

Regulation on requirements for prevention and combating money laundering and terrorism financing in the activity of Foreign Exchange Entities and Hotels No. 201 of 09 August, 2018

Note: *The translation is unofficial, for information purpose only*
Executive Board of the National Bank of Moldova

DECIDES:

on the approval of the Regulation on the requirements for prevention and combating money laundering and terrorism financing in the activity of Foreign Exchange Entities and Hotels no. 201 of 9 August 2018

(in force as of 24.08.2018)

Published in the Official Monitor of the Republic of Moldova no. 321-332 of 24.08.2018, art. 1312

REGISTERED

at the Ministry of Justice

of the Republic of Moldova no. 1353 of 21.08.2018

Pursuant to art. 11 par. (1) and art. 27 par. (1) letter c) and art.51 letter b) of the Law no. 548-XIII of 21 July 1995 on the National Bank of Moldova (republished in the Official Monitor of the Republic of Moldova, 2015, no. 297-300) and art. 13 par. (3) and (14), art. 15 par. (2) letter a) of the Law no. 308 of 22 December 2017 on Prevention and combating money laundering and terrorist financing (Official Monitor of the Republic of Moldova, 2018, no. 58-66, art. 133), Executive Board of the National Bank of Moldova

DECIDES:

1. To approve the Regulation on requirements for prevention and combating money laundering and terrorism financing in the activity of Foreign Exchange Entities and hotels, in accordance with the Attachment.
2. This decision shall enter into force at the date of publication in the Official Monitor of the Republic of Moldova.

**Chairman
of the Executive Board
Sergiu CIOCLEA**

Attachment
Approved by the Decision of the
Executive Board of the
National Bank of Moldova
No. 201 of 9 August 2018

REGULATION
on requirements for prevention and combating money laundering and terrorism financing in
the activity of Foreign Exchange Entities and Hotels

Chapter I
GENERAL PROVISIONS

1. The Regulation on requirements for prevention and combating money laundering and terrorism financing in the activity of foreign exchange entities and hotels (hereinafter - Regulation) establishes rules for: development of the internal program, application of customer due diligence requirements, including customer enhanced due diligence measures; data storage; reporting the suspicious activities and transactions; organization and implementation of the elements of internal control system, as well as other requirements in order to minimize the risks related to money laundering and terrorist financing.
2. The subjects of this Regulation are the foreign exchange entities and hotels that according to the licenses of the National Bank of Moldova are carrying out the currency exchange activity in cash with individuals.
3. At the performance of currency exchange operations through the currency exchange device, the foreign exchange entities and hotels will ensure compliance with the requirements stipulated in the Law nr.62-XVI of March 21, 2008 on foreign exchange regulation and in this Regulation.
4. The terms and expressions used in this Regulation shall have the meanings provided in the Law no. 308 of December 22, 2017 on prevention and combating money laundering and terrorism financing, the Law no. 62-XVI of March 21, 2008 on foreign exchange regulation and other normative acts of the National Bank of Moldova and the Office for Prevention and Fight against Money Laundering related to the field of prevention and combating money laundering and terrorism financing.

Chapter II
Requirements on the internal program on prevention and
combating money laundering and terrorism financing and the assessment of the risk of money
laundering and terrorism financing

[Name of chapter II amended by NBM Decision no. 38 of 11.03.2021, in force 02.07.2021]

5. The foreign exchange entity and the hotel develop and implement their own internal program for prevention and combating money laundering and terrorism financing (hereinafter – the PCMLTF Program).
6. The PCMLTF Program represents policies, procedures and other rules and practices, including customer awareness rules, which prevent the use of foreign exchange entities and hotels for the purpose of money laundering or terrorism financing, intentionally or not, by organized criminal groups or their associates.
7. When developing the PCMLTF Program, the foreign exchange entities and the hotels will be guided by the provisions of the Law no.308 of December 22, 2017 on prevention and combating money laundering and terrorism financing, this Regulation and by other normative acts of the Office for Prevention and Fight against Money Laundering, issued for the implementation of the specified law.

