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## SYSTEM ACTORS COUNTERING ILLEGAL IN THE FINANCIAL SECTOR

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### Summary

The article outlines the features of the Verkhovna Rada of Ukraine, President of Ukraine, the Cabinet of Ministers of Ukraine, Ministry of Internal Affairs of Ukraine and other state authorities as actors countering illegal in the financial sector, clearly outlines the role of each of these actors in combating illegal in the financial sector. The legal status of the element is a legal reality, analyzing which can be judged not only on the legal status of certain subjects, but also the state of the system, which includes such subjects as its elements as a whole.

**Key words:** offense resistance, subjects countermeasures, regulation, administrative and legal opposition.

### Аннотация

В статье рассматриваются особенности Верховной Рады Украины, Президента Украины, Кабинета Министров Украины, Министерства внутренних дел Украины и других органов государственной власти как субъектов борьбы в финансовом секторе, где четко определена роль каждого из этих субъектов в борьбе с незаконным финансовым сектором. Правовой статус элемента правовой реальности, благодаря анализу которого можно судить не только о правовом статусе отдельных предметов, но и состояние системы, которая включает в себя такие предметы, как ее элементы в целом.

**Ключевые слова:** преступное сопротивление, субъекты противодействия, регулирование, административные и правовые оппозиции.

**R**esolution of the problem. Combating illegal in the financial sector is a specific manifestation of social activity, which in turn is not possible without proper subjects that carries it, because he (subjects), in fact, is the source of this activity. In this connection, it is clear that the nature and characteristics of largely determined characteristics, features and specifications of subjects that carries it. Therefore, in order to understand the nature and content of some of the mechanism of its origin and flow, it is necessary to pay attention to the analysis of subjects (subjects) that it holds (performs).

**State research problem.** General administrative and legal aspects of combating offenses investigated such famous scientists like VB Averyanov, Andriyko AF, AM Bandurka, DN Bachrach, P. Bytyak, AL Borko VM Garashchuk, OP Hetmanets, IP Holosnichenko, Gusarov SM, SF Denysyuk, VP Zhushman, GA Kalyuzhny, SV Kivalov, B . V. Kovalenko, M. Smith, A. Kolodiy, T. Kolomoets, VK caps, T. Komzyuk, AV Kuzmenko, EV smoking, K. B . Levchenko, A. Mykolenko, A. Muzychuk, NR

Nyzhnyk, VI Olfir, VPPytkov, V. Popovic, B. J. Razvadovsky, OP Riabchenko, O. Syniavska, OL Chernetsky, V.A Shamrai, S. Shemshuchenko, VK Shkarupa more. However, scientists were left aside issues specifically related to the system of administrative and legal entities combating illegal in the financial sector, which accounts for the purpose of the presented article.

**The main material.** Subjects combating illegal in the financial sector as one of the kinds of legal work, are subjects of law, which law somehow fixed the respective rights and obligations in this area. Even shallow, superficial analysis of the current legislation indicates that the range of subjects that are in one way or another involved in combating financial offense is quite spacious, but the contribution of each of them in its implementation varies: the nature and extent of participation in specific subjects implementation of counter investigated offense determined by the specificity of its legal status. Focusing on the consideration of the legal status of subjects countermeasures offense in the financial sector, we thus have the opportunity to establish that each of them



enjoys rights and duties incurred, which can operate within and means with the use that it relations with other subjects of this activity. The legal status of the element is a legal reality, analyzing which can be judged not only on the legal status of certain subjects, but also the state of the system, which includes such subjects as its elements as a whole.

For the purpose of understanding the system state subjects combating illegal in the financial sector, consider the legal status of some of its structural elements, which, in our view, is the most important problem in the context of the study.

