

T. Dimitrova,
PhD (Economics)

Academy of economics „D. A. Tsenov“, Svishtov, Bulgaria

COMMERCIAL BANKS AS A MECHANISM AGAINST FINANCING TERRORISM

In the process of globalization, the need to block financial flows to terrorist organizations is becoming more and more tangible. The fight against terrorist financing is becoming a national and supranational priority, and credit institutions are among the main mechanisms for committing such crimes, and are therefore covered by numerous regulations and institutions concerning their role in controlling and preventing them. The purpose of this study is to outline the commercial banks' place in terrorist financing processes by presenting their inherent characteristics within the scope of the Special Act on Measures Against Financing of Terrorism.

Pursuant to the Law on Credit Institutions¹, the Bank makes public borrowing or other repayable funds and provides loans or other funding at its own expense and at its own risk, which is sufficient to justify the suitability of an adequate risk management in the security sphere of the credit institution itself; of the interests of its clients. In this respect, commercial banks can be defined as institutions with a significant role in the socio-economic life of each country, their financial stability and effective management are among the main prerequisites for competitiveness and market growth, and their absence leads to a number of risks, including legal, operational and reputational ones.

In view of the issue under consideration, the activities of credit institutions, the implementation of related legislation, internal policies and work procedures are subject to constant monitoring due to the potential for them to be used for the purpose of criminalization in the Criminal Code - financing terrorism, which could also be a prerequisite for the eventual occurrence of risky situations. In addition, it is precisely the specific activity of credit institutions that the special legal framework – Law on Measures against Financing of Terrorism (LMFT) obliges them to regulate the measures for prevention against the said crime.

For the purposes of this paper, the "terrorist financing" category is under analysis. As an activity in the Criminal Code², terrorism is associated with a crime related to the illegal use or the danger of using force or

violence by a person or organized group against people or property with the intention of exerting coercion or threat against the public or state organs - for example for ideological or political reasons. In the legal framework, "terrorist financing" relates to the "direct or indirect, unlawful and deliberate provision and/or collection of funds and other financial assets or economic resources and / or the provision of financial services with the intention of being used or conscious that they will be used wholly or partly for terrorism within the meaning of the Penal Code"³.

With a view to protecting the international financial system, the Financial Action Task Force against Money Laundering (FATF), as an organization that sets standards in countering money laundering and terrorist financing, formulates special recommendations to prevent terrorist financing focusing on key mechanisms used by terrorist organizations to transfer capital: money transfers, electronic transfers and non-profit legal entities. In addition, the special law applicable in a national aspect (LMFT), which aims to "Prevent and Disclose the Action of Individuals, Legal Entities, Groups and Organizations Focused on the Financing of Terrorism"⁴, indicates measures in respect of the persons liable, ch. commercial banks to counteract this type of crime as follows⁵:

- Customer Identification, Verification and Verification of Compliance with Restriction Lists;
- Implementation of additional identification and verification measures, follow-up on the basis of risk assessment;
- Blocking of cash, financial assets or other property;
- Prohibition to provide financial services, cash, financial assets or other property;
- Reporting in case of doubt or when implementing a measure under the LMFT.

In the relationships with their clients, credit institutions are obliged to apply the legal measures in cases where the participants in the operation (the account owner, the beneficiary) are from countries known to support terrorist activities and organizations. Charities, non-profit legal entities, companies with no real activity, and others without legal cause are often used for the pur-

¹ See Art. 2, para. 1 of the Credit Institutions Act (last amended SG No. 63 of 04.08.2017).

² See Art. 108a of the Penal Code (last amended SG 54 of 05.07.2017).

³ See § 1, item 3 of the Supplementary Provision of the Act on Measures Against the Financing of Terrorism (last amended 01.01.2017).

⁴ See Art. 2 of the Act on Measures Against the Financing of Terrorism (last amended 01.01.2017).

⁵ See Art. 3, para. 1 of the Act on Measures Against the Financing of Terrorism (last amended 01.01.2017).

pose of terrorist financing. The law also includes cases where there is no comprehensive information about the parties and the reason for the operation, operations and transactions are executed without the presence of the client or using new technical means, etc.

