Financial Law Review

No. 30 (2)/2023

UNIVERSITY OF GDAŃSK • MASARYK UNIVERSITY • PAVOL JOZEF ŠAFÁRIK UNIVERSITY
http://www.ejournals.eu/FLR

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CORRESPONDENT RELATIONSHIP OF CREDIT INSTITUTIONS VIS-À-VIS MONEY LAUNDERING AND TERRORIST FINANCING

Abstract

This paper deals with the legal relationship between correspondent and respondent banks as part of a correspondent transaction. At the same time, the author analyses the performance of the due diligence on the respondent bank. In the last chapter, the author reflects on the existing application problems, supporting the currently growing trend of decreasing the number of new correspondent relationships. The primary objective of this paper is to establish, through comprehensive research on the existing legal regulation of correspondence relations at the European Union and Slovak Republic levels, a hypothesis regarding the interdependence between current application problems and the diminishing trend observed in new correspondence relations. Following scientific methods were used in this paper: the method of analysis and synthesis, method of abstraction, comparative method.

Key words: AML, correspondent and respondent banks, correspondent banking.

JEL Classification: K34

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1. Introduction

Before international payment systems were developed, correspondent banking was the most common form of conducting transactions between two credit institutions at national and international levels. The importance of correspondent banking has now diminished in certain areas as a result of financial market integration and consolidation in the form of the development of widely available payment systems in euro and other foreign currencies. Nevertheless, correspondent banking still remains a valid alternative when payments cannot be made through such payment systems.

The correspondent banking network can be viewed as a global network of bilateral relationships that enables the bank's customers to make and receive payments in any currency around the world. Current payment systems tend to focus on the national market, so the operation of correspondent banking is aimed at making cross-border payments across all countries of the world. The presence of large banks with direct access to payment systems in different countries is becoming rarer, mainly due to the cost of setting up subsidiaries or branches abroad.

Notwithstanding the existing competition, correspondent banking still plays an important role in cross-border payments, which is still of great interest to bank customers.

In order to contribute to the scientific discussion about the risks outlined in the text related to the raised issue, we aim to verify the following hypotheses in the content of this article:

- The current legal regulation of correspondence relations at the level of the European Union and the Slovak Republic poses challenges and application problems in various areas/AML?
- There is a significant degree of dependence between the current application problems arising from the legal regulation of correspondence relations and a declining trend of new correspondence relations (as the presence of application problems is leading to a reduction in the inclination of banks to engage in new correspondent relations (so called de-risking))
- The combination of increased risk perception associated with correspondent banking relationships, lack of clarity and standardization in the Know Your Customer's Customer (KYCC) process, excessive administrative and regulatory burden, and varying expectations of regulators contributes to a decline in the establishment of new correspondent banking relationships

In order to verify the above hypotheses, we used several scientific methods. One of the basic methods used in the article is the method of analysis and synthesis. The above-mentioned methods were used in the entire content of the article, for example, in the analysis of the issue of the legal status of the correspondent and respondent bank in the field of correspondent banking. In addition, in article we also used the method of abstraction which we applied cross-sectionally throughout the article, for example in the analysis of two frameworks - correspondent relationship and correspondent banking.

At the same time, a comparative method was used in the article. We focused (within thematically defined scope) on the comparison of the legislation governing the legal status of correspondent and respondent banks in the context of both, international and Slovak legislation.

Due to the absence of comprehensive relevant legal scientific publications on the given issue both, in the international and domestic context, we believe this article may contribute to and trigger a professional discussion on the adequacy of the current legislation.

2. Correspondent Relationship and Correspondent Banking

The existence of correspondent banking is directly related to the lack of international presence of individual banks around the world [European Central Bank. Eleventh survey on correspondent banking in euro 2019: 6]. Today, the predominantly large banks act as correspondent banks and assume the role of 'redistributor' of funds to other banks around the world. In this context, we are talking about the existence of a correspondent relationship between banks.

The correspondent relationship is defined in Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (the 'AMLD IV'). In this regard, the AMLD IV specifically defines the relationship between one bank as a correspondent and the other bank as respondent. In this relationship, the correspondent bank acts as a provider of banking services to the respondent bank. Banking services cover a wide range of services defined in a bilateral agreement signed by two credit institutions in advance. For instance, it may include current accounts, foreign funds transfers, and the like.

