

Republic of Serbia

**MINISTRY OF FINANCE**

**TAX ADMINISTRATION**

No. 000-021-00-22/2018/1

Belgrade, 25.12.2018

Under Art. 4, para 1, item 8). 6, para 1, item 4), 104, para 1., 110, para 2 and 114, of the Law on prevention of money laundering and financing of terrorism („Official Gazette of RS“ no. 113/17-hereinafter the Law, Director of Tax Administration brings

**GUIDELINES FOR ASSESSMENT OF RISK FROM MONEY LAUNDERING AND FINANCINGHOF TERRORISM FOR OBLIGED ENTITIES THAT ORGANIZE SPECIAL GAMES OF CHANCE IN CASINOS**

Tax Administration, pursuant to Art. Article 104, paragraph 1, item 4) and Article 110, paragraph 2 of the Law, as a state body responsible for inspection in the field of games of chance, supervises the application of this law by the obliged entities referred to in Article 4, paragraph 1, item 8) i.e with organizers of special games of chance in casinos, who perform their activities on the basis of a special law.

Guidelines for the prevention of money laundering and terrorist financing are adopted in order to reduce the risks to which the taxpayer is exposed in order to adequately assess the susceptibility to the risk of money laundering and terrorist financing, risk analysis and regular updating, developing risk identification and risk management procedures, in accordance with Article 6 of the Law in order to apply uniformly the provisions of the Law on Prevention of Money Laundering and Financing of Terrorism and on the basis of it adopted guidelines from the body competent to supervise the implementation of this Law.

The Tax Administration may, on the basis of Article 114 of the Law, make, independently or in cooperation with other bodies, recommendations or guidelines for the application of the provisions of this Law.

Pursuant to legal provisions, the risk of money laundering or terrorist financing is the risk that the party will abuse the organization of special games of chance in casinos in the Republic of Serbia for money laundering or terrorist financing, that is, the party or transaction will be directly or indirectly used for money laundering or financing of terrorism.

The aim is for casinos to establish effective systems to prevent the receipt, giving, substituting, storing, disposing or otherwise handling of, or in relation to assets acquired through the commission of a criminal offense, to finance specific games of chance in casinos as free activities, not to be used in the money laundering or terrorist financing system.

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In performing its registered activity, the taxpayer must comply with the legally prescribed obligations, which regulates the field of detecting and preventing money laundering and terrorist financing and to ensure compliance with the prescribed measures and activities at all levels, so that the entire business of the taxpayer is carried out in a legally prescribed manner.

Based on the updated National Risk Assessment of Money Laundering and Terrorism Financing risks in 2018, casinos belong to a sector that is estimated to be medium-vulnerable in relation to other non-financial sectors and has a medium-high exposure to money laundering threats.

**RISK-BASED APPROACH**

**The concept of risk**

The risk is a function of three factors:

1. **threats** that include all actions that the people involved in criminal behavor are undertaking to conceal and obscure the origin of the proceeds of crime and create the impression that the property is acquired legally and use the money so acquired without incurring any doubts;

2. **vulnerabilities** are all things that crime groups can use by threatening, to support or facilitate their activities to use illicitly acquired funds to factors that present weaknesses in the system of prevention of money laundering and financing of terrorism. This is all that the makes a taxpayer attractive for money laundering and financing of terrorism and the exposed to risk of money laundering or terrorist financing (eg. attractiveness or susceptibility to money laundering and terrorist financing, insufficient knowledge of regulations regulating this area, inadequate application of legal regulations, etc.). The aim is for the casinos to direct their capacities to those factors that are weak in the system for detecting and preventing money laundering and terrorist financing and control system in order to improve the effectiveness of the system of measures and actions to combat money laundering and terrorist financing and its capacities in this area;

3. **the consequences** represent everyting that relates to the impact or damage that money laundering or terrorist financing can cause, and includes the impact of criminal or terrorist activities that may negatively affect the economic, political, security and social structure of the state. Due to omissions in the prevention of money laundering and terrorist financing, the organizer of special games of chance in the casino may be at risk of violating reputation and to be subjest to the prescribed punishment.

