real estate market, legal relations in the field of sale and purchase of real estate in Ukraine are not regulated at the level of the relevant law nor any other legislative acts. Therefore, it should be noted that there are no:</p> <ul style="list-style-type: none"> - legal definition of this type of business activity, in particular real estate agencies, realtors, brokers, etc.; - single state regulatory authority in the field; - state registers of realtors; - licensing and permitting procedures for real estate purchase and sale services; - legal responsibility for provision of illegal real estate services; - competitive conditions for the development of real estate market. <p>The following stock market instruments are used for ML:</p> <ul style="list-style-type: none"> - securities of companies with fictitious features; - securities of mutual investment institutions; - promissory notes with circulation of over 3 years or issued by newly established enterprises; - BDSL. <p>Insurance can be used as a mechanism of direct ML, an intermediate link in the ML chain, and used to optimize taxation. Insurance widely uses foreign counterparties and provides opportunities for cross-border operations, primarily – reinsurance.</p>
Risk impact	2	Comments	<p>The results of the NBU's supervisory activity indicate a high level of use of money transfer services for ML purposes, including by organized crime groups. Various techniques are used having following characteristics:</p> <ul style="list-style-type: none"> - splitting payments to avoid exceeding legal thresholds for identification; - using third parties; - lack of economic sense of using money transfer services; - one legal entity (individual) makes transfers to a large number of legal entities (individuals). <p>In 2016-2018 NBU identified FTs containing hallmarks of ML that may be specifically related to:</p> <ul style="list-style-type: none"> - conversion (transfer) of non-cash funds into cash; - using nominal UBOs (controllers); - bogus entrepreneurship; - tax avoidance; - extraction of capital abroad; - generation of artificial income to display apparent legality of proceeds, including during their declaration by PEPs. <p>Given the above, the effects of using banks in ML schemes can occur at all levels, including having negative impact on reputation, financial performance, owners of the institution, the economy of the country, as well as national and international security.</p>

Risk 23	Using REs for ML
	<p>The results of national and international typological studies indicate that there are numerous cases of real estate market use for money laundering purposes, including by organized crime groups with corrupt ties.</p> <p>Impacts of risk of using the securities market (stock market) for ML may include:</p> <ul style="list-style-type: none"> - creation of bogus stock market participants, joint stock companies that do not engage in any business yet issue securities and, as a consequence: there is fictitious capital, which functions in isolation from real capital; - concealing real financial and economic activity of business entities for tax evasion; - raising / lowering the real value of assets of financial institutions, preventing fulfillment of obligations to clients or recovery of funds during bankruptcy or liquidation, including by members of the Deposit Guarantee Fund; - conversion of funds to cash; - money laundering; - extracting capital outside Ukraine and its subsequent investment in Ukraine. <p>High level of crime in insurance market reduces trust, adversely affects its development, and thus diminishes its positive role in the country's economy, which can also lead to additional government spending.</p> <p>Given absence of restrictions on the permissible volumes of guarantees in the market for guarantees and sureties, there is a high probability of default of such companies, which could cause losses for the economy, in particular under contracts secured by such an instrument (incl. non-repayment of loans, default on delivery contracts, etc.).</p>
Overall risk level	4
Effectiveness of risk mitigation actions	<p>2 Comments</p> <p>The low effectiveness of the mitigation measures required to reduce the risk of using NBFIs for ML/FT purposes is primarily due to</p> <ul style="list-style-type: none"> • legislative restrictions on the maximum level of fines; • low qualification level of NBFIs staff; • low level of automation of ML/FT risk management processes; • AML/CFT regulation and oversight carried out by two state regulators. <p>NBU, as an SFME, conducts effective regulatory and supervisory activities using risk-based approach for efficient allocation of available resources in the supervision and detection of risky activities by banks requiring additional action, ensures financial inclusion, and actively participates in mitigation of ML risks among banks.</p> <p>At the same time, the NBU is taking steps to improve the RBA to oversight, to update inspection procedures in accordance with international standards.</p> <p>At the same time, the considerable number of financial monitoring violations exposed by NBU as a result of bank audits indicates the need for banks to strengthen their internal ML risk management systems.</p> <p>In the absence of relevant legislation on the activities of realtors, reporting entities demonstrate a rather low activity in reporting FTs subject to financial monitoring to SFMS.</p> <p>The NCSSMC takes the following measures:</p> <ul style="list-style-type: none"> - to protect the interests of the state and investors in securities, suspends, on the basis of a decision of the Commission, changes in the register of holders of registered securities or the depository accounting system regarding securities of a certain issuer remedial action is taken to remove the basis for such a decision; - suspends or prohibits trading of securities if there are sufficient grounds, confirmed by the relevant documents, to believe that the issuer is in a situation where further circulation of securities of such issuer will violate the rights of investors. <p>In addition, based on the monitoring of administrative data provided by securities traders and stock exchanges, NCSSMC monitors FTs with securities and reports to LEA any "suspicious" FTs with securities of issuers absent at location that can be used for unproductive capital outflows, tax evasion, ML and more.</p> <p>Internal financial monitoring system of each professional stock market participant should be built, inter alia, on the principle of "know your client".</p> <p>The legislation sets requirements on the size of authorized capital of the insurer, the legal corporate form, qualification requirements for the executives and their business reputation, as well as the business reputation of substantial shareholders. Requirements for insurers' solvency, liquidity, quality and diversification of their assets have been set.</p> <p>Disclosure of information, reporting, and confirmation of reporting by an external auditor are envisaged.</p> <p>Insurers are classified as public interest entities.</p> <p>Among all non-banking financial institutions, insurance legislation is the most extensive.</p>
Net risk level	4

