



On approval of the Rules for assessing the risks of legalization (laundering) of proceeds and financing of terrorism

Invalidated Unofficial translation

Decree of the Government of the Republic of Kazakhstan No. 243 dated May 3, 2017.

Unofficial translation

Footnote. It became invalid by the Decree of the Government of the Republic of Kazakhstan dated 18.03.2022 No. 143 (effective from the date of its first official publication).

In accordance with Paragraph 2 of Article 11-1 of the Law of the Republic of Kazakhstan dated August 28, 2009 "On combating the legalization (laundering) of proceeds from crime and financing of terrorism", the Government of the Republic of Kazakhstan hereby **DECREES AS FOLLOWS:**

1. Approve the attached Rules for assessing the risks of legalization (laundering) of proceeds and financing of terrorism.
2. This Decree shall be enforced upon expiry of ten calendar days after the day its first official publication.

*The Prime Minister
of the Republic of Kazakhstan*

B. Sagintayev

Approved by
the Decree of the Government of
the Republic of Kazakhstan
No. 243 dated May 3, 2017

Rules

for assessing the risks of legalization (laundering) of proceeds and financing of terrorism

1. General Provisions

1. These Rules for assessing the risks of legalization (laundering) of proceeds and financing of terrorism (hereinafter referred to as the Rules) shall be developed in accordance with the Law of the Republic of Kazakhstan dated August 28, 2009 "On combating the legalization (laundering) of proceeds from crime and financing of terrorism" (hereinafter referred to as the Law) and determine the procedure for assessing the risks of legalization (laundering) of proceeds and financing of terrorism.

2. Risks assessment of legalization (laundering) of proceeds and financing of terrorism shall be made in order to identify threats and opportunities for legalization (

laundering) of proceeds and financing of terrorism in the Republic of Kazakhstan, to identify the shortcomings of implementation of measures to combat the legalization (laundering) of proceeds and financing of terrorism.

3. For the purposes of the Rules, the following concepts shall be used:

ranking of risks of legalization (laundering) of proceeds and financing of terrorism - the procedure for establishing the relative importance (preference) of the collected data to assess the risks of legalization (laundering) of proceeds and financing of terrorism;

risk assessment of legalization (laundering) of proceeds and financing of terrorism - determining risk levels by analyzing the data collected to assess the risks of legalizing (laundering) of proceeds and financing of terrorism;

working groups - groups consisting of representatives of state, law enforcement and special state authorities for assessing the risks of legalization (laundering) of proceeds and financing of terrorism in the areas specified in Paragraph 5 of the Rules;

data collection to assess the risks of legalization (laundering) of proceeds and financing of terrorism - the process of obtaining information from state, law enforcement and special state authorities and financial monitoring subjects to assess the risks of legalization (laundering) of proceeds and financing of terrorism;

structuring the risks of legalization (laundering) of proceeds and financing of terrorism - grouping and summing up the collected data to assess the risks of legalizing (laundering) of proceeds and financing of terrorism for their subsequent analysis;

financial monitoring subjects - subjects of financial monitoring specified in Paragraph 1 of Article 3 of the Law;

state authorities - state authorities managing for implementation by financial monitoring subjects of the legislation of the Republic of Kazakhstan On combating legalization (laundering) of proceeds and financing of terrorism in accordance with Article 14 of the Law, as well as the authorized authority interacts to which, in accordance with Article 18 of the Law.

2. The procedure for assessing the risks of legalization (laundering) of proceeds and financing of terrorism

4. The risk assessment of legalization (laundering) of proceeds and financing of terrorism lasts no more than eighteen months.

Subsequent risks assessments of legalization (laundering) of proceeds and financing of terrorism shall be carried out after 36 months from the day the previous risks assessment of legalization (laundering) of proceeds and financing of terrorism begins.

5. In order to assess the risks of legalization (laundering) of proceeds and financing of terrorism, the authorized authority shall create the following working groups on:

assessment of threats to legalization (laundering) of money and (or) other property obtained by criminal means;

assessment of national vulnerabilities;

vulnerability assessment in banking sector;

vulnerability assessment in securities market sector;

vulnerability assessment of insurance sector;

vulnerability assessment of other financial institutions;

vulnerability assessment in the non-financial sector;

assessing the threats and vulnerabilities of terrorist financing.

