Note: The translation is unofficial, for information purpose only

COUNCIL OF ADMINISTRATION OF THE NATIONAL BANK OF MOLDOVA

Decision no.207
as of August 15, 2007

On some peculiarities of financial institutions activity related to the process of capital legalization and transfer/export from the Republic of Moldova of legalized funds by individuals

With a view to creating the conditions necessary for the process of capital legalization according to the provisions of Chapter IV of Law no.1164-XIII of April 24, 1997 for enforcing Titles I and II of the Tax Code (republished in the Official Monitor of the Republic of Moldova, special edition of February 08, 2007), with further modifications and completions, in order to execute Article V of Law no.111- XVI of April 27, 2007 on the modification and the completion of some legislative acts (Official Monitor of the Republic of Moldova, 2007, no.64-66, Art.300), Article VII of Law no.177-XVI of July 20, 2007 on the modification and the completion of some legislative acts (Official Monitor of the Republic of Moldova, 2007, no. 117- 126, Art.534), in accordance with Articles 5, 11, 44, 51, 52 of the Law on the National Bank of Moldova no. 548-XIII of July 21, 1995 (Official Monitor of the Republic of Moldova, 1995, no.56-57, Art.624), with further modifications and completions and Articles 1, 23, 25, 29, 40 of the Law on Financial Institutions no.550-XIII of July 21, 1995 (Official Monitor of the Republic of Moldova, 1996, no.1, Art.2), with further modifications and completions, Law on prevention and combating of money laundering and terrorism financing no. 190-XVI of July 26, 2007 (Official Monitor of the Republic of Moldova, 2007, no.141-145, Art.597), the Council of Administration of the National Bank of Moldova

[The preamble amended by the Decision of the CA of the NBM no.24 of February 16, 2008, in force as of February 26, 2008]

HAS DECIDED as follows:

I. The opening and closing of bank accounts related to money means legalization pursuant to chapter IV of Law no.1164-XIII dated 24.04.1997 for enforcing Titles I and II of the Tax Code shall be conducted by financial institutions as follows:

1. In order to deposit cash money means or means from bank accounts, that constitute the object of legalization, banks shall open bank accounts for the subjects of legalization upon submitting the following:
(1) in case of opening the account/accounts by the subject of legalization:
a) the application for money means legalization (pursuant to Annex no.4 of Law no.1164-XIII dated 24.04.1997 for enforcing Titles I and II of the Tax Code) in 2copies;
b) the copy of the identity card of the subject of legalization together with the original identity card that, following collating, shall be returned to the subject of legalization.

(2) in case of opening the account/accounts by the representative of the subject of legalization:
a) the application for money means legalization (pursuant to Annex no.4 of Lawno.1164-XIII dated 24.04.1997 for enforcing Titles I and II of the Tax Code) in 2copies;
b) the legally attested copy of the identity card of the subject of legalization;
c) the legally attested proxy on designation of the representative of the subject of legalization;

d) the copy of the identity card of the representative of the subject of legalization together with the original identity card that, following collating, shall be returned to the representative of the subject of legalization.

(3) information additional to the one provided under para. (1) and (2) in order to identify the subject of legalization and /or its representative: home address and/or registration; occupation, public position and /or name of employer; source of money means of the subject of legalization earmarked for payment in the account; phone and fax numbers, e-mail address (where applicable); reference from a previous bank (if there is such a bank) on the subject of legalization.

1^2. In order to verify the information gathered pursuant to subpoint 1, at least one of the following procedures shall be applied: confirmation of the residence address in case it does not correspond with the actual domicile (e.g., by requesting the presentation of utilities invoices, of acts on taxes calculation and payment, the information from public authorities or from other authorized persons, etc.); making contacts with the subject of legalization via phone, fax or e-mail (where applicable) for the confirmation of the information submitted upon the account opening (incorrect or switched off phone number or e-mail address will serve as grounds for further analysis); confirmation, when suspected, of the identity documents validity with the authorized persons certificates, with state registers; checking out of employment, of public position (when necessary); making contacts related to the subject of legalization with the previous bank.