Risk 24		Using REs for FT	
Threat		Insufficient regulation and oversight of REs	
Vulnerability		Financial sector, non-financial sector, stock market, DNFBPs	
Risk probability	2	Comments	<p>The probability of using different sectors of REs for FT is as follows: Funds transfer services through international money transfer systems and national payment systems, cash transactions and the use of electronic money are among main generators of FT risks in NBFI. FT risks primarily arise due to speed and ease of FTs, combined with their large number, anonymity and the ability to use Internet, payment terminals, and other remote access technologies. Yet, the complexity of tracking FT related FTs may be due to the fact that in most cases, these transactions are carried out in small amounts, disguised as ordinary transfers such as “family care”, “donations for treatment” and so on. According to NBU, the high risk of using banks for FT, is due to:</p> <ul style="list-style-type: none"> - fighting in the east of Ukraine; - political instability; - high level of circulation and use of cash; - significant level of corruption; - high level of shadowing of the economy; - poor financial literacy of the population; - ineffective control over the verification of UBOs (controllers) in the of entity registration procedure; - bogus entrepreneurship; - increased volumes of cross-border transfers; - transactions with non-regulated virtual assets in Ukraine; - the likelihood of fundraising through non-profit organizations, including charities, being designed for FT purposes; - strategic geographical location of Ukraine (Ukraine, as a transit territory for the transfer of international terrorist fighters and religious extremists to European Union countries or to armed conflicts zones, and their financial support). Realtors can be used as means to gain access to international financial system and who can intentionally or accidentally assist in concealing the true origin of funds. NSSMC believes that FT risks in the securities (stock market) may manifest through: <ul style="list-style-type: none"> - FTs with securities by professional stock market participants located in ORDLO; - FTs with securities by professional stock market participants involving business entities registered in ORDLO; - FTs with securities by professional stock market participants involving clients with UBOs registered in ORDLO.
Risk impact	2	Comments	<p>The acts of FT involving any sector REs are a threat to the national security of Ukraine. Funds transfer is the main and most attractive financial instrument for FT:</p> <ul style="list-style-type: none"> - client transfers / receives funds to / from counterparties that operate in high-risk areas; - transaction is accompanied by information that is clearly invalid or contradictory; - client receives instructions from third parties. <p>Considering the SFMS’s 2017 Typical Studies, as well as international FT standards, the effects of using banks in FT schemes can occur at all levels, including having negative impact on reputation, financial performance, owners of the institution, the economy of the country, as well as national and international security.</p> <p>The consequences of the FT risk on the securities market (stock market) may be:</p> <ul style="list-style-type: none"> - concealing real financial and economic activity of business entities for tax evasion; - conversion of funds to cash; - to exploit stock market participants, creation of fictitious stock market participants for the purpose of FT; - misappropriation through the use of stock market assets of cash, property, property and non-property rights by persons related to terrorist activity; - conducting FTs using illegally obtained assets by persons related to terrorist activity.
Overall risk level			4

