



ORDER

18.03.2011

Chisinau
municipality

No. 40

On the approval of Guidance for the identification of transactions suspected of financing of terrorism

According to the provisions of art. 4, 6, 8, 11 and 17 of the Law no. 190-XVI of 26th July 2007 on the prevention and combating of money laundering and financing of terrorism (Official Monitor of the Republic of Moldova, 2007, no.141-145, art. 597) and art. 9 clause g) of the Law no. 1104-XV of 06.06.2002 On the Centre for the Combating of Economic Crimes and Corruption (Official Monitor of the Republic of Moldova, 2002, no. 91-94, art. 668), I -

ORDER:

1. For the proper implementation of the Law no. 190-XVI of 26.07.07 on the prevention and combating of money laundering and financing of terrorism in matters directly related to the determination of signs of suspicion of financing of terrorism, as well as for the proper identification of risks in this area, to approve the attached Guidance for the identification of transactions suspected of financing of terrorism (see attachment).
2. The responsibility for the interaction with reporting entities, supervising authorities and the control of execution of this order shall be vested with the Service for the Prevention and Combating of Money Laundering (Mr. Valeriu Sircu).

Director

Viorel CHETRARU

APPROVED
Centre for the Combating of Economic Crimes
and Corruption

Director _____ Viorel CHETRARU
No. _____ „____” _____ 2010

REGISTERED
Ministry of Justice

of the Republic of Moldova
Minister _____ Alexandru TANASE
No. _____ „____” _____ 2010

Attachment
To the order of the Director of the Centre
for the Combating of Economic Crimes
and Corruption
no. _____ of _____ 2010

GUIDANCE FOR THE IDENTIFICATION OF TRANSACTIONS SUSPECTED OF FINANCING OF TERRORISM

Chapter I

General provisions

Terrorism – means the ideology of violence and the practice of influencing by violence the decision making by public authorities or international organizations, combined with threatening of population and/or other violent and illegal actions.

Financing of terrorism – means making available or deliberate collection by any person and by any methods, direct or indirect, of property of any nature acquired by any means, or the provision of financial services for the usage of such property or services, being aware that these would be totally or partially used for the organization, preparation or commission of a crime of terrorist character by an organized criminal group, a criminal organization or by a person committing or attempting to commit a crime of terrorist character or that organizes, controls, associates, makes priority agreements, instigates or participates as an accomplice in the commission of such a crime.

Terrorist act – means the provocation of an explosion, fire accident or any other act casting a threat or causing the death or bodily injuries or harm for one's health, considerable damages to property or to the environment, or any other severe consequences with the aim to threaten the population or a part of it, to draw the attention of the society to political, religious or any other ideas of the offender or to impose the state, the international organizations, the corporate entities or private individuals to commit or to abstain from the commitment of any action, as well as the threats to commit such acts for the same purposes.

Terrorist activities - these mean the activities that include the following:

- planning, preparations, attempts to commit and the commission of a terrorist act;

- instigation to terrorist acts, to violence against private individuals and companies, to destruction of material property for terrorist purposes and justification of terrorism in public;
- foundation of an illegal armed organization, of a criminal community (organization), of an organized criminal group for the commission of terrorist acts and participation in such acts;
- recruitment, arming, training and use of terrorists;
- financing of preparations or commission of a terrorist act or another crime of terrorist character, financing of a terrorist organization, of a terrorist group or single terrorist, as well as provision of any other assistance or support to terrorists;

International terrorist activity – terrorist actions committed by:

- a terrorist, a terrorist group or terrorist organization on the territory of 2 or more states with infliction of damages for the interests of these states;
- citizens of one state against the citizens of another state or on the territory of another state;
- when both the terrorist and his victim are citizens of the same state or other states, while the crime is committed outside of the territory of these states.

Crimes of terrorist character – the crimes provided by the art.134¹¹ of the Criminal Code of the Republic of Moldova.

Terrorist – person involved in terrorist activity of any form.

Terrorist group – two or more persons associated for the purpose of terrorist activity.

Terrorist organization – an organization created for terrorist activity or an organization admitting the use of terrorism in its activities. Any organization is considered to be a terrorist one if at least one of its subdivisions is involved in terrorist activity.

