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TECHNICAL PAPER:
Guidance paper regarding new National AML/CFT Strategy
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Executive Summary

It is necessary and desirable for the Serbian authorities to develop and publish a National Anti-Money Laundering/Counter Terrorist Finance Strategy (AML/CFT) for the period 2014-2018, as the strategy adopted in 2008 expires. Adopting a new National Strategy will enable Serbia to demonstrate commitment to the international AML/CFT standards and also provide a clear roadmap of how the AML/CFT system will develop and deliver effective outcomes.

The new National Strategy should take account of recent changes in both the Financial Action Task Force Recommendations and Methodology, as well as the proposed text of the 4th EU AML Directive. The emphasis in these standards has shifted from technical compliance to effective implementation, on a risk based approach. Thus the new National Strategy will not only have to deliver a compliant AML/CFT system technically (in terms of laws, regulations and institutional/organisational structures), but also produce effective results from this system.

It is therefore recommended that the new strategy should be formulated around the outcomes of an effective AML/CFT regime, as articulated in the new FATF Methodology, using a hierarchy of outcomes. Using the FATF overall goal of an effective system, “*Financial systems and the broader economy are protected from the threats of money laundering and the financing of terrorism and proliferation, thereby strengthening financial sector integrity and contributing to safety and security*”, as an overall strategic objective or vision, the strategy should specify strategic goals in thematic areas, including; *Policy, coordination and cooperation; Prevention, detection and reporting in the covered sectors; Detection, disruption, prosecution and sanction, confiscation.*

Each strategic goal should have a series of action measures identified and designed to deliver effective outcomes, particularly in the areas of high risk identified in the recently published National Risk Assessment of Money Laundering. Success will be measured against these expected outcomes. The action measures will be further elaborated in an accompanying Action Plan, which will include responsible departments, timescales and resource considerations. The Strategy and Action Plan should be published, as should regular progress reports.

Introduction

This paper outlines proposals to assist the Serbian authorities in preparing a new National AML/CFT Strategy and Action Plan. It includes proposals on the structure and content of the National Strategy and how a detailed Action Plan can be derived from the Strategy. The paper is based on the results of a short mission to Serbia in May 2013, other papers from the MOLI-Serbia and CAR-Serbia Projects, the Serbian National Risk Assessment of Money Laundering ('NRA') received in July 2013 and broad research into other national AML/CFT (and financial crime generally) strategies. The intent is to *guide* the preparation of the new National Strategy, not to provide a draft of it.

Background

There is no specific requirement in the international AML/CFT standards to either formally adopt or publish a national AML strategy. FATF Recommendation 2 ('old Recommendation' 31) requires countries to:

have national AML/CFT policies, informed by the risks identified, which should be regularly reviewed and should designate an authority or have a coordination or other mechanism that is responsible for such policies.

Countries should ensure that policy-makers, the financial intelligence unit (FIU), law enforcement authorities, supervisors and other relevant competent authorities, at the policymaking and operational levels, have effective mechanisms in place which enable them to cooperate, and, where appropriate, coordinate domestically with each other concerning the development and implementation of policies and activities to combat money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction.

Serbia, in common with some, but not all, other jurisdictions chose to implement this Recommendation through the adoption of a national AML/CFT strategy and a coordination body. The Government of the Republic of Serbia adopted the 'National Strategy against Money Laundering and Terrorist Financing' on 25 September 2008 ('the 2008 Strategy'), and published the Strategy in the *Official Gazette*. The Standing Coordination Group ('SCG') was established by a decision published in the *Official Gazette* on 22 April 2009 and given the responsibility of implementing the Strategy, which it did through an Action Plan adopted on 16 October 2010.

