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**EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)**

**SELECT COMMITTEE OF EXPERTS ON THE EVALUATION
OF ANTI-MONEY LAUNDERING MEASURES
(PC-R-EV)**

***SECOND ROUND MUTUAL EVALUATION
REPORT ON CYPRUS***

SUMMARY

1. Cyprus was the 2nd PC-R-EV member State whose anti-money laundering regime was assessed in the framework of the second round of mutual evaluations conducted by Committee PC-R-EV. A team of PC-R-EV examiners, accompanied by colleagues from a Financial Action Task Force (FATF) member State and from the Offshore Group of Banking Supervisors (OGBS) visited Nicosia from 19 to 21 September 2001. The purpose of this evaluation visit was to take stock of the developments which occurred since the first round evaluation (i.e. April 1998) and to assess the overall effectiveness of the Cyprus anti-money laundering system in practice.
2. The crimes which are considered to be the major sources of illegal proceeds continue to be fraud, drug trafficking and smuggling offences (e.g. cigarettes). A limited number of organised crime groups are reported to be present in Cyprus and involved mainly in illegal drugs trafficking, extortion, prostitution and illegal gambling schemes. The Cypriot authorities emphasise the international character of money laundering, arising as a result of the country's development as an international business centre.
3. The methods of money laundering have not changed much since the first round. The banking sector is generally considered as the most vulnerable one to money laundering. Laundering operations may involve "international business companies" (IBCs) registered in Cyprus, which, formerly known as "offshore companies", have reached a record of 47,000 in 2001. Out of these, only about 1,080 entities maintain a physical presence in Cyprus in 2000.
4. The central piece of legislation in the Cyprus anti-money laundering regime is the Prevention and Suppression of Money Laundering Activities Law of 1996 (1996 Law), which has been amended several times since the first round evaluation. These amendments included the replacement of the former "list approach" by a new "all-crimes" provision stating that "predicate offences are considered to be all criminal offences punishable with imprisonment of more than one year, from which proceeds were derived".
5. Apart from the adoption of the "all-crime" approach, no change occurred in the definition of money laundering. 5 convictions have been obtained since the first round, mainly related to "own proceeds" laundering. These convictions were all domestic money laundering cases in which the predicate offences were fraud (obtaining money by false pretences) and drug trafficking. Significantly, none of them was based on a suspicious transaction report (STR), but on police investigations into predicate offences. The Cypriot authorities admitted that it was difficult to prove the connection between a suspicious transaction and extraterritorial predicate offences. However, there are 11 cases pending before courts and at least one of them is related to a "classic" and also sophisticated money laundering activity (involving various bank transactions).
6. There have been no changes with regard to the comprehensive and robust system of provisional measures. The statistics concerning the application of provisional measures and confiscation in practice show that provisional measures, such as freezing and restraint orders, are applied more and more frequently. However, the examiners recommended that these powers should be used by MOKAS from the earliest moment of their intelligence work and that MOKAS should formally be empowered to suspend financial transactions.

7. Confiscation is conviction based and can be ordered in relation to criminal proceeds or the corresponding value. Given the low number of confiscation orders compared to the restraint and freezing orders, the examiners think that much remains to be done in this area.
8. A very positive feature of the regime is that legal entities can be held liable for money laundering and criminal offences generally. It would however seem that there have so far been no instances in which legal persons were effectively prosecuted under the provisions of the 1996 Law. Therefore, the examiners recommended that the Cypriot authorities carefully examine why money laundering prosecutions did not involve legal persons.
9. Institutionally, the anti-money laundering regime Cyprus rests on two key institutions: the Unit for Combating Money Laundering (MOKAS), the Cypriot FIU, and the Central Bank of Cyprus (CBC), the main regulator and supervisor in the financial sector. Following the recommendations made in the first round evaluation report, MOKAS has already been strengthened. However, given its multiple functions, the examiners think that MOKAS is still understaffed and recommend its further reinforcement, in terms of personnel (more financial analysts), IT facilities and financial resources. In addition, specialisation of staff and restructuring are highly recommended at MOKAS.
10. The Cyprus Government has also appointed new supervisory bodies under the 1996 Law for lawyers and accountants. Though this is welcomed by the examiners, they consider that neither of the two bodies is equipped to undertake this responsibility as self-regulatory bodies. They recommend that this responsibility is transferred to or shared with MOKAS or the CBC so as to ensure effective monitoring of compliance by these professions with their anti-money laundering obligations.
11. There has been much progress achieved in the financial sector since the first round evaluation, through more awareness in the sector, the issue of guidance notes by the different regulators and, to an extent, by the formation of associations for different sectors of the financial market, even if there might be too much reliance in laying responsibilities on the CBC. The examiners particularly welcome the active role played by the CBC with respect to guidance: the CBC issued a number of new guidance since the first round, e.g. prohibiting the acceptance of cash deposits in foreign currencies in excess of US\$ 100.000 without the prior written approval of the CBC, requiring banks to refer to the CBC for guidance applications that they receive for the opening of accounts in the name of “banks” incorporated in specified offshore jurisdictions, requiring banks to verify the identity of corporate customers by obtaining a series of documents and to take appropriate measures to establish the identity of persons, both physical and corporate, on whose behalf trustees and nominees are acting, etc.
12. However, the examiners consider that the high number of regulators for the size of the Cypriot market has resulted in a shortage of adequate and sufficient staff, which curtails expertise in the regulatory function of the different regulators. On the other hand, the area of domestic investment services and advice is still not regulated.
13. Trustee and nominee services in Cyprus are provided by International Trustee Companies, lawyers and accountants. At the time of the on-site visit, the possibility existed for banks to disregard their obligation of identification and rely, when opening an account the beneficiary of which has not been identified on identification carried out by regulated trustees and nominees, acting as business introducers. The examiners recommend to change this practice.

14. MOKAS, as an FIU, needs financial intelligence to perform its functions (e.g. when analysing suspicious transaction reports (STRs)) and for that purpose information held by other regulatory bodies needs to be shared with it, including aggregate information on cash-transactions and other data held by the CBC, which may be useful for MOKAS' financial intelligence work. The examiners noted in this regard that banks should not hold preliminary discussions with the CBC to establish whether or not an STR has to be filed with MOKAS.
15. Since the first round MOKAS has received an ever increasing number of (STRs) filed by institutions or persons obliged to report. The large majority of this increase had in fact come from the banking sector. Therefore, further efforts need to be done to make the reporting system more balanced. Moreover, MOKAS should monitor the spread of reporting and periodically examine for example how many of the onshore banks and offshore banks are filing STRs and how these figures compare.
16. In the area of international co-operation, there is an obvious willingness of the authorities to co-operate with overseas jurisdictions. No problems were indicated to the evaluation team in this area, neither in responding to informal requests nor in the execution of subsequent formal rogatory letters.
17. Overall, Cyprus has made since the first round further progress towards building an effective and robust anti-money laundering regime. With the exception of the legal professions, there is a strong commitment from all institutions in the system, including the private sector, to join the anti-laundering effort. Cyprus has also reacted positively to most of the recommendations made in the first round evaluation report and its legal framework starts producing results. However, a certain number of issues remain, in particular with regard to the resources dedicated to MOKAS and the supervision of insurance sector.