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

Risk 24	Using REs for FT	
Effectiveness of risk mitigation actions	2 Comments	<p>NBU, as an SFME, performs regulation and oversight of NBFIs, which is constantly being improved to reduce FT risks. In the course of REs audits, special attention is paid to effectiveness of NBFIs' measures to minimize FT risks. At the same time, the low effectiveness of the mitigation measures is primarily due to</p> <ul style="list-style-type: none"> • legislative restrictions on the maximum level of fines; • low qualification level of NBFIs staff; • low level of automation of ML/FT risk management processes; • AML/CFT regulation and oversight carried out by two state regulators. <p>NBU, as an SFME, conducts effective regulatory and supervisory activities, and actively participates in mitigation of ML risks among banks. During REs audits, particular attention is paid to the effectiveness of banks in implementing risk mitigation measures.</p> <p>LEA are continuously attempting to identify and prevent FT-related offenses. In turn, SFMS continues to develop and communicate recommendations on counter FT actions to all national participants.</p> <p>In addition, the SFMS is tasked with promptly amending the List of persons related to terrorist activities or subject to international sanctions.</p> <p>In order to protect investors' rights, prevent and avoid risks in the activities of professional stock market participants, in accordance with Article 15 of the Law of Ukraine "On Creation of a Free Economic Zone "Crimea" and on Peculiarities of Conducting Economic Activities in the Temporarily Occupied Territory of Ukraine" and the Law of Ukraine "On Securing Rights and Freedoms of Citizens and Legal Regime in the Temporarily Occupied Territory of Ukraine", on November 11, 2014 NCSCMC passed the decision No. 1512 "On peculiarities of conducting depository activity in connection with the temporary occupation of Autonomous Republic of Crimea and Sevastopol" and the decision No. 1511 "On prevention of violations of the rights of investors and avoidance of risks by professional participants".</p> <p>Also, the Commission Decision No. 282 of March 03, 2015 approved "Recommendations on prevention of violations of investors' rights and measures to avoid risks in conducting professional activity in the anti-terrorist operation area and temporarily occupied territory".</p> <p>In addition, the Commission decision "On prevention of violations of the rights of investors and avoidance of risks by professional participants" No. 1511 of November 11, 2014 (as amended) regulates professional depository activities of a depository institution in the anti-terrorist operation area and areas temporarily not under control of state authorities.</p> <p>Also, the NCSSMC official web site has information on preventing and avoiding FTs with stock market participants (licensees), located in territories temporarily outside government control (ORDLO).</p> <p>In order to increase the effectiveness of measures, it is necessary to amend the Law of Ukraine "On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Occupied Territory of Ukraine".</p>
Net risk level		4

4.3. Summary of the results of the National Risk Assessment

Table 4.3

Results of the second round of the National Risk Assessment

N ^o	Threat	Vulnerability	Risk	Net risk level	Risk Value
1	2	3	4	5	6
1	High level of corruption	Public administration, defense-industrial complex	Ineffective fight against corruption	6	Medium
2		Financial sector, non-financial sector, taxation	Risk of falsification of invoices in foreign economic activity (risk of illegal financial outflows from the country)	9	High
3		Financial sector, stability of national currency, financial literacy of the population	Low level of trust in the financial system	4	Medium
4	Unstable security situation in Ukraine	Activation of separatist movements, aggressive actions of the Russian Federation against Ukraine, illegal circulation of firearms, ammunition, explosives and toxic substances	Manifestations of terrorism and separatism	9	High
5		Smuggling, drug trafficking, human trafficking, financial fraud	Rise of the organized crime	6	Medium
6	High level of offshoring and shadowing in the economy	The country's economy and the financial system as a whole	High cash turnover	9	High
7		Public finance management, fiscal administration, hidden unemployment	Shadowing and offshoring of the national economy	6	Medium
8		Extraction of wealth offshore, weak state support for private business, lack of favorable investment climate	Financial capital outflow from the country	6	Medium
9		Stability of national currency, development of national economy, employment of vulnerable categories of the population, social protection of citizens	Low income of population	9	High
10	Use of latest technologies for ML/FT	Lack of legislation on circulation of cryptocurrencies in Ukraine, e-banking, self-service terminals, online trading on the stock exchange, provision of online services.	ML / FT via remote services or using virtual currencies	9	High