8. The PCMLTF Program, developed by the foreign exchange office and by the hotel, shall provide, without limitation, the following:

- 1) obligations of the persons with senior degree management positions, responsible for ensuring compliance of policies and procedures with the legal requirements on prevention and combating money laundering and terrorism financing, according to item 42 of this Regulation;
- 2) policies and procedures on the customer due diligence measures;
- 3) policies and procedures on the enhanced due diligence measures for the customers and operations with increased risk, including those of Politically Exposed Persons;
- 4) procedures for developing and updating the list of persons, groups and entities involved in terrorist activities;
- 5) procedures for record keeping and data storage;
- 6) procedures for identifying and reporting suspicious activities and transactions to the person with senior degree management positions and to the Office for Prevention and Fight against Money Laundering;
- 7) establishing appropriate procedures for staff recruitment and employment requirements to ensure professionalism of personnel;
- 8) performing of independent audit regarding testing the compliance of the foreign exchange office and the hotel with the policies, procedures, internal controls in the field of prevention and combating money laundering and terrorism financing.

9. The foreign exchange office and the hotel revise (update), when necessary, but at least annually, the PCMLTF Program, taking into account the provisions of the legislation.

10. The foreign exchange office and the hotel keeps a copy of the developed PCMLTF Program inside the premises of the foreign exchange office (its branch) and/or inside the hotel's foreign exchange office.

10¹. The foreign exchange office and the hotel identifies and evaluates, taking into account the risk assessment at national level, the risks of money laundering and terrorist financing, the results of the evaluation being approved by the senior manager responsible for ensuring compliance with internal policies and procedures with the requirements of the legislation in the field of preventing and combating money laundering and terrorist financing. The assessment shall be updated at least after each national risk assessment on money laundering and terrorist financing. The foreign exchange office and the hotel applies due diligence measures to customers according to the level of risk involved, considering such factors as the type of customer and the type of foreign exchange operation.

[Item 10¹ introduced by NBM Decision no. 38 of 11.03.2021, in force 02.07.2021]

Chapter III

CUSTOMER DUE DILIGENCE MEASURES

11. The foreign exchange office and the hotel shall apply measures to identify the customer who performs the foreign exchange operation at the counter of the foreign exchange office, the hotel's exchange office or through their foreign exchange device, as well as the beneficial owner:

- 1) when performing a foreign exchange operation in cash with the amount exceeding 200000 lei (according to the official exchange rate of the Moldovan leu against foreign currencies valid at the time of the foreign exchange operation);
- 2) when there is a suspicion of money laundering or terrorism financing;
- 3) when there are suspicions of the veracity, sufficiency and accuracy of previously obtained identification data.

12. At the identification of the individual in the cases referred to in item 11, the foreign exchange office and the hotel shall obtain:

- 1) name and surname;
- 2) date and place of birth;
- 3) citizenship and identity document details (IDNP, series and number, issue date, code of the issuing body (if exists) or other unique IDs of an identity document containing the holder's photograph);
- 4) home address and/or residence;
- 5) occupation, public position held and/or the name of the employer;
- 6) information on the source of financial means;
- 7) other data and information, if applicable.

13. The foreign exchange office and the hotel shall identify the beneficial owner of the client and shall apply reasonable and risk-based measures to verify his identity, using documents, information and data obtained from a secure source, in order to be sure that they know who the beneficial owner is.

[Item 13 amended by NBM Decision no. 38 of 11.03.2021, in force 02.07.2021]

14. The foreign exchange office and the hotel determine whether the person performing the foreign exchange transaction operates on his behalf and, if the transaction is carried out by an authorized person, the foreign exchange office and the hotel require the Power of Attorney to be submitted, certified in the manner prescribed by the law. The foreign exchange office and the hotel apply customer identification measures in accordance with the provisions of item 12 of this Regulation.

15. At the identification of the customer, the foreign exchange office and the hotel shall verify the submitted information that relates to both the customer and the beneficial owner before performing the foreign exchange transaction.

16. In order to verify the information presented at the identification of the customer and of the beneficial owner, the foreign exchange office and the hotel shall request presentation of the identification document of the customer. Thus, the exchange office and the hotel performs:

- 1) verification that the picture of the identity document matches the individual presenting it;
- 2) verification of submitted information compliance with the provisions of item 12.

17. The documents provided for the identification of the customer and of the beneficial owner as well as for verification of their identity, shall be presented in their original form and shall be valid at the date of their presentation.

