

FINANCE AND MONEY TURNOVER

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THE IMPORTANCE OF FINANCIAL MONITORING DURING WAR

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Formation of a stable economy is one of the primary tasks of Ukrainian society. In connection with this, there is a need for constant control over financial transactions. That is why it became necessary to conduct an analysis of the state of financial monitoring in the conditions of war. The article analyzes today's situation regarding state control over financial operations of economic entities. It contains the main provisions related to the work of the State Financial Monitoring Service and the National Bank of Ukraine. The concept of financial monitoring, the main provisions according to the current legislation of Ukraine are given. Attention is focused on two levels of financial monitoring. The role of the state in financial monitoring is defined. The article examines the legislation related to financial monitoring and regulation during the war, since after the start of hostilities, it is even more difficult to track the illusory legalization of income. Moreover, since there is no perfect legislation on this issue yet, conducting your own research is expedient and relevant. It has been analyzed how many enterprises have received suspicion of money laundering and what is the total amount of assets that were tried to be legalized through banking systems. An analysis of the number of institutions under the control of the State Financial Monitoring Service was carried out. Measures to influence violators of current legislation in terms of financial monitoring have been identified. Measures to influence violators of current legislation in terms of financial monitoring have been determined. The research proposal provides an analysis of what laws have been proposed to stabilize the work of enterprises and provide them with the necessary financial reporting under the conditions of martial law. The expediency of strengthening control by the state and creating stricter control rules is substantiated.

ВАЖЛИВІСТЬ ФІНАНСОВОГО МОНІТОРИНГУ ПІД ЧАС ВІЙНИ

Колісник А.В., Кушнір С.О.*Запорізький національний університет**Україна, 69600, м. Запоріжжя, вул. Жуковського, 66***Ключові слова:**фінансовий моніторинг,
фінансові операції,
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економіка, банк

Формування стабільної економіки є однією із першочергових задач українського суспільства. У зв'язку із чим виникає необхідність проведення постійного контролю над фінансовими операціями. Саме тому стало необхідним проведення аналізу стану фінансового моніторингу в умовах війни. В статті проаналізовано сьогоденню ситуацію щодо державного контролю над фінансовими операціями суб'єктів господарювання. В ній наведено основні положення, які стосуються роботи Державної служби фінансового моніторингу та Національного банку України. Наведено поняття фінансового моніторингу, основні положення згідно діючого законодавства України. Акцентовано увагу на, два рівні проведення фінансового моніторингу. Визначено роль держави у проведенні фінансового моніторингу. В статті досліджено законодавство, що стосується фінансового моніторингу, регулювання під час війни, оскільки після початку бойових дій, відстежити примарну легалізацію доходів ще важче. Тим паче, що досконалого законодавства з цього питання ще немає, провести власне дослідження є доцільним та актуальним. Проаналізовано, скільки підприємств наразі

отримало підозру у відмиванні коштів та якою є загальна сума активів, які намагались легалізувати через банківські системи. Проведено аналіз кількості установ, які перебувають під контролем Державної служби фінансового моніторингу. Виявлено заходи впливу до порушників чинного законодавства в частині фінансового моніторингу. Визначено заходи впливу до порушників чинного законодавства в частині фінансового моніторингу. У дослідницькій пропозиції наведено аналіз стосовно того, які закони було запропоновано задля стабілізації роботи підприємств та подання ними необхідної фінансової звітності в умовах дії воєнного стану. Обґрунтовано доцільність посилення контролю з боку держави та створення більш жорстких правил контролю.

Statement of the problem

A stable economy of the country is one of the most important factors in the state's existence. The economic protection of the state from various types of risks consists of regular tracking, monitoring, and measures to combat corruption, money laundering, and other criminal schemes that can affect financial stability. Economic crimes not only destroy the economy but also violate the interests of businesses and citizens.

Ever since the annexation of Crimea and hostilities in the Donetsk and Luhansk regions, and even more so after the start of a full-scale war on February 24, 2022, this issue has become even more urgent. Thus, there is information about new corruption schemes related to humanitarian aid, fund-raising by various "philanthropists", schemes for the distribution of aid funds from foreign organizations, and so on. For example, some businesses continue to do business with the attacker despite ongoing hostilities. That is why financial monitoring during the war is a very urgent issue that needs urgent treatment.