4. Assessment of threats, vulnerabilities and risks of the AML / CFT system

No	Threat	Vulnerability	Risk	Net risk level	Risk Value
1	2	3	4	5	6
11	Ineffective court trials of ML crimes	Quality of charges brought by LEA, insufficient substantiation of the gravity of a ML crime, failure by LEA to use cassation and appeal complaints regarding the imposition of insufficiently severe sentences by courts	ML crimes are not subject to effective, proportionate and persuasive sanctions	6	Medium
12	Insufficient legal and regulatory support of the financial monitoring field	State registration of legal entities, client identification of legal entities by REs, lack of verification of information on ultimate beneficial owners of legal entities.	Ineffective actions to identify and control ultimate beneficial owners (controllers)	6	Medium
13		Failure by REs to comply with requirements of the AML / CFT legislation	Ineffective sanctions for violations of the AML/CFT legislation	6	Medium
14		Sector of advisory services in the sale and purchase of real estate	Lack of legal regulation of some DNFBPs representatives	6	Medium
15		Implementation of changes to FATF standards and requirements of EU Directives into national legislation	Non-compliance of national AML / CFT legislation with international requirements	2	Low
16		Insufficient training of AML/ CFT participants	Public sector, REs	Insufficient training of AML/ CFT system participants	2
17	Ineffective crime investigation	Number of CPs initiated on FIU referrals or in which FIU referrals were used, fact of such CPs being brought to court	Ineffective system of investigation of FIU materials	4	Medium
18	ML/FT through non-profit organizations	Closing ML CPs during pre-trial investigation	Ineffective investigation of ML crimes	6	Medium
19		Closing FT CPs during pre-trial investigation	Ineffective investigation of FT crimes	6	Medium
20		Classification of ML crimes	Ineffective investigation of ML predicate crimes	6	Medium
21	ML/FT through non-profit organizations	Redirection of financial flows, inconsistency with stated goals	Use of non-profit organizations for ML/FT	6	Medium
22	Suspicious FTs involving PEP	Financial sector, non-financial sector, stock market, DNFBPs	Inadequate detection and sanctioning of suspicious financial transactions by PEPs	9	High
23	Insufficient AML/ CFT regulation and oversight of REs	Financial sector, non-financial sector, stock market, DNFBPs	Use of REs for ML	4	Medium
24		Financial sector, non-financial sector, stock market, DNFBPs	Use of REs for FT	4	Medium

ANNEX

ANNEX 1. LIST OF REFERENCES

1. Results of Sectoral Risk Assessment of SFMEs and administrative reporting of AML / CFT system participants.

2. The legislation of Ukraine:

2.1. The Constitution of Ukraine. June 28, 1996, No. 254k / 96-VR

2.2. Codes of Ukraine:

- Criminal Code of Ukraine. April 5, 2001, No. 2341-III
- Civil Code of Ukraine. February 16, 2003, No. 435-IV
- Tax Code of Ukraine. 2 December 2010, No. 2755-IV
- Criminal Procedure Code of Ukraine. April 13, 2012, No. 4651-VI

2.3. Laws of Ukraine:

- On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction. October 14, 2014, No. 1702-VII
- On Amendments to the Constitution of Ukraine (Regarding Justice). June 2, 2016, No. 1401-VIII (entry into force – September 30, 2016)
- On the Operative-Search Activity. February 18, 1992, No. 2135-XII
- On the Organizational and Legal Foundations of the Fight Against Organized Crime. June 30, 1993, No. 3341-XII
- On the All-Ukrainian Population Census. October 19, 2000, No. 2058-III
- On Banks and Banking. December 7, 2000, No. 2121-III
- On Political Parties in Ukraine. April 5, 2001, No. 2365-III
- On Counterintelligence. December 26, 2002, No. 374-IV
- On the Fight Against Terrorism. March 20, 2003, No. 638-IV
- On the Ban on Gambling in Ukraine. May 15, 2009, No. 1334-VI
- Ratification of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. November 17, 2010, No. 2698-VI
- On Public Associations. March 22, 2012, No. 4572-VI
- On Amendments to Some Legislative Acts of Ukraine on Identification of Ultimate Beneficiaries of Legal Entities and Public Figures. October 14, 2014, No. 1701-VII
- On Purification of Authorities. October 16, 2014, No. 1682-VII
- On Ensuring the Right to a Fair Trial. February 12, 2015, No. 192-VIII
- On Amendments to Some Legislative Acts of Ukraine on Liability of Parties Affiliated with Banks. March 2, 2015, No. 218-VIII
- On Amendments to Some Legislative Acts of Ukraine on Preventing and Combating Political Corruption. October 8, 2015, No. 731-VIII