2. Financial institutions shall identify and verify the information on the subject of money means legalization and /or its representative, prior to the opening of bank accounts pertaining to money means legalization.

The empowered person of the financial institution may refuse to receive the application for money means legalization when data from the application do not correspond to those from the identity card of the subject of legalization or of its representative.

Financial institutions are obliged to refrain from opening accounts related to money means legalization, to cease or refuse carrying out operations in the event that no acts for the identification of the subject of legalization and /or of its representative were submitted or the obtained data and information are unauthentic or unreliable and to report such circumstances to the Centre for Combating Economic Crimes and Corruption.

3. The account opened for money means legalization can not be conventionally closed.

4. The account opened for money means legalization may be closed:
a) at the request of the account holder or its representative;
b) at the decision of the law court;
c) in other cases provided for by law.
[Item I amended by the Decision of the CA of the NBM no.24 of February 16, 2008, in force as of February 26, 2008]

II. Within capital foreign exchange operations, hereinafter operations, related to capital transfer, the transfer to abroad /authorization of export from the Republic of Moldova of legalized money means shall be performed as follows:

1. Transfer abroad, within operations related to capital transfer, of legalized money means shall be performed at the request of individuals – subjects of legalization (with or without using the bank account via which the relevant money means were legalized) in compliance with the requirements of the relevant normative acts of the National Bank of Moldova, considering the peculiarities set forth in the present point.

2. If the transfer abroad, within operations related to capital transfer, of
legalized money means is performed without using the bank account via which the relevant money means were legalized, the individual- subject of legalization shall indicate in the application for transfer that the operation is conducted for the account of legalized money means in compliance with Chapter IV "Legalization of Capital and Tax Amnesty" of Law no.1164-XIII dated 24.04.1997 for enforcing Titles I and II of the Tax Code.

3. In case set out at sub-point 2 of the present point, in addition to other documents provided for by the normative acts of the National Bank of Moldova, the second copy of the Application for money means legalization shall be submitted to the authorized bank (pursuant to Annex no.4 of Law no.1164-XIII dated 24.04.1997 for enforcing Titles I and II of the Tax Code). The copy of the application shall be attested by the empowered representative of the authorized bank via which money means legalization was performed.

4. Departing from the provisions of the item 39 of the Regulation on conditions and procedures of performing foreign exchange operations (approved by the Decision of the Council of Administration of the National Bank of Moldova no.8 of January 28, 2010), in case of transfer to abroad of owned legalized money means by resident individuals – subjects of legalization, who have settled down permanently abroad the submission of the certificate on lack or existence of arrears to the domestic public budget issued by the tax body of the Republic of Moldova is not obligatory.

5. Upon the transfer abroad, within operations related to capital transfer, of legalized money means authorized banks shall charge fees (for the amount of legalized money means subject to transfer to abroad) provided for in art.36, paragraph (2) of Law no.1164-XIII dated 24.04.1997 for enforcing Titles I and II of the Tax Code.

6. The issuance by the National Bank of Moldova of authorizations to export from the Republic of Moldova of legalized funds shall be done in compliance with the requirements of the Regulation on the issuance by the National Bank of Moldova of authorizations to export funds from the Republic of Moldova (approved by the Decision of the Council of Administration of the National Bank of Moldova no.14 of January 22, 2009, Official Monitor of the Republic of Moldova, 2009, no.57-58, Art.249), taking into account the peculiarities set forth in this item.

7. If the individual – subject of legalization requests the issuance by the National Bank of Moldova of the authorization to export from the Republic of Moldova the owned legalized money means, the relevant individual shall indicate in the application that the funds subject to export are money means legalized pursuant to chapter IV "Legalization of Capital and Tax Amnesty" of Law no.1164-XIII dated 24.04.1997 for enforcing Titles I and II of the Tax Code.