Start, in our opinion should be of the Verkhovna Rada of Ukraine or the Parliament of Ukraine, which is the only legislative body of Ukraine. He (parliament) consists of four fifty people's deputies of Ukraine who are elected by universal, equal and direct suffrage by secret ballot for five years [1]. Major powers Parliament referred to in Article 85 of the Constitution of Ukraine [1]. A number of powers of parliament have organizational constituent character and give it to appoint managers or leaders of the government of the highest order. The specifics of the legal status of Parliament, the legislative, organizational and statutory and supervisory functions and their corresponding powers suggest that the role of authority in the system subjects combating illegal in the financial sector is to create appropriate institutional and legal framework for its implementation. That immediate counter measures referred to Parliament missed – her main goal in this system is to create the most favorable organizational and legal environment for efficient and effective implementation of combating illegal in the financial sector. Being the supreme authority in the state and the only carrier and seller legislature, Ukraine's parliament, so in terms of the power hierarchy is the highest part of the system subjects combating illegal in the financial sector, while his work in this system is aimed at creating as we have already noted, organizational and legal basis (base) for the implementation and proper functioning of the administrative and legal mechanism for combating illegal in the financial sector as a whole and its individual business units.

Next a subject of combating illegal in the financial sector is the President of Ukraine, which, according to the

Constitution is the Head of State and acts in its name. President of Ukraine has a very specific political and legal status because it does not belong to any of the branches of government, and the President is the guarantor of state sovereignty and territorial integrity of Ukraine, of the Constitution of Ukraine, the rights and freedoms of man and citizen. The main range of issues that solves the President of Ukraine enshrined in Article 106 of the Basic Law states [1]. President of Ukraine as the previous authority – Parliament, not realizing immediate measures to counter illegal in the financial sector. However, circumstances such as: first, available to him (President) leverage the Verkhovna Rada of Ukraine (the right to dissolve it in cases determined by law, the right sign and veto laws); secondly, its standard-setting authority, allowing the Head of State to issue acts in its legal power second only to the laws; thirdly, its right to appoint and (or) to propose the appointment of candidates to the relevant persons the highest leadership positions in the state, including from law enforcement related activities; fourth, his right to appropriate law enforcement and regulatory authorities to carry out the required guidelines for measures to strengthen the rule of law; and a number of other important aspects suggest that the President is a very important element of subjects combating illegal in the financial sector. He, like the aforementioned Parliament makes a significant contribution to the organizational and legal basis for the functioning of the administrative and legal mechanism we have studied countermeasures. The President could somehow adjust and coordinate the functioning appointed mechanism, noting the appropriate law enforcement and regulatory authorities on the most pressing problems in the study area and giving them to address these issues, the required performance for instructions.

Another representative of the highest state-powerful circle of subjects in combating illegal in the financial sector is the Cabinet of Ministers of Ukraine and the Government, which is the highest authority in the executive branch. In its activities, the Cabinet of Ministers of Ukraine is responsible to the President of Ukraine and the Verkhovna Rada of Ukraine, controlled and accountable to

the Verkhovna Rada of Ukraine within the limits prescribed by the Constitution of Ukraine [2]. Analysis of the legal status of the CMU suggests that its purpose in the system subjects combating illegal in finance is that it forms a general political and administrative rate at which this activity should take place. This is done through: development of relevant government policies and programs of action; preparation of draft laws, including the Law on State Budget of Ukraine; publication own subordinate legal acts (regulations, instructions); appointment of managers of a number of central authorities; coordinate the activities of subordinate bodies of executive power and control over it; assessment and provision of relevant authorities material and financial support. If Parliament creates a legal framework in which to function administrative and legal mechanism for combating financial offenses, the Government determines how it will move, will operate, what its priorities with what should be the level of organizational and managerial support. It should be noted that the Government and the President belongs to the spectrum of subjects of legislative initiative, so that a very large number of laws passed by Parliament, its appearance is obliged to CMU, which develops relevant bills and submit them for consideration by Parliament. Also consider necessary to emphasize that it is the government, as we noted above in the text controls and coordinates the work of other executive agencies, including those engaged in the direct function on combating violations of legality in the financial sector.

Then pay attention to a number of executive power, which, in fact, and laid the bulk of the work we have studied about countermeasures. First of all, we should note the Ministry of Finance of Ukraine, which is the central body of executive power, is directed by the Cabinet of Ministers of Ukraine. Ministry of Finance of Ukraine is the main body of the central executive bodies of the formation and implementation of state financial and tax and customs policy (except for the administration of taxes, customs duties and implementation of tax and customs policy) policies of state financial control, treasury services budget, accounting issue and lotteries, organization and control of manufacturing securities Accounting



documents, extraction, production, use and storage of precious metals and precious stones, precious stones of organogenic formation and semiprecious stones, and their treatment accounting for the prevention and counteraction to legalization (laundering) of proceeds from crime or terrorist financing. [3] Features of the legal status of the Ministry of Finance Ukraine suggest that it is one of the key elements in the subjects of combating illegal in the financial sector, as it is now central executive body creates and implements management policies in the field of financial relations, monitors compliance with legislative discipline in the financial area, as well as coordinate and oversee the implementation of the abovementioned political other government agencies and officials.

