

THE REGULATORY BASIS FOR RETRAINING AND ADVANCED TRAINING OF SPECIALISTS IN THE SPHERE OF FINANCIAL MONITORING

I.M. GAIEVSKYI, *candidate of legal sciences, associate professor, Head of Legal Department of the State Financial Monitoring Service of Ukraine*

The legal regulation of the process of retraining and advanced training of specialists in the sphere of financial monitoring is analyzed. The role of the State financial monitoring service of Ukraine concerning the coordination of training in this area is studied. The regulatory framework activity of the educational institution, which belongs to the sphere of management of the State Financial Monitoring Service of Ukraine, is researched, and prospects for improvement of its organizational form.

The FATF Recommendations, money laundering, terrorist financing, Training-methodical center of State Financial Monitoring Service of Ukraine, training, Academy.

According to 15 Recommendations of Financial Action Task Force on Money Laundering (FATF) participants in the primary system of financial monitoring are obliged to carry out regular training of employees, with the aim of awareness about the latest developments, including information on modern the techniques of money laundering and terrorist financing methods and trends, and a clear explanation of all aspects of the legislation and obligations to combat money laundering and terrorist financing.

Contemporary challenges to the national security of Ukraine related to money laundering and terrorist threats, determine before our state and society is not only a formal requirement in the implementation of international standards, but also a real need to take urgent measures to overcome these negative phenomena.

Given this, efforts by the establishment in Ukraine of a proper system of combating money laundering and terrorist financing contributes to the development of institutions that would provide reduction (prevention, termination) of such manifestations.

Science and practice proves that the functioning of an effective system of financial monitoring can significantly minimize the risks associated with the use of the financial system and its entities to launder criminal proceeds and financing of terrorism. It also allows for properly tracking the cash flows that illegally displayed outside of the state, and their return to the budget of Ukraine.

The main element of any system is the qualified person who is capable of performing the assigned tasks and functions. Therefore, one of

the basic components of the fight against money laundering and the financing of terrorism is a high-quality professional preparation and training of qualified specialists in this sphere.

The study of legal aspects of regulation and training on prevention and counteraction to legalization (laundering) of the proceeds of crime or terrorist financing was involved by Butkevych S. A., Dmitrov S. A., Kovalchuk, A. T., Korystin A. E., Proshunin N. N., Chubenko A.G., and others. However, despite considerable scientific potential, requires further development of the study of contemporary forms of training in this area, especially in the context of updated legislation.

The purpose of this article is the analysis of legal regulation of the process of retraining and advanced training of specialists in the sphere of financial monitoring, the study of the role of the State Financial Monitoring Service of Ukraine concerning the coordination of training in this area, and the study of the normative foundations of educational institutions, which belongs to the sphere of management of the State Financial Monitoring Service of Ukraine, and the prospects of improving its organizational forms.

The legal mechanisms for the organization and implementation of staff training in the sphere of prevention and counteraction to legalization (laundering) of the proceeds of crime or terrorist financing is defined by the Law of Ukraine «On prevention and counteraction to legalization (laundering) of the proceeds of crime or terrorist financing» (next – the Law) and normative-legal acts, which are designed to implement it.

Training of employees is a systematic improvement, expansion and updating knowledge and skills of professional staff through training in their respective schools.

Training of specialists on the issues of financial monitoring in the sphere of prevention and counteraction to legalization (laundering) of the proceeds of crime or terrorist financing is carried out by two categories of students:

- training entities of initial financial monitoring (members of the financial services market, securities market, realtors and so on);
- training of specialists of public authorities (the entities of state financial monitoring, law enforcement and judicial authorities).

In accordance with paragraph 20 of part two of article 6 of this Law, the entities of initial financial monitoring shall ensure training of employees responsible for conducting financial monitoring by training at least once in three years.

To ensure the activities on the organization of financial monitoring in the sphere of preventing and counteracting introduction into the legal treatment of income developed by the qualifications of an employee of the entity of initial financial monitoring, responsible for conducting financial monitoring, approved by order of the Ministry of Finance of Ukraine.

Under paragraph 6 of these Requirements, the person first appointed as the responsible officer should undergo long-term training (not less than 72 hours) within two months from the date of appointment.

In addition, the responsible employee must improve their skills in the sphere of on prevention and counteraction to legalization (laundering) of the proceeds of crime or terrorist financing by the periodic passage of short-term training (no more than 72 hours) in accordance with the appropriate volume of standard training programs at least once in three years.

Special requirements to the qualification of the Person responsible for financial monitoring depending on the specific activity of entities of initial financial monitoring shall be established by entities of state financial monitoring.

State regulators on compliance with the requirements of Law provisions (rules) about the training and upgrading of Person responsible for financial monitoring of initial financial monitoring, state regulation and oversight which they exercise.