Combating of terrorism – activity of prevention, detection and annihilation of terrorist activity and reducing its effects.

Anti-terrorist operation – special activities aimed at the annihilation of a terrorist act, at the assurance of safety of private individuals, neutralization of terrorists and minimization of consequences.

Zone of anti-terrorist operation – particular sectors of a locality, a transportation vehicle, a building, structure, territory, premise with adjacent area where the anti-terrorist operation is being performed.

Androlepsy – forced trapping of persons by a terrorist or by a terrorist group in order to coerce the private individuals, corporate entities or public authorities to obey.

Countries of specific interest – the lists of countries and non-cooperating entities that do not have norms against money laundering, financing of terrorism, corruption, etc. approved by the normative acts issued by the Centre for the

CHAPTER II CHARACTERISTICS OF FINANCING OF TERRORISM

The major objective of terrorism is "to intimidate the population or to coerce a government or an international organization to commit particular acts or to abstain from them".

At the same time, besides the difference in the criminal objectives the terrorist organizations need financial support in order to attain their scopes.

A successful terrorist group, as any criminal organization is capable to build and maintain an efficient financial infrastructure. To do this it has to develop sources of financing, money laundering tools and finally, a method capable to provide or obtain materials and other necessary logistical items for the commission of terrorist acts.

Generally, as mentioned by the experts, the terrorism is financed from two primary sources.

The first source is the financial support provided by states or organizations with large enough infrastructure in order to collect and then create the funds available for a terrorist organization. This kind of terrorism, the so-called state-sponsored terrorism has been reduced during the recent years, being replaced by other types of support. A private individual with sufficient funds may also provide substantial support to the terrorist groups.

The income derived directly from diverse "revenue-generating activities" is another major source of funds for the terrorist organizations and groups.

Similar to criminal organizations, the incomes of a terrorist group or organization may be derived from crimes or other illegal activities.

A terrorist group or organization in a particular region may derive its incomes from kidnapping and extortion of funds. In such a scenario the ransom paid for the hostages, taken together with the specially demanded "revolution tax" form the necessary financial resources, simultaneously playing the secondary role as means of intimidation for the target population.

Besides kidnapping and extortion of funds the terrorist groups may engage in contraband, various kinds of frauds (for example, credit card frauds), thefts or robbery, and/or trafficking in drugs.

The financing of terrorist groups and organizations, unlike the financing of criminal organizations, may include incomes from legal sources or legal incomes combined with illegal ones.

So, the legal funds used for the financing of this activity constitutes the major difference between the terrorist groups and the traditional criminal organizations. The share of legal funds used for the support of terrorism varies from one terrorist group to another and on the geographic location of sources of financing and the location of terrorist acts organized by the latter.

Taxation of communities and the money collection schemes are another very efficient tool for the collection of funds for the support of terrorism. Very often such activities are performed in the name of apparently charity organizations or under the pretext of social assistance, being aimed at a particular community, while some community members are made to believe that they donate money for good deeds.

Most of the charity organizations receiving donations are legal to the extent to which they get engaged in the statutory activities. However, a substantial share of members may be unaware of the fact that a part of the funds collected by the charity organization is used for terrorist purposes.

For example, the supporters of a terrorist movement of a particular country may perform apparently legal fund raising activities in another country. These supporters may raise the necessary funds by infiltration and take-over of control in the institutions of the community of immigrants in another country. Some specific money collection methods may include: member fees and/or subscription fees; sales of publications, excursions, cultural and social events; solicitations in communities; requests to rich community members and donations made from personal income.

CHAPTER III

MONEY LAUNDERING AND TERRORISM

From the technical point of view the methods used by the terrorists and their associations in order to raise funds from illegal sources differ at least from the ones used by the traditional criminal organizations. Even if financing from legal sources from the first glance would not be likely to involve money laundering, the terrorist groups and organizations anyway have to hide or camouflage their connections with the legal funds. This means that the terrorist groups also have to find methods to launder the funds in order to use them without drawing the attention of authorities.