The 2008 Strategy had an implementation timescale of five years, so the time has come to introduce a new Strategy. In any case, it is a timely decision, given developments in the international AML/CFT field such as:

- the revision of the FATF Recommendations in February 2012
- the introduction of a revised Methodology for evaluating countries' progress against the Recommendations in February 2013

- the European Commission proposal for a new AML Directive, also published in February 2013

A new Strategy will allow the Serbian authorities to take full account of the new international standards and to draw together many of the recommendations, work plans and individual strategies drawn up during the MOLI-Serbia and CAR-Serbia Projects, leaving a lasting legacy of those projects.

Risk

The Risk Based Approach (RBA) is now fundamental to the FATF Recommendations and provides a basis for establishing an effective AML/CFT system, rather than focusing solely on technical compliance with the standards. The National Strategy should reflect both the RBA and the importance of effectiveness; the Republic of Serbia has taken a huge stride in this direction by producing the NRA, the result of many months of work by multiple stakeholders. The NRA was produced in accordance with FATF Recommendation 1 and utilised a methodology produced by the World Bank. According to the NRA:

The purpose of implementing the National Risk Assessment is to assist the Government in efficiently distributing the resources that it allocates to combating money laundering and ensuring that the measures taken are proportionate to the risks identified....

The important assessments and conclusions of this report will also be of great benefit in the development of the national strategy for the prevention of money laundering and terrorism financing for 2013-2018.

Thus the findings of the NRA should be used in formulating both the objectives of the National Strategy and also the development of specific actions to implement it, as foreseen by the FATF Guidance on National Money Laundering and Terrorist Financing Risk Assessment:

[The risk assessment] should ultimately allow public authorities to make a judgment on the levels of the risks and priorities for mitigating those risks. The policy response can then be made commensurate to the nature and level of the risks identified.

However, risk impacts on strategies in another way, through risks to the implementation of the strategy itself. These may come from internal factors such as the complexity/scope of the strategy (for example, requiring more resources than are feasibly available) or badly drawn up action plans (for example, where interdependencies are not identified between workstreams, such as requiring operational activity before the legislative or institutional basis has been created). These risks should be mitigated through the process of preparing the strategy, using techniques such as Gantt charting¹ and workstream breakdown (and this should be replicated at the individual action level, with reports made to the SCG – see later in this document).

¹ A Gantt chart is a way of mapping activities over time, in the form of a bar chart.

External factors, such as changes in the political or economic environment, may also impact the successful implementation of the strategy, for example through changes in policy, lack of will or resource constraints. These risks can be identified and monitored through the use of techniques such as scenario planning or PESTELO² risk analysis.

Recommendation: a strategic risk register covering such implementation risks should be established and utilised by the SCG as part of their monitoring of the strategy implementation.

Structure of the Strategy

The essence of any strategy is to shape the future. Although there has not yet emerged a common structure for national AML/CFT strategies, elements such as visions, missions, objectives, goals, and outcomes are frequently used (often, it has to be said, interchangeably). In broad terms, it may be useful to think of a strategy consisting of ‘ends, ways and means’:

- ‘Ends’ are what the strategy is seeking to achieve, i.e. the future state
- ‘Ways’ are the policies and actions that will need to be adopted and taken to reach the ends
- ‘Means’ are the resources required to implement the ways and therefore achieve the ends

These distinctions are sometimes not as obvious as this formulation suggests, and at different levels of strategic planning (e.g. nationally or by department) may become blurred. In AML, it is quite common to find examples of ways regarded as ends. As an example, having an effective AML supervision framework may be seen as a strategic goal. However, by asking the question ‘Why?’ it is often possible to further refine the goal to reflect the ultimate objective. In this case, AML supervision should be designed to deliver effective AML systems in the supervised institutions, which in turn keeps out criminals and provides high quality intelligence to the authorities.