18. The foreign exchange office and the hotel shall be obliged not to carry out the foreign exchange operation if it cannot ensure compliance with the requirements of items 12-16. The foreign exchange office and the hotel report such circumstances to the Office for Prevention and Fight against Money Laundering, as required by law.

19. The foreign exchange office and the hotel will prepare, complete, maintain and update the information on identified individuals in a special register, developed in accordance with Attachment no.1 to this Regulation.

20. The register of the identified individuals, drawn up in accordance with item 19, is signed by the person with senior management positions/ branch manager responsible for ensuring of compliance of policies and procedures with legal requirements on prevention and combating money laundering and terrorism financing and shall be kept in the premises of the foreign exchange office and of the

hotel. The person with senior management positions/ branch manager, the cashier, as well as the supervising authorities shall have access to the Register of identified individuals.

[Item 20 amended by NBM Decision no. 38 of 11.03.2021, in force 02.07.2021]

21. The foreign exchange office and the hotel may also have other documents/registers in accordance with item 42 of the Regulation on foreign exchange entities' activity approved by the Decision of the Executive Board of the National Bank of Moldova no.335 of 1st of December 2016, which ensures the availability of information on the identification and verification of the client natural person, who performs the foreign exchange operation.

22. The veracity of the information presented in the Register of the identified individuals drawn up in accordance with item 19, shall be confirmed by the signature of the cashier/person who performs the foreign exchange operation inserted into the relevant field in the Register.

23. The foreign exchange office and the hotel will perform continuous monitoring of customers' operations to establish the operations conducted in significant amounts and in an unusual manner, that may generate money laundering and terrorism financing risks.

Chapter IV

ENHANCED CUSTOMER DUE DILIGENCE MEASURES

24. The foreign exchange office and the hotel shall apply enhanced due diligence measures establishing their magnitude according to the risk associated with the type of client and/or the volume of the foreign exchange transaction performed, taking into account the national risk assessment carried out by the Office for Prevention and Fight against Money Laundering and the provisions of the Law no.308 of December 22, 2017 on the prevention and combating money laundering and terrorism financing.

25. The foreign exchange office and the hotel when applying the requirements of the item 24, obtain information on the purpose of the operation, the source of funds and other information, taking into account the provisions of art.8 sec. (2) of the Law no.308 of December 22, 2017 on the prevention and combating money laundering and terrorism financing.

26. The foreign exchange office and the hotel take into account the following factors that generate increased risk in the context of the foreign exchange operation.

- 1) the customer is a resident of a state/jurisdiction that, according to credible sources (mutual evaluations, detailed assessment reports or published monitoring reports), do not have effective systems to prevent and combat money laundering and terrorist financing;
- 2) the customer is a resident of a state/jurisdiction that, according to credible sources have a high risk of corruption or other criminal activities;
- 3) the customer is a resident of a state/jurisdiction subject to sanctions, embargoes or similar measures, established by relevant international organizations, in accordance with the commitments undertaken by the Republic of Moldova;
- 4) the customer is a resident of a state/jurisdiction that provide funding or support for terrorism activities or on the territory of which the designated terrorism organizations are operating;
- 5) the customer is a politically exposed person;
- 6) the customer repeatedly requests the foreign exchange of amounts close to the reporting and/or identification threshold, in a short period of time;
- 7) the customer buys or sells considerable amounts of foreign currency against the national currency or other foreign currencies;

- 8) the customer exchanges large amounts of banknotes of small value in banknotes of higher value;
- 9) other identified risk factors.

27. The foreign exchange office and the hotel follow the list of countries mentioned in the item 26, sub-items 1)-4), taking into account the normative acts issued by the National Bank of Moldova and by the Office for Prevention and Combating Money Laundering in order to implement the provisions of Law no. 308 of December 22, 2017 on prevention and combating money laundering and terrorism financing.

When conducting foreign exchange transactions with individuals from high-risk countries (jurisdictions) in regard of which the FATF requests to take action, in addition to the enhanced due diligence measures referred to in item 25, the foreign exchange office and the hotel will apply additional measures to limit or not to carry out foreign exchange operations with these persons. The foreign exchange office and the hotel will ensure the enhanced monitoring of the operations with the natural persons from the country (jurisdiction) with increased risk and the reporting of such operations, in accordance with the provisions set out in art. 11 of Law no. 308/2017.