8. Departing from the provisions of the Regulation on the issuance by the National Bank of Moldova of authorizations to export funds from the Republic of Moldova (approved by the Decision of the Council of Administration of the National Bank of Moldova no.14 of January 22, 2009), in the case set out in sub-point 7 of the present point, the submission of the certificate on lack or existence of arrears to the domestic public budget issued by the tax body of the Republic of Moldova is not obligatory.

9. In the case set out in sub-point 7 of the present point, in addition to other documents provided for by the Regulation specified in sub-item 6 of this item, the relevant individual shall submit to the National Bank of Moldova the following documents:
a) The second copy of the Application for money means legalization (pursuant to Annex no.4 of Law no.1164-XIII dated 24.04.1997 for enforcing Titles I and II of the Tax Code) attested by the empowered representative of the authorized bank via which legalization was performed. It shall be submitted when applying for permission (authorization);
b) bank document (with the mentions of the authorized bank) confirming the payment of the corresponding fee (for the amount of legalized money means subject to export from the Republic of Moldova on the basis of the permission (authorization) issued by the National Bank of Moldova) set by art.36, para.(2) of Law no.1164-XIII dated 24.04.1997 for enforcing Titles I and II of the Tax Code. It shall be submitted prior to the issuance of the authorization to the relevant individual.

10. The National Bank of Moldova shall keep records in special registries of all authorization issued to individuals to export from the Republic of Moldova the legalized money means.

11. Documents indicated in sub-points 3 and 9 of the present point shall be submitted to the authorized bank / National Bank of Moldova in original and photocopies. Following the authentication of photocopies by the responsible person of the authorized bank/ National Bank of Moldova, the original documents shall be returned to the individual, while the authenticated copies shall be kept at the authorized bank/ National Bank of Moldova.
[Item II amended by the Decision of the CA of the NBM no.47 of March 11, 2010, in force as of April 10, 2010]

III. Financial institutions shall keep a registry of subjects of legalization of legalized money means pursuant to chapter IV of Law no.1164-XIII dated 24.04.1997 for enforcing Titles I and II of the Tax Code that shall include at least the individual's name and surname, data of its identity card (number of card, personal identification number), account number, date of account opening, amount of deposited money means. The registry shall be kept until the term of at least 7 years expires after the performance of the last operation of money means legalization.

At the same time, financial institutions shall have in place procedures on holding and keeping the information related to money means legalization, including at least the following:

• keeping of all primary[1] documents, of business correspondence for at least seven years following the termination of business relationship or the closing of the bank account;
• keeping of the files on the identification and the verification of the subjects of money means legalization, as well as on the monitoring of the operations performed by the subjects of legalization for at least seven years following the closing of their accounts;
• keeping of recordings on transactions for at least seven years after their conclusion;
Financial institutions shall ensure that the documents and the information on the identification and the verification of the subjects of money means legalization, as well as those related to the monitoring of the operations performed by the subjects of money means legalization be timely accessible and available upon request to empowered authorities.
[Item III amended by the Decision of the CA of the NBM no.24 of February 16, 2008, in force as of February 26, 2008]

[1] Primary documents – pursuant to the notion provided for in Art. 19 of Accounting Law no.113-XVI dated 27.04.2007

IV. Financial institutions, within its activity related to the process of money means legalization, shall observe the provisions of the Law on prevention and combating of money laundering and terrorism financing no. 190-XVI dated July 26, 2007 and the Recommendations on developing programs by banks of the RM on prevention and combating of money laundering and terrorism financing (approved by the decision of the Council of Administration of the National Bank of Moldova no.94 as of April 25, 2002) with further modifications and completions), paying due attention to the following:

1. While identifying the subjects of legalization and /or their representatives, the financial institutions shall pay special attention to the following identification situations:

• **The subject of legalization and /or its representative is a politically exposed person**

Financial institutions shall gather sufficient information from the subject of legalization and /or its representative and shall verify the publicly available information, in order to determine whether this person is a politically exposed person, as well as shall periodically update the information obtained upon the opening of the account, taking into consideration that the subject of legalization and /or its representative may subsequently become a politically exposed person. It is necessary to carry out an enhanced and regular monitoring of the financial institution's relation with such persons, including by ensuring the approval of the executive body for the setting out or, in case it became subsequently, the continuation of certain business relationships with the politically exposed person, keeping a separate record of the relevant persons.