- On Amendment of Article 87 of the Budget Code of Ukraine (on Financing of Political Parties). October 8, 2015, No. 732-VIII
- On the Judiciary and the Status of Judges. June 2, 2016, No. 1402- VIII
- On the High Council of Justice. December 21, 2016, No. 1798-VIII
- On the Constitutional Court of Ukraine. July 13, 2017, No. 2136-VIII
- On amendments to the Commercial Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and Other Legislative Acts. October 3, 2017, No. 2147-VIII
- On the Security Service of Ukraine. March 25, 1992, No. 2229-XII
- On the State Border Guard Service of Ukraine. April 3, 2003, №661-IV
- On the National Police of Ukraine. July 2, 2015, No. 580-VIII
- On the Foreign Intelligence Service of Ukraine. December 1, 2005, No. 3160-IV
- On the State Bureau of Investigation. November 12, 2015, No. 794-VIII
- On Bar and Practice of Law. July 5, 2012, No. 5076-VI

2.4. Decrees of the President of Ukraine:

- On the Concept of State Policy in the Field of Organized Crime. October 21, 2011, No. 1000/2011
- On the decision of the National Security and Defense Council of 28 August 2014 “On urgent measures to protect Ukraine and strengthen its defense capability”. September 24, 2014, No. 744/2014
- On the decision of the National Security and Defense Council of Ukraine of May 6, 2015 “On the National Security Strategy of Ukraine”. May 26, 2015, No. 287/2015
- On the decision of the National Security and Defense Council of Ukraine of May 6, 2015 “On measures to strengthen the fight against crime in Ukraine”. June 16, 2015, No. 341/2015
- On the decision of the National Security and Defense Council of Ukraine of September 2, 2015 “On the new version of the Military Doctrine of Ukraine”. September 24, 2015, No. 555/2015
- On measures to counteract the reduction of the tax base and the movement of profits abroad. June 28, 2016, No. 180/2016

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- On approval of the Procedure for organization and coordination of retraining and advanced training of financial monitoring specialists. August 19, 2015, No. 610
- On approval of the Procedure for conducting a national risk assessment in the field of prevention and counteraction to the legalization (laundering) of criminal proceeds and financing of terrorism and its results. September 16, 2015, No. 717
- On approval of the Procedure for the establishment of a list of persons related to terrorist activities or subject to international sanctions. October 25, 2015, No. 966
- On approval of the Procedure for keeping the Register of non-profit institutions and organizations, inclusion of non-profit enterprises, institutions and organizations in the Register and exclusion from the Register. July 13, 2016, No. 440

2.6. CMU Orders:

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- On the implementation of the Strategy for development of the system of prevention and counteraction to the legalization (laundering) of criminal proceeds, financing of terrorism and financing of the proliferation of weapons of mass destruction up to 2020. August 30, 2017. No. 601-r.

2.7. SFME Regulations:

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- On approval of the Regulation on the implementation by non-banking financial institutions of financial monitoring as part of their financial services of transfer of funds. September 15, 2016, No. 388
- On approval of the Regulations on the procedure of inspections for prevention and counteraction to the legalization (laundering) of criminal proceeds, terrorist financing and financing of the proliferation of weapons of mass destruction. June 20, 2011, No. 197
- On approval of the Regulation on the application of measures of influence by the National Bank of Ukraine. August 17, 2012, No. 346
- On the application of sanctions to non-banking financial institutions. May 12, 2015, No. 316
- On approval of the Regulations on the procedure of imposing administrative fines. December 29, 2001, No. 563

2.7.2. MoF Orders:

- On approval of the Regulation on the implementation of financial monitoring by reporting entities subject to financial monitoring, state regulation and oversight by the Ministry of Finance of Ukraine. December 22, 2015, No. 1160
- On approval of the Procedure for Ministry of Finance inspections of reporting entities. May 6, 2015, No. 489
- On some issues concerning imposition of sanctions by the Ministry of Finance of Ukraine. April 23, 2015, No. 460
- On approval of the Guidance on registration of materials on administrative offenses by officials of the Ministry of Finance of Ukraine. January 18, 2018, No. 14
- On approval of the Criteria for assessing the level of risk of reporting entities to be used for the purpose of legalization (laundering) of criminal proceeds, terrorist financing and financing for the proliferation of weapons of mass destruction. January 26, 2016, No. 17