The AML Directive also does not forget the existence of other credit and financial institutions which, like banks, may establish a correspondent relationship. **A correspondent relationship in this case may arise between credit institutions** [Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC in conjunction with Art 4 (1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012: Art 3 (1)], **between financial institutions** [Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC: Art 3 (2)]**, and between credit and financial institutions with each other.** Again, this is a transaction between a correspondent institution and a respondent institution aimed at providing banking services. In addition, it represents a specific type of relationship that is established for the purpose of securities transactions or fund transfers.

The definition of correspondent relationship under the AMLD IV is applied by several international institutions that use the term **correspondent banking.** For example, **the Bank for International Settlements**[1] defines correspondent banking as an arrangement between a correspondent and a respondent bank under which the former holds deposits owned by the respondents and provides payment and other services to those respondents [Bank for International Settlements, Committee on Payments and Market Infrastructures 2016: 43]. Although the **Wolfsberg Group**[2] does not directly provide a definition of correspondent banking in its recommendations, it does specify a list of possible banking services provided by a correspondent to a respondent. These include, but are not limited to, current or other liability accounts and related services, liquidity management, etc. [Wolfsberg Anti-Money Laundering Principles for Correspondent Banking 2014: 1].

1 **Bank for International Settlements (BIS)** - is an international bank promoting international monetary and financial cooperation. It serves as a bank for central banks.

2 **The Wolfsberg Group** is an association of thirteen global banks whose aim is to develop frameworks and guidelines for managing the risks associated with financial crime.

It follows from the above, it is apparent that the concept of a correspondent relationship is broader than the concept of correspondent banking. While correspondent relationship also summarizes the relationships arising between other credit and financial situations, the term correspondent banking is used exclusively in the context of establishing correspondent relationships between banks with each other.

In this regard, international institutions stress that their recommendations and reports apply to correspondent banking exclusively. For example, the international institution **Financial Action Task Force ('FATF'[3]),** directly states that its recommendations do not apply to securities transactions [FATF Guidance on Correspondent Banking Services 2016: 8].

In general, correspondent banking is based on a bilateral agreement between the correspondent bank and the respondent bank. The correspondent banking relationship is characterised by its continuity, i.e. it is of a recurring nature [Wolfsberg Anti-Money Laundering Principles for Correspondent Banking 2014: 1]. The content of the correspondent banking agreement is thus left to the will of the parties. Currently, asymmetric relationships prevail with no reciprocity, and thus, in most cases, large banks provide services to several smaller respondent banks [European Central Bank. Eleventh survey on correspondent banking in euro 2019: 6]. This implies that the establishment of a correspondent banking relationship is more beneficial to the respondent bank, which can offer additional benefits and services to its customers as a result.

Following the nature of the legal relationship between correspondent and respondent banks, the **Bank for International Settlements** has further developed the basic **correspondent banking models, which can be divided into traditional correspondent** banking, nested correspondent banking, and access accounts [Financial Stability Institute, BIS. FSI Insights on Policy Implementation No 28, Closing the Loop: AML/CFT Supervision of Correspondent Banking 2020: 6].

In the case of **traditional correspondent banking**, the correspondent bank opens and maintains the account of the respondent bank and provides other related services. This 'cooperation' is particularly beneficial for the respondent bank, which can offer its clients additional services (e.g. cross-border payments to a specific country). Based on a bilateral agreement concluded between the banks, the correspondent bank opens a special account for the respondent bank, otherwise known as a nostro/vostro (loro) account. However, customers of the respondent bank do not have direct access to this account. Settlement

[3] **The Financial Action Task Force (the 'FATF')** is an intergovernmental body set up in 1989 at the initiative of the G7 to develop policies to combat money laundering and terrorist financing.

shall be effected by crediting and debiting the relevant amount of funds to the account [European Central Bank. Eleventh survey on correspondent banking in euro 2019, November 2020: 5]. Payments are made by sending standardised messages, mostly using **Society for Worldwide Interbank Financial Telecommunications (SWIFT)** [Grolleman, Jutrsa 2017: 1 – 48; Robinson, Dörry, Derudder: 482-484].

The functioning of **nested correspondent banking** is based on the existence of an intermediate element, which is the 'nested' bank. Under a bilateral agreement, the 'nested' bank—which is an indirect respondent and uses the services of the respondent bank—enters the relationship between the correspondent and the respondent bank. This gives the 'nested' bank the advantages of a correspondent bank.

