

## **NEW NATIONAL RISK ASSESSMENT FOR MONEY LAUNDERING AND TERRORIST FINANCING. IMPLICATIONS FOR OBLIGED INSTITUTIONS.**

**In December 2023, the Ministry of Finance published a new national risk assessment on money laundering and terrorist financing. This is the second version of the national risk assessment developed by the General Inspector of Financial Information, which is an update on the first assessment from 2019.**

### **NATIONAL RISK ASSESSMENT - RELEVANCE**

The national risk assessment on money laundering and terrorist financing comprehensively describes the Polish anti-money laundering and combating of terrorist financing system, including the principles of the financial market (and functionality) and the tasks of individual public administration bodies and market participants in combating money laundering and terrorist financing. In addition, an important part of the national risk assessment is an analysis of the incidence of money laundering and terrorist financing in Poland in relation to specific underlying offences, taking into account money laundering and terrorist financing scenarios in a given industry, type of obliged institution, products and transactions.

### **EFFECTS ON OBLIGED INSTITUTIONS**

The publication of a new national risk assessment updates on the part of each obliged institution the need to review and, if necessary, modify its own risk assessment relating to its activities.

Consequently, obliged institutions should check whether, and how, the new national risk assessment affects the risk assessment of their activities and, if necessary, make necessary updates in accordance with the procedure adopted by the obliged institution concerned.

Failure to make said updates raises the risk of an administrative penalty being imposed on the obliged institution (including things such as a fine or withdrawal of authorisation to operate). Monetary penalties may also be imposed directly on the persons responsible for performing AML obligations at the obliged institution.

Even if an obliged institution comes to the conclusion that the content of the new national risk assessment does not necessitate changes to its own risk assessment, it is worth documenting the analysis carried out and its conclusions. This will allow it to be possible to demonstrate due diligence in the event of a possible audit by the General Inspector of Financial Information or the Financial Supervision Commission.

The latter has in the past repeatedly indicated the need for obliged institutions subject to its supervision to take into account the national risk assessment.

## ANNEX 2 OF THE NEW NATIONAL RISK ASSESSMENT

Obligated institutions should focus primarily on analysing Annex 2 of the new national risk assessment. Comprehensive conclusions on the threats and risks per sector in which the obliged institutions operate are contained within it.

The Annex distinguishes the following sectors:

- (1) banking,
- (2) payment services offered by non-banks,
- (3) insurance,
- (4) other financial institutions,
- (5) foreign exchange,
- (6) virtual currencies,
- (7) telecommunications services linked to mobile payments,
- (8) transportation of property across borders,
- (9) gambling,
- (10) non-profit organisations,
- (11) crowdfunding,
- (12) trade in high-value goods,
- (13) general economic activities, and
- (14) real estate.

Examination of the Annex may help identify which of the services provided by an institution are at particular risk of being used for money laundering or terrorist financing purposes. The Annex also provides detailed scenarios for the use of obliged institutions in a given sector for money laundering or terrorist financing. Obligated institutions should therefore ensure that their risk assessments cover at a minimum the money laundering and terrorist financing patterns identified in the national risk assessment, as also highlighted by the Financial Supervision Commission.

In addition, the Annex's discussion of each of the above fourteen areas concludes with a conclusion on how obliged institutions can mitigate the risks in each area. This is an important guidance for obliged institutions on the AML/CFT activities expected from them.

According to the scenarios described in the annex, not only breach of contract by the customer can be alarming, but also situations that are generally assessed positively. Obligated institutions (including, above all, banks, lending institutions or leasing companies) should be wary of both customers incurring liabilities without the intention of repaying them and of premature repayment of incurred liabilities. The first scenario poses a risk of terrorist financing, the second of money laundering.

Industries whose risks were not analysed in depth in the previous national risk assessment, such as leasing companies, should particularly focus on the annex to the new national risk assessment. As the previous national risk assessment did not identify specific risks in the activities of leasing companies, these are generally not included in their internal risk assessments either. In particular, claims for the reimbursement of overpayments by lessees should be analysed. Where overpayments are not justified by the customers' business, they may turn out to be of criminal origin. In such situations, leasing companies should suspend the refund request and apply financial security measures. Our experience to date confirms that the identified risk is real and requires a response from the obliged institution.

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