

---

Funded  
by the European Union  
and the Council of Europe



COUNCIL OF EUROPE



---

Implemented  
by the Council of Europe

**Partnership for Good Governance II (2019-2021)**

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

**TECHNICAL PAPER**

**Ukraine: AML/CFT Risk-based approach for Nonbank Financial Institutions  
Preliminary Review and Key Recommendations**

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 Neighborhood 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](mailto:Sergii.Rybchenko@coe.int)

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

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

[www.coe.int/econcrime](http://www.coe.int/econcrime)

**Disclaimer:**

This Technical Paper has been prepared within the framework of the CoE/EU 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.



## TABLE OF CONTENTS

<b>1</b>	<b>EXECUTIVE SUMMARY .....</b>	<b>5</b>
<b>2</b>	<b>INTRODUCTION AND SCOPE.....</b>	<b>6</b>
<b>3</b>	<b>LEGISLATIVE AND RISK CONTEXT .....</b>	<b>6</b>
<b>4</b>	<b>BRIEF RISK ANALYSIS OF THE UKRAINIAN FINANCIAL SECTOR.....</b>	<b>7</b>
	4.1 Overview of banking sector and nonbank financial institutions .....	7
	4.2 Credit Unions.....	8
	4.3 Insurance .....	8
	4.4 Money Services Business .....	9
	4.5 Non-bank finance companies.....	10
	4.6 Pawnbrokers .....	10
<b>5</b>	<b>SELECTED INTERNATIONAL APPROACHES TO AML/CFT REGULATION OF NBFIS.....</b>	<b>10</b>
	5.1 Risk Context.....	10
	5.1.1 Types of sub-legislative instrument for risk-based preventive measures .....	11
	5.1.2 Scope of sub-legislative instrument for risk-based preventive measures.....	11
	5.2 Credit Unions.....	12
	5.3 Insurance Sector .....	13
	5.4 Money Services Business .....	13
	5.5 Non-bank finance companies.....	13
	5.6 Pawnbrokers .....	14
<b>6</b>	<b>NBU REGULATIONS – STRUCTURE AND CONTENT .....</b>	<b>14</b>
	6.1 Prioritizing the Risk-Based Approach.....	14
	6.2 Regulation for NBFIs – Scoping and Structural Challenges .....	15
	6.3 Credit Unions.....	16
	6.4 Insurance .....	17
	6.5 Money Services Business .....	18
	6.6 Non-bank Finance Companies.....	18
	6.7 Pawnbrokers .....	19
<b>7</b>	<b>ISSUES IMPACTING ON EFFECTIVE RISK-BASED AML/CFT MEASURES .....</b>	<b>19</b>
	7.1 Assessing Effectiveness .....	19
	7.2 Level of cash usage .....	19
	7.3 Fit and Proper controls on owners and controllers.....	20
	7.4 Enhancing the Quality of ML/TF risk assessments .....	20
	7.5 Need for outreach and guidance .....	20
<b>8</b>	<b>RECOMMENDATIONS .....</b>	<b>21</b>
	<b>ANNEX I: EXAMPLES FROM OTHER JURISDICTIONS .....</b>	<b>23</b>
	<b>ANNEX II: SELECTED MATERIAL RELATING TO NON-LIFE INSURANCE.....</b>	<b>25</b>



## ABBREVIATIONS

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
CDD	Customer Due Diligence
EDD	Enhanced Customer Due Diligence
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
I.O.	Immediate Outcome
KYC	Know your customer
ML	Money Laundering
MSB	Money Services Business
NBU	National Bank of Ukraine
NRA	National Risk Assessment
RE	Reporting entity
SDD	Simplified Customer Due Diligence
TF	Terrorism financing
VAT	Value Added Tax



## 1 EXECUTIVE SUMMARY

1. In response to a request from the National Bank of Ukraine (NBU) for assistance in developing an AML/CFT Regulation for Non-bank Financial Institutions (NBFIs) in accordance with the amended 2019 AML legislation, this Technical Paper presents a brief analysis of risk factors affecting each category of NBFI in Ukraine. Examples are provided of approaches to NBFI regulation in selected jurisdictions. The paper includes a detailed set of recommendations to assist the NBU in deciding on the structure and content of its NBFI regulation.
2. Although the current draft NBU regulations for the banking sector were not reviewed in detail, it is evident that the drafting approach is detailed and prescriptive. While there is a need for detailed rules, it is essential for compliance with the FATF Recommendations that the main emphasis should be placed on money laundering (ML) and terrorism financing (TF) risk, with implementation measures proportionate to the perceived risk.
3. The Paper recommends – both for banks and NBFIs – that the NBU should restructure their regulations to give prominence to the need for business level risk assessments to determine the depth of implementation necessary for other AML/CFT obligations.
4. As the categories of NBFI that will come within the scope of NBU supervision in July 2020 is not homogenous in terms of the nature, scale and complexity of their operations, the Paper includes proposals for structuring the banking and NBFI regulations to accommodate the various categories in a tailored manner than minimises duplication. One proposal is to divide the regulation into separate parts, with Part A containing basic AML/CFT provisions common to all reporting entities, followed by separate parts for each category of NBFI using terminology understandable to the entities. For smaller, simpler, lower-risk businesses, a simplified approach is recommended.
5. To place the discussion in context, as the Regulations are part of a wider system of preventive measures, the Paper reminds the NBU of the other components of effective preventive measures and makes recommendations for additional supervisory steps to support effective implementation and supervision of risk-based measures. The Paper also notes a number of structural issues in Ukraine that continue to undermine the effectiveness of AML/CFT measures, including corruption, issues regarding ownership and control of financial institutions, and the continued prevalence of cash usage in the economy. To achieve effective AML/CFT implementation, further action will be needed on these issues by the authorities, including the NBU.
6. The Paper provides examples of regulations and other implementation publications from other jurisdictions. While it is difficult to provide a direct comparator for Ukraine, the examples include some progressive approaches to implementation of a risk-based approach and should provide a useful resource in drafting appropriate regulations for Ukraine.