



MINISTRY OF FINANCE OF UKRAINE

ORDER

April 27, 2015

Kyiv

No. 465

Registered with the Ministry of Justice of Ukraine
on May 20, 2015 under 581/27026

On Approving the Instruction for Documenting of Materials on Administrative Offenses by the State Financial Monitoring Service of Ukraine

Pursuant to the Code of Administrative Offenses of Ukraine and Article 24 of the Law of Ukraine "On Preventing and Countering Legalization (Laundering) of Proceeds of Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction"

I HEREBY ORDER:

1. Approve the attached Instruction for Documenting of Materials on Administrative Offenses by the State Financial Monitoring Service of Ukraine.

2. Declare null and void the Ministry of Finance of Ukraine Order of March 1, 2012, No. 324 "On Approving the Instruction for Documenting of Materials on Administrative Offenses by the State Financial Monitoring Service of Ukraine" registered with the Ministry of Justice of Ukraine on March 22, 2012 under No. 433/20746.

3. The Department of Tax, Customs Policy, and Accounting Methodology of the Ministry of Finance of Ukraine (Chmeruk M.O.) together with the Legal Department of the State Financial Monitoring Service of Ukraine (Stepenko O.L.) shall duly submit this Order for state registration to the Ministry of Justice of Ukraine.

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

5. Control of this order implementation shall be imposed on the Deputy Minister of Finance of Ukraine, Makeyeva O.L., and the First Deputy Head of the State Financial Monitoring Service of Ukraine, Kovalchuk A.T.

Minister

N. Jaresko

CONCURRED:

Head of the State Regulatory Service of Ukraine

K.M. Lyapina

Head of the State Financial Monitoring Service of Ukraine

I. B. Cherkaskyi

APPROVED
Ministry of Finance of Ukraine Order
of April 27, 2015, No. 465

Registered
with the Ministry of Justice of Ukraine on May
20, 2015 under No. 581/27026

**INSTRUCTION
for Documenting of Materials on Administrative Offenses by the State Financial Monitoring Service of Ukraine**

I. General provisions

1. This Instruction, developed pursuant to Article 24 of the Law of Ukraine "On Preventing and Countering Legalization (Laundering) of Proceeds of Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction" (hereinafter "the Law"), Articles 221, 255 of the Code of Administrative Offenses of Ukraine (hereinafter "the Code"), establishes a procedure for drawing up of protocols and materials on administrative offenses stipulated in Article 166⁹, Part 5 of Article 166¹¹, and Article 188³⁴ of the Code by the State Financial Monitoring Service of Ukraine (SFMSU) authorized officials and their submittal to the agencies authorized to review administrative offense cases.

2. Protocols on administrative offenses stipulated in Article 166⁹, Part 5 of Article 166¹¹, and Article 188³⁴ of the Code, shall be drawn by the State Financial Monitoring Service of Ukraine authorized officials (hereinafter "the authorized officials"), if these offenses in their essence do not entail criminal liability under the law.

3. If an offense was committed by several persons, the protocol on administrative offenses shall be drawn for each person separately. If one person commits several individual administrative offenses, the protocols shall be drawn up for each of the committed offenses.

4. The authorized officials shall draw up protocols on administrative offenses for violation of the following legislative requirements:

violation of the requirements for client (client representative) identification, verification, client examination, ascertaining client information;

failure to submit, untimely submission, violations in the submission procedure, or submission of false information to the State Financial Monitoring Service of Ukraine in the statutorily required cases;

violation of requirements on storage of official documents and other documents (including electronic documents drafted by the primary financial monitoring subject), their copies on identification of persons (clients, client representatives), as well as persons whose financial transactions were refused by the primary financial monitoring subject, client examination, ascertaining of client information, as well as all the documents pertaining to business relations (effecting the financial transaction) with the client (including results of any analysis during measures on client verification / in-depth client check), and data on financial transactions;

violation of the financial transaction(s) suspension procedure;

failure to execute legitimate requirements of the State Financial Monitoring Service of Ukraine officials to address violations related to preventing and countering legalization (laundering) of proceeds of crime or financing of terrorism, and financing of proliferation of weapons of mass destruction, or obstructing execution of their duties;

any disclosure of information which under the law is exchanged between the primary financial monitoring subject and the State Financial Monitoring Service of Ukraine, or the fact of its submittal (receipt) by a person who became aware of it through professional or official duties;

failure to submit, untimely submission, or submission of false information related to analysis of financial transactions that have become objects of financial monitoring, certificates and copies of documents (including those containing restricted-access information) in response to a State Financial Monitoring Service of Ukraine request;

failure of a legal entity to submit information on the legal entity's end beneficiary owners (controllers) provided for by the Law of Ukraine "On State Registration of Legal Entities and Individual Entrepreneurs" to the state registrar.