Key strategic objectives

The 2008 Strategy had some ‘key objectives’, which were in essence a combination of high-level ‘ways’ and ‘ends’, and then a detailed list of ‘recommendations’ (which are mostly ‘ways’) organised into legislative, institutional, operational and training categories. A weakness of this structure, which is not uncommon in other AML/CFT strategies and is clearly based to an extent on the previous version of the FATF Recommendations, is a lack of explicit links between the recommendations and the key objectives (i.e. how would implementing the ‘ways’ achieve the ‘ends’). The recommendations themselves are very much focused around technical implementation of the then-current FATF standards, again a common and understandable

² Political, Economic, Social, Technological, Environmental, Legal, Organisational

feature of AML/CFT strategies, but one which can give the impression that the overriding risk being mitigated is a poor Mutual Evaluation Report.

The new FATF Standards³, with their emphasis on risk and the evaluation of effectiveness as well as technical compliance, provide an ideal opportunity to look at the National Strategy in a different way. The effectiveness component of the Methodology provides, arguably for the first time, clear objectives for an AML/CFT regime. The FATF will assess effectiveness using what is described as a ‘hierarchy of defined outcomes’; namely an overall High Level Objective in implementing an AML/CFT regime; three Intermediate Outcomes, representing the major thematic goals of the regime, and the eleven Immediate Outcomes, representing the key goals of the regime.

A way of structuring the National Strategy using this structure would be to take a version of the High Level Objective as the overall objective (or vision) of the strategy. The FATF wording is:

Financial systems and the broader economy are protected from the threats of money laundering and the financing of terrorism and proliferation, thereby strengthening financial sector integrity and contributing to safety and security.

By comparison, the 2008 Strategy’s key objectives were:

1. *to influence the reduction in money laundering and terrorism financing-related crimes [end] by taking preventive and repressive measures [way];*
2. *to implement the international standards [way] leading to membership or an improved status of Serbia in international organizations [end];*
3. *to develop a system of cooperation and responsibilities of all stakeholders in combating money laundering and terrorism financing [way];*
4. *to improve the cooperation between the public and the private sectors in the fight against money laundering and terrorism financing [way];*
5. *to ensure the transparency of the financial system [end].*

It will be seen that most of these are actually a mix of ‘ends’ and ‘ways’. The actual goals are mostly encapsulated in the shorter FATF wording, without being too specific about the ways. The 2008 objective of improved international standing for Serbia is not covered by the FATF High Level Objective (although effectively implementing a strategy based on the objectives would naturally achieve this aim). It is perhaps a legitimate national objective, especially given the real impacts that listing by the FATF International Cooperation Review Group can have on the financial system, but may again risk giving the appearance of focusing on compliance with the standards, rather than tackling the underlying risks.

³ That is the Recommendations and the Evaluation Methodology

Other similar strategies have also included particular issues that are taken to be of such national importance that they should be highlighted at the highest level of the strategy – for example, supporting the fight against corruption – even though they would fall under the general FATF wording of *safety and security*. The most significant threats identified by the NRA were tax evasion, illicit production and circulation of narcotics, and abuse of office. Consideration could be given to including those at the highest level of objectives, especially if they are regarded as persistent threats, likely to stay at a high level of risk for the duration of the strategy. A balance needs to be found between describing the vision of the strategy sufficiently, but in a way that will remain relevant for five years. The NRA itself will be reviewed after two years, raising the possibility that different high risk threats will be identified during the lifespan of the National Strategy.

Recommendation: an overall objective or vision of the National Strategy should be drawn up, based around the FATF High Level Objective, with high risk specific Serbian issues also considered for inclusion.

Principles

Strategies also sometimes include a list of principles, in accordance with which the strategy will be implemented. These frequently include principles such as:

- the rule of law
- accountability
- transparency
- efficiency
- non-discrimination

The 2008 Strategy did not include such a list, but the recently published ‘National Anti-Corruption Strategy in the Republic of Serbia for the period 2013-2018’ does (in common with other national anti-corruption strategies). Identifying a list of principles provides assurance that the strategy is designed in a way compatible with the laws and custom of the country and they can be a useful check for suggested actions. This may be a useful way to address such issues as financial inclusion in the National Strategy, by adopting a principle that legitimate businesses and individuals should not be excluded from the financial system by AML/CFT measures, and demonstrating that the measures taken to implement the strategy respect that principle.

