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TECHNICAL PAPER

**Ukraine: AML/CFT Risk-based approach for Real Estate Agents,
Auditors, Accountants and Tax Advisors:
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 Neighbourhood Policy.

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Disclaimer:

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ABBREVIATIONS

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism. (Countering Proliferation Financing is also deemed to be included)
CoE	Council of Europe
CTA	Ukrainian Chamber of Tax Advisors
DNFBP	Designated non-Financial Businesses and Professions
EDD	Enhanced (Customer) Due Diligence
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
INR.'x'	Interpretative Note to FATF Recommendation 'x'
IO	Immediate Outcome
ITI	Irish Tax Institute
MER	Mutual Evaluation Report
ML	Money Laundering
MoF	Ministry of Finance of Ukraine
NBU	National Bank of Ukraine
NSSMC	National Securities and Stock Market Commission
NRA	National Risk Assessment
PEP	Politically-Exposed Person
PF	Proliferation Finance
RBA	Risk-Based Approach
SDD	Simplified (Customer) Due Diligence
SFMS	State Financial Monitoring Service (FIU of Ukraine)
SPKU	Union of Tax Advisors of Ukraine
SRO	Self-Regulatory Organisation
TF	Terrorism Financing
UAH	Ukrainian Hryvnia



1 EXECUTIVE SUMMARY

1. In response to a request from the Ministry of Finance of Ukraine (MoF) for assistance in developing an AML/CFT Regulation for selected categories of Designated Non-Financial Businesses and Professions (DNFBPs), this Technical Paper presents a brief analysis of risk factors affecting the real estate sector and the work of auditors, accountants and tax advisors in Ukraine. Examples are provided of approaches to regulation in selected jurisdictions. The paper includes a detailed set of recommendations to assist the MoF in deciding on the structure and content of its AML/CFT regulation and a RoadMap to assist in planning for risk-based supervision.
2. As gatekeepers (including real estate agents, auditors/ accountants and tax advisors) do not generally conduct financial transactions for their clients, it is not appropriate to extend to them all of the AML/CFT obligations needed for financial institutions. The contribution of gatekeepers to AML/CFT relates mainly to the information they can access about their clients and their activities. The challenge is to persuade gatekeepers of the need to inform themselves regarding the ML/TF risk of each client and be prepared to inform the authorities about those clients where suspicions arise. Based on international experience, effective implementation by gatekeepers is difficult to achieve, although there are signs of progress as international pressure continues to build following revelations such as the Panama papers¹ and similar scandals.
3. The need to achieve active participation by gatekeepers in AML/CFT measures (rather than providing clients with pathways to avoid them) is particularly significant in countries impacted by corruption. It is especially relevant in Ukraine to achieve effective AML/CFT implementation across all categories of gatekeepers. Media reports and international assessments indicate that, within the categories of gatekeepers in Ukraine, some are likely to be linked to or have direct knowledge of the movement and investment of the proceeds of corruption, tax evasion and other forms of money laundering. It is in the national interest to take steps to engage with gatekeepers to identify such activity.
4. In order to supervise gatekeeper business from an AML/CFT perspective, it is essential to first understand the nature of their activities and customer base, and the scale and complexity of their operations. Only then can meaningful sectoral assessments be developed that can be used to guide targeted measures and risk-focused supervision.
5. In developing Regulations and guidance, it is important to focus on key risk-based elements of the preventive measures - primarily building on assessments of ML/TF risk. This involves a substantial change in approach from the previous approach of enforcing detailed rules. The style of the current draft of the MoF Regulations suggests that the transition to risk-based measures has yet to be embedded.
6. This Paper includes, for consideration by the MoF, a template and RoadMap for the development of an effective risk-based AML/CFT supervision system, aligned with the assessment methodology for the FATF Recommendations.

¹ <https://panamapapers.sueddeutsche.de/en/>