A characteristic of **access accounts** is that—compared to traditional correspondent banking—the respondent bank's customers have direct access to a correspondent account maintained by a correspondent bank [European Banking Authority, European Securities and Markets Authority, European Insurance and Occupational Pensions Authority. Guidelines on customer due diligence and the factors credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions ('The ML/TF Risk Factors Guidelines') under Articles 17 and 18(4) of Directive (EU) 2015/849: 32].

With regard to the legislative regulation of **correspondent banking in the Slovak Republic** (the 'SR'), we see (primarily as a result of the membership of the SR in the European Union) a similar regulation of the concept of **correspondent relationship**, which is more closely regulated by Act No 297/2008 Coll, Money Laundering and Terrorist Financing Regulation, amending and supplementing certain acts (the 'MLA') and is mainly built upon the AMLD IV. Although the MLA is using a broader term as opposed to correspondent banking, the MLA does not use the term credit institution but uses the term bank as an equivalent term [Act No 297/2008 Coll, Money Laundering and Terrorist Financing Regulation, amending and supplementing certain acts: Section 9 (k)].

3. Correspondent and Respondent Banks' Legal Status in Correspondent Banking

The legal status of correspondent and respondent banks in correspondent banking is analogous to the relationship between a bank and a customer (individual and corporate) [Chitimira, Munedzi 2023: 58]. In this case, the respondent bank has the status of a customer in establishing a correspondent relationship with the correspondent bank. Mandatory **CDD (customer due diligence)** is thus the duty of the correspondent bank [Radha 2021: 288-301].

It should be emphasised that the application of the above requirements by the correspondent bank applies to the respondent bank only. It follows that only the respondent bank has to do due diligence in relation to its own customers using correspondent banking services.

The correspondent banking relationship is associated with the existence of **increased risk.** This risk is related to the complexity of the trade in which a third party—which is not part of the transaction—instructs the execution of a particular operation [Guidelines to Mitigate Money Laundering and Terrorist Financing Risk Factors', Part 2 of the Methodological Guideline of the National Bank of Slovakia, Financial Market Supervision Units No 3/2019 of 29 April 2019 on the protection of a bank and a branch of a foreign bank against the legalization of proceeds from crime and against the financing of terrorism: Annex 1]. For this reason, the correspondent bank is required to apply **enhanced due** diligence to the respondent bank in addition to basic due diligence. The AMLD IV and the MLA directly regulate the duty to apply enhanced due diligence to a respondent institution from a third country [Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC: Art 19]. In MLA a shell bank is defined as: "a bank or financial institution that is registered in a business registry or similar registry in a state in which neither its head office nor its management is physically located and is not associated with a regulated financial group" [Act No 297/2008 Coll, Money Laundering and Terrorist Financing Regulation, amending and supplementing certain acts: Section 12 (2) (b)]It should be noted that if the *access account* model is used, with the possibility of direct access to the correspondent account by the respondent bank's customers, the correspondent bank is also obliged to exercise due diligence in relation to the respondent bank's customers [Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC: Art 19 (e)]. In principle, it can be concluded that the correspondent bank has to do due diligence in most cases applies only vis-a-vis the respondent bank as an institution and not vis-a-vis the customers of that bank.

A special group associated with an elevated risk is that of **high-risk third countries**. High-risk third countries are countries that have strategic vulnerabilities in their mechanisms to combat money laundering and terrorist financing and, as a result, pose significant threats to the European Union's financial system. In this context, it is necessary to distinguish between a 'classic' third country and a high-risk third country. In the event of a correspondent relationship with respondent banks located in high-risk third countries, the correspondent bank may—with regard to the results of an assessment of the existence of heightened risk factors—review and modify or terminate the relationship [Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC: Article 9; Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing and Directives 2009/138/EC and 2013/36/EU: Art 1 (11)].

The AMLD IV and the MLA prohibit a bank to enter into a correspondent relationship with a **shell bank** [Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC: Article 3 (17); Act No 297/2008 Coll, Money Laundering and Terrorist Financing Regulation, amending and supplementing certain acts: Section 9 (c); Konovalova, Tuck, Pérez 2023: 3-4].