Analysis of recent studies and publications

Many scientists were engaged in the analysis of the issue of financial monitoring. M.V. Bormotova, I.G. Kozysts, A. Yu. Los, E.A. Mukhina, S. Popov, T.O. Chasova, B. Shyshkovsky, O. Shpak made a significant contribution to the study of the issue [1; 3; 4; 6; 10; 11] and other researchers. In their work, the new legislation related to the regulation of financial control on the territory of Ukraine and the issue of financial monitoring during the investigation of various types of crimes was investigated.

Objectives of the article

However, during martial law, the study of issues of financial monitoring, as well as the analysis of the most typical cases of prosecution of those guilty of violating the law, require analysis and further processing.

The main material of the research

High-quality financial monitoring in wartime directly affects the financial stability of our state.

Financial monitoring is a special form of control over financial transactions, thanks to which it is possible to establish information about a separate financial transaction, counterparties, the origin of funds, etc.

According to the Law of Ukraine "On Prevention and Counteraction of Legalization (Laundering) of Criminal Proceeds, Financing of Terrorism and Financing of

Proliferation of Weapons of Mass Destruction" dated December 6, 2019. No. 361-IX (hereinafter referred to as the Law): "Financial monitoring is a set of measures taken by financial monitoring entities in the field of prevention and countermeasures, which include state financial monitoring and primary financial monitoring" [7].

The law provides for the establishment of transparent and effective control mechanisms for operations with money and other assets that may be related to the legalization of proceeds of crime, the financing of terrorism, and the financing of the proliferation of weapons of mass destruction. In addition, the Law stipulates requirements for the storage of documents and information about transactions that may be related to the legalization of proceeds of criminal origin, within a certain period; implementation of a system of risk-oriented approach to fighting against the legalization of proceeds of crime and financing of terrorism, establishment of liability for violation of requirements provided for by law, including administrative, civil and criminal liability.

The mentioned Law is the latest in force, it was preceded by some previous legislative acts since 2001.

To prevent the possibility of legalization of criminally obtained income through the banking system of Ukraine, banks, the National Bank of Ukraine, and other entities defined by the Law carry out financial monitoring. This procedure includes conducting inspections of each client of the bank and analyzing their financial transactions. [5].

Financial monitoring, which consists in identifying transactions that may be related to the legalization of proceeds of crime, financing of terrorism, and financing of the proliferation of weapons of mass destruction, is carried out at two levels, the first of which is carried out by subjects of primary financial monitoring. Such subjects include, in particular, banks, insurers (reinsurers), unions, pawnshops, operators of payment systems, commodity, and other exchanges, professional participants of the stock market (securities market), postal operators, subjects of auditing activities, notaries, business entities that provide legal, advocacy and accounting services, business entities that conduct lotteries and/or gambling, providers of services related to the circulation of virtual assets and other designated financial institutions [8].

Subjects of primary monitoring must keep documentation and store information on transactions with cash and other assets that may be related to the legalization of proceeds of crime, financing of terrorism, and financing of the proliferation of weapons of mass destruction, within a certain period. They also have the right to stop operations

that are suspicious of money laundering or terrorist financing, and to report this to specially authorized bodies: subjects of state financial monitoring.

Following Articles 20 and 21 of the Law, transactions subject to financial monitoring include threshold financial transactions, which include financial transactions of politically significant persons, their family members and/or persons related to politically significant persons, payment transactions for the transfer of funds abroad (including to the states classified as offshore zones by the Cabinet of Ministers of Ukraine), financial transactions with cash (deposit, transfer, receipt of funds), financial transactions of an electronic resident (e-resident). Suspicious financial transactions also belong to transactions subject to financial monitoring. Financial transactions are considered suspicious if the subject of primary financial monitoring suspects or has sufficient grounds to suspect that they are the result of criminal activity or are related to or related to the financing of terrorism or the financing of the proliferation of weapons of mass destruction [8].

In the conditions of martial law, the issue of control of payments and receipt of income acquires an increased level of urgency. After all, despite the current situation, which greatly complicates the work of all enterprises and the state as a whole, many people are trying to find ways to legalize income obtained through criminal means. In addition to the sale of goods that do not pass through tax declarations and are not listed in any state database, problems such as the indication of the invalid value and the sale of products received as humanitarian aid also appeared. Since these products are supplied to Ukraine for free provision of the population, they cannot be sold.