When assessing threats, organizers of special games of chance in casinos should start from the results of the updated National Risk Assessment in which it was estimated that the games of chance sector is exposed to a high level of money laundering threat, taking into account information on criminal proceedings initiated for the criminal offense of unauthorized organization of games of chance as a predicate with money laundering, or criminal proceedings involving employees in this sector, the fact that a large amount of money is being made within this sector, almost exclusively in cash.

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Risk exposure is the weakness or vulnerability of obliged entities that can be used by a person or a group of persons through carrying out activities that represent a threat that money laundering and the financing of terrorism can occur.

The level of risk can be reduced by reducing threats and vulnerabilities, or their impact.

The consequences of money laundering and terrorist financing undermine the stability, transparency and efficiency of the financial system of the state, cause economic distortions and instability, jeopardize reform programs, reduce investment, damage the reputation of the country, and endanger national security.

The updated National Assessment of Money Laundering and Threat Assessment from Terrorism Financing, in addition to assessing threats and vulnerabilities, includes an assessment of the implications for the system. They should be understood as the harm that money laundering could cause and involves the impact of criminal activity on obliged entities, the financial system, society and the economy as a whole. The objective of the risk assessment is to draw conclusions which sectors and actions in a country's state system pose a potentially higher risk of money laundering and terrorist financing, which is lower, so that the state can adequately respond to identified risks through a range of measures and activities, and in accordance with the assessed risks, to make adequate decisions on the allocation of resources, with the intent to invest more effort and resources into high-risk areas.

**Assessment of risk exposure**

Identifying, assessing and understanding the risks of money laundering are an essential part of the application and development of anti-money laundering and terrorist financing systems in the country. This system includes laws, other regulations, enforcement measures and other measures taken to mitigate the risks of money laundering and terrorist financing. The assessment of the risks of financing terrorism has been made by looking at threats from terrorism, the impact on the threat of financing terrorism, terrorist financing threats and vulnerability to terrorist financing, within the updated National Risk Assessment.

Assessment of risk exposure implies that a taxpayer identifies risks, assesses his exposure from them to money laundering and terrorist financing, which will allow him to see the likelihood of a negative impact that might arise from that risk, as well as the potential effect of that risk on the realization of business objectives.

Risk assessment is carried out in order to allow for control measures that are proportionate to identified risk. This allows obliged entities to focus on those clients, services, transactions and channels of operations that represent the greatest potential risk.

The process of assessing the risk of money laundering and terrorist financing should run as follows:

а) recognizing the risks of operations that are susceptible to money laundering and terrorist financing: identify geographic locations that are specific to obliged entities, parties, services, transactions, etc..;

b) conducting an analysis to determine the likelihood of money laundering and terrorist financing being likely to occur, and what would be their impact in that case: analyze as a combination of the likelihood that this phenomenon might occur and the impact of the costs and damages that might arise in a given situation;

c) risk management: the taxpayer applies risk management strategies based on the analysis and implements the appropriate business policy, i.e appropriate procedures with adequate systems and control mechanisms;

d) supervision over risk and review: develop a supervisory regime through compliance and audit programs with periodic risk reviews.

**RECOGNIZING AND IDENTIFICATION OF RISK**

The first phase involves identifying different types of risks that are classified into four basic categories: geographical risk, client risk, service risk, and transaction risk.

Depending on the specific nature of the business of a particular taxpayer, other categories in which money laundering and terrorist financing can be taken into account, which may be subject to additional reinforced, general or simplified measures in the risk assessment process.

*1) Geographical risk*

Geographical risk involves an assessment of the exposure to the risk of money laundering and terrorist financing which depends on the country of origin of the party, that is, the person performing the transaction, areas or territories where the taxpayer is located, as well as the countries of origin of the ownership and management structure of the casino.