Recommendation: General principles for implementing the National Strategy should be identified and included. They should guide the preparation of both strategic objectives and specific measures.

Strategic themes and goals

This is really the main part of a strategy, where specific objectives are identified. These are goals that, once effectively implemented, go towards achieving the overall objectives or vision of the strategy. They are still, therefore, ‘ends’, but some description of ‘ways’ is usually included, thus

allowing measurement of implementation at the strategic level. However, details of the actions and resources required should be reserved for the accompanying Action Plan (and in many cases further detailed project planning will be required by the body or bodies responsible for implementing particular measures). This allows the strategy document itself to be relatively short and readable, and also accommodates the almost inevitable alterations to the specific actions that will be required once implementation starts. The Strategy should be fixed (barring serious unforeseen circumstances), whilst the Action Plan must allow for contingencies during the implementation phase. On the other hand, a strategy without at least the outlines of the implementation plan is simply a list of aspirations.

There are various ways used to categorise themes in an AML/CFT strategy, such as:

- legislative, institutional, operational, training (as in the 2008 Strategy)
- prevention, detection, enforcement
- by specific risks (e.g. improving supervision in particular sectors identified as vulnerabilities, tackling the proceeds of particular crimes identified as threats)

The first of these schemes groups similar recommendations together. However, its weakness is that actions under several of these headings may need to work together to achieve goals towards the strategic objective and often these actions amount to ‘ways’ rather than ‘ends. For example, the table below breaks down two sample strategic goals relating to prevention and enforcement into actions under those headings:

Objective	Legislative	Institutional	Operational	Training
Improve quality of preventative measures in obliged institutions through supervision	Ensure laws on supervision provide necessary powers of inspection and sanction	Establish AML/CFT supervision units in regulators	Formulate policies and procedures on inspection; develop enforcement strategy; issue guidelines	Train specialist AML/CFT supervisors, senior management and enforcement departments
Improve information sharing in order to increase number of ML cases identified and taken up	Ensure relevant legal gateways for information sharing exist	Provide IT systems for sharing of information in relevant bodies; allocate resources to process requests	Establish MOUs or other formal arrangements for sharing information and appropriate policies/procedures	Train personnel on the legal basis for information sharing and practical implementation

It can clearly be seen from just these two examples that reading across the table provides a form of roadmap to achieving the objectives (which in turn are clearly related to the overall strategic objective of reducing money laundering through prevention and prosecuting offenders).

That is not to say that reading down the columns does not also provide very useful information for strategic planning and developing action plans. It is easy to see the various legislative changes that will be required, for example, which will probably require constrained resources such as legal drafting and parliamentary time. The actions under all the headings can then be combined, prioritised and sequenced on the basis of the risks they are addressing and the resources available, and a detailed action plan drawn up to implement the required changes. If the strategy is presented simply as a list of the changes required, it is difficult to follow how each one fits in the progress towards achievement of the overall goals and can give the impression that implementing laws (for example) is a strategic objective in its own right.

Here again, the hierarchy of objectives in the FATF Standards may be useful in formulating strategy. As described above, the three Intermediate Outcomes define the major thematic goals of an AML/CFT regime. They are, broadly speaking:

- Policy, coordination and cooperation
- Prevention, detection and reporting in the covered sectors
- Detection, disruption, prosecution and sanction, confiscation

These Intermediate Outcomes provide a good classification of objectives. They are broken down further into the eleven Immediate Outcomes (although ‘immediate’ in this sense does not relate to prioritisation), for which the methodology provides useful information about characteristics of an effective system, which can be used to formulate the strategic objectives relating to the particular risks identified through the NRA process, self and mutual evaluation processes and other sources. The Immediate Outcomes could be used as a further classification, although this may add an unnecessary level of complication, and again may give the impression of merely mitigating the risk of failing to receive a good effectiveness evaluation. The level of detailed classification can be decided during the drafting process, of course.