The members of working groups shall be representatives of state, law enforcement and special state authorities with the necessary qualifications in matters falling within the competence of working groups.

The authorized authority shall request from state, law enforcement and special state authorities the proposals for candidacies of representatives for inclusion in working groups.

The leaders of working groups shall be elected from among their members by internal voting at the first meeting of the relevant working group and shall be determined depending on the industry under study.

6. The authorized authority shall coordinate the work on implementation of risk assessments in the field of counteracting the legalization (laundering) of proceeds from crime and financing of terrorism.

7. The risk assessment of the legalization (laundering) of proceeds and financing of terrorism includes three stages:

data collection to assess the risks of legalization (laundering) of proceeds and financing of terrorism;

processing and analysis of data to assess the risks of legalization (laundering) of proceeds and financing of terrorism;

assessment of the risks of legalization (laundering) of proceeds and financing of terrorism and identification of measures aimed at reducing the risks of legalization (laundering) of proceeds and financing of terrorism.

8. A request for submission of candidatures to the working groups shall be sent by the authorized authority no later than 15 (fifteen) business days from the date of each risk assessment of legalization (laundering) of proceeds and financing of terrorism.

State, law enforcement and special state authorities within 15 (fifteen) business days from the date of receipt of this proposal shall send proposals to the authorized authority on the inclusion of their representatives in the working groups in accordance with their fields of activity.

9. Based on the submitted proposals on inclusion of representatives of state, law enforcement and special state authorities in working groups, the authorized authority shall approve the composition of the working groups.

10. The authorized authority, within 10 (ten) business days from the date of approval of the composition of working groups, shall approve the schedule of meetings of the working groups (hereinafter referred to as the schedule) and send them for review to the members of working group.

Meetings of working groups shall be held in accordance with the schedule, but at least once a month.

11. If necessary, meetings of working groups shall be held at the initiative of the authorized authority, the head of working group.

3. The procedure for collecting data to assess the risks of legalization (laundering) of proceeds and financing of terrorism

12. Collection of data for assessing the risks of legalization (laundering) of income and financing of terrorism shall be carried out by the authorized body in accordance with the methodology for collecting data for assessing the risks of legalization (laundering) of income and financing of terrorism (hereinafter referred to as the methodology), approved in accordance with paragraph 2 of Article 11 -1 of the Law.

Footnote. Paragraph 12 - as amended by Resolution No.98 of the Government of the Republic of Kazakhstan dated 26.02.2021 (shall be enforced ten calendar days after the date of its first official publication).

13. The authorized authority shall send no later than 20 (twenty) business days from the start of each risk assessment of legalization (laundering) of proceeds and financing of terrorism to the state, law enforcement and special state authorities, as well as to the financial monitoring subjects, a request for submission of data to assess the risks of legalization (laundering) proceeds and financing of terrorism.

14. State, law enforcement and special state authorities, as well as financial monitoring subjects, within 30 (thirty) business days shall submit data to assess the risks of legalization (laundering) of proceeds and financing of terrorism for the previous three-year period in accordance with the methodology on paper or electronically in Microsoft Office Excel format, in accordance with Paragraph 13 of the Rules.

15. In the absence of data to assess the risks of legalization (laundering) of proceeds and financing of terrorism, the reasons for the lack of such data shall be indicated.

4. The procedure for processing and analyzing data to assess the risks of legalization (laundering) of proceeds and financing of terrorism

16. The authorized authority shall, within 30 (thirty) business days from the date of receipt of all data, process the collected data to assess the risks of legalization (laundering) of proceeds and financing of terrorism by:

comparing the collected data to assess the risks of legalization (laundering) of proceeds and financing of terrorism for compliance and completeness of the data presented to assess the risks of legalizing (laundering) of proceeds and financing of terrorism;

structuring the collected data to assess the risks of legalization (laundering) of proceeds and financing of terrorism;

ranking the collected data to assess the risks of legalization (laundering) of proceeds and financing of terrorism.