In exercising customer due diligence, the correspondent bank applies the **RBA (risk-based approach)** [Sinha 2020: 52-65] vis-a-vis the respondent bank. The application of the RBA approach involves the consideration of all relevant risk factors, which are carefully assessed by the correspondent bank. To begin with, the correspondent bank defines risk factors that serve as the basis for establishing the risk profile of the relationship with the respondent bank. The basic risk factors are further mandated by Annexes I, II, and III to the AMLD IV. The assessment of the relevance of risk factors by the correspondent bank serves as a baseline for the later alignment of additional measures to mitigate the existing risk. The extent to which additional measures are applied varies from case to case depending on the level and type of risk identified, correlated with the respondent bank's application of measures to mitigate its own risk. The correct application of the RBA approach by a

correspondent bank is directly related to the implementation of the **KYC (know your customer) principle** [Boutros, Kelley, Zucker, Walsh 2022: 92-98]. In particular, the KYC principle removes the correspondent bank's duty to identify and verify the identity of the respondent bank. For this purpose, banks in most cases use the Wolfsberg questionnaire [Correspondent Banking Due Diligence Questionnaire (CBDDQ)].

The **identification and verification of the identification of the respondent bank** shall be carried out using independent and reliable sources and information. **The process of identifying a respondent bank** can be defined as the process of collecting and storing information about a given bank by the correspondent bank. To this end, the correspondent bank may, for instance, request information on the organisational structure of the respondent bank or a description of the application of the CDD measures, etc. [Basel Committee on Banking Supervision. Sound Management of Risks Related to Money Laundering and Financing Of Terrorism 2020: 24-25]. In the SR, the Methodological Guideline of the National Bank of Slovakia, Financial Market Supervision Units No 3/2019 of 29 April 2019 on the protection of a bank and a branch of a foreign bank against the legalization of proceeds from crime and against the financing of terrorism, which directly lists the information that the correspondent bank shall obtain from the respondent bank, can also be applied. Examples include gathering information on the nature of the bank's business, ascertaining its reputation, the effectiveness of supervision, etc.[Guidelines to Mitigate Money Laundering and Terrorist Financing Risk Factors', Part 3 of the Methodological Guideline of the National Bank of Slovakia, Financial Market Supervision Units No 3/2019 of 29 April 2019 on the protection of a bank and a branch of a foreign bank against the legalization of proceeds from crime and against the financing of terrorism: Annex 1].

Verification of the identification of the respondent bank consists of confirming the information obtained to identify the credit institution using available sources (e.g. business registry, etc.). Following the identification of a respondent bank and confirmation thereof, and in conjunction with an assessment of its risk profile, the correspondent bank may agree to establish a new correspondent relationship once approved by the senior management of both banks [Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC: Article 19 (c)]. Compared to the AMLD IV, the MLA defines the list of directors and persons who are authorized to render such approval [Act No 297/2008 Coll, Money Laundering and Terrorist

Financing Regulation, amending and supplementing certain acts: Section 12 (2b)]. In MLA the term 'specified person' means: "the designation of a person who oversees the implementation of tasks related to the protection against money laundering and financing of terrorism and the reporting of unusual business transactions, and manages the communication with the Financial Intelligence Unit, indicating their name, surname, and job title; where such person is not a member of the governance board or the board of directors, that person must be a senior employee who directly communicates with the governance board and the supervisory committee and must have access to information and documents obtained by the obliged person in the course of the exercise of the due diligence vis-a-vis the client" [Act No 297/2008 Coll, Money Laundering and Terrorist Financing Regulation, amending and supplementing certain acts: Section 20 (2h)]

The information obtained in the process of identification of a respondent bank and confirmation thereof is the primary source for the correct rendition of the risk profile of the respondent bank based on the application of the RBA approach. Consequently, throughout the duration of the correspondent relationship, the correspondent bank shall exercise **ongoing supervision of** the relationship [European Banking Authority, European Securities and Markets Authority, European Insurance and Occupational Pensions Authority. Guidelines on customer due diligence and the factors credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions ('The ML/TF Risk Factors Guidelines') under Articles 17 and 18(4) of Directive (EU) 2015/849: 36]. The correspondent bank shall keep track of any changes to the way transactions are carried out or in the activities of the respondent bank, which could indicate unusual activities of the respondent bank. The correspondent bank may also carry out a **targeted (ad hoc) review** if it finds any issues with the continuation of the correspondent relationship. For example, it may begin screening transactions where the required customer data is missing, etc. [Wolfsberg Guidance on Sanctions Screening 2019: 1-14].

If an **unusual business transaction** is detected, the correspondent bank shall request additional information from the respondent bank about the transaction and confirm or refute the unusual business transaction after a thorough investigation. The respondent bank should be able to provide the relevant information as soon as possible following the request [The FATF Recommendations. International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation 2012-2023: 16].