2.7.3. NCSSMC Decisions:

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- On approval of the Procedure for control over the observance by professional stock market participants of requirements of the legislation in the field of prevention and counteraction to legalization (laundering) of criminal proceeds, financing of terrorism and financing of proliferation of weapons of mass destruction. July 17, 2015, No. 1038
- On approval of the Rules for consideration of cases of violation of requirements of the legislation on the prevention and counteraction to legalization (laundering) of criminal proceeds, financing of terrorism or financing of the proliferation of weapons of mass destruction and the application of sanctions. December 11, 2012, No. 1766
- On approval of the Guidance on registration of materials on administrative offenses by the National Securities and Stock Market Commission. March 26, 2013, No. 432
- On approval of the Criteria for assessing the level of risk of reporting entities to be used for the purpose of legalization (laundering) of criminal proceeds, terrorist financing and financing for the proliferation of weapons of mass destruction. May 31, 2016, No. 617

2.7.4. Ministry of Justice Orders:

- On approval of implementation of financial monitoring by reporting entities, state regulation and oversight of which is carried out by the Ministry of Justice of Ukraine. June 18, 2015, No. 999/5
- On approval of the Procedure for inspections by the Ministry of Justice of Ukraine and its territorial branches of reporting entities subject to financial monitoring. May 13, 2015, No. 673/5
- On approval of the Procedure for handling cases of violation of the requirements of the legislation in the field of prevention and counteraction to the legalization (laundering) of criminal proceeds, terrorist financing and financing of the proliferation of weapons of mass destruction, and the application of sanctions. 28 May 2015, No. 810/5

- On approval of the Regulation on the Commission of the Ministry of Justice of Ukraine on imposition of sanctions for violation of the requirements of the legislation in the field of prevention and counteraction to legalization (laundering) of criminal proceeds, terrorist financing and financing of the proliferation of weapons of mass destruction. May 28, 2015, No. 811/5
- On approval of Guidance on registration of materials on administrative offences. March 12, 2016, No. 672/5
- On approval of the Criteria for assessing the level of risk of reporting entities to be used for the purpose of legalization (laundering) of criminal proceeds, terrorist financing and financing for the proliferation of weapons of mass destruction. October 06, 2015, No. 1899/5

2.7.5. Ministry of Infrastructure Orders:

- On approval of the Regulation on the implementation of financial monitoring by reporting entities, state regulation and oversight of which is carried out by the Ministry of Infrastructure of Ukraine. September 26, 2017, No. 321
- On approval of the Procedure of inspections by the Ministry of Infrastructure Ukraine of reporting entities. September 28, 2017, No. 328
- On approval of the Procedure of consideration by the Ministry of Infrastructure of Ukraine of violations of the requirements of the legislation in the field of prevention and counteraction to the legalization (laundering) of criminal proceeds, terrorist financing and financing of the proliferation of weapons of mass destruction, and the imposition of sanctions. September 28, 2017, No. 327
- On approval of the Criteria for assessing the level of risk of reporting entities, state regulation and oversight of which are carried out by the Ministry of Infrastructure of Ukraine, to be used for the purpose of legalization (laundering) of criminal proceeds, terrorist financing and financing the proliferation of weapons of mass destruction. November 2, 2015, No. 437
- On approval of Guidance on registration of materials on administrative offences. September 3, 2015, No. 347
- On approval of the Regulation on the Commission of the Ministry of Infrastructure of Ukraine on imposition of sanctions for violations of the requirements of the Law of Ukraine “On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction” and / or other regulatory acts in the field of prevention and counteraction to the legalization (laundering) of criminal proceeds, terrorist financing and the financing of the proliferation of weapons of mass destruction . August 11, 2015, No. 307

2.7.6. NC Resolutions (National Commission for the State Regulation of Financial Services Markets):

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- On approval of the Criteria for assessing the level of risk of reporting entities, which are regulated and overseen by the National Commission for the State Regulation of Financial Services Markets. October 13, 2015, No. 2481

2.7.7. Ministry of Economy Orders:

- On approval of the Regulation on implementation of financial monitoring by reporting entities, state regulation and oversight of which is carried out by the Ministry of Economic Development and Trade of Ukraine. July 15, 2013, No. 787
- On approval of Procedure for conducting inspections by the Ministry of Economic Development and Trade of Ukraine of reporting entities subject to financial monitoring. April 03, 2019, No. 552
- On approval of the Procedure of consideration by the Ministry of Economic Development and Trade of Ukraine of violations of the requirements of the legislation governing the activities in the field of prevention

and counteraction to the legalization (laundering) of criminal proceeds, terrorist financing and financing of the proliferation of weapons of mass destruction. August 17, 2018, No. 1141

