

PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM

1.25

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

In 2021 and 2022, no changes have been made to the Law on the Prevention of Money Laundering and Financing of Terrorism (Off. Gazette of RS Nos. 113/2017, 91/2019 and 153/2020), hereinafter: „Law“). The latest amendments were introduced in 2020 to enable harmonization with the Law on Digital Property (Off. Gazette of RS, No. 153/2020) and full compliance with FATF Recommendation 15 and, to a large extent, with the EU Fifth Directive.

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. Also, the amendments to the Rulebook on the methodology of performance of activities in accordance with the Law on the Prevention of Money Laundering

and Financing of Terrorism specified which persons that can be classified in the low-risk category of money laundering and financing of terrorism, and introduced other amendments dealing with services and transactions that can be classified in the low-risk category, the content of the annual report on executed internal inspection and the form of keeping the records of data and collected information regarding the obliged entities in the digital asset sector.

In addition, at the meeting on 30 September 2021, the Government of the Republic of Serbia decided to introduce the National Risk Assessment of Money Laundering and National Risk Assessment of Terrorist Financing, Risk Assessment of Money Laundering and Terrorist Financing in the Digital Asset Sector, and Risk Assessment of Proliferation Financing of Weapons of Mass Destruction.

Also, the Action Plan for the Implementation of the Strategy Against Money Laundering and the Financing of Terrorism (2020-2022) was adopted on 17 March 2022 with the primary aim of establishing a complex and comprehensive system for combat against money laundering and financing terrorism.

The Administration for the Prevention of Money Laundering adopted a Directive on the indicators for entrepreneurs and legal entities that provide accounting services and factoring companies.

POSITIVE DEVELOPMENTS

The competent authorities remained very active regarding the necessary regulations and bylaws, considering 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). However, there is still room for improvement regarding the opening of this process for the experts and the business community.

Amended Law in force 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.

Moreover, the announcement of the Committee of the Council of Europe MONEYVAL, published in December 2021, states that "Serbia improved the measures against the combat against money laundering and financing terrorism and by doing so proved significant enhancement concerning the degree of compliance with the FATF standards.

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, considering the specificities of the legal framework.

REMAINING ISSUES

Although the new regulations are adopted without a sufficiently open 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 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.