There is a higher risk of money laundering and terrorist financing by parties originating from the countries:

- against which the United Nations, the Council of Europe, the OFAC, or other international organizations have applied sanctions, embargoes or similar measures;

- which by the credible institutions (FATF, Council of Europe, IMF, World Bank) are designated as countries that do not apply adequate measures to prevent money laundering and terrorist financing;

- which by the credible institutions (FATF, United Nations) were marked as countries that support or finance terrorist activities or organizations;

- which by the credible institutions (World Bank, IMF) are marked as countries with a high degree of corruption and crime.

The Minister of Finance, based on the powers from the Law, establishes a list of countres that apply international standards in the area of prevention of money laundering and terrorist financing at least at the level of European Union standards (the so-called white list), as well as the list of states that do not apply standards in this area at all (so-called black list).

*2) Client risk*

The taxpayer should describe all types or categories of parties with whom he operates and assess how likely these types or categories of parties will abuse that taxpayer for money laundering or financing of terrorism:

• client category:

- regular client;

- VIP client;

- random client etc..

• type of client:

- a customer who is not in the first visit, which performs small to medium transactions;

- the client who is not in the first visit, which performs a medium to large transaction;

- the client who is not in the first visit, who is a citizen of the Republic of Serbia;

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The client risk involves assessing whether a party is associated with a higher risk of money laundering and terrorist financing and, on the basis of its own criteria, the taxpayer determines whether a client represents a higher risk on the basis of the performed categorization.

The higher risk represent:

1. regular clients whose regular behavioue changes:

* the coming client, has a permanent or temporary stay in the country and / or the region located on the so-called '' black list '';
* a client that comes regularly, but starts to spend more money;
* a client that comes regularly, starts to spend considerably less money, but more often participates in games of chance;
* a party that starts a game of chance in a casino by purchasing chips for a large sum of money, but only spends a fraction of it, etc..;

1. clients representing politically exposed persons, or domestic and foreign officials;

3) clients from the SME sector;  
4) parties from international corporations;  
5) random clients, etc.

The above risk analysis is a general analysis for different types or categories of clients and is the starting point for categorizing the risks of an individual client. Depending on the circumstances specific to individual clients, such as its origin and background, or what can be concluded on the basis of the information provided, it is also adapted to the categorization of the given client, to which the appropriate measures and acts of knowing and monitoring the client from the taxpayer are applied, in in accordance with Art. 7 and 8 of the Law.

The taxpayer is obliged to determine by internal act the procedure of checking whether the client or the actual owner of a client is a functionary, when establishing or during the established business relationship, in accordance with Article 38 of the Law.

*3) Risk of transaction, product and service*

In order to carry out a risk assessment, the taxpayer should describe all the transactions it carries out, the products and services it provides, and to assess the likelihood that a client will misuse them for money laundering or terrorist financing, as well as assess the impact, or the effect of such a phenomenon, through carrying out measures and actions of knowing and monitoring the client, such as:

- in the performance of a transaction of EUR 15,000 or more in dinar equivalent, regardless of whether it is one or more interconnected transactions;

- when withdrawing a win, investing a bet, or in both cases when transactions involving EUR 2,000 or more in dinar counter value are made, regardless of whether it is one or more interrelated transactions.

Transaction is the acceptance, giving, substitution, custody, disposal or other treatment of property at the taxpayer.

Assets are things, money, rights, securities, and other documents in any form that can determine ownership of property and other rights.

Money is cash (domestic and foreign), funds on accounts (dinar and foreign exchange) and electronic money.

Cash transaction is physical acceptance or giving of cash.

A cash transaction at the taxpayer means the purchase of a token or a loan for a specific game on a table or machine, where by the nature of the work, a different game is activated on each table or machine, i.e. some of the basic transactions are performed:

- exchange of money for chips with a defined value;  
- exchange of tokens with a defined value for money;  
- exchange of money for credit on the machine;  
- replacement of credit on the machine for money, etc.

Other transactions in the casino may be: receiving, giving, replacing, storing, disposing or otherwise handling the assets at the taxpayer.

The taxpayer should in particular monitor and identify suspicious transactions that are conducted in a way that avoids standard and common control methods involving multiple participants, more interconnected transactions that are performed in a shorter period or in more intervals in succession, in an amount that is just below the maximum prescribed by the law, in order to avoid filing and reporting.