- On approval of Guidance on handling by officials of the Ministry of Economy of materials on administrative offenses. 14 October 2010, No. 1310
- On approval of the Criteria for assessing the level of risk of reporting entities to be used for the purpose of legalization (laundering) of criminal proceeds, terrorist financing and financing for the proliferation of weapons of mass destruction. September 25, 2018, No. 1368

2.7.8. Ministry of Finance orders (for REs, overseen by SFMS):

- On approval of the Regulation on the implementation of financial monitoring by reporting entities, state regulation and oversight of which is carried out by the State Financial Monitoring Service of Ukraine. July 23, 2015, No. 662
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- Guidance on AML/CFT-related data and statistics (2015) FATF
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- Methodology for assessing technical compliance with the FATF Recommendations and the effectiveness of AML/CFT systems (Updated 2019) FATF
- Money Laundering & Terrorist Financing Risk Assessment Strategies (2008) FATF
- National money laundering and terrorist financing risk assessment (2013)
- OSCE Handbook on Data Collection in support of Money Laundering and Terrorism Financing National Risk Assessments (2012)
- Report from The Commission to The European Parliament and The Council on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border activities (2017)
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- Risk Assessment Support for Money Laundering/Terrorist Financing (2016) The World Bank
- The FATF Recommendations
- The International Monetary Fund staffs' ML/FT NRA Methodology (2011)
- The World Bank Risk Assessment Methodology
- Report on the results of the fifth round of mutual evaluation of Ukraine by the Council of Europe Committee of Experts (MONEYVAL) (2017)
- Methodology for assessing technical compliance with the FATF Recommendations and the effectiveness of AML/CFT systems

4. Open registers and databases:

- Unified State Register of Court Decisions
- Uniform State Register of Legal Entities, Individual Entrepreneurs and Public Associations
- Single Portal for the Use of Public Funds
- Open Register of Politically Exposed Persons in Ukraine

5. Official websites:

- SFMS official website
- PGO official website
- SSU official website
- NPU official website
- NABU official website
- SFS official website
- NBU official web portal
- MoE official website
- MoF official website
- NACP official website
- SSS official website
- Judiciary of Ukraine official web portal
- SAS official website
- Financial Monitoring Academy official website

6. Other open sources:

- Oleksandr Yaremenko Ukrainian Institute for Social Research
- Transparency International
- Sociological Group «Rating»
- Ilko Kucheriv Democratic Initiatives Foundation
- Razumkov Center Sociological Service
- "Join-up" USAID Community Support Program
- Media Detector NGO

ANNEX 2.

LIST OF NRA PARTICIPANTS

1. FINANCIAL INTELLIGENCE UNIT (SFMS)

2. STATE FINANCIAL MONITORING ENTITIES:

- Ministry of Finance of Ukraine
- National Bank of Ukraine
- National Commission for the State Regulation of Financial Services Markets
- National Securities and Stock Market Commission
- Ministry of Infrastructure of Ukraine
- Ministry of Justice of Ukraine
- Ministry of Economy, Trade and Agriculture Ukraine

3. LAW ENFORCEMENT AGENCIES:

- Security Service of Ukraine
- Prosecutor General's Office of Ukraine
- The National Police of Ukraine
- National Anti-Corruption Bureau of Ukraine
- State Fiscal Service of Ukraine

4. INTELLIGENCE AGENCIES:

- Main Intelligence Directorate of the Ministry of Defense of Ukraine
- Foreign Intelligence Service of Ukraine
- Administration of the State Border Guard Service of Ukraine

5. OTHER STATE AUTHORITIES:

- National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and other Crimes
- State Statistics Service of Ukraine
- Ministry of Foreign Affairs of Ukraine
- National Agency for Corruption Prevention
- State Judicial Administration of Ukraine
- The Supreme Court of Ukraine

6. REPORTING ENTITIES:

- banks
- insurers (reinsurers)
- credit unions
- pawn shops and other financial institutions
- payment organizations, participants or members of payment systems
- commodity and mercantile exchanges
- professional stock market (securities market) participants
- postal operators
- business entities providing brokerage services in real estate purchase and sale transactions
- entities that trade in cash for precious metals, gems and jewelry
- business entities conducting lotteries
- notaries
- lawyers
- entities providing legal services

- audit firms
- entities providing accounting services

7. NON-GOVERNMENTAL ORGANIZATIONS:

- Government-public initiative «Together Against Corruption»
- Public organization «AntAC»

8. OTHER PARTICIPANTS:

- Interagency Scientific and Research Centre on problems of combating organized crime under the National Security and Defense Council of Ukraine
- National Academy of Security Service of Ukraine
- University of the State Fiscal Service of Ukraine
- Academy for Financial Monitoring

ANNEX 3.