17. The authorized authority after processing the data to assess the risks of legalization (laundering) of proceeds and financing of terrorism shall carry out their analysis, which lasts no more than 5 (five) months, during which it reveals:

source of risk of legalization (laundering) of proceeds and financing of terrorism;

nature of risk of legalization (laundering) of proceeds and financing of terrorism;

likelihood of risk of legalization (laundering) of proceeds and financing of terrorism;

consequences of risk of legalization (laundering) of proceeds and financing of terrorism.

18. When analyzing data to assess the risks of legalization (laundering) of proceeds and financing of terrorism, information shall also be used from reports on mutual assessment and progress in countering the legalization (laundering) of proceeds and financing of terrorism and reports of international organizations in the field of counteracting the legalization (laundering) of proceeds received by criminal means, and financing of terrorism.

19. Based on the analysis of the collected data, the authorized authority shall comply a report on assessment of the risks of legalization (laundering) of proceeds and financing of terrorism, which contains:

1) description of the nature, source, probability and consequences of the risks of legalization (laundering) of proceeds and financing of terrorism;

2) results of the analysis of the collected data for the risks of legalization (laundering) of proceeds and financing of terrorism.

20. The authorized authority within 10 (ten) business days from the date of the report on assessment of the risks of legalization (laundering) of proceeds and financing of terrorism shall transfer it to the working groups.

5. The procedure for assessing the risks of legalization (laundering) of proceeds and financing of terrorism and identifying measures aimed at reducing the risks of legalization (laundering) of proceeds and financing of terrorism

21. Working groups no more than 5 (five) months from the date of receipt of the report on assessment of the risks of legalization (laundering) of proceeds and financing of terrorism, shall consider and assign one of the following risk levels:

- "very high";
- " high ";
- "significant";
- "above average";
- "average";
- "below average";
- "low";
- "very low";
- “there are minor risks”;
- "no risk".

22. The working groups, based on the results of consideration and assignment of appropriate risk levels, shall form final reports on assessing the risks of legalization (laundering) of proceeds and financing of terrorism (hereinafter referred to as the final report), which contain:

- 1) description of the risk assessment of legalization (laundering) of proceeds and financing of terrorism;
- 2) conclusions on assessment of the risks of legalization (laundering) of proceeds and financing of terrorism;
- 3) conclusions on adoption of measures aimed at reducing the risks of legalization (laundering) of proceeds and financing of terrorism.

23. The working groups within 10 (ten) working days from the date of the final reports generation shall send them to the authorized authority.

24. The authorized authority within 10 (ten) business days from the date of receipt of the final reports shall send them for approval to state, law enforcement and special state authorities.

25. State, law enforcement and special state authorities shall send comments and suggestions or report their absence to the authorized authority within 30 (thirty) business days from the date of receipt of the final reports.

In the case of submission by the state, law enforcement and special state authorities of comments and suggestions to the final report, the authorized authority shall return them to the working groups within 5 (five) working days for further development.

26. In case of failure by the state, law enforcement and special state authorities to submit positions within the time periods specified in Paragraph 25 of the Rules, the final reports shall be considered agreed.

6. The order of consideration at the Interdepartmental Commission on countering the legalization (laundering) of proceeds from crime and financing of terrorism

27. The authorized body shall submit final reports for consideration and approval to the meeting of the Interdepartmental council on the prevention of legalization (laundering) of proceeds from crime and financing of terrorism (hereinafter referred to as the Interdepartmental Council), created by the authorized body, in accordance with the schedule of meetings of the Interdepartmental Council agreed with state, law enforcement and special state bodies.

Footnote. Paragraph 27 - as amended by Resolution No.98 of the Government of the Republic of Kazakhstan dated 26.02.2021 (shall be enforced ten calendar days after the date of its first official publication).

28. The authorized body, after approval by the Interdepartmental Council, shall summarize within 30 (thirty) working days the final reports and place them in the closed part of the official Internet resource of the Financial Monitoring Agency of the Republic of Kazakhstan.

Footnote. Paragraph 28 - as amended by Resolution No.98 of the Government of the Republic of Kazakhstan dated 26.02.2021 (shall be enforced ten calendar days after the date of its first official publication).

29. Based on the results of assessment of the risks of legalization (laundering) of proceeds and financing of terrorism, the authorized authority shall develop a set of measures aimed at reducing the risks of legalization (laundering) of proceeds and financing of terrorism, approved by the Government of the Republic of Kazakhstan.