

## REGULATORY INTELLIGENCE

**COUNTRY UPDATE-Republic of North Macedonia: AML**

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Money laundering is financial crime with economic effects that may lead to serious problems in the country's stability if it is not properly regulated and institutionally sanctioned.

The Republic of North Macedonia has taken action to align its domestic anti-money laundering legislation even more closely with international standards. Last year, the country adopted the new Law on anti-money laundering and countering financing of terrorism, which is harmonised with the Fifth Directive on preventing the use of the financial system for anti-money laundering and countering financing of terrorism purposes of 2018 (the [Fifth Anti-Money Laundering Directive 2018/843 EC](#)) (that amends and supplements the [Fourth Money Laundering Directive \(2015/849 EC\)](#)), but also includes solutions provided for overcoming any risks that previously have been determined as such within the 2021 National Assessment for the risk of money laundering and financing of terrorism conducted by the Financial Intelligence Office of the Republic of North Macedonia (the FIO). This medium-term strategy defines the activities that should improve this system in the Republic of North Macedonia through the realisation of 15 specific goals. The implementation period of the strategy is three years, i.e., it will be valid until 2024.

The continuous alignment of the local law with the European directive is factual evidence that the legislative framework is broadly in line with European rules.

Also, in this direction we should note that the Republic of North Macedonia, during September 2021 until October 4, 2022, has hosted the team of evaluators from the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). The purpose of this on-site visit was to assess the technical compliance of the country with the FATF international standards in accordance with the 2013 Financial Action Task Force Methodology. The report of this visit is scheduled for discussion and adoption at the 65th Plenary meeting of MONEYVAL in May 2023.

**Key directives/legislative framework**

The prevention from anti money laundering in the Republic of North Macedonia is regulated by the Law on anti-money laundering and countering financing of terrorism (the AML/CFT Law and/or the New Law) (Official Gazette of the Republic of North Macedonia no.151/2022 dated 04.07.2022).

The new solutions provided with the AML/CFT law (as previously announced with the text of proposed new law) are that the New Law (i.) allow the identification of client-natural person to be performed, if possible, with usage of electronic identifications tools issued within registered electronic identification scheme; (ii.) broaden the list of reporting entities that should undertake activities in this field such as: persons that trades or acts as intermediators in art trade, art galleries or auction houses and virtual assets service providers; (iii.) broaden the list of subjects that should submit reports to the FIO on virtual assets service providers for exchange of virtual assets and fiat values or money in amount of 1.000,00 euros, as well performers of purchases made with public bidding and on the basis of purchase agreement with direct settlement that enables the buyer with the ownership right of assets with value of over 15.000,00 euros; (iv.) redefine the approach to the non-profit organisations, that is a more strengthen measures for analyses will be performed over such entities; (v.) defines the term "virtual assets" and includes them within the definition of assets, but also defines several other terms in this sphere such as "virtual assets service provider", "virtual assets services", "keeping and administration of the virtual assets or instruments that enables control over the virtual assets", "organisation of platform for virtual assets trade", "realisation of orders on behalf of third parties", "enrollment and provision of services related to the offer of the issuer and/or sale of virtual assets", "virtual assets portfolio management", "receipt of and assignment of orders for virtual assets", "virtual assets issuer", "virtual assets public offer", "provision of advice for virtual assets", "crypto mat", "hosted electronic wallet for virtual assets", "non-hosted electronic wallet for virtual assets", "virtual assets transfer"; (vi.) establishes a new registry (on its web page) for virtual assets service provider maintained



by the FIO (although the required rulebook that prescribed the manner of operation of this registry is still not adopted); (vii.) align the manner of function of UBO Register to the provisions within the [Fifth Anti-Money Laundering Directive 2018/843 EC](#); etc.

As another novelty provided with the New Law is that FIO will establish an electronic system for the purposes of tracking of cases that raised out of the FIO's obligations. The period for establishment of this registry is 30 days as of July 2022. However, the required by law that should provide the details for performing of this system, is still not adopted.

The AML/CFT law has prescribed that the required bylaws will be adopted within 15 months as of July 12, 2022 (the day when the law came into force), so since that until now there are no adopted bylaws, currently all Bylaws that have been adopted based on the previous 2018 AML/CFT Law (such as, rulebooks regulating special reporting duties for risk prone subjects (notaries, fast money transfer, organisers of game of chances, financing houses, etc.), the Guidelines for performance of a risk assessment from anti-money laundering and countering financing of terrorism for those subjects that are supervised by the Insurance Supervision Agency, etc.) are still applicable.

The New Law has leaved a nine-month period (commencing as of July 12, 2022) for newly added reporting entities, such as persons that trades or acts as intermediators in art trade, art galleries or auction houses and virtual assets service providers to comply with the provision of this law. As an exclusion from this, virtual assets service providers that has commence with activities prior July 12, 2022, are obliged to notify FIO (for the beginning of their operation) within 30 days as of adoption of the by law that prescribes the manner, form, and content of the registry for virtual assets service provider by the Ministry of Finance. Such by law is not adopted.