LIST OF ABBREVIATIONS

ARMA	National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and other Crimes
ATO	Anti-terrorist operation
BVI	British Virgin Islands
HACC	High Anti-Corruption Court
GDP	Gross Domestic Product
ML	Legalization (laundering) of criminal proceeds
GNP	Gross National Product
DNFBPs	Designated Non-Financial Businesses and Professions
VRU	Verkhovna Rada of Ukraine
IFM	Internal financial monitoring
PGO	Prosecutor's General Office of Ukraine
SBI	State Bureau of Investigation
SSS	State Statistics Service of Ukraine
SEIR	State electronic information resources
SJA	State Judicial Administration of Ukraine
SFMS	State Financial Monitoring Service of Ukraine
ACR	Additional case referrals
SFS	State Fiscal Service of Ukraine
SBGS	State Border Guard Service of Ukraine
ED	External debt
CP	Criminal proceeds
USR	Uniform State Register of Legal Entities, Individual Entrepreneurs and Public Associations
FMIS	Unified information system in the field of preventing and counteracting the legalization (laundering) of criminal proceeds, terrorist financing and the financing of proliferation of weapons of mass destruction
URPI	Unified Register of Pre-trial Investigations
Law	Law of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of the Proceeds from Crime, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction"
CO	Criminal organizations
UBO	Ultimate beneficial owner
FMIS IPS	Information protection system of the financial monitoring information system
CC of Ukraine	Criminal Code of Ukraine
CP	Criminal Proceedings
CPCU	Criminal Procedure Code of Ukraine

CCU	The Constitutional Court of Ukraine
MW	Minimum wage
MIA	Ministry of Internal Affairs of Ukraine
IMF	IMF
MoE	Ministry of Economic Development, Trade and Agriculture of Ukraine
MoI	Ministry of Infrastructure of Ukraine
MoF	Ministry of Finance of Ukraine
MoJ	Ministry of Justice of Ukraine
ER	External reserves
IIP	International Investment Position
NBU	National Bank of Ukraine
NABU	National Anti-Corruption Bureau of Ukraine
NACP	National Agency for the Prevention of Corruption
NC	National Commission for the State Regulation of Financial Services Markets
NSSMC	National Securities and Stock Market Commission
NTMI	Non-taxable minimum income
NPU	National Police of Ukraine
NPO	Non-profit organizations
NBFI	Non-banking financial institutions
SSSU	State Statistics Service of Ukraine
NRA	National Risk Assessment
BDSL	Bonds of Domestic State Loan
OG	Organized groups
BFSL	Bonds of Foreign State Loan
OC	Organized crime
OCG	Organized criminal groups
OGCO	Organized groups and criminal organizations
OECD	Organization for Economic Cooperation and Development
UN	United Nations
ORDLO	Separate areas of Donetsk and Luhansk regions
OFM	Obligatory financial monitoring
BOP	Balance of Payments
AML/CFT	Anti-money laundering and Counter terrorist financing
LEA	Law Enforcement Agencies
PEP	Public Exposed Persons
FIU	Financial Intelligence Unit
CA	Current account

IA	Intelligence agencies
SAPO	Special Anti-Corruption Prosecutor's Office
SSU	Security Service of Ukraine
EPS	Electronic payment system
FISU	Foreign Intelligence Service of Ukraine
SFMEs	State Financial Monitoring Entities
SNA	System of national accounts
REs	Reporting Entities
FTs	Financial transactions
IE	Individual Entrepreneur
FPWMD	Financing proliferation of weapons of mass destruction
FT	Financing terrorism
CR	Case referrals
Sec	Securities

Currency abbreviations

CHF	Swiss Frank
GBP	UK Pound
EUR	Euro
RUB	Russian Ruble
UAH	Ukrainian Hryvnia
USD	US Dollar



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