Another representative of the central government is the Ministry of Internal Affairs of Ukraine. The inclusion of Internal Affairs of Ukraine in the system subjects combating illegal in the financial sector due to the fact that it is this authority is one of the main subjects of law enforcement, he creates and implements public policy in support of regime legitimacy and ensure state law; protects against violations of the rights, freedoms and legitimate interests (including financial) individual and collective subjects, the state and society as a whole; coordinates and supervises the activities of an extensive system of internal affairs.

A special role in combating illegal in the financial sector such is the representatives of the executive branch as the State Fiscal Service of Ukraine and State Financial Inspection of Ukraine, since they are connected with the management of those social relations in which the most common violations of financial discipline and regime legitimacy. DFS Ukraine and Ukraine Derzhfininspektsiya as their central administration and territorial level, is one of the main subjects in the mechanism of combating financial offense. After all, the legal status of these subjects zobov'yazuye exercise their control and supervisory activities on the occurrence of significant financial processes and attributes that occur in our country. And available at their disposal powers allow them to not just observe definite financial processes and

relationships, but also, if necessary, intervene directly in them, detect and deter incidents of abuse, eliminate the conditions and factors that have caused and (or) contributed to the occurrence of violations financial discipline and regime legitimacy in the financial sector, apply within their competence appropriate measures, including coercion. If combating violations of the law requires the use of means which are not provided kompetetsiynomy authority or DFS Ukraine or Derzhfininspektsiyi, they can raise the issue of the use of such funds and (or) event before other authorities, who have the appropriate authority.

Significant contribution to countering the offense in the financial sector, along with the aforementioned DFS and carry Derzhfininspektsiyeyu State Treasury of Ukraine and the Pension Fund of Ukraine. Analysis of the legal status of Treasury and PFC indicate that they also implement control over the legality of the financial sector, with their credentials, as aforementioned DFS Ukraine and Ukraine Derzhfininspektsiyi allow directly apply appropriate sanctions, including coercion and thus initiate the necessary tools and application of countermeasures offense other competent subjects of.

His contribution to countering illegal in the financial sector and provides the State Service for Financial Monitoring of Ukraine, National Commission on Securities and Stock Market and the National Commission for State Regulation of Financial Services.

A few words in the context of combating financial system subjects offense would be given to the Prosecutor's Office of Ukraine. It is quite specific state-government authority, which does not directly belong to one of the branches of government, and is a single centralized system, headed by the Prosecutor General of Ukraine, with the subordination of lower prosecutors parent. The main tasks of prosecution is establishment of the rule of law, strengthening the rule of law and has the task of protection against illegal encroachments: 1) fixed by the Constitution of the Republic of Ukraine's independence, social and political system, political and economic systems of national groups and subdivisions; 2) guaranteed by the Constitution and other laws of Ukraine and international acts of socio-economic, political, personal

rights and freedoms of man and citizen; 3) foundations of the democratic system of the government, the legal status of local councils, community organizations [4]. Enough opportunities in terms of monitoring the state of the law in the state providing the function of the so-called general supervision, which is supervising the observance and correct application of the laws of the Cabinet of Ministers of Ukraine, ministries and other central executive authorities, state and economic management and control, Council of Ministers of the Autonomous Republic of Crimea, local councils and their executive agencies, military units, political parties, NGOs, mass movements, enterprises, institutions and organizations, regardless of ownership, affiliation and belonging, officials and citizens carried out by the Attorney General Ukraine and subordinate Prosecutors it [4]. However, the new law "On Prosecution", which has come into force in the spring of 2015, deprives Prosecution of Ukraine general supervision, which is quite understandable, because the function, under the transitional provisions of the Constitution of Ukraine, was for her (prosecutors) temporary, in addition, the presence of in the prosecution of general supervision does not meet standards and principles in force in the European community, of which we aspire to become. New legislation on prosecutors more shifts the body in the direction of the judiciary, with the prosecutor's office is the supervision over the legality of law enforcement agencies in the implementation of operational activities, inquiry and preliminary investigation. In addition, prosecutors still remain one of the main subjects of coordination of law enforcement, which suggests it as one of the main subjects of maintaining law and order in the state and society.