When establishing the appropriate prerequisites for terrorist financing operations carried out through commercial banks, the blocking of all cash, financial assets and other property - property of the persons listed in the restriction lists (see Article 5 of the LMFT)) irrespective of the place of their possession, as well as any cash, financial assets and other property held in possession of, held or controlled by the persons listed. Immediately blocking the funds of persons in full compliance with the EU's restrictive lists for the implementation of UN resolutions (Resolution 1267/2000 et seq.) And under the relevant EU acts as well as funds or other assets wholly or jointly owned or controlled, directly or indirectly, by persons on lists, terrorists, terrorist financing or terrorist organizations and others that are generated by the above mentioned funds or assets.

The above-mentioned essential features and normative justification of terrorist financing processes are sufficient grounds for each commercial bank to set up in its structure a specialized service for controlling and preventing the financing of terrorism to organize and control the implementation of the legal measures¹. Consequently, in performing its core business, each commercial bank should monitor and prevent terrorist financing processes in accordance with national law and relevant international regulations and best practices by developing its own policy of prevention measures against use of the bank for the above purposes.

As an initial measure to prevent the use of the bank to finance terrorism, the processes of identification and assessment of bank customers, as well as those related to the monitoring of banking operations and the definition of some of them as suspect by Chief Operating Officer, ie the existing risk, are complex and require an adequate material base at the disposal of the bank, incl. specialized software applications, time resource, expert potential. The main goal is to "block" the relationship between credit institutions and criminals.

On the basis of the regulated and applicable in the banking practice measures against the financing of terrorism, each credit institution should write an internal policy, rules and procedures to prevent its use for the purpose of financing terrorism. In this connection and in view of the above analysis, the following may be formulated as exemplary principles:

- The Bank should not engage in relationships with persons who are known to have been convicted or charged with crimes such as terrorist financing;

- The Bank should not engage in any relationship with individuals, legal entities and groups believed to be related to criminal activities, members of criminal or terrorist organizations, or that they support politically or fund such organizations;

- The Bank must not open or operate anonymous accounts and accounts of fictitious names, perform fictitious transactions and transactions, and accept funds and property suspected of being acquired through or in connection with a crime or will be used to fund such.

Commercial banks should not enter into relationships and do not provide financial services, funds, financial assets and other property to the persons included in the list of natural persons, legal persons, groups and organizations to which the measures under the LMFT apply. In the event that a person included in the above list is a client of the bank, his funds, financial assets and other property are blocked. Payments and other dispositions with the blocked accounts, cash and financial assets are made with the permission of the Minister of Finance. In addition, when there are suspicions that certain operations or transactions are directed to the financing of terrorism, bank officers are required to immediately notify the specialized internal intelligence service for the control and prevention of money laundering and terrorist financing of all additional facts and circumstances famous. In the event of a suspicion of terrorist financing, the Bank shall notify the Ministry of Interior and the State Agency "National Security" (Article 9a of the LMFT). In addition, the Bank shall report immediately any significant suspicions of terrorist financing that are likely to have a significant reputation for the Bank or its financial position, such as cases involving senior government officials or amounts over the statutory certain dimensions.

The following report analyzes the SANS controlling activity of credit institutions in the field of "terrorist financing" on the basis of historical data publicly disclosed through annual reporting documents. Realizing its core business, incl. falling under the scope of the LMFT, commercial banks are subject to constant monitoring and control by the specialized administrative directorate "Financial Intelligence" of SANS, which has neither operational functions nor criminal detection functions but has a legal basis for collecting information without any limitation of banking, professional, professional or other secrecy as an intermediary unit for accelerating and facilitating the exchange of information between financial and law enforcement systems.