• **Money means receipt and sending**

With regard to the subjects of legalization and/or their representatives receiving money means from /to countries not having in place norms for anti money laundering and terrorism financing or having in place inadequate norms in this field, or imposing an increased risk due to the high level of delinquencies and corruption and /or being involved in terrorist activities, it is necessary to conduct an enhanced and regular monitoring of the financial institution's relationship, including by ensuring the approval from the executive body for the setting out or the continuation of certain business relationships with these persons and keeping a separate record of the relevant subjects.

2. Financial institutions shall carry out an on-going monitoring of the accounts belonging to the subjects of legalization with a view to determining the compliance of ordinary (specific) operations for the relevant subject of legalization. For this purpose, the financial institutions shall have in place systems for the detection of unusual or suspicious activities and shall monitor all transactions conducted via the accounts of the subjects of legalization. Financial institutions shall have in place adequate management information systems in order to submit to the responsible persons the information necessary for the identification, the analysis and the efficient monitoring of the accounts related to money means legalization. The respective information systems shall give the possibility to monitor and analyze in a centralized manner the information from all systems containing data on the performed transactions and their related information.

3. Financial institutions shall have in place clear procedures, derived from the provisions of this decision, brought to the knowledge of the staff involved in the money means legalization process, which provide for the reporting by this staff on all suspicious transactions detected within the money means legalization process and determined as such as in accordance with the guide on suspicious activities and transactions approved by the Centre for Combating Economic Crimes and Corruption pursuant to Art. 8(4) of the Law on prevention and combating of money

laundering and terrorism financing no.190-XVI dated July 26, 2007, to the responsible person mentioned under point V. Also a certain communication chain shall be established, both to the management and to the internal security service for the reporting on problems related to money laundering and terrorism financing. In the event of limited and /or suspicious operations detection, the institution shall record them respectively by filling in special forms and further reporting to the Centre for Combating Economic Crimes and Corruption.

4. Financial institutions shall have in place provisions regarding the internal control system in order to ensure the mitigation of risks related to money laundering and terrorism financing within its activity related to the money means legalization process and shall assign to the internal audit service the function of supervising the activity of money means legalization.

5. Financial institutions shall have in place a program of on-going training of the staff involved in the money means legalization process. The training program must encompass all aspects of the procedures related to the prevention and the combating of money laundering and terrorism financing, which are to be used within the activity related to the process of legalization of money means and the subsequent use of these means. The training of the staff shall depend upon the level of its involvement in the money means legalization process.

[Item IV amended by the Decision of the CA of the NBM no.24 of February 16, 2008, in force as of February 26, 2008]

V. The administrators of the financial institutions responsible for ensuring compliance of the financial institution policies and procedures with the requirements and regulations on anti-money laundering and terrorism financing shall be responsible for insuring the compliance of the financial institution's activity with the provisions of the Law on prevention and combating of money laundering and terrorism financing no. 190-XVI dated July 26, 2007, pursuant to art.25, para.(3), letter b) of Law no.1164-XIII dated 24.04.1997 for enforcing Titles I and II of the Tax Code and under terms set forth in art.37 of the same law.

[Item V amended by the Decision of the CA of the NBM no.24 of February 16, 2008, in force as of February 26, 2008]

[Items VI and VII excluded by the Decision of the CA of the NBM no.112 of May 3rd,2012, in force as of May 16, 2012]

VIII. The present decision enters into force as on the date of its publication in the Official Monitor of the Republic of Moldova.

*[*The annex excluded by the *Decision of the CA of the NBM no.112 of May 3rd, 2012, in force as of May 16, 2012]*

*[*The annex amended by the *Decision of the CA of the NBM no.133 of July 17, 2008, in force as of November 1st, 2008]*