### **Ultimate Beneficial Owners Register (UBO Register)**

The UBO Register (as established back in 2021) continues with its operations within the Central Registry of the Republic of North Macedonia, as a separate registry for registration of data for the ultimate beneficial owners. All types of ultimate beneficial owners that have been already introduced with the 2018 AML/CFT Law, such as (i.) UBO of legal entity; (ii.) UBO of domestic/foreign associations, foundations, political parties; (iii.) UBO of legal arrangement; (iv.) UBO of sole proprietor or sole performers of business activity; (v.) UBO of budget users, (vi.) UBO of a state-owned legal entity; and (vii.) UBO of legal entity being in bankruptcy/liquidation procedure; are still valid and should be registered as per the New Law. These entities should keep the data for the respective UBO within 10 years as of the establishment of the legal entity, that is as of the day of change of the respective UBO.

### **Limit for performance of cash payments as per the New Law**

By the virtue of the New Law, the already established limit with the 2018 AML/CFT Law for performance of cash payments made outside banks, saving houses or through account in other institution that provides money services (an amount of 3.000,00 euros in denar counter value that is) remain the same. The law provides that this limit as of first January 2024 will be decreased to an amount 2.000,00 euros in denar counter value, and as of first January 2025, again decreased to an amount of 1.000,00 euros in denar counter value. A new limit has been introduced with the law, but the same is related to the virtual assets transfer in amount higher than 500,00 euros in denar counter value.

### **Who are the regulators/monitoring authorities?**

#### **Who are affected/reporting entities?**

In accordance with AML/CFT Law, the reporting entities that are obliged to undertake measures and appropriate actions in order to reveal and prevent money laundering and financing of terrorism (ML/FT) are the financial institutions such as: banks, exchange offices, fast money transfers, post offices, brokerage companies and managing investments funds, saving houses, companies for management with compulsory/voluntary pension funds, companies for investment with investment funds, non-banking institutions, legal entities and natural persons that perform activities regarding real estate intermediation, audit and accounting services, tax counselling; notary public, attorneys at law, law firms performing public authorisations; providers of gambling services; Central Securities Depository; persons that trades or acts as intermediators in art trade; art galleries/auction houses; virtual assets service providers; and others.

On the other hand, there are supervisory authorities such as the National Bank of the Republic of North Macedonia, Insurance Supervision Agency, Securities and Exchange Commission of the Republic of North Macedonia, Agency for Supervision of Fully Funded Pension Insurance (supervises the companies that manage voluntary pension funds), the Public Revenue Office, the Postal Agency (supervises the Macedonian Post AD Skopje), the Notary Commission (supervises the notaries registered within the Notary Chamber of the Republic of North Macedonia in the notaries) and the Lawyers Commission (supervises the lawyers and law firm registered within the Lawyers Chamber of the Republic of North Macedonia).

The FIO is established as an administrative body of the financial intelligence unit that supervises the application of the measures and activities determined by AML/CFT Law in the entities not supervised by the supervisory authorities. The FIO acts as an intermediate between the private sector and the investigative bodies, collects and analyses the suspicious transactions and other information of importance for the prevention and detection of ML/FT, but at the same time cooperates with the supervisory authorities as well as with authorised bodies and organisations of third countries and international organisations dealing in the field of ML/FT.

Moreover, the FIO has electronic access and power to use the data of the databases of many domestic institutions, such as the data of the Ministry of Justice of the Republic of North Macedonia regarding data from the records on monitoring corruption cases and data from the records of cases for international legal assistance, Interior Affairs Ministry of the Republic of North Macedonia, Employment



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agency, Real Estate Cadastre, Customs Office, etc.. Regarding the cooperation with foreign entities, the FIO is authorised to request data from other countries for the purposes of early prevention of ML/FT.

The Council for fighting against money laundering and financing of terrorism, established from May 2019, serves in order to enhance the inter-institutional cooperation for the purpose of fulfilling the goals of the Law on anti-money laundering and countering financing of terrorism. Representatives of all relevant institutions seat on the Council.

## **Legal requirements for KYC**

### ***Customer due diligence***

Reporting entities are obliged to carry out customer due diligence that is to determine the identity of the client prior to establishment of any business relationship with a client but also in the following cases:

- to each occasional transaction, that is monetary assets transfer, including also transfer of virtual assets exceeding the amount of 1,000 euros in denar counter value;
- when a transaction in amount of 15,000 euros or more in denar counter value is made, regardless whether the transaction is made in a single operation or in several operations which are obviously linked;
- regarding games of chance, in the case of deposit and withdrawal of a prize, as well as during buying or cashing in chips/credits in the amount of 1,000 euros or more in denar counter value, regardless of whether the transaction is made in a single operation or in several operations which are obviously linked;
- in the case of suspicious of veracity or adequacy of the previously obtained data about the identity of the client or the ultimate beneficial owner; and
- in any event, customer due diligence should be conducted in any case of suspicious of ML/FT, regardless of any kind of exception or amount of the funds.