Based on the applicable legal norms, among the main functions performed by the Directorate, incl. and in respect of commercial banks²:

¹ See Art. 1 of the Law on Measures against Money Laundering (last amended 01.01.2017)

² See more art. 32e of the Regulations for Implementation of the State Agency for National Security Act (adopted with Decree of the Council of Ministers No 23 of 11.02.2008, promulgated in State Gazette, issue 17 of February 19, 2008, amended and supplemented SG .63 of 12 August 2016, SG No. 66 of 23 August 2016

- Organizing and conducting seminars, workshops and other forms of training related to the implementation of the LMFT on its own or jointly with the supervisory bodies of the credit institutions;
- Current and incidental control of the commercial banks for the fulfillment of the obligations under the LMFT, as well as the acts for their implementation, incl. drafting of acts of observation, acts for establishing administrative violations under the LMFTS and drafting of draft penal decrees;
- Develop reports on violations by commercial banks, including an analysis of the breaches and proposals for the measures to be taken to erase the consequences of the violations and to prevent future violations;
- Interaction with other state bodies, carrying out inspections, incl. jointly with the oversight bodies (Bulgarian National Bank) on the activities of commercial banks in the implementation of measures against terrorist financing, as well as in the case of suspicion of financing of terrorism;
- Keeping registers of information received from commercial banks (including terrorist financing), ex-

change of information with security and public order services at national and supranational level, financial intelligence analysis, gathering of additional information, giving of conclusions, sending of files to the relevant state services, etc.

As stated above, the function of the Directorate for the organization and conduct of trainings on the implementation of the LMFT is a priority, as the educational level and the competences acquired are a factor for increasing the efficiency in the fight against the financing of terrorism. Summing up the information published in the annual reports of the FAS - SANS, for the period 2012-2016, the Directorate carried out a total of 73 trainings, resulting in the training of 2454 persons in the capacity of representatives of the Institute of Certified Public Accountants (ICPA), Commercial Banks, Non-Profit Legal Entities (NGOs), the National Revenue Agency (NRA), real estate agents and others. As illustrated in Figure 1, the number of trainings of commercial banks represented 22% in the structure of the trainings, which gave them a second position after the trainings of representatives of the ICPA (26%).

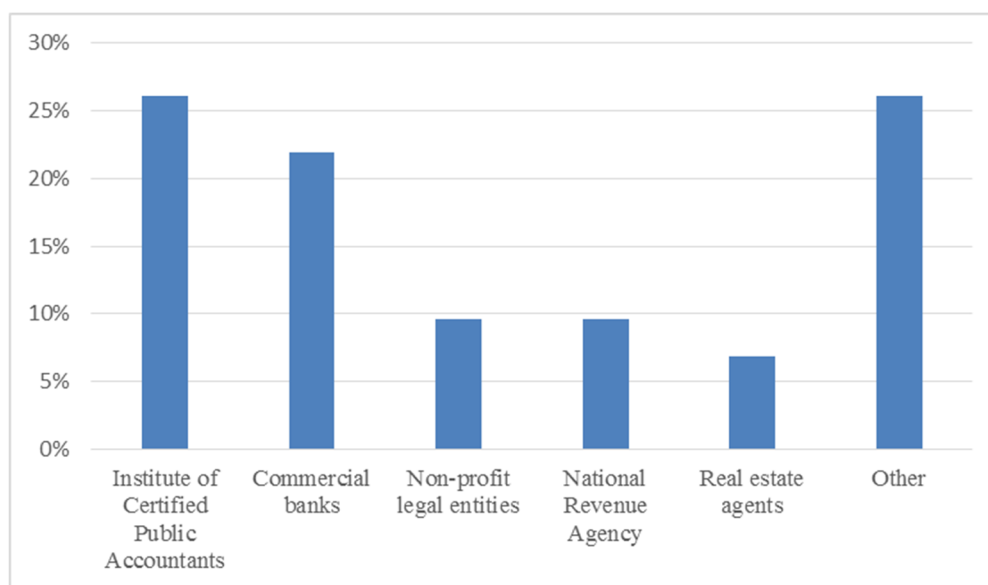


Fig. 1. Structure of the trainings conducted by SAD FR-SANS in connection with the implementation of the LMML and the LMFT (2012-2016)