For example, the information sharing goal above could be presented like this:

Strategic Theme: Money laundering threats are detected and disrupted, and criminals are sanctioned and deprived of illicit proceeds.

Objective: Improve information sharing in order to increase number of ML cases identified and taken up

Expected results: Improved sharing of information between authorities will enable cases of money laundering to be identified more effectively and efficiently. We expect to see an increase in information sharing and better quality of information, which will assist the Prosecutors in identifying criminal cases and provide evidence (directly or indirectly) for successful prosecutions

Measures to be taken:

- Ensure relevant legal gateways for information sharing exist
- Provide IT systems for sharing of information in relevant bodies; allocate resources to process requests
- Establish MOUs or other formal arrangements for sharing information and appropriate policies/procedures
- Train personnel on the legal basis for information sharing and practical implementation

Recommendation: Strategic themes should be drawn up on the basis of the FATF Intermediate (and possibly Immediate) Outcomes. Specific goals and objectives, relating to the overall objectives, should be identified on the basis of the NRA process and other sources. Outline actions required to achieve those goals should be identified in the National Strategy and further developed, prioritised and sequenced in the Action Plan.

Appendix 1 to this paper sets out some suggested strategic goals under the strategic themes based on the FATF Intermediate Outcomes. These should be taken as neither prescriptive nor exhaustive, but are drawn from issues identified in the NRA and MOLI- and CAR-Serbia projects.

Implementation through the Action Plan

The Action Plan should follow the structure of the Strategic Objectives and the outline actions identified in the National Strategy. The measures in the Action Plan, should be specific, with timescales, responsible authorities and resource implications. The level of detail should be greater than in the National Strategy, but the responsible authority may need to draw up more detailed project plans to complete the action. The Action Plan should provide the SCG with a good understanding of what activity is taking place, but they do not need to be involved in detailed day-to-day planning.

The NRA contains a lengthy list of proposed actions, identified during the risk analysis process. These are useful measures, and identify necessary actions and more detailed activity planning. However the Action Plan should not merely be a compilation of proposals from the relevant authorities – it should be driven by the strategic goals, with each measure linked to outcomes. The proposed actions in the NRA list can then be allocated to the appropriate goal and will serve as a check that the strategy is comprehensively dealing with the issues identified in the NRA..

Again using the information sharing example, the Action Plan could look like this (only the first measure is completed here):

Objective: Improve information sharing in order to increase number of ML cases identified and taken up				
Actions:				
Measure	Activity	Deadline	Responsible authority	Resources required
Ensure relevant legal gateways for information sharing exist	Gap analysis of gateways	End December 2013	Ministry of Justice	3 working days
	Amendments to laws provide gateways	End December 2014	Ministry of Justice	Drafting - 1 working day/amendment Parliamentary time
...				

In this example, the second activity is dependent on the first activity. Only after the gap analysis has been carried out will it be possible to start on preparing amendments and the results of the gap analysis will dictate how many amendments are required – this in turn will affect the resources and timescale of the second action. Such dependencies should be noted within the Action Plan and part of the output of the first action should be a more definite version of the dependent activities (in this example, a list of gateways required).

Measurement of Success

If a strategy is focused on effective ways to achieve strategic objectives, the measures of success must include some element of effectiveness as well as implementation - that is, in addition to measuring and reporting actions taken, an assessment of how well the goals are being achieved. This is a significantly more difficult challenge than simply reporting on implementation and activity.

Measuring activity against the ultimate high level objective would, of course, be ideal. However, it is extremely difficult to measure the effect of individual AML/CFT measures against broad objectives, even those of reducing money laundering or terrorist financing; measuring any contribution to reduction of crime or terrorism (i.e. an increase in ‘safety and security’) presents a seemingly impossible task. Of course, an effective AML/CFT strategy should be addressing the

risks identified in the NRA, so one way of assessing the overall effect will be to compare the risks identified in the next version of the NRA.