The taxpayer is obliged to pay special attention to any risk of money laundering and terrorist financing that could result from the use of new technologies, the provision of new services not previously offered, as well as the provision of those services for which, on the basis of their experience, they estimate that they bear a high level of risk and take appropriate measures to prevent them from being used for the purpose of money laundering and terrorist financing.

The list of indicators for identifying suspicious transactions for organizers of specific games of chance is the starting point for employees/authorized persons in identifying suspicious circumstances related to a particular client and/or transaction performed by the client in order to use them in their work.

The taxpayer may, in addition also envisage additional risk categories and determine the appropriate actions and measures from the law for these risk categories.

**RISK ANALYSIS AND ASSESSMENT**

Risk assessment is an activity that shows the extent to which a particular risk can affect the achievement of the target.

Risk assessment is done based on probability and impact.

The probability represents the possibility that a particular event will arise, while the influence represents its effect.

In the next step, the measurement of impact and probability in the context of the question: "what is the consequence of the risk?''.

The impact and probability are measured by three categorizations: "high", "medium" and "low". Each categorization has a number, and the multiplication product with the categorization gives the degree of exposure to a particular risk.

The risk exposure is determined on the basis of a matrix that shows the relationship between the impact and probability in the 3x3 system, as follows:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **IMPACT** | high | **3** | 3 | 6 | 9 |
| medium | **2** | 2 | 4 | 6 |
| low | **1** | 1 | 2 | 3 |
|  |  |  | **1** | **2** | **3** |
|  | low | medium | high |
|  | **PROBABILITY** | | |

Exposure to risk is assessed as low (product is 1 or 2), medium (product is 3 or 4) and high (the product is 6 or 9).

The taxpayer is exposed high to a certain risk, especially if it can lead to:

- interruption of all important programs, services and activities;  
- loss of large financial assets;  
- Serious breaches of the safety of employees and clients (endangered life);  
- significant loss of public confidence, etc.,

and applies enhanced actions and measures.

The taxpayer is subject to a medium risk exposure if it can lead to:

* interruption of some important programs, services and activities;- loss of limited financial resources;
* breaches of the safety of employees and clients (serious injury);
* loss of public confidence to some extent, etc.,

and applies at least general actions and measures.

The taxpayer is low exposed to a certain risk if it can lead to:

- delays in small projects and provision of services;  
- loss of financial assets of low value;  
- giving first aid to the injured;  
- "step back" in building public confidence, etc.,

and applies at least simplified actions and measures.

The taxpayer performs an analysis and assessment of risk exposure in relation to all recognized snd identified risk categories and places them in one of the categories listed above.

**RISK MANAGEMENT PROCESS**

**Internal policy and procedures**

The goals and principles of management of risk of money laundering and terrorist financing should enable obliged entities to determine appropriate policies and procedures, determine the role, level of authority and responsibility of the authorized persons with the taxpayer. The aim of accepting such a policy is primarily to determine at the level of the taxpayer those areas of business which, given the possibility of abuse of money laundering or financing of terrorism, are more or less critical, that is, for the taxpayer himself to establish and determine the main risks and measures for their resolving.

Management must ensure that employees respect internal procedures and established policies. It should stimulate the ethical business culture and ethical behavior of employees, to continuously strengthen the capacities, knowledge and awareness of employees about the importance of reviewing and updating risk assessment and the importance of effective risk management through the taking of adequate measures and actions for detecting and preventing money laundering and financing of terrorism.

Organizational unit managers who are responsible for risk management at the level of their unit, if the organizational structure is bigger, need to develop procedures for managing the risks of money laundering and terrorist financing, so that these procedures are tailored to the specific tasks in the organizational structure of the taxpayer and be harmonized with the procedures, objectives and principles of risk assessment of money laundering and terrorist financing at the level of obliged entities.

**Internal strategy**

In order to carry out activities to establish the functioning and maintenance of the risk management process, the taxpayer adopts a strategy that represents a framework for identifying, assessing and controlling potential events and situations that may have a negative effect on the reputation of the taxpayer and his business. It should include the taxpayer's attitudes towards risks, set goals as well as the roles of authority and responsibility in the risk management process.