5. Protocols on administrative offenses shall be drawn up in relation to the following:

primary financial monitoring subjects' officials, entrepreneurs, members of the liquidation commission, liquidators or authorized official of the Deposit Guarantee Fund (paragraphs 2-6, Clause 4 of this Section);

persons who unlawfully in any form disclosed information which under the law is exchanged between the primary financial monitoring subject and the State Financial Monitoring Service of Ukraine, or the fact of its submittal (receipt) by a person who became aware of it through professional or official duties (paragraph 7, Clause 4 of this Section);

officials of the companies, institutions, organizations, and entrepreneurs who are not primary financial monitoring subjects (paragraph 8, Clause 4 of this section);

head of the legal entity or a person authorized to act in the name of the legal entity (executive agency) (paragraph 9, Clause 4 of this Section).

II. Documenting of Materials on Administrative Offenses

1. The protocol on the administrative offenses stipulated in Article 166⁹, Part 5 of Article 166¹¹, and Article 188³⁴ of the Code, shall be drawn on the protocol form, the template of which is provided in Attachment 1 to this Instruction, by the authorized official.

2. The administrative offense protocol shall be drawn up in the Ukrainian language. No strike-through or editing of the data included in the protocol is allowed, or adding records after the protocol has been signed by the person, in relation to which it was drawn.

3. When drawn, the administrative offense protocol drawing shall indicate the relevant part of the Code article which imposes administrative liability.

4. When stating the circumstances of the offense, the protocol shall indicate the place and time of its committing, the essence of the offense, which specific unlawful acts or omission were committed by the person in relation to which the administrative offense protocol is drawn, and which legislative provisions were thus violated.

5. If there are witnesses of the offense and affected persons, the protocol shall indicate their surnames, first names, and patronymics, as well as place of residence.

6. The authorized official shall tell the person, in relation to which the administrative offense protocol is drawn, his/her rights and obligations under Article 268 of the Code and the contents of Article 63 of the Constitution of Ukraine, which fact shall be noted in the administrative offense protocol. The person, in relation to which the administrative offense protocol is drawn, shall sign in the protocol for having been acquainted with the above, and if refusing to sign, it shall be recorded in the protocol accordingly and certified by the authorized official's signature.

7. The person, in relation to which the administrative offense protocol is drawn, shall be invited to provide a written explanation on the merits of the offense committed, which shall be included in the protocol and signed by the said person. The explanation may be appended to the protocol, which fact shall be recorded in this protocol.

If the person, in relation to which the administrative offense protocol is drawn, refuses to provide explanation on the merits of the offense committed, the authorized official shall make an appropriate record in the protocol to that effect.

8. The protocol shall be signed by the authorized official and the person, in relation to which the administrative offense protocol is drawn, and may also be signed by witnesses and affected persons if any.

If the person, in relation to which the administrative offense protocol is drawn, refuses to sign the protocol the authorized official shall make an appropriate record to that effect and certify it with his signature and witnesses' signatures if any.

The person, in relation to which the administrative offense protocol is drawn, shall have the right to add explanations to the protocol and comments on the content of the protocol, and state the motives for refusing to sign it.

9. The materials evidencing the fact of a committed administrative offense shall be attached to the protocol.

Each document shall have its own details (date, name, signatures, etc.), contain credible information, and meet the requirements of Ukraine's legislation on administrative offenses.

10. The protocol drawn and other materials evidencing the fact of a committed administrative offense, shall be formed into a duly documented case file. The administrative offense case, together with a State Financial Monitoring Service of Ukraine support letter, shall be submitted to the district (city district, city, or municipal and district) court at the venue of the administrative offense.

