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EU/CoE Partnership for Good Governance II

Project on “Strengthening measures to counter money laundering and financing of terrorism in Ukraine”

TECHNICAL PAPER

Analysis of a Concept Paper for Verifying the Reliability of Information on Ultimate Beneficial Owners Contained in the United State Register of Legal Entities, Individual Entrepreneurs and Public Organisations

The European Union and Council of Europe Partnership for Good Governance Programme (hereinafter: PGG) is a cooperation programme for Eastern Partnership Countries funded by the European Union and Council of Europe, and implemented by the Council of Europe.

PGG builds on the two organizations policy priorities in the context of Eastern Partnership and on the CoE expertise in standard-setting, monitoring and cooperation methodologies. It aims to improve implementation of key recommendations of relevant Council of Europe monitoring and advisory bodies in the areas indicated in the Statement of Intent signed on 1 April 2014 by the Secretary General of the Council of Europe and the European Union Commissioner for Enlargement and European Neighbourhood Policy.

For further information please contact:

Economic Crime and Cooperation Division
Action against Crime Department
Directorate General Human Rights and Rule
of Law
Council of Europe
67075 Strasbourg CEDEX France

E-mail: Sergii.Rybchenko@coe.int

Tel: +38 (044) 425-60-01

Fax: +38 (044) 425-02-62

www.coe.int/econcrime

Disclaimer:

This Technical Paper has been prepared within the framework of the EU/CoE Partnership for Good Governance II: Project “Strengthening measures to counter money laundering and financing of terrorism in Ukraine”, financed by the European Union and the Council of Europe.

The views and opinions presented herein are those of the main author and should not be taken as to reflect the official position of the European Union and/or the Council of Europe.



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1 EXECUTIVE SUMMARY

This technical paper (hereinafter “the TP”) forms part of a work stream under the Partnership for Good Governance II (2019-2021) Project on Strengthening Measures to Counter Money Laundering and Financing of Terrorism

This work stream has focussed on strengthening the regime for transparency of beneficial ownership within Ukraine, with the expected outcome being an effective legal and institutional framework. The work stream is informed by the gaps identified in MONEYVAL’s Fifth round mutual evaluation report (hereinafter “the MER”)¹.

The experts appointed to write this TP have been provided with four documents namely:

- a document entitled “The Concept of a mechanism for verifying the reliability of information on the ultimate beneficial owner contained in the United State Register of Legal Entities (hereinafter “the USR”), Individual Entrepreneurs and Public Organizations of Ukraine” (hereinafter “the Concept Paper”);
- a Public Policy Action Plan;
- two flow charts entitled “Verification of UBO” and “Verification of a contractor of primary financial monitoring entity.

The action plan and the two flow charts reflect the contents of the Concept Paper.

The experts have been requested to assess the documents provided with a view to visiting Ukraine and discussing both the material and the experts’ views on it with the Ukrainian authorities.

In assessing the documents, the experts have also reviewed the MER and the extent to which they address, in particular, the gaps identified in Immediate Outcome 5. They have concluded that the approach to be adopted to assess the documents is to prepare a high-level report (i.e. this TP) on the Concept Paper and to make a series of more detailed tracked changes, comments and queries in the Concept Paper. That version of the Concept Paper is attached as an annex to the TP.

The TP recommends that:

- the regime should be extended to cover basic information;
- while recognising that automation has merit, a comprehensive system for verification requires risk-based intervention by the USR;
- the regime to be put in place should explicitly cover nominee/strawman relationships and legal arrangements;
- arrangements should be introduced for monitoring whether changes to information have been provided promptly to the USR and for follow-up processes when information has not been so provided;

¹ MONEYVAL (2017) [Fifth Round Mutual Evaluation Report of Ukraine](#) (MONEYVAL(2017)20)



- a framework for the application for sanctions should be established; and
- the skills required for the application of sanctions and the human and budgetary resource requirements for a comprehensive transparency regime should not be under-estimated; appropriate provision should be made for these skills and requirements.