Similarly, commercial banks also occupy 14% of the number of trained persons, compared to 33% for the leader – ICPM. Considering that the number of banks (including their employees) operating on the Bulgarian market is considerably smaller than the number of certified accountants, it can be assumed that for the FAS – SANS the commercial banks are priority institutions for the prevention of money laundering and the financing of terrorism, mainly because of their specific activity – operating not only on their own, but also on attracted

money, which poses a serious risk to their real origin. For the next 10% comparison, the number of trainings conducted by representatives of NGOs and NRA, followed by 7% by the real estate agents. The remaining 25% are outside the reach of the positioning, as they include all training with a share of less than 5% in the total number of courses, incl. investment intermediaries, management companies, insurers¹, insurance intermediaries, financial institutions, pension insurance companies, Financial Supervision Commission (FSC), leasing

¹ See. by detailed Dochev, H., Challenges of new legal entities on the European internal market, Challenges of economic science and practice in the process of joining the European Union, Nis, 2007, p. 319-330.

companies, lawyers, postal operators, private enforcement agents, traders, notaries, state and local bodies.

On the basis of the information presented in Table 1, trends in training can be traced. Following the above considerations, the factual data showing the persistence in the training of two categories of institutions throughout the analyzed period, including the commercial banks

with two trainings and 50 trained persons in the first year – 2012 (the lowest values for the period) and five training sessions with 150 trained persons in 2015 (the highest values for the period). Concerning the others presented, trainings were carried out once (NRA – 2012) or a maximum of twice (NGOs and real estate agents – 2012 and 2014) throughout the time slice.

Table 1

Trainings conducted by SAD FR-SANS in connection with the implementation of the LMML and the LMFT (2012-2016)¹

Institutions	2012		2014		2015		2016	
	Number of trainings	Number of trained persons	Number of trainings	Number of trained persons	Number of trainings	Number of trained persons	Number of trainings	Number of trained persons
1 Institute of certified public accountants	5	257	5	176	5	185	4	200
2 Commercial banks	2	50	3	76	5	150	3	56
3 Non-profit legal entities	6	213	1					
4 National Revenue Agency	7	278						
5 Real estate agents	4	113	1	14				
6 Other	7	233	8	266	3	110	4	77
Total:	31	1144	18	532	13	445	11	333

According to the applicable regulations, commercial banks are obliged to report to the FAD - SANS the so-called dubious operations. As such, financial operations are classified and, after further studies by bank employees, it is not possible to clarify their nature, which is sufficient to be assigned a higher risk, and to the category of "suspicious transactions". In case of suspicion of terrorist financing, the bank employee must:

- Delay the execution of the suspicious transaction, if possible, and immediately notify the bank branch line;
- Collect information on the essential elements of the operation, relevant supporting documents and other identification data;
- Indicate in chronological order all the details of the suspect case, including any circumstances that appear unusual, irregular or questionable;
- Keep all facts and circumstances secret;
- Disclose to the line the entire available information about the client and his operations by completing a special form.

When the additional studies carried out by the specialized internal service for control and prevention of

terrorism financing can not establish a good reason or a logical economic explanation for the implementation of unusual behavior, the case is reported to SANS. The data and documents collected by the bank are used only for the purposes of the LMFT.

The official information sources indicate that 10930 suspicious transactions were reported for the period 2011-2016, 76% of which were commercial banks and the other from other institutions (see Figure 2).

As can be seen from Table 2, the number of reports on suspicious transactions under the LMML and LMFT from the commercial banks to the FAS - SANS ADS has an upward trend, in 2011 it is 1035 and in 2016 it is 2390, ie. there is over 130% growth within the observed time span. It should be borne in mind that in the structure of generally reported suspicious transactions by years, commercial banks' DSBs take values of 69% in 2012 (minimum) to 82% in 2015 (maximum), regardless of the above-mentioned upward trend the analyzed period, due to the fluctuations in the value of STR by other institutions.

¹ The information is summarized and processed by the author on the basis of published annual reports of the SAD FR - SANS (<http://www.dans.bg/bg/msip-091209-menu-bul/financialreports30052012-mitem-bul>).