11. The administrative offense protocol shall be drawn in two copies, one of which shall be handed over to the person against which administrative charges are brought, against his/her countersignature.

12. Cases on administrative offenses stipulated in Article 166⁹, Part 5 of Article 166¹¹, and Article 188³⁴ of the Code, shall be heard by judges of the district (city district, city, or municipal and district) court in accordance with Article 221 of the Code.

III. Procedure for Documenting of Materials on Administrative Offenses

1. Materials on an administrative offense shall be documented by the authorized official which drew the protocol.

2. No later than the next day after its drawing, the protocol shall be registered by the authorized official in the Administrative Offense Protocol Registration Log (Attachment 2), the pages of which shall be numbered, tied, and sealed with the State Financial Monitoring Service of Ukraine seal.

3. Protocols shall be accounted for within one calendar year.

4. The protocol form shall have a series and a number.

5. The protocol form distribution shall be accounted for in the Administrative Offense Protocol Form Distribution Log (Attachment 3).

6. The Administrative Offense Protocol Form Distribution Log and the Administrative Offense Protocol Registration Log shall be stored for the period specified in Ukraine's legislation.

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

M.O. Chmeruk

**STATE FINANCIAL MONITORING SERVICE OF
UKRAINE**

Attachment 1
to the Instruction for Documenting of
Materials on Administrative Offenses by the
State Financial Monitoring Service of Ukraine
(Clause 1, Section II)

**Administrative Offense
PROTOCOL**

" ___ " _____ 20__

_____ (place of protocol drawing)

I, an authorized official of the State Financial Monitoring Service of Ukraine,

_____ (position, surname, first name, patronymic)

guided by Articles 254, 255, 256 of the Code of Administrative Offenses of Ukraine, drew this protocol to the effect that _____

_____ (place, time and essence of the offense, regulatory legal act,

_____ which envisages liability for this offense)

Witnesses of the offense:

Victim:

Information on the person, in relation to which the protocol has been drawn:

Surname, first name, patronymic _____

Date and place of birth _____

Place of residence, telephone number _____

Place of work, position, date of appointment _____

Identification document (type, series, number, issuing agency and date of issuance),

Taxpayer's account card registration number or passport series and number (for natural persons who on religious grounds duly refused to accept a taxpayer's account card registration number and have a stamp in the passport)

Family status _____

Education _____

Citizen _____ **was explained the content of Article 63 of the Constitution of Ukraine, as well as his (her) rights and obligations under Article 268 of the Code of Administrative Offenses of Ukraine** (*has the right to: get acquainted with the case materials, provide explanations, provide evidence, submit applications; during case review use legal assistance of an attorney or another law expert who under the has a legal right to provide legal assistance personally or on instruction of a legal entity, use mother tongue and translator's services if s/he does not know the language of the proceeding; appeal the case decision*).

Signature _____

Explanation of the person, in relation to which the protocol has been drawn (may be appended):

The following is appended to the protocol: _____

Signature of the person, in relation to which the protocol has been drawn, and which received one copy of the protocol: _____

Signatures of witnesses, if any: 1. _____
 2. _____

The protocol is submitted for review to _____
 (full name of the court)

Authorized official of the State Financial Monitoring Service of Ukraine

 (signature) (initials, surname)

Attachment 2
 to the Instruction for Documenting of
 Materials on Administrative Offenses by the
 State Financial Monitoring Service of Ukraine
 (Clause 2, Section III)

**Administrative Offense Protocol Registration
 LOG**

No.	Series, number, and date of protocol drawing	Date and place of the offense	Information on the person, in relation to which the protocol has been drawn			Position, surname, and initials of the person who drew the protocol	Note
			Surname, first name, patronymic	position	place of work		
1	2	3	4	5	6	7	8

to the Instruction for Documenting of
Materials on Administrative Offenses by the
State Financial Monitoring Service of Ukraine
(Clause 5, Section III)

**Administrative Offense Protocol Form Distribution
LOG**

No.	Date of protocol form issuance	Series and numbers of the distributed protocol forms, from _____ to _____	Number of distributed protocol forms (in words)	Recipient's full name	Note
1	2	3	4	5	6