The goals of the strategy are to improve the efficiency of risk management, for the risk management to become:

- an integral part of planning documents;

- integral part of the process of planning and decision-making crucial for the realization of goals;

- to ensure that identification, assessment, treatment, monitoring and risk reporting are understandable to all employees;

- establishing coordination in risk management;  
- that risk management includes all risk areas;  
- ensuring that at the level of obliged entities the most significant risks are covered;  
- ensuring that risk management complies with the regulations governing the prevention of money laundering and the financing of terrorism.

The purpose of the strategy is to increase the capacity of the taxpayer to achieve the set goals at the strategic and operational level of the taxpayer using the risk management system as a tool, which also implies effective communication and learning that is implemented vertically and horizontally within the organizational structure of the taxpayer.

Risk management with obliged entities strengthens confidence in the control system and leads to the development of a new positive management culture.

The strategy improves the efficiency of business processes, the quality of decision making and the provision of taxpayer services, improving the risk management system, which leads to an increase in the desired results, thus effectively minimizing the risk of money laundering and terrorist financing. It must contain performance indicators, as well as to be periodically updated, or revised and harmonized with standards.

**Competences, responsibilities and training**

The risk management process involves a number participants and structures and they have their roles, competencies and responsibilities. The taxpayer is obliged to appoint an authorized person and his deputy for performing certain actions and measures for prevention and detection of money laundering and financing of terrorism in accordance with Art. 49-52. of the law.

The senior management in the taxpayer determines the system for prevention and detection of money laundering and financing of terrorism, i.e internal policies and procedures, adopts internal strategy, establishes, maintains and provides conditions for carrying out activities in the risk management process and provides the highest level of support, dedication and commitment to the governance process risks.

Effective communication is carried out vertically and horizontally within the taxpayer. All employees receive from managers clear messages about the responsibility for risk management and how their individual activities are related to the work of other organizational units and employees.

Leaders of organizational units ensure that communication effectively transfers the goals, relevance and importance of effective risk management, inclination to risk and risk tolerance, as well as the roles and responsibilities of employees in the implementation of components in risk management.

The taxpayer is obliged to develop a program of regular vocational education, and training of employees for the prevention of money laundering and terrorist financing in accordance with Article 53 of the Law, as well as to provide the following:

* getting acquainted with the risk management strategy for all employees, with a constant obligation to introduce new employees;
* workshops on risk identification in the preparation of internal documents;
* workshops on risk assessment during the preparation of annual plans through the programs of work of organizational units;
* internal meetings and exchange of experiences of organizational units on risk management, etc..

**RISK SUPERVISION AND REVIEW**

**Internal control and internal audit**

The taxpayer is obliged to carry out regular internal control of the conduct of the prevention and detection of money laundering and terrorist financing. Internal control is carried out in accordance with the established risk of money laundering and terrorist financing.

The purpose of internal control is to detect and eliminate deficiencies in the implementation of the Law, as well as to improve internal systems for detecting persons and transactions suspected of money laundering or terrorist financing.

In performing the internal control, the obligor is obliged, by random sample method or in another appropriate manner, to carry out checks and tests the implementation of the system against the prevention of money laundering and financing of terrorism and the adopted procedures.

In the event of a change in the business process (e.g organizational changes, changes in business procedures), the taxpayer is obliged to check and harmonize its procedures in the internal control in order to be adequate for the fulfillment of obligations under the Law.

Checking of the harmonization of the system and procedures for the implementation of the Law and internal procedures, the taxpayer is obliged to carry out once a year, as well as every time there is a change, no later than the date of the introduction of these changes.

The taxpayer is obliged to draw up an annual report on the performed internal control and measures undertaken after that control, not later than March 15 of the current year for the previous year.

The taxpayer is obliged to organize an independent internal audit within the scope of which is a regular assessment of the adequacy, reliability and efficiency of the risk management system of money laundering and terrorist financing when the law regulating the activity of obliged entities prescribes the obligation of independent internal audit, or when the taxpayer estimates that, having in mind tha size and nature of the work, there needs to be an independent internal audit under the Law.