The competence and powers of the Parliament of Ukraine sells both directly and through its appropriate organs and officials. We would like to acknowledge the authority of parliament such as the Verkhovna Rada of Ukraine, which consists of the People's Deputies of Ukraine for implementation in certain areas of drafting, preparation and preliminary consideration of matters within the authority of the Verkhovna Rada of Ukraine, implementation of control functions [4]. According



to the Resolution of Parliament “on Parliamentary Committees Ukraine seventh convocation” currently has 29 parliamentary committees, including: the Committee on the fight against organized crime and corruption; The Committee on the rule of law and justice; Committee for European Integration; The Committee on Legislative Support of Law Enforcement; Committee on Foreign Affairs; Committee on National Security and Defence; The Committee on Legal Policy; The Committee on Finance and Banking [3] and others.

The main functions of the committee include the following laws: Legislative, organizational and control. The content of the first, that of drafting are: 1) drafting laws and other acts of the Verkhovna Rada of Ukraine; 2) preliminary review and preparation of conclusions and proposals to bill in the subjects of legislative initiative to the Parliament of Ukraine; 3) revision on behalf of the Verkhovna Rada of Ukraine separate bills on the consideration of the first and subsequent readings; 4) preliminary review and preparation of findings and proposals for projects of national programs; 5) summarizing the comments and suggestions received by the legislation; 6) making proposals for strategic planning of drafting [2]. Regarding organizational function, realizing its parliamentary committees performing such work: 1) plan their work, complete reports on its results and highlight their activities and the media; 2) organize the collection and analysis of information on matters within the powers of the committee organizing hearings on these issues; 3) conduct a preliminary discussion and preparation of candidates conclusions pursuant officials, which according to the Constitution of Ukraine elect, appoint, passed by the Parliament of Ukraine or gives consent for their use; 4) preparing questions to the Verkhovna Rada of Ukraine in accordance with the terms of their management; 5) participate in shaping the agenda of the plenary session of the Verkhovna Rada of Ukraine; 6) consider applications received by the Committee in due course; 7) participate in accordance with the terms of their competence in inter-parliamentary activities, cooperation with international organizations [4]. The last function of the parliamentary Committee

– control, provides for their work on: 1) the analysis of the practice of legislative acts of state bodies and officials on issues within the committees of jurisdiction, the preparation according to the results of the relevant findings and recommendations to Parliament Ukraine; 2) participation on behalf of the Verkhovna Rada of Ukraine in implementing “Government Day Ukraine”; 3) monitoring the implementation of the State Budget of Ukraine in part, attributed to the objects of their jurisdiction; 4) preparation and submission to the Verkhovna Rada of Ukraine requests to the President of Ukraine Committee; 5) interaction with the Accounting Chamber of Ukraine Parliament Commissioner for Human Rights; 6) submission materials for responding to the extent required by law, of the Supreme Council of Ukraine, State bodies, their officials; 10) approval of, consultation on the appointment and dismissal of the heads of state agencies, the creation and elimination of special government, which are within the committees of jurisdiction [2; 4].

**Conclusions.** Thus, the system subjects engaged opposition offense in the financial sector is extremely extensive. It should be noted that the above factors range of subjects as specified exercise opposition is not exclusive, and may be supplemented by other subjects of, for example, local authorities, notaries, private entities, associations of citizens, individual citizens and others. Such a vast range of subjects combating illegal in the financial sector because: first, in terms of market society finances and financial relations entered into most areas of public life, and is often commit violations in one area of public relations, subjects automatically harms and finance; and secondly, the term “resistance” is very broad in its content. This concept (“counter offense”) should not be confused with such concepts as “legal liability”, “collection”, “punishment”, “coercion”, it is more and Volumetric except prosecution and the use of coercive measures yet provides a number of methods, tools and events, including: the control and supervision activities and beliefs, and legal education, and so on. etc. This variety of activities and facilities studied counter in turn causes a wide range of subjects, so that or otherwise participate in its implementation.

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