Measures should be designed for each action plan element. Assuming the action plan is well designed, it should be possible to easily monitor implementation; has the action been successfully completed, was it done within the specified timescale and budget. Measuring the effectiveness of the action is more challenging. The FATF methodology can be useful in identifying suitable metrics, using the core issues and specific factors for each Immediate Outcome, although it remains to be seen how the elements contained in the effectiveness section will actually be assessed in practice. No doubt both quantitative and qualitative measures will be required.

A useful technique to consider is that of ‘expected results’, both of the strategic goals and action plan elements. Provided that the goals and action plans are well designed, achieving the specific outputs and deliverables should contribute to effective success against the goal. Using expected results (that is, specifying what is expected to be achieved through the combination of actions taken) comparisons can be made with actual results over time and an evaluation made of the effectiveness of implementation. In our example of information sharing gateways, measurement at the objective and action plan level might look something like this:

Objective: Improve information sharing in order to increase number of ML cases identified and taken up		
Expected results	Measures of success	
Number and quality of information requests and disseminations increases	Statistics on number of requests and disseminations Qualitative assessment of usefulness of information shared (e.g. through feedback mechanisms)	
Shared information contributes to successful identification of cases	Percentage of cases involving shared information Qualitative assessment of importance of shared information to cases (e.g. through reporting or sampling of cases)	
Action	Implementation measures	Expected results measure
Ensure relevant legal gateways for information sharing exist	Gap analysis conducted by specified date Amendments to laws to provide gateways enacted in law by specified date	No cases are frustrated through lack of legal basis to share information
...		

Failure to achieve the expected results may result from several factors, which should be evaluated in order to adjust the actions required:

- The implementation was flawed (e.g. a law was badly drafted and did not allow the intended actions)
- Capacity and/or will was lacking (e.g. information gateways were successfully established, but lack of resources meant that they were not used to the expected level)
- The design was flawed (e.g. information sharing was established and utilised for the expected purposes, but did not result in an increase in the number of ML cases successfully prosecuted)

Measuring success of a five-year strategy will take time and effort, and will need to be carried on beyond the lifespan of the strategy itself (so monitoring of previous activity should be included in future National Strategies). However, having a combination of measuring immediate outputs and deliverables and overall effectiveness means that reporting should start immediately.

The SCG will be responsible for the implementation of the National Strategy. During the May 2013 mission comments were made that the reporting mechanism at the SCG has improved and consists essentially of a tour-de-table, with each member reporting on those actions for which they are responsible. This mechanism should continue, but with more formal implementation monitoring of the Action Plan and consideration of the progress of the National Strategy. The SCG should consider introducing a monitoring system, such as a simple ‘traffic light’ system for progress:

- Items coded green – progress is proceeding in accordance with the plan and no risks are foreseen
- Items coded orange – progress is delayed, or likely to be delayed, slightly, or new implementation risks have been identified requiring mitigation
- Items coded red – progress has been severely delayed and deadlines have been missed or are very likely to be missed, or new implementation risks have been identified, which are unlikely to be successfully mitigated

The SCG would not need to consider green items, to avoid micro-managing implementation. Orange items provide a warning of possible problems and can be used to identify potential further effects, such as on dependent workstreams, which in turn may need to be delayed or adjusted. Red items should be fully discussed, with a view to updating the Action Plan to take account of the lack of success. The SCG can then also provide reports (e.g. to Ministers, Parliament or for the public) both on progress of implementation and the effectiveness of implementation over time.

Recommendation: Measurements of implementation and effectiveness should be developed for each strategic goal and element of the Action Plan. A risk-based reporting mechanism to the SCG should be established.

