

PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM

1.50

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Develop a system that would enable better cooperation between the Administration, supervisory bodies and obliged entities, with the aim of better implementation of regulations with emphasis on prevention of money laundering and funding of terrorism and not burdening obliged entities with numerous formalities e.g. establishing a Task Force that would meet regularly to monitor the implementation of regulations with the participation of representatives of the competent authorities.	2009		√	
Create an analysis of new changes to the regulations in this area and recommend a meeting with the Government of RS in order to further improve the legal framework.	2020			√
Accept and adopt initiatives of professional associations to exempt certain business relationships from obligations prescribed by law (e.g. risk insurance).	2019			√
Continue organizing adequate seminars and workshops with the purpose of conducting certain training for the persons to whom the New Law with the purpose of increasing the efficiency of its applicability.	2011		√	

CURRENT SITUATION

After amendments in 2019, near the end of 2020, new changes have been made to the Law on the Prevention of Money Laundering and Financing of Terrorism (Off. Gazette of RS No. 153/2020, hereinafter: „Law“) foremost, in order to enable harmonization with the Law on Digital Property (“Official Gazette of RS”, No. 153/2020), to regulate in a comprehensive and thorough manner the issuance and trading of digital property, to regulate services that can be provided in connection with digital property, as well as the conditions for performing business related to digital assets. Also, full compliance with FATF Recommendation 15 was implemented and the EU Fifth Directive on the Prevention of Money Laundering and Terrorist Financing was taken into account.

The Law does not set out too many novelties (at least not compared to the previous Law), but certain changes have been made, of which we draw attention to the following: change of definitions and introduction of new terms, special provisions related to transactions with digital assets (obligations of service providers, definitions of initiators and users of transactions, etc.), exemptions from the obligation to collect data when issuing electronic money, establishing and verifying the identity of a natural person through a qualified electronic certificate, specified video identification procedure (not only for the National bank of Serbia - NBS but also for other supervisory bodies), ban on providing services that enable concealment of the party's

identity, specified certain competencies but also punitive measures for non-compliance with the Law.

It is specifically stipulated that the NBS is the supervisory body for entities which provide services related to virtual currencies and that the Securities Commission will be the supervisory body for entities dealing with services related to digital assets that provide services related to digital tokens.

In accordance with their obligation to adopt bylaws, state authorities have already adopted certain regulations, of which we single out the adoption of a decision on guidelines for the application of the provisions of the Law for obligors supervised by the NBS, decision on conditions and manner of determining and verifying the identity of a natural person using electronic means of communication as well as the rulebook on conditions and manner of determining and verifying the identity of a natural person using electronic means of communication regulating conditions and manner of establishing and verifying the identity of a natural person those parties, a party that is an entrepreneur and a natural person who is a representative of a party that is a legal entity and without the obligatory physical presence of particular person.

POSITIVE DEVELOPMENTS

The competent authorities were very active not just regarding the amendments to the Law but also, the necessary regulations and bylaws, taking into account to some extent

the comments made on the earlier draft of the Law by obligors and the interested public (especially those concerning the introduction of the video identification procedure, the possibility of keeping documentation in electronic form, better regulation of the form of consent of the top management).

Amended Law and the other enacted regulations are almost fully harmonized with the relevant EU directives and international standards and conventions in this field, which is of special relevance to foreign investors.

FIC supports the initiative to continue the promotion of not just the legal framework, but also to keep intensive monitoring on the application of all new regulations and cooperation with all competent state bodies with the hope that these new regulations will bring forth the much-needed legal certainty, taking into account the specificities of the legal framework.

REMAINING ISSUES

Although the amendments to the Law were (again) adopted practically without a proper public debate, FIC emphasizes that it is necessary to achieve good cooperation between all competent state bodies and investors, companies, professional associations and business organizations, in order for the Law to be successful.

The application of the Law, above all, depends on the activities of the Administration and other competent bodies (NBS etc.). Standards and rules established in EU countries are largely accepted and incorporated into the new text of the Law and the next step would be to find mechanisms for their implementation in cooperation with business entities.

The remaining problems are the existence of several supervisory bodies with often different views in terms of application of regulations, imprecision of certain legal provisions, legal solutions that are sometimes stricter than the requirements of relevant foreign and EU regulations but also the regulations of neighbouring countries - such as obligation of licensing of authorized persons and their deputies as well as obligation to obtain excerpts from commercial registries for all companies in ownership chain of the client (i.e. impossibility to determine ultimate beneficial owner through other sources), frequent and unclear requests for additional information from the side of supervisory bodies, which consume time and personnel of the obliged entities, and the tendency of the supervisory authorities not to deal with essential issues which are important for the prevention of money laundering and funding of terrorism but with punishing obliged entities for certain formal omissions (which there are potentially more of, given the growing number of regulations and their frequent change).

FIC RECOMMENDATIONS

- Develop a system that would enable better cooperation between the Administration, supervisory bodies and obliged entities, with the aim of better implementation of regulations with emphasis on prevention of money laundering and funding of terrorism and not burdening obliged entities with numerous formalities e.g. establishing a Task Force that would meet regularly to monitor the implementation of regulations with the participation of representatives of the competent authorities.
- Create an analysis of new changes to the regulations in this area and recommend a meeting with the Government of RS in order to further improve the legal framework.
- Accept and adopt initiatives of professional associations to exempt certain business relationships from obligations prescribed by law (e.g. risk insurance).
- Continue organizing adequate seminars and workshops with the purpose of conducting certain training for the persons to whom the New Law with the purpose of increasing the efficiency of its applicability.