In the SR, the provisions of AMLD IV and FATF Recommendations applicable to **unusual business transactions oversight and reporting** have been fully incorporated into the MLA.

4. Application Issues Related to the Decline in Active Correspondent Banking Relationships

In recent years, we have seen a significant decline in active correspondent relationships, which has been linked to the existence of a number of application problems; the level of interest of banks to establish new correspondent relationships has dropped dramatically [European Central Bank. Eleventh survey on correspondent banking in euro 2019: 21-1; Financial Stability Institute, BIS. FSI Insights on Policy Implementation No 28, Closing the Loop: AML/CFT Supervision of Correspondent Banking 2020: 7].

Within the existing application issues, the problem with the application of the **Know Your Customer's Customer principle** can be highlighted. It follows from the above, with regard to active correspondent relationships, the correspondent bank has the duty to observe the CDD requirements vis-a-vis the respondent bank. However, the question remains as to what extent, if at all, the correspondent bank is obliged to exercise due diligence in relation to the respondent bank's customers **(Know Your Customer's Customer procedure).** In this regard, the FATF directly modifies the recommendation not to require correspondent banks to apply CDD measures to customers of the respondent bank [FATF. Drivers for "de-risking" go beyond anti-money laundering/terrorist financing]. On the other hand, the FATF Recommendations emphasise that the sufficiency of the application of CDD measures remains the sole responsibility of the correspondent bank [The FATF Recommendations. International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation 2012-2023: 18]. It follows that while a correspondent bank may ‘rely’ on the respondent bank, it must also be satisfied that the respondent bank is ensuring that its customers are properly authenticated and that it is exercising sufficient due diligence with respect to them. In this case, it is therefore not entirely clear how the correspondent bank can be held liable for the respondent bank's ‘customers’ if it cannot assess the sufficiency of the due diligence applied to it. Obviously, if the correspondent bank's obligation is extended to the area of assessing the adequacy of the respondent bank's customer due diligence, it will excessively increase the bureaucratic burden on the correspondent bank, consisting of daily communication of a large amount of information and data necessary associated with the identification of customers, final beneficiaries, and the respondent bank. Last but not least, it is also necessary to mention the potential problem as to how the client’s identity is confirmed and what is the purpose of the payment without direct contact with a foreign client. It is possible to conclude that this issue causes the volume of correspondent banking relationships to decline.

Other equally serious problems exist related to the application issues above. The correspondent banking relationship is associated with the existence of **increased risk**. The existence of increased risk shapes banks' concerns about profitability and their reputational risk [FATF clarifies risk-based approach: case-by-case, not wholesale de-risking]. The aim of each bank is therefore to **mitigate its risk (de-risking)** [Bearpark, Demetis 2022: 27-49; Johannes 2021: 477-490], and for this reason, banks prefer not to establish new correspondent relationships but try to maintain long-standing relationships with established banks. Obviously, banks will not be interested in continuing the relationship if the volume of operations carried out by the respondent bank is low [Naheem 2019: 721-733].

Banks refrain from establishing correspondent relationships even when it comes to high-risk third countries out of concern for reputational damage, for example, due to the lack of an ability to assess the adequacy of the respondent bank's customer due diligence. As a result of the above [FATF. Anti-money laundering and terrorist financing measures and financial inclusion - with a supplement on customer due diligence 2013–2017; FATF. Anti-money laundering and terrorist financing measures and Financial Inclusion 2011], residents of these countries may be financially excluded, making it impossible for them to make cross-border payments.

Closely related to risk mitigation is the area of data protection. Assuming that the respondent bank is unable/unwilling to provide the requested data to the correspondent bank, the correspondent relationship is likely to be terminated. Banks' concerns about increased risk may ultimately lead to asymmetry in the provision of services in correspondent banking and thus reduce the transparency of cross-border flows of funds.

When a correspondent relationship is established, the problem associated with the **administrative and regulatory burden on banks** arises. The **bureaucratic burden on banks** is connected with the amount of information that the correspondent bank receives from the respondent bank to exercise due diligence. No forms exist that would include all mandatory information, which would streamline the process. Apparently, this challenge is currently difficult to regulate, as each country and each bank may require a different set of information based on existing risk factors. In terms of the **regulatory burden on banks**, this is a problem related to the absence of a common database that would allow for rapid communication between banks in the form of forwarding the required data. At the same time, it is necessary to ensure that the data forwarded are updated depending on an assessment of the respondent bank risk profile. It is clear that this process is extremely complex, costly, and time-consuming for banks.