As part of the customer due diligence, the reporting entities have to update documents and data for their clients, proxies or ultimate beneficial owners.

## **Reporting requirements/obligations**

### ***Recordkeeping***

The AML/CFT Law prescribes that the reporting entities are obliged to keep the copies of documents that confirm the identity of the client, proxy or the ultimate beneficial owner, the client's and ultimate beneficial owner analysis procedure, the performed transaction or the transactions being performed and the client's file and the business correspondence for a period of 10 years (in electronic or in written form) as of the termination with the business relation established with the client or as of the date when the occasional transaction has been performed. The New Law prescribes an obligation for the financial institutions and the virtual assets services providers to keep the data for the payer, that is the person that makes the order and the receiver of the non-cash transfer of monetary assets or transfer of virtual assets, within a 10-year period as of the moment when the transfer has been performed.

If so, requested by the FIO, reporting entities have to maintain the records for a period longer than 10 years. Notwithstanding, there is no statutory requirement for the reporting entities to provide the information on a timely basis to supervisory authorities.

### ***Tipping off***

The AML/CFT Law prescribes a strong prohibition for the reporting entities, their employees, members of the management and supervisory bodies that have been introduced with data provided for the purposes of prevention of money laundering and combat against financing of terrorism, not to disclose to their client or third party that (1) an analysis for determination of grounds of suspicion of ML/FT by the FIO is being carried out or is likely to be carried out; (2) that data, information or documentation about the client or a third party or a transaction is submitted or is going to be submitted to the FIO; (3) that the FIO has issued an order for monitoring the business relationship or a written order for temporarily keeping the transaction on hold; and (4) that pre-investigation activities, an investigation or criminal proceedings for ML/FT is initiated or is possible to be initiated against the client or a third party.

In event of breach of these provisions, it shall be imposed a penalty to a natural person or to a person that performs public powers in amount of 12,000 euros up to 15,000 euros in denar counter value or a penalty to a big trader in amount of 30,000 euros up to 40,000 euros in denar counter value.

### ***Whistle-blowing***

The Law on Whistle-blower Protection was adopted in November 2015 and lastly amended back in 2020 but substantial legal, institutional, and practical preparations are still needed for effective implementation of the law.

## **Offences**

### ***Penalties***

For the offences listed in the AML/CFT Law, the supervisory authorities are obliged to propose a settlement procedure by issuing a misdemeanour payment order. If such order is not paid in the prescribed term by the reporting entity, the supervisory authority is obliged to submit a request for a misdemeanour procedure.



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The AML/CFT Law prescribes an obligation for the supervisory authorities to disclose on its website all penalties that have been imposed, and to keep such information available within three years as of the date of their public disclosure.

### **Internal procedures and training**

To detect and prevent events of ML/FT, the reporting entities are obliged to undertake certain procedures such as: preparation of risk assessment of ML/FT and update on regular basis; performance of customer due diligence; submission of data and documentation to the FIO; appointment of an authorised person and his/her deputy and/or formation of a department for prevention of ML/FT; conduct of internal control at least once a year in the current year for the previous year and to prepare documentation for the established findings from the conducted control, as well as to ensure regular professional training in the field of prevention and detection of ML/FT for all employees.

### **Sanctions**

#### ***International conventions***

International sanctions in the Republic of North Macedonia are made on the basis of the Law on Restrictive Measures, by implementing resolutions of the Security Council of the UN, legal acts of the EU, legal acts of other international organisations in which the Republic of North Macedonia is a member, requests of other states, and other acts according to the law. According to the latest data, there are no international sanctions currently in force against the Republic of North Macedonia.

#### **CTF – Countering terrorist finance**

According to the Macedonian legislation, countering against terrorist finance is closely regulated with AML/CFT Law. The AML/CFT Law eventually provides statutory definitions for the terms such as: terrorist act, terrorist, and terrorist organisation. The absence of these statutory definitions was stated in many reports issued by organisations or committees that aim to prevent ML/FT.

#### **Anti-bribery and corruption laws**

Concerning the fight against corruption, the country has some level of preparation within the legislative and institutional framework. In January 2019, the Law on the Prevention of Corruption and Conflict of Interests (Official Gazette of the Republic of North Macedonia no. 12/2019) has been enacted. This Law regulates the measures and activities for the prevention of corruption in the conducting of government, public authorisations, official duties, politics and the measures and activities for preventing conflict of interests. Subjects to this law are not only natural entities, but also legal ones. This Law was enacted to eliminate the shortcomings of the State Commission for prevention of Corruption and since the appointment of the new State Commission more activate and publicity regarding its work is evident.

#### **Forthcoming issues/legislation**

Despite the continuous and further alignment with the EU acquis in this field, still more needs to be done to improve the effectiveness of law enforcement in fighting the money laundering and in the tracking record obligations performed by the competent bodies in the sphere of investigation and prosecution of organised crime and money laundering.

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