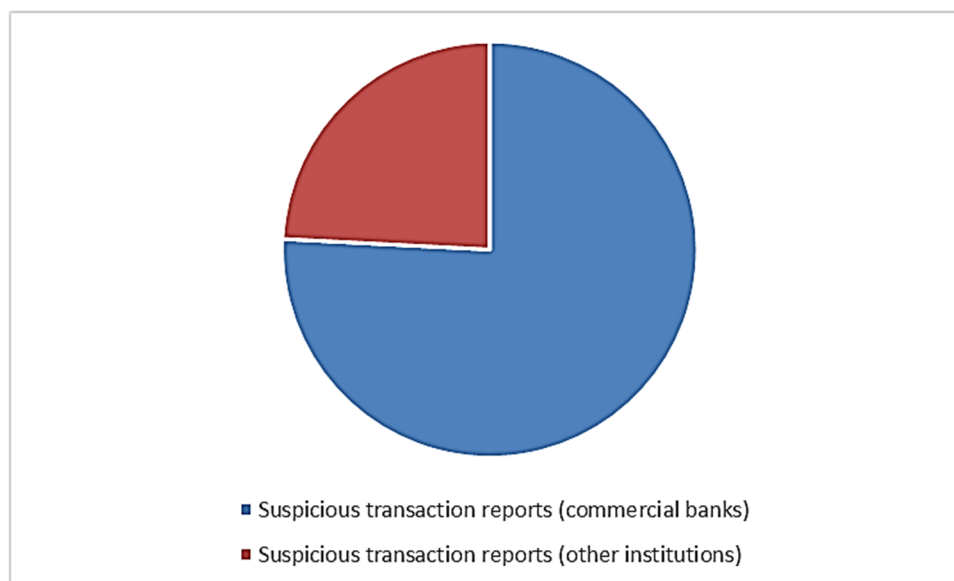


Fig. 2. Sources of suspicious transaction reports (STR) under the LMML and LMFT for the period 2011-2016

Table 2

Reports on suspicious transactions under the LMML and the LMFT for the period 2011-2016 (number)¹

Period	Suspicious transaction reports (commercial banks)	Suspicious transaction reports (other institutions)	Suspicious transaction reports (total)
2011	1035	393	1428
2012	1257	564	1821
2013	1592	641	2233
2015	2013	448	2461
2016	2390	597	2987
2011-2016:	8287	2643	10930

Realizing its main functions in the area of prevention against terrorist financing, FAS – SANS points out among the main indicators and risks (including in relation to commercial banks) concerning the financing of global terrorism the following²:

- Opening an account with false identification and using fake documents when ordering/receiving translations;
- Providing the same mobile phone numbers, addresses or job information to different people when opening accounts or ordering money transfers;
- Receiving cash transfers through fast pay systems from individuals with locations in countries around conflict zones;
- Use of mobile payment systems to perform transactions, account balance checking, access to electronic portfolios and other online services without the physical

presence of the client (sequential logging from a mobile phone or other device from different IP addresses from nearby locations or within them conflict zones);

- Fundraising through public funding platforms for extremist purposes, often camouflaged in the form of charity transactions;

- Financial transactions relating to antiques from conflict zones (including coins) put up for sale on the Internet, and in particular in the so- "Dark net" or social networks.

The above analysis is sufficient grounds, on a national scale, for the commercial banks to be constituted as a priority subject of permanent monitoring and control by the specialized administrative directorate "Financial Intelligence" of SANS in order to study, analyze and disclose information received under the procedure and at the conditions of the LMFT, as they are obviously

¹ The information is summarized and processed by the author on the basis of published annual reports of the SAD FR - SANS (<http://www.dans.bg/bg/msip-091209-menu-bul/fidannualreports30052012-mitem-bul>).

² URL: http://www.dans.bg/images/stories/FID/ANNUAL%20REPORT_2016.pdf.

among the main options used for the purposes of money laundering and terrorist financing.

