



Pursuant to Article 36, paragraph 1, subparagraph 1.17, and Article 65, paragraphs 1 and 2 of Law No. 03/L-209 on Central Bank of the Republic of Kosova, amended and supplemented by Law No. 05/L -150 on Central Bank of the Republic of Kosova, Article 85, paragraph 1 of Law No. 04/L-093 on Banks, Microfinance Institutions and Non-Bank Financial Institutions, Article 4, paragraph 3 of Law No. 05/L- 045 on Insurance, Article 23, paragraph 6, as well as Article 66, paragraph 2 of Law No. 05/L-096 on the Prevention of Money Laundering and Combating Terrorist Financing, the Executive Board of the Central Bank of the Republic of Kosova, at the meeting held on 3 May 2024, approved the following:

GUIDELINE

ON POLICIES AND PROCEDURES FOR THE EFFECTIVE MANAGEMENT OF MONEY LAUNDERING AND TERRORIST FINANCING (ML/TF) RISKS WHEN PROVIDING ACCESS TO FINANCIAL SERVICES

Article 1

Purpose

The purpose of this Guideline is to determine the policies, procedures and controls that financial institutions must introduce for the effective management of money laundering and terrorist financing risks when providing access to financial services.

Article 2

Scope

This Guideline shall apply to all banks, non-bank financial institutions, including foreign exchange offices, microfinance institutions and insurers.

Article 3

Definitions

1. All terms used in this Guideline shall have the same meaning as the terms defined in the Regulation (CBK) on Prevention of Money Laundering and Terrorism Financing and/or definitions below for the purpose of this Guideline.
2. *De-risking* – shall mean a refusal to enter into or a decision to terminate contractual/business relationships with individual customers (individuals, business, foreign organisations, etc.) or categories of customers associated with higher ML/TF risk, or to refuse to carry out higher ML/TF risk transactions, based on an individual assessment carried out by competent financial institution authority.
3. *CDD* – Customer Due Diligence.

Article 4

Risk assessment

1. Financial institutions, in line with provisions of the Law on Prevention of Money Laundering and Combating Terrorism Financing and requirements of the Regulation (CBK) on Prevention of Money Laundering and Combating Terrorism Financing should put in place policies and procedures that enable them to identify relevant risk factors and to assess money laundering and terrorism financing risks associated with individual contractual/business relationships. As part of this, financial institutions should differentiate between the risks associated with a particular category of customers and the risk with individual customers that belong to this category.
2. Financial institutions should ensure that the implementation of these policies and procedures does not result in the blanket refusal or termination of contractual / business relationships for particular categories of customers that they have assessed as presenting higher ML/TF risk. Such refusal or termination of such relationship should be sufficiently documented and argued in the customer's file, and may be subject to examination by CBK.
3. Refusal or termination of contractual / business relationship on the basis of risk for particular categories of customers (segments, legal status, or other) without assessing the individual risk profile, shall be considered as an unjustified action and an indication of ineffective ML/TF risk management. This may be considered to limit access to finance, or reduce competition in the financial system.
4. The actions of financial institutions for the implementation of ML/TF requirements should be proportionate and based on specific risks, not exceeding the goals for ensuring compliance with legal requirements.
5. When financial institutions come across customers with a high risk profile from the individual assessment or when transactions carried out with financial institutions are assessed of high risk, the relevant Division in the CBK shall also be notified.

6. If the entity in question is a financial institution (non-bank) that has a license from the CBK to operate, and is considered unable to open an account, the account should be closed or the transaction prohibited, such as a customer profile or a high-risk transaction, CBK shall immediately be notified.

Article 5

Customer Due Diligence Measures

1. Financial institutions should introduce risk-based policies and procedures to ensure that their approach to applying customer due diligence measures does not result in them unduly denying customers legitimate access to financial services, not respecting the local regulatory context and the economic and legal environment.
2. To comply with customer due diligence obligations provided for in Law on ML/TF, financial institutions should set out in their policies and procedures the criteria they will use to determine on which grounds they will decide that a business relationship may be rejected or terminated or that a transaction may be denied. As part of this, financial institutions should set out in their policies and procedures all options for mitigating higher ML/TF risks that they will consider applying before of mitigation deciding to reject a customer on ML/TF risk grounds. These mitigation measures should at least include adjusting the level and intensity of monitoring, as well as limited application of of products and services. Financial institutions' policies and procedures should set out clearly in which situations the application of these mitigating measures may be appropriate.
3. Before taking a decision to reject or to terminate a contractual/business relationship, financial institutions should satisfy themselves that they have considered and rejected all possible mitigating measures that could reasonably be applied in the particular case, taking into account the ML/TF risk associated with the existing or prospective business relationship.
4. Financial institutions should document any decision to refuse or terminate a contractual/business relationship and the reason for doing so, and should be prepared to make this documentation available to their competent authority upon request.

Article 6

Adjusting the intensity of monitoring measures

1. Financial institutions should set out in their policies and procedures how they adjust the monitoring in compliance with the ML/TF risk profile of the customer.
2. Financial institutions' policies and procedures should contain guidance on handling applications from customers that may have credible and legitimate reasons to be unable to provide traditional forms of identity documentation. These should set out at least:

- 2.1. The steps to take where the customer is a person seeking asylum under the Geneva Convention of 28 July 1951 relating to the Status of Refugees, the Protocol thereto of 31 January 1967 and other relevant international treaties, and cannot provide the financial institution with a traditional form of identification, such as a passport or ID card. Financial institutions' policies and procedures should specify which alternative, independent documentation it can rely upon to meet its CDD obligations, where permitted by national law. These documents should be sufficiently reliable and recognised by the institutions of the Republic of Kosovo, i.e., up to date, issued by an official national or local authority and containing, as a minimum, the applicant's full name and date of birth.
- 2.2. The steps to take where the customer cannot provide traditional forms of identification or an address, for example because the customer is a refugee under the 1951 Geneva Convention or other relevant international treaties, or does not have a fixed address. Financial institutions' policies and procedures should specify which alternative, independent documentation it can rely upon. This documentation may include, where permitted under national law, expired identity documents and documentation provided by an official authority, such as social services or a well-established not-for-profit organisation working on behalf of official authorities (Red Cross or similar), which also provides assistance to this customer.

Article 7

Targeted and proportionate limitation of access to products or services

1. Financial institutions' policies and procedures should include options and criteria on adjusting the features of products or services offered to a given customer on an individual and risk-sensitive basis.
2. These policies and procedures should ensure that their controls and procedures specify that possible limitations of products and services set out in paragraph 1 of this Article are applied taking into consideration the personal situation of the individuals, the ML/TF risks associated therewith and their financial basic needs. In those cases, procedures should include the assessment of the following options to potentially mitigate the associated risks:
 - 2.1. offer payment accounts with basic features, under the Regulation (CBK) for Access to Payment Account with Basic Services;
 - 2.2. impose targeted restrictions on financial products and services, such as the amount, the type or the number of transfers or the amount of transactions to and from third countries, in particular where these third countries are associated with higher ML/TF risk.
 - 2.3. not impose fees that would discourage or limit access and involvement to finances or restrict competition in the sector.

Article 8
Transitional provisions

1. The deadline for the full alignment of banks and insurers to the requirements of this Guideline shall be 30.06.2024.
2. The deadline for the alignment of non-bank and microfinance institutions shall be 30.09.2024.

Article 9
Entry into force

This Guideline shall enter into force on 7 May 2024.

Ahmet Ismaili
Chairperson of the Executive Board