Presentation of the National Strategy

The sections above have highlighted the elements of the National Strategy. In Serbia, such strategies are published in the *Official Gazette*, once they have been accepted by the Government, so a public document needs to be prepared. This document should follow the structure set out above, but also include some context and explanation. A suggested structure would be:

Introduction

This should contain brief definitions (e.g. of money laundering and terrorist financing), explanations of the international standards and the reasons for adopting a new National Strategy. It should also provide context, such as the current situation, past achievements, the NRA and the results of the previous strategy. This section should not be too long, nor contain long lists of laws, regulations and relevant authorities, which detract from the substance of the strategy; rather it should be a narrative leading to the conclusions of the strategy.

Overall strategic objectives and principles

This section should clearly explain what the vision for the AML/CFT regime is and the principles that will be respected in designing the ways and means to achieve the goal.

Strategic themes in AML/CFT

For each of the themes (e.g. Policy, coordination and cooperation) there should be a brief description of the situation, the risks identified and the strategic goals. For each strategic goal, a brief description of the measures to be taken should be included, although not to the level of the Action Plan.

Setting out the strategic goals in a table format, as shown above using the information sharing example at p.9, helps to make the document clear and readable.

Implementation and monitoring

This section should contain a description of the Action Plan, how monitoring at the SCG will take place and how responsible bodies will be held accountable for implementing the actions.

Publishing the Action Plan

It has also been the custom in Serbia to publish Action Plans, separately from their strategies, which increases public accountability. The Action Plan as prepared in accordance with the suggestions above should be published, but it must be recognised that all action plans require updating, as circumstances change or it is identified that the timescales for certain actions were not estimated correctly. Consideration should be given to making the Action Plan a ‘living document’ by publishing it on the internet, or by publishing regular updates along with progress

reports from the SCG. Some elements of a strategy will be responsive to risk, and the Action Plan could therefore change with corresponding changes in the ML/TF risk assessment.

Links to other strategies

Money laundering takes place within the social and economic environment in the country. Strategies to combat money laundering cannot exist in a vacuum and must both take account of and support other national strategies or development plans. Although the stated goal of AML strategy may be to contribute to the reduction of crime, it cannot do this on its own. Other measures are taken to reduce crime and crime-reduction strategies may exist. The National Strategy should be aligned with these.

Anti-corruption

As mentioned above, Serbia has recently adopted a national anti-corruption strategy – clearly AML can assist with tackling corruption and the NRA identified abuse of office as a key money laundering threat. Thus the two strategies need to be aligned. This can be achieved through measures such as prioritising the areas identified in the anti-corruption strategy in the AML strategy – e.g. through provision of investigative resources and intelligence effort, analysis of ML typologies linked specifically to those crimes to support the private sector in identifying suspicious activities linked to them and so forth.

Criminal Asset Recovery

Some jurisdictions treat money laundering and criminal asset recovery separately, and have separate strategies. This can lead to some duplication and confusion. Serbia took the decision to include asset recovery measures in the 2008 Strategy and I recommend that this be carried through to the new strategy, e.g. by including recommendations from the CAR-Serbia Project work.

Terrorist Finance

The NRA does not include terrorist finance. If the National Strategy is to include TF as well as ML, further risk analysis will need to be carried out or included in the strategy itself. However, during the mission in May it was reported that a separate terrorism strategy for Serbia was to be drawn up and that terrorist finance would be included in that strategy – this situation should be clarified.

Economic development

The Serbian economy is going through transition and developments in this area directly impact AML/CFT measures, for example efforts to tackle the grey economy and move away from a cash-based system. These issues are considered to some extent in the NRA (for example, the goal of reducing the level of the informal economy is included as one of the necessary measures – this may be too ambitious for an AML/CFT strategy, but actions in this sphere can be identified to

assist the economic strategy). This may require further scenario work to develop strategic AML goals aligned with the economic goals. There are also areas where AML and economic plans may appear to be in opposition – for example, the most recent IMF Article IV consultations with the Republic of Serbia identified several measures that may conflict with measures identified in the NRA for high risk areas, such as simplifying business laws and regulations, including streamlining of land registration and transfer, and accelerating the privatisation of public enterprises. One effective way of mitigating such risks would be to ensure that ML/TF risks are explicitly considered in impact assessments of new laws and regulations – a similar measure is included in the anti-corruption strategy.