Based on their experience in the investigation of financial activities performed by terrorist organizations the FATF experts concluded that the terrorists and their supporting organizations generally use the same methods as the criminal groups in order to have their money laundered. Some of the special money laundering techniques detected at various terrorist groups include: smuggling of cash (both by couriers and money transfer systems), structured deposits or withdrawals from accounts in banks, procurements of various financial instruments (checks, payment orders), use of credit or debit cards and transfers. Also there are evidences that particular forms of hidden money transfer systems (especially “hawalas”) have played an important role for the movement of funds associated with terrorism.

The difference between the legally and illegally obtained funds raises an important legal problem of applying the measures for the combating of money laundering for the financing of terrorism. Generally the money laundering was defined as a process by which the funds obtained in the result of or generated by criminal activities are moved or concealed with the aim of hiding the connection between the crimes and the proceeds thereof. On the other hand, the final scope of

the terrorists is not to generate profits by their fund raising schemes but to obtain resources to support their activities. So, in some countries the financing of terrorism can not be included as a crime ancillary to money laundering and respectively, it is impossible to apply the corresponding preventive and repressive measures adequate for the combating of terrorist activity. When the terrorists or the terrorist organizations derive their financial support from legal sources (donations, sales of publications, etc.), there still are many factors to make it harder to detect and pursue these funds.

For example, the charity and not-for-profit organizations and other corporate entities were noticed to play an important role in the financing of particular terrorist groups. The apparently legal source of such financing might mean that there are very few or no indicators at all that would make an individual transaction or a series of transactions to be detected as having relationship with terrorist activities.

The other important aspects of the financing of terrorism that make it even more difficult to detect are the amounts and the nature of implied transactions. Several FATF experts have mentioned that the funds necessary to arrange for the terrorist attack are not always significant and the relevant transactions usually are not complex. For example, a closer investigation of financial connections between the terrorists that have committed the attack of September 11th, 2001 in New-York, USA, has demonstrated that most of the individual transactions were of quite small amounts under the limit of reported transactions, while in most of the cases the transactions implied only electronic money transfers. The private individuals that acted as receivers of funds appeared to be foreign students receiving money from their parents or as financial support for their studies, so the transactions were not identified by the involved reporting entities as suspicious ones.

CHAPTER IV

CHARACTERISTICS OF FINANCIAL TRANSACTIONS SUSPECTED OF FINANCING OF TERRORISM CAPABLE OF INVOLVING MORE DETAILED CONTROL

As a normal component of their activity the reporting entities should be aware of certain elements of individual transactions that could be parts terrorism financing schemes.

The following list of potential suspects or unusual activities is aimed to demonstrate the types of transactions that could involve additional control and attention. This list is not exhaustive and does not replace any obligations that may have been imposed by the competent national authorities in the reporting of suspicious or unusual transactions.

This list of characteristics must be taken into account by the reporting entities together with the other available data (including any lists of persons suspected of terrorism, terrorist groups or persons involved or entities, as may be issued by the UN or by the Security and Information Service), the source of transaction itself, the

parties involved in the transaction, as well as any other elements that may be communicated by the national authorities for the combating of money laundering.

The existence of one or several factors described in this list may result in a better control of the transaction. At the same time, the existence of one of the factors itself does not mean that a transaction is a suspicious or an unusual one.

The reporting entities must be extremely careful when the following factors are detected:

A. Banking accounts

(1) Accounts receiving periodical relevant deposits but in other periods being left without deposits.

These account may be later used for the creation of an apparently legal financial background for the conduction of additional fraudulent transactions.

(2) An inactive account with minimum balance unexpectedly is credited by a deposit or a series of deposits followed by withdrawals in cash day after day until the amount transferred is over.

(3) Upon opening an account the client refuses to provide the information requested by the financial institution, tries to reduce the amount of provided information to a minimum, or provides misleading data or information difficult to verify.

(4) An account has several authorized signatories but they do not seem to have any relationship between them (neither family nor business relationships).

(5) An account is opened by a corporate entity or organization residing at the same address with other corporate entities or organization, but for which the same person or several persons are authorized signatories, when there are no apparent economic or legal reasons for such an arrangement (for example, private individuals serving as directors for several companies with the same legal address, etc).

(6) An account is opened in the name of a recently incorporated legal company and receives numerous deposits well above the expected level compared to the incomes of the founders.