Reporting on its activities, the State Financial Monitoring Service of Ukraine noted that during the period of martial law in 2022, there was a strengthening of control by the regulatory bodies of Ukraine. Today, the list of current legislative and regulatory documents, in addition to the Law of Ukraine, includes:

- The main directions of development of the system of prevention and countermeasures against the legalization (laundering) of proceeds obtained through crime, the financing of terrorism, and the financing of the proliferation of weapons of mass destruction in Ukraine for the period until 2023 and the plan of measures for their

implementation, approved by the Decree of the CMU dated 12.05.2021 No. 435-p.

- Action plan for improving the national system of financial monitoring based on the results of the 5th round of assessment of Ukraine by the MONEYVAL Committee of the Council of Europe.

- Strategic development programs of the State Financial Monitoring for the period until 2024.

- Priorities of State Financial Monitoring for the period of martial law agreed by the Ministry of Finance of Ukraine” [2].

Also, on the website of the State Monitoring Service of Ukraine, it is stated that control over the settlement of problems with financial transactions is carried out thanks to the support of the European Union. After adopting the course of integration into the EU, Ukraine began the process of gradually implementing the norms of control over financial transactions, which have been in force in the countries of the European Union for a long time.

According to the State Financial Monitoring Service, in 2022, 1.179.392 cases related to the illegal conduct of banking transactions were taken into account. Data for 2022 are shown in blue and data for 2021 in orange (Fig. 1).

Almost all institutions that currently carry out financial activities are under the control of the service. Of course, the first months of the war suspended the activities of all monitoring groups. However, from May to the end of 2022, the State Financial Control Service managed to record 928.471 reports.

So it can be seen that during 2022 procedures of constant financial monitoring were carried out, thanks to which several problems requiring consideration in court were identified. An approximate calculation based on materials related to money laundering showed that during 2022, the legalization of illegally obtained profits was carried out for approximately 7.7 billion hryvnias. Exact figures can be named after the completion of court proceedings [2].

This year, the National Bank of Ukraine has already managed to indict and terminate the work of three banks and eleven non-banking institutions due to violations of legislation in the field of prevention and countermeasures against the legalization (laundering) of criminal proceeds, financing of terrorism and financing of the proliferation of weapons of mass destruction [5]. Let’s consider examples of

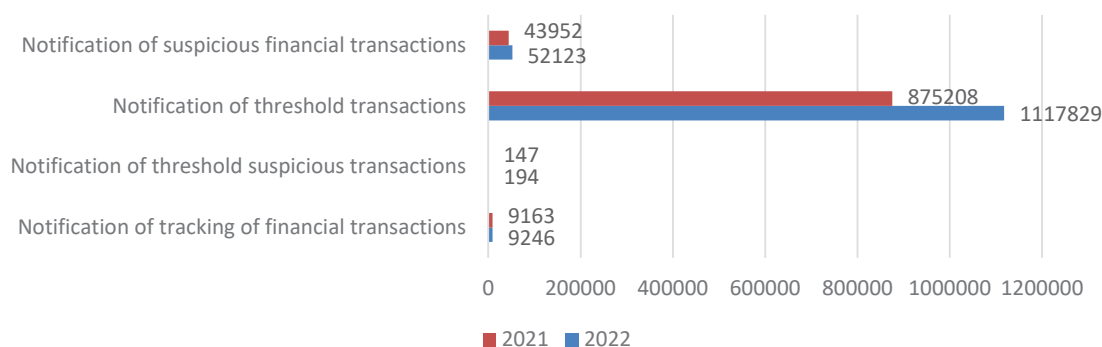


Fig. 1 – Number of subjects of primary monitoring taken into account due to financial transactions by category for 2021–2022

Source: compiled by the author based on [2]

the detection of violations of legislation and the application of appropriate influence measures by the NBU (Table 1).

Measures to influence violators of current legislation in terms of financial monitoring for the period from 01.01.2023 to 01.03.2023.

Such several violations were detected by the NBU only at the beginning of 2023, from which it can be concluded that financial monitoring in the conditions of martial law is a mandatory procedure since some entrepreneurs continue to conduct illegal activities and try to legalize illegally obtained funds with the help of payment systems. Currently, such procedures mainly concern the funds obtained through the illegal sale of arms and humanitarian aid. There are also cases of illegal transportation of cars and medicines across the border. Already in April 2022, the police of Ukraine solved some crimes that were connected with the illegal

sale of humanitarian weapons and medicines in the amount of more than 8 million hryvnias. Similar enterprises were also exposed in Lviv, Bukovyna [12], Cherkasy [5], Zaporizhzhia, and other regions of Ukraine.