[Item 27 amended by NBM Decision no. 38 of 11.03.2021, in force 02.07.2021]

28. The foreign exchange office and the hotel when performing a currency exchange operation with politically exposed persons, their family members and with persons associated with politically exposed persons, ensure at least the following measures:

- 1) verify if, according to the information/lists dedicated to this purpose, the client and/or his beneficial owner is or not a politically exposed person;
- 2) request information about family members and persons associated with the politically exposed persons according to item 12 sub-item 1) to 3);
- 3) ask the customer for additional information on the source of wealth and of money involved in the foreign exchange transaction (for example, salary certificates, lease agreements or asset sales, or other documents).

The foreign exchange office and the hotel have to register the obtained information to make it available to the competent authorities.

[Item 28 amended by NBM Decision no. 38 of 11.03.2021, in force 02.07.2021]

29. The foreign exchange office and the hotel do not carry out the foreign exchange operation in cash in national and foreign currency, as well as with travel checks in foreign currency with individuals involved in terrorist activities and the proliferation of weapons of mass destruction. About the refusal to carry out the foreign exchange operation, the foreign exchange office and the hotel inform the Office for Prevention and Fight against Money Laundering, according to art.5 sec. (3) of the Law no.308 of December 22, 2017 on prevention and combating money laundering and terrorism financing.

30. In order to apply the requirements of item 29, the foreign exchange office and the hotel shall permanently monitor and use the information and data provided by the Security and Intelligence Service in accordance with the provisions of Law N.308 of December 22, 2017 on the prevention and combating money laundering and terrorism financing.

Chapter V

REPORTING ACTIVITIES AND TRANSACTIONS

31. The foreign exchange office and the hotel are obliged to inform the Office for Prevention and Fight against Money Laundering about:

- 1) suspicious goods, activities or transactions suspicious to be related to money laundering, to

associated offences and to terrorism financing that are in course of preparation, attempting, accomplishment, or are already performed – immediately, within 24 hours of identification of the suspicious act or circumstances;

2) clients' transactions carried out in cash, through a single transaction with value of at least 200 000 MDL (or its equivalent) through several cash transactions that seem to have a connection between them – within 10 days. Data on activities or transactions carried out in cash are reflected in a special form that shall be remitted to Office for Prevention and Fight against Money Laundering within 10 calendar days starting with the first day of the reporting month and ending on the last day of the calendar month.

32. The foreign exchange office and the hotel will have:

1) clear procedures, based on the provisions of the Law no.308 of December 22, 2017 on the prevention and combating money laundering and terrorism financing, brought to the attention of all personnel, which provide for the reporting by personnel of all suspicious goods, activities or transactions suspicious to be related to money laundering, to associated offences and to terrorism financing;

2) the procedure for detecting suspicious activities and transactions according to the criteria and indications established by the Office for Prevention and Fight against Money Laundering;

3) the procedure to inform the person with senior management positions on issues related to the prevention and combating of money laundering and terrorist financing.

33. Special forms, remitted to Office for Prevention and Fight against Money Laundering shall be written taking into account the provisions of art.11 sub-item 5) to 8) of the Law no.308 of December 22, 2017 on prevention and combating money laundering and terrorism financing.

34. The foreign exchange office and the hotel shall complete, maintain and update information on operations remitted to Office for Prevention and Fight against Money Laundering in a special register, developed in accordance with attachment no.2 to this Regulation.

35. The register of operations submitted to the Office for Prevention and Fight against Money Laundering, written in accordance with item 34, shall be signed by person with senior management positions responsible for ensuring the compliance of policies and procedures with legal requirements for the prevention and combating money laundering and terrorism financing, and is kept inside the premises of foreign exchange office and hotel. Persons with senior management position, the cashier, the authorities with supervisory functions will have access to the Registry of remitted operations to the Office for Prevention and Fight against Money Laundering.