In summary, the main statement of the study provides the basis for the following conclusions:

First. Credit institutions are among the key mechanisms for terrorist financing, which is a prerequisite for the eventual occurrence of risk situations for the bank itself and for its clients. Each commercial bank should develop its own terrorist financing policy that contains adequate measures to counteract these crimes and their application to "block" the relationship between credit institutions and criminals.

Second. Measures to prevent the use of the bank for terrorist financing purposes should be aimed at: identifying customers and actual owners and taking appropriate action to verify their identification; customer assessment; monitoring customer operations; disclosure of information (reporting) about suspicious transactions.

Third. The activities of credit institutions are subject to constant monitoring in relation to the application of a number of regulations and institutions concerning the role of banks in complying with the legal norms against terrorist financing. In order to have an effect, it is necessary to develop and strictly implement policies both nationally and internationally, to be implemented in close cooperation and constant communication between the responsible institutions.

Fourth. On a national scale, commercial banks have been constituted as a priority subject of continuous monitoring and control by the specialized administrative directorate "Financial Intelligence" of the State Agency for National Security (SANS) in order to investigate, analyze and disclose information received under the terms and conditions of the LMML and as they are among the main options used for money laundering and terrorist financing purposes.

Fifth. For the period 2012 - 2016, SAD FR-SANS conducted a total of 73 trainings on the implementation of the LMML and LMFT with trained 2454 persons, including commercial banks with 22% of the total trainings and 14% of the total trainees. identifies them as priority institutions with regard to the prevention of money laundering and the financing of terrorism, mainly because of their specific activities – operating not only on their own, but also on attracted money containing a serious risk in terms of their real origin.

Sixth. During the period 2011-2016, 10930 suspicious transactions under the LMML and LMFT were reported to the SAD FR – SANS, of which 76% of the commercial banks (with over 130% growth within the observed time interval) and the rest from the other institutions. For the same period, notifications of payment

transactions in cash over BGN 30000, 99% (251600) were reported by the commercial banks, and their relative share varied between 98% and 99% during the same period, which is sufficient grounds for taking the necessary legal measures to prevent money laundering and terrorist financing.

In order to have an effect on the implementation of statutory, regulatory and internal commercial bank regulations on the prevention of terrorist financing as well as monitoring and control procedures in relation to their core business, close cooperation between credit institutions and competent authorities dealing with suspicious customers and financial operations. Supranational level policy for combating the financing of terrorism is determined by the activity of a number of institutions, including the Task Force on financial measures Anti-Money Laundering (FATF¹ - Financial Action Task Force on Money Laundering), the Committee of Experts on the Evaluation of Laundering money the Council of Europe (MONEYVAL Committee²), the Union for increasing interaction between financial intelligence units worldwide (GROUP EGMONT³), the Basel Committee on Banking supervision (Basel Committee of Banking supervision⁴), the world Bank, the International Currencies fund and others. For the implementation of international and national regulations regarding prevention against the financing of terrorism, a number of law enforcement, control and supervisory state institutions are operating in Bulgaria - Specialized Administrative Directorate "Financial Intelligence" of the State Agency for National Security (SAD FR - SANS), Ministry of the Interior, the Prosecutor's Office of the Republic of Bulgaria, the Bulgarian National Bank (BNB), the Controlling Agencies at the Ministry of Finance, etc. At the same time, the improvement and modernization of the national and supranational regulatory framework is a sine qua non for real countering the latest criminal practices for which priority is being given and to credit institutions.

The above analysis is sufficient grounds, on a national scale, for the commercial banks to be constituted as a priority subject of permanent monitoring and control by the specialized administrative directorate "Financial Intelligence" of SANS in order to study, analyze and disclose information received under the procedure and at the conditions of the LMFT because they are obviously among the main options used for the purpose of financing terrorism. For this reason, the global policy regarding the fight against the mentioned crime places the activity of the credit institutions on the legal norms

¹ Financial Action Task Force on Money Laundering - the organization that sets standards in countering money laundering and terrorist financing.

² An organization responsible for Europe for the prevention of money laundering.

³ See more <https://www.egmontgroup.org/>.