Closely related to the regulatory burden on banks is the issue of the **prompt provision of information by the respondent bank following the request of the correspondent bank.** The current legislation does not directly mandate the specific number of days to respond to the request of the correspondent bank. A related issue is the authorisation of the correspondent bank to execute transactions that do not contain all the required customer data. The first option to consider is the option to delay a specific transaction and then wait for the pending information from the respondent bank. However, the transaction can only be delayed if specific conditions are met and for a maximum of 120 hours, so the question remains as to what the correspondent bank should do if the necessary information is not received within this period. If the correspondent bank is late, it may constitute an unreasonable delay in the execution of the transaction.

Banks' concerns about entering into new correspondent relationships also stem from **unclear expectations of their home regulator.** Each bank may have specific requirements for the amount of mandatory information and the way it exercises due diligence depending on the country where it operates. Each correspondent relationship is shaped by the risks involved, so it is difficult to predict what banks should do in individual cases. Thus, even the bank itself cannot know whether the data submitted by the respondent bank will be considered sufficient for the home regulator.

We believe that consideration should be given to the creation of uniform standardised forms containing a minimum set of mandatory information and data required from banks [Financial Stability Board. Progress report to G20 on the FSB action plan to assess and address the decline in correspondent banking 2016: 9]. Last but not least, we can also mention the creation of a unified software system that would ensure uniform and fast access to the necessary data for all banks at the same time.

5. Conclusion

The established hypotheses have been proven on the basis of the obtained information and their subsequent analysis. In order to confirm the stated hypothesis, we conducted a detailed analysis of individual risk factors influencing banks' decisions to enter into correspondent banking relationships. Banks generally associate correspondent banking relationships with increased risk factors, particularly in the case of high-risk third countries, which potentially leads to an elevated risk profile for the bank involved in such relationships. Consequently, it is apparent that banks, aiming to minimize existing risks, prefer not to establish new correspondent relationships and instead maintain existing correspondent relationships with

"trusted" banks. This perspective is also reflected in the recommendations of the Financial Action Task Force (FATF), which emphasizes a risk-based approach, considering each case individually rather than engaging in wholesale de-risking. FATF similarly recognizes the rapid erosion of correspondent banking relationships as a major concern, driven by banks' fears of damaging their reputation.

A fundamental problem that hinders the establishment of new correspondent banking relationships is the ambiguous scope of customer due diligence when it comes to the customer of the respondent bank. In this case, we refer to the Know Your Customer's Customer (KYCC) process. The results of our analysis are primarily based on the recommendations of the Financial Action Task Force (FATF) outlined in their publications on anti-money laundering, terrorist financing measures, financial inclusion, and drivers for "de-risking" that go beyond anti-money laundering/terrorist financing. These recommendations acknowledge the possibility of relying on third parties but also place the responsibility on the correspondent bank. It is evident that a correspondent bank, due to concerns such as inadequate verification of the respondent bank's customer's identity and the associated sanctions, is likely to have little interest in establishing new correspondent relationships.

Another problem we perceive is related to the excessive administrative and regulatory burden placed on banks in complying with the Know Your Customer (KYC) principle. Currently, there is a lack of a unified form and system for sending and receiving required information between correspondent and respondent banks. The daily handling of numerous inquiries contributes to banks reconsidering their commitment to individual correspondent relationships and contributes to their reduction. This analysis primarily stems from the current absence of regulation in this area within the relevant legal provisions of the European Union and the Slovak Republic.

Moreover, the expectations of regulators also contribute to the decline in newly established correspondent banking relationships. Despite the fact that the area of customer due diligence is largely harmonized at the European Union level through directives and regulations, the scope and adequacy of the provided customer due diligence information are not explicitly specified. Therefore, it is not clear whether the submitted documents will be sufficient to demonstrate the respondent bank's adequate due diligence efforts. As a result, individual regulators may have different approaches to the presented information. This perspective is primarily derived from the analysis of the AMLD IV, FATF recommendations, and MLA.

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Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing and Directives 2009/138/EC and 2013/36/EU.

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Internet Resources

Correspondent Banking Due Diligence Questionnaire (CBDDQ)

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