**Risk monitoring process and reporting**

Monitoring and reporting on the risks of money laundering and terrorist financing, as well as their management, is a continuous process. Leaders of all levels in the obliged entities, through risk analysis processes, monitor whether certain risks still exist, whether new ones have emerged, whether the impacts and probabilities of existing risks have changed, and whether the risk priority has changed.

The identifiable risks of the obliged entities are reviewed regularly, at the meetings of the high management twice a year and as necessary, after which the communication takes place with the lower managers in order to respond to the risks.

Risks at the level of organizational units are monitored permanently, and reviewed quarterly and,as necessary, by managers of organizational units.

Internal communication on risks ensures that managers and all employees with the taxpayer understand their place and responsibility in risk management.

The process of monitoring and reporting on the risks of money laundering and terrorist financing should be implemented as part of:

- business functions of the taxpayer for control of business, to ensure that all foreseen procedures are applied on a regular basis;

- regulatory compliance functions, which periodically monitors whether the internal policies identified are respected and whether all systems are in function;

- audit function, when determining whether business policies and processes are in accordance with the law and whether they are carried out in a legally prescribed manner;

- assessment of risk management resources, such as financial resources and staffing;

- determining future needs that are important for the nature, size and complexity of the taxpayer's complete business.

Regular reports to be submitted to managers should include data on the results of the risk monitoring process, internal control findings, organizational unit reports, internal audit reports, reports of persons authorized to detect, monitor and report suspicious transactions to the competent state authority, as well as the conclusions of the supervisory authorities set out in reports on the immediate inspection of obliged entities on money laundering and terrorist financing issues.

Heads of the obliged entities should also be provided with all other important information that will enable them to check the level of controls on the prevention of money laundering and terrorist financing, as well as possible consequences for the taxpayer's business if the mechanisms of control and prevention do not function adequately to the risks.

**PROTECTION AND CONSERVATION OF DATA AND KEEPING OF RECORDS**

The taxpayer is obliged to keep the data and documentation in relation to the client, the established business relationship with the client, monitoring the client and performed the risk analysis and the transaction performed, obtained in the prescribed manner, for at least ten years from the day of the termination of the business relationship, the transaction executed, or the last access the safe or entering a casino.

The taxpayer is obliged to keep the data and documentation about the authorized person, the deputy of an authorized person, professional training of employees and performed internal controls at least five years from the day of termination of the duties of an authorized person, completed professional training or performed internal control.

The taxpayer is obliged to keep a record of the data referred to in Article 8 of the Law and submit it in accordance with Article 47 of the Law.

The taxpayer is obliged to keep a record of the data referred to in Article 98, paragraph 1 of the Law, the content of which is prescribed by the provisions of Article 99 of the Law.

The taxpayer or his employees, including members of the administrative, supervisory and other management bodies, as well as other persons to whom the data referred to in Article 99 of the Law are available, are obliged to protect them, in accordance with Art. 90 and 91 of the Law.

**MAKING A LIST OF INDICATORS**

The taxpayer is obliged to draw up a list of indicators for identifying persons and transactions for which there are grounds for suspicion that money laundering or terrorist financing is involved. During the development of the list of indicators, they are obliged to enter the indicators developed by the competent authority, which are published on the website of the Administration for the Prevention of Money Laundering.

The taxpayer is obliged to apply a list of indicators when determining the basis of suspicion of money laundering or terrorist financing, and to take into account other circumstances that indicate the existence of a suspicion of money laundering or terrorist financing. It is especially important that all employees be familiar with the indicators and trained to identify and solve the risk of money laundering of terrorism financing within the scope of their work.

**IMPLEMENTATION OF GUIDELINES**

The obliged entities are obliged to harmonize their operations with the content of the Guidelines and the drafting of an internal act, in accordance with the provisions of the Law on Prevention of Money Laundering and Financing of Terrorism.

DIRECTOR

Dragana Marković