(7) Opening of several accounts by the same person that subsequently receive numerous small deposits that being taken altogether are not proportionate with the expected income of the client.

(8) An account is opened in the name of a corporate entity involved in the activities of an association or foundation related to the requirements of a terrorist organization.

(9) An account is opened in the name of a corporate entity, foundation or association that might have connections to a terrorist organization, reporting movements of funds well above the expected incomes.

B. Deposits and withdrawals

(1) The deposits of a business company taken together with financial instruments not natural for the normal activity of such company (for example, the deposits that include a combination of business activities, salary and social insurance payments).

(2) Large withdrawals of cash from a business account that normally would not have any transactions in cash.

(3) Large deposits in cash are credited to the account of a private individual or corporate entity when their business activity would normally imply the use of transfers.

(4) Combination of deposits in cash and financial instruments in an account where such transactions are irrelevant for the normal usage of the account.

(5) Structuring of deposits via multiple branches of the same financial institution or by the same group of persons entering the same branch simultaneously.

(6) Deposits or withdrawals of cash in the amounts exactly under the identification or reporting threshold.

(7) Presentation of uncounted funds for a transaction. Upon verification the transaction is reduced down under the identification or reporting threshold.

(8) Deposits or withdrawals of many financial instruments in amounts that are permanently under the identification or reporting thresholds, especially when these instruments are numbered in series.

C. Electronic transfers

(1) Electronic transfers divided into smaller amounts, apparently in an effort to avoid identification or reporting.

(2) Electronic transfers to or in the favor of a person that does not request information relating to the initiator of the transaction, or the person in whose name the transaction is being performed, especially when the inclusion of such information is reasonably expected.

(3) Use of several personal and business accounts, or accounts of not-for-profit or charity organizations in order to collect and then immediately or shortly afterwards transfer the funds to a smaller number of foreign beneficiaries.

(4) foreign currency exchange transactions performed in the name of a client by a third party, followed by electronic money transfers that apparently have no business connections with the client or with the countries of specific interest.

D. Characteristics of clients or their business activities

(1) Any transaction debiting or crediting the accounts of private individuals or corporate entities involved in terrorist activities, according to the list approved and published by the Security and Information Service.

(2) The funds generated by a business held by private individuals of the same origin or with involvement of other persons of the same origin from countries of specific interest, acting in the name of similar businesses.

(3) The common address of the persons involved in transactions with cash, especially when it is a business location and/or does not correspond to the declared occupation (for example, students, unemployed persons, individual entrepreneurs, etc.).

(4) The occupation declared by the client is not proportional to the type of activity (for example, a student or an unemployed person receiving numerous electronic transfers from various geographic locations).

(5) As for the not-for-profit or charity organizations, the financial transactions that do not seem to have a logical economic scope or that do not seem to have any connection with the statutory activities of the organization and other parties involved in the transaction.

(6) A vault cell is rented in the name of a commercial entity when its business activity is unknown or does not justify the use of a vault cell.

(7) Elements of unexplainable inconsequence in the client identification or verification process (for example, reticence in the determination of actual or previous country of residence, country that has issued the passport, countries visited as by passport data and documents provided to confirm the name, address, date of birth, etc.).

E. Transactions related to countries of specific interest

(1) The transactions that imply exchange of currencies are then followed by electronic transfers to countries of specific interest (for example, to the countries designated by the national authorities (S.I.S and C.C.E.C.C.) as non-cooperative, etc).

(2) The deposits are shortly followed by electronic money transfers, especially to or via a location of specific interest.

(3) A business account with a considerable number of incoming or outgoing electronic transfers that do not seem to have a logical connection with the businesses or other economic purposes, especially when such activity is routed to/via one or several locations of specific interest.

(4) The use of multiple accounts to collect and then transfer the funds to a smaller number of foreign beneficiaries, both private individuals and corporate entities, especially when these are in countries of specific interest.

(5) A client obtains a credit instrument or engages in commercial transactions involving the circulation of funds to or from countries of specific interest when apparently there are no logical reasons for conducting business with such countries.

(6) Opening of accounts with financial institutions of countries of specific interest.

(7) Sending or reception of funds via international money transfer systems to or from countries of specific interest.