Procedures for monitoring financial transactions can help in identifying the facts of such violations and preventing illegal activities in the future, forming the awareness of businesses and citizens about conducting legal activities, paying taxes and not hiding the real situation from the state and partners (Table 2).

Such measures can help create an additional security system and improve the overall state of the Ukrainian economy. They are directly assigned to work with money laundering and can help improve financial monitoring in Ukraine. The State Financial Monitoring Service constantly develops and implements the state policy in

Table 1 – Measures to influence violators of current legislation in terms of financial monitoring for the period from 01.01.2023 to 01.03.2023

№	Name of the institution	The essence of the violation	The influence measures applied
1	“IBOX BANK” JSC	The bank systematically violated the current legislation related to money laundering and counter-terrorism procedures. During the past year, the bank already received warnings and paid fines for improper performance of their duties, but they did not heed the advice	License revoked
2	“FC LEO” LLC	For failure to fulfill the obligation to carry out financial monitoring	Fine in the amount of UAH 73.556.600
3	“A-PAY” LLC	For not conducting the financial monitoring procedure	Fine in the amount of UAH 64.256.900
4	“UKRFINSTANDART” LLC	For failure to conduct primary financial monitoring	Fine in the amount of UAH 14.600.100
5	“FC “HUNTER”” LLC	For violating the requirements of Clause 15 of Part Two of Article 8 of Law No. 361-IX and Clause 41 of Chapter IV of the Regulations on the Procedure for Organization and Supervision in the Field of Financial Monitoring	Fine in the amount of UAH 340.000.00
6	LLC “MR. CASH” and PJSC “UFG”	Due to violation of clauses 4 and 6 of the Law on Financial Accounting	Fines in the amount of UAH 255.000. and UAH 50,000 in accordance
7	“Statuscapital” LLC, “ESCROW CAPITAL” LLC, “YURSPECFINANCE” LLC	For violation of the requirements of paragraph 1 of the second part of Article 8 of Law No. 361-IX, which consists in the improper fulfillment by institutions of the obligation to register with a specially authorized body as a subject of primary financial monitoring	Fines in the amount of UAH 1.700.00 for each institution
8	“POLIKOMBANK” JSC, “Raiffeisen Bank” JSC, “FINANCIAL WORLD” FC” LLC, “CONVERSIA” FC” LLC	For failure to conduct primary financial monitoring	Written warnings [2]

Table 2 – Financial monitoring measures for 2023–2024

Name	The essence
Strategic development programs of the State Financial Monitoring for the period until 2024	This program was prepared together with the EU Anti-Corruption Initiative in Ukraine. Its main provisions state: <ul style="list-style-type: none"> The need to organize and carry out risk assessment at the national level to counter and prevent money laundering. <ul style="list-style-type: none"> Carrying out digital transformation of the process. <ul style="list-style-type: none"> Implementation of a set of additional reports. Increasing the level of qualification of those who deal with the issue of money laundering.
Priorities of State Financial Monitoring for the period of martial law agreed by the Ministry of Finance of Ukraine.	<ul style="list-style-type: none"> Conducting permanent financial monitoring in accordance with the Law of Ukraine. <ul style="list-style-type: none"> Creation of stricter methods of controlling the work of enterprises. <ul style="list-style-type: none"> Funding of additional measures to control money laundering.

the field of financial monitoring, ensures the functioning and development of the financial monitoring system, and monitors compliance with the legislation on prevention and countermeasures against legalization (laundering) of proceeds obtained through crime, financing terrorism and financing the proliferation of weapons of mass destruction.

Conclusions

Analysis of the issue of financial monitoring shows that this procedure helps control the legality of transactions of legal entities and individuals, preventing money laundering

and various types of illegal activities. In the conditions of the war in Ukraine, this issue has become even more urgent, which is why there is a need to strengthen control by the state and create stricter control rules.

As practice has shown, the most common violations are non-fulfillment or partial non-fulfillment of the financial monitoring procedure, for which primary monitoring subjects receive fines or are deprived of their licenses. Also, in 2023, it is planned to expand the system of measures for financial monitoring to improve the state of the current economy of Ukraine.

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