Chapter VI DATA STORAGE

36. The foreign exchange office and the hotel shall keep all documents and information about customers and beneficial owners, obtained and prepared as part of customer precautions, including copies of identification documents, primary documents, business correspondence, results of analyzes and research, special forms and business correspondence with the competent bodies, for a period of 5 years after the date of the foreign exchange operation and, subsequently, up to 5 years - in electronic format, only for the purpose provided by Law no. 308/2017 on prevention and combating money laundering and terrorist financing. The stored documents must be sufficient to enable the reconstitution of each activity or transaction (including volume, currency, etc.) in such a way as to serve, if necessary, as evidence in criminal, misdemeanor and other legal proceedings.

[Item 36 in the wording of NBM Decision no.38 of 11.03.2021, in force 02.07.2021]

37. The rules and procedures for keeping records and data storage on identified operations and customers must include at least the following:

- 1) the subject of the record;
- 2) the content of records (records);
- 3) time of recording;
- 4) deadlines for keeping information and documents.

38. The foreign exchange entity and the hotel ensure that documents and information on identification and verification of clients, beneficial owners and other data/information are available to the National Bank of Moldova and the Office for Prevention and Fight against Money Laundering. At the request of competent authorities, the period of keeping evidence related to clients and operations may be extend for the requested period, but not more than 5 years.

39. In order to fulfill their obligations in the field of prevention and combating money laundering and terrorism financing, the foreign exchange office and the hotel provide access to cashiers/persons who, according to the service obligations, have access to customer identification data and other relevant information. The employees of the foreign exchange office and the hotel are obliged to keep confidentiality of information obtained during the performance of their service obligations.

Chapter VII

REQUIREMENTS FOR THE INTERNAL CONTROL SYSTEM

40. The foreign exchange office and the hotel shall have an internal control system that will ensure the continuous compliance with normative acts and the PCMLTF Program, which will help minimize the related risks.

41. The main elements of the internal control system are:

- 1) the designation of the person with senior management positions responsible for ensuring compliance of internal policies and procedures with the requirements of legislation in the field of preventing and combating money laundering and terrorism financing, and for ensuring the permanent fulfillment of the PCMLTF Program;
- 2) establishing a program of continuous training of personnel in the field of prevention and combating money laundering and terrorism financing;
- 3) the measures that will be applied to non-compliant personnel in the field of prevention and combating money laundering and terrorism financing and the PCMLTF Program.

42. The person with senior management positions shall be empowered at least with the following attributions:

- 1) to provide consultations and to organize the training of the employees of foreign exchange offices and hotels in the course of fulfillment of the requirements for preventing and combating money laundering and terrorism financing;
- 2) making the decision on the submission of special forms to the Office for Prevention and Fight against Money Laundering and other authorized bodies;
- 3) collaboration with the Office for Prevention and Fight against Money Laundering and other authorized bodies;
- 4) performing the internal control upon the compliance of the foreign exchange office and hotel's employees with the provisions of the legislation and the PCMLTF Program.

43. The continuous training program for staff in the field of money laundering and terrorism financing shall include all aspects related to the prevention and combating of money laundering and

terrorism financing process (customer identification and verification, monitoring of operations, identification of high risk customers and identification and reporting suspicious transactions). The periodicity and the specific content of the training have to be adjusted to the needs of the foreign exchange office and the hotel. The training will take place when the legislation or program for preventing and combating money laundering and terrorism financing is amended, but not less than once a year.

The person with senior management positions has to keep track of the trainings completed, making records of the date and character of the training, surnames and names of the workers who have been trained.

44. The foreign exchange office and the hotel ensure that its employees and the senior management have the right knowledge, skills and abilities to fulfill effectively the responsibilities of complying with the requirements of preventing and combating money laundering and terrorism financing.

45. When conducting the audit on testing compliance with policies, procedures, internal controls in the field of prevention and combating money laundering and terrorism financing, the foreign exchange office and the hotel will take into account at least the following elements: the frequency of the audit, taking into account the risk of money laundering and the financing of terrorism; the objectives of the audit and the manner of informing the senior management of the results.

46. The audit may be performed both by the staff of the foreign exchange office and the hotel responsible for the internal audit/control, as well as by an independent external audit/auditing entity.

Chapter VIII SANCTIONS

47. In case of violations of the provisions of this Regulation and of the obligations stipulated by the legislation on prevention and combating money laundering and terrorism financing, the National Bank of Moldova applies sanctions in accordance with the legislation in force.