THE FUTURE OF ANTI-MONEY LAUNDERING REGULATION. AUTOMATISATION OF THE PROCESS
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Abstract: *is it always possible for banks to monitor that huge amount of information that they have to work with on every day basis? Is shifting the responsibility of the government entities onto the financial institutions should be considered fair and effective? As the legality insurance obligation is vested in law enforcement authorities, the banks should not suffer because of the lack of information they have or the absence of legality of the transactions they provide unless they act negligently or intentionally. Hence, the issue of the AML regulations should be rethought in the future. The author of the present article explains, why information technologies will play a huge role in this aspect.*
Keywords: *money laundering, anti-money laundering regulation, financial operations, transactions, information technologies, artificial intelligence.*

БУДУЩЕЕ АНТИОТМЫВОЧНОГО ЗАКОНА. АВТОМАТИЗАЦИЯ ПРОЦЕССОВ
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Аннотация: *всегда ли банки способны анализировать то огромное количество информации, с которой им приходится работать каждый день? Следует ли считать возложение огромной ответственности в части антиотмывочного регулирования на финансовые учреждения справедливым и эффективным? Поскольку обязанность по контролю за законностью лежит на правоохранительных органах, банки не должны испытывать лишения или ограничения в связи с недостатком информации, которой они располагают, если только они не действуют умышленно или неосторожно. Следовательно, антиотмывочный закон нуждается в корректировках. Автор статьи раскрывает, какую роль в этом процессе играют информационные технологии.*

Paragraph 3. Future of AML regulations. Automatisation of the process. Subject of administrative liability

Financial institutions try to shorten the amount of money, time and resources that are used to meet AML Law. It is pointless to deny the impact that modern technologies have on our daily life. The effect of IT technologies and, especially, artificial intelligence is huge. Since there is an AML programme created by Ayasdi company that involved AI in AML regulations, then the legal aspects of that should also be discussed as some financial institutions have already embarked on that programme.

The involvement of artificial intelligence in anti-money laundering process arises several questions. First of all, who will bear responsibility and liability in case of a breach of AML Law? Secondly, can the use of AI in AML process become legally binding in order to provide the better level of effectiveness of AML process?

To start with the framework of AI programme in AML regulations should be investigated and explained. As one of the biggest companies in the field of artificial intelligence is Ayasdi, then its AML programme will be used as example to proceed from. As described by the company itself, Ayasdi's technology automatically assembles self-similar groups of customers and customers-of-customers, provides complete transparency into what is driving the segmentation and the ranking and produces the complete documentation workflow, operates in the bank's standard workflow producing ranked lists to the investigative team or into the appropriate downstream applications, monitor newly arriving data, identifies changing patterns and suggests updates to segments and rankings based on that information [2].

To sum up, artificial intelligence is involved to fulfil the same duties as the bank's subject matter experts. As this programme can adjust the amount of money payable for the AML process by 30-40 percent and lead to reduction in false positives of around 25% as it happened to one of the world's largest banks, some financial institutions have already embarked on that programme. Although, Russian courts have not faced the problem of AI's mistakes qualification yet, there is such case in US practice. The Jeremy D Stone Consultants Ltd v National Westminster Bank Plc [2013] EWHC 208 (Ch) [1] case shall be investigated in order to prepare a well-considered Russian practice. The High Court considered whether automated AML program was sufficient to monitor transactions in order to identify suspicious behaviour. The claimants alleged that the bank did not manage to identify that the defendant was perpetrating a fraud. In case at hand the High Court stated that relying on an

automated monitoring system was sufficient to meet the AML Law, noting that only in exceptional circumstances would manual monitoring be required. Although, the main issue of this case was the question of credibility, the resolution of the court confirms that it is quite possible to use automated AML system in financial institutions. Neither CAO, nor AML law and other laws provide rules that can potentially oblige financial institutions to embark on substantial programmes in order to fulfil AML requirements. Then AI's programmes cannot be legally binding, however, shall be in order to provide effectiveness and economy.

Shall the financial institution bear the risk of the AML programmes's mistake which could be made by the automated machine without manual interruption? According to the article 15.27 of the CAO of the Russian Federation either an organisation that carries out transactions with money or other property or its officials can be the subjects of administrative offence under the present article. Subsequently, it seems impossible to invoke artificial intelligence as the subject of the offence. Consequently, the question of administrative resolution arises. Who shall bear administrative liability in such cases? That could be both financial institutions and its officials depending on the internal hierarchy of the organisation. This question shall also be answered in the light of the framework of organization of the automated system. The programme described above is not just a common automatization, it is highly developed artificial intelligence. Consequently, it will be hard to invoke liability for officials as the system is wholly automated. But if the level of automatization is low and officials of certain organization shall confirm the results of programme's research and somehow verify it, then that officials can be defined as appropriate subjects of administrative liability. As the law remains silent and practice has not yet evolved, attention shall be payed to the idea that administrative liability shall in any way be invoked in order to exclude the abuse of right that might appear if financial institutions use automated anti-money laundering systems in order to escape from liability.

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