Thus, the objects of professional development on the basis of contracts with legal and physical persons are Persons responsible for financial monitoring of initial financial monitoring.

Regarding the training of specialists of state bodies on the issues of financial monitoring, it is part of the state order.

The question of the formation of the state order for training and retraining of employees of public authorities is regulated by the resolution of the Cabinet of Ministers of Ukraine from 29.02.1996 № 266 «On the procedure of formation and placement of state orders and delivery of goods for state needs and monitoring their implementation».

In addition, the Cabinet of Ministers of Ukraine approved the Regulation on the system of training, retraining and advanced training of civil servants and officials of local self-government, which also defined the main aspects of the organization of professional training of civil servants.

The objects of professional development on the state order are employees of the entities of state financial monitoring, other state agencies, law enforcement and judicial authorities.

The state financial monitoring service of Ukraine in accordance with paragraph 16 of part two of article 18 of the Law provides for the organization and coordination of work on retraining and advanced training of specialists on the basis of the institution concerned, related to the management of the State financial monitoring service of Ukraine.

On the initiative of the State financial monitoring service of Ukraine and to implement the requirements of the Law, the Cabinet of Ministers of Ukraine in 2004 was established State educational institution of postgraduate education "Educational-methodical center of retraining and improvement of professional skill of experts on financial monitoring in the

sphere of prevention and counteraction to legalization (laundering) of the proceeds of crime or terrorist financing".

In accordance with paragraph 1 of this Ordinance the Training-methodical center of State Financial Monitoring Service of Ukraine related to the management of the State Financial Monitoring Service of Ukraine.

The main objectives of the Training-methodical center of State Financial Monitoring Service of Ukraine are:

- retraining and advanced training of specialists on the issues of financial monitoring in the sphere of prevention and counteraction to legalization (laundering) of the proceeds of crime or terrorist financing;
- a uniform approach to retraining and advanced training of specialists of the entities of state financial monitoring, law enforcement and judicial authorities, representatives of entities of initial financial monitoring, responsible for his conduct, as well as representatives of foreign States and international organizations.

The membership of the Training-methodical center of State Financial Monitoring Service of Ukraine in the management of the State Financial Monitoring Service of Ukraine allows more optimal to determine the need for training specialists in the sphere of financial monitoring and more dynamically adjust the respective directions of the curriculum, based on current trends in money laundering and terrorism financing, as well as taking into account changes of the national legislation and international standards in this area.

A significant advantage of this educational institution from other institutions in the sphere of financial monitoring is its teaching staff, formed from a professional and experienced practitioners in this sphere, and the possibility of immediate attraction of experts of the State Financial Monitoring Service of Ukraine.

October 14, 2014 by the Verkhovna Rada of Ukraine adopted a new Law of Ukraine «On prevention and counteraction to legalization (laundering) of proceeds from crime and financing of terrorism and the financing of proliferation of weapons of mass destruction». According to paragraph 14 of part two of article 18 of this Law the State Financial Monitoring Service of Ukraine in the order determined by the Cabinet of Ministers of Ukraine, responsible for the organization and coordination of work on retraining and improvement of professional skills on the basis of the relevant educational institution – the Academy, which belongs to the sphere of his control.

This rule changes the situation regarding education in the sphere of financial monitoring, because: firstly provides that the Government defines a single training program, and secondly determines that the organizational form of an educational institution, a member of the management of the State Financial Monitoring Service of Ukraine, is the Academy.

The analysis of the legislation, and this factors in the development and modernization of postgraduate education show that the Academy is the

optimal form of the educational institution in the sphere of financial monitoring, which would meet the requirements of the latest educational process and the needs of the sphere of combating money laundering and financing of terrorism. Education on the basis of the Training-methodical center of State Financial Monitoring Service of Ukraine of the Academy will:

1. To develop new, relevant academic methods and to provide quality training in this area.

2. To satisfy the request of the countries of Eastern and Central European region on professional training, including the use of technical projects of international organizations (in particular, OSCE).

3. To promote the activities of the State Financial Monitoring Service of Ukraine and to provide coaching in the plane of its work.

4. To really compete with the International training and methodology center for financial monitoring, established on the basis of the financial intelligence unit of the Russian Federation [14], the founder of which is the financial intelligence unit – the Federal financial monitoring service.

In addition, 6 September 2014 entered into force the new Law of Ukraine «On higher education» according to the Transitional provisions which, the founders of educational institutions recommended within two years, the cast and the statutes of the educational institutions in accordance with this Law. And the Law itself establishes that professional development is a component of postgraduate education, which is extracted including academies.

Thus, the modern processes of retraining and advanced training of specialists in the sphere of financial monitoring are on the path of development, modernization and raise to a qualitatively new level of postgraduate education on the issues of prevention and counteraction to legalization (laundering) of the proceeds of crime or terrorist financing, which will contribute to increasing the competitiveness of national education at the international level.