⁴ See more <http://www.bis.org/bcbs/charter.htm#classification>.

and the focus of their activities in order to prevent their use for the implementation of criminal schemes. This is a good reason for credit institutions to set strict and transparent internal bank rules and procedures to be respected when selecting clients and executing financial operations and to prioritize the prevention of their use for the purpose of financing terrorism.

Reference

1. **Petrunov, G.** 2008. Countering Money Laundering in Bulgaria: Status and Perspectives. Sofia: Risk Monitor.
2. **Pushkarova, I.** Money laundring. Distinction from offenses related to him. Teza, No.8 and 9/2014.
3. **Dochev, H.** Challenges of the new legal entities on the European internal market, в Izazovi ekonomske nauke i prakse u procesu pridruzivanja Evropskoj uniji, Nis, 2007, с. 319-330.
4. **FATF**, Money Laundering Using New Payment Methods, 2010, p. 36.
5. **Savona, E. and M., De Feo.** 1997. International Money Laundering Trends and Prevention / Control Policies. In: Savona, E. (ed.) Responding to Money Laundering. Amsterdam: Harwood Academic Publishers.
6. **Directive 2005/60 / EC** of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.
7. **State Agency for National Security Act.**
8. **Law on Credit Institutions** (last amended SG No. 63 of 04.08.2017).
9. **Law on Measures Against Money Laundering** (last amended 01.01.2017).
10. **Law on Measures Against Financing of Terrorism** (last amended 01.01.2017).
11. **Penal Code** (last amended SG No. 54 of 05.07.2017).
12. **URL:** <http://www.dans.bg/bg/msip-091209-menu-bul/fidannualreports>.
13. **URL:** http://www.nbu.bg/PUBLIC/IMAGES/File/departamenti/pravo/llaw_journal/Oct_2011/11_anelia%20vladimirova_.pdf.
14. **URL:** <https://www.egmontgroup.org/>.
15. **URL:** http://www.bis.org/bcbs/charter.htm#_classification.
16. **URL:** http://www.dans.bg/images/stories/FID/ANNUAL%20REPORT_2016.pdf.

Дімітрова Т. Комерційні банки як механізм проти фінансування тероризму

У процесі глобалізації необхідність блокування фінансових потоків у терористичні організації стає все більш відчутною. Боротьба з фінансуванням тероризму стає національним і наднаціональним пріоритетом, а кредитні установи є одним з основних ме-

ханізмів здійснення таких злочинів і тому охоплюються численними положеннями та інститутами, що стосуються їх ролі в контролі та їх запобіганню. Мета цього дослідження – описати місце комерційних банків у процесах фінансування тероризму, представивши їх невід’ємні характеристики в рамках Спеціального закону про заходи щодо фінансування тероризму.

Ключові слова: глобалізація, комерційні банки, тероризм, фінанси, механізм.

Димитрова Т. Коммерческие банки как механизм против финансирования терроризма

В процессе глобализации необходимость блокирования финансовых потоков в террористические организации становится все более ощутимой. Борьба с финансированием терроризма становится национальным и наднациональным приоритетом, а кредитные учреждения являются одним из основных механизмов совершения таких преступлений и поэтому охватываются многочисленными положениями и институтами, касающимися их роли в контроле и их предотвращении. Цель этого исследования – описать место коммерческих банков в процессах финансирования терроризма, представив их неотъемлемые характеристики в рамках Специального закона о мерах по финансированию терроризма.

Ключевые слова: глобализация, коммерческие банки, терроризм, финансы, механизм.

Dimitrova T. Commercial banks as a mechanism against financing terrorism

In the process of globalization, the need to block financial flows to terrorist organizations is becoming more and more tangible. The fight against terrorist financing is becoming a national and supranational priority, and credit institutions are among the main mechanisms for committing such crimes, and are therefore covered by numerous regulations and institutions concerning their role in controlling and preventing them. The purpose of this study is to outline the commercial banks' place in terrorist financing processes by presenting their inherent characteristics within the scope of the Special Act on Measures Against Financing of Terrorism.

Keywords: globalization, commercial banks, terrorism, finance, mechanism.

Received by the editors: 21.11.2017
and final form 22.12.2017