Next Steps

Drafting a strategy is an exercise that requires both teamwork (to capture as many views as possible and achieve consensus) and a central coordination individual or small team (to draft and edit the strategy, ensuring consistency and completeness). In Serbia, I understand that a working group of representatives from the SCG will provide the first function and the APML the latter. The SCG as a whole will approve the strategy and submit it to the government for approval prior to publication in the *Official Gazette*.

Recommendation: the next step in the process should be another mission to Serbia, to assist the authorities in developing the National Strategy. A workshop with SCG representatives (or a strategy working sub-group of the SCG) should be run, to agree the overall approach, vision and strategic themes and begin to set out the strategic goals. Some days drafting with the APML would follow (which would begin to add suggested action measures and expected outcomes to the goals) and then another meeting with the SCG (or strategy working group) to check the progress so far and to consider measurement of success. By this stage it should be possible to allocate action measures to individual departments for working up an Action Plan. The Council of Europe expert would provide presentations on methodology, facilitate workshop sessions, using templates and tools designed for this purpose, and assist the APML with the drafting process.

David Artingstall

Appendix 1 – some suggested ML⁴ strategic goals for Serbia

Strategic Theme: Policy, coordination and cooperation mitigate the money laundering risks.

Objective: Develop a comprehensive understanding of ML/TF risks in Serbia

Expected results: Good understanding of the risks will allow us to prioritise our efforts against the most important threats and vulnerabilities. We would expect to see more successful cases in these areas, including both prosecution and confiscation. Good quality risk analysis will be used by the private sector and supervisors to inform their own risk assessments and prioritise their activity. The risks will be understood by all stakeholders, including the public.

Measures to be taken:

- Improve the National Risk Assessment methodology
- Ensure the results of the NRA are presented in formats that can be utilised by all stakeholders, in both the public and private sectors
- Introduce effective and comprehensive statistical measurement processes at all stages of financial intelligence and investigation process
- Devote financial investigation resources to *understanding* as well as *detecting*, with appropriate performance indicators
- Develop knowledge of TF and WMD financing risks

Objective: Develop greater coordination between the competent authorities for supervision, financial intelligence/investigation, prosecution and asset recovery

Expected results: More effective working will lead to increased numbers of successful multi-agency cases and contribute to better understanding of risks.

Measures to be taken:

- Establish joint working groups and taskforces to deal with particular large cases and high priority areas (drugs and tax crimes)
- Develop tasking and coordination mechanisms between competent authorities
- Strengthen the position and composition of the SCG
- Carry out regular reviews on the effectiveness of working arrangements and take action on deficiencies found
- Review and enhance our arrangements for handling international cooperation, including mutual legal assistance, intelligence and asset recovery
- Ensure AML/CFT implications are included in impact assessment of all relevant laws, regulations and policies, particularly in the economic development of Serbia

⁴ Clearly, as outlined in the text of this paper, TF (and the financing of the proliferation of WMD) should also be considered in a strategic context, either in the National Strategy or separate strategies, but as the NRA focuses mainly on ML, these examples also focus on that topic.

Strategic Theme: Proceeds of crime are prevented from entering the financial and other sectors or are detected and reported by these sectors.

Objective: Useful financial intelligence is derived from reporting from the obliged sectors, particularly in high risk areas

Expected results: Higher quality reports from the private sector will lead to an increase in cases adopted from such reports. We expect more and better reporting particularly on the priority areas (drugs, tax, corruption) identified through the NRA, which will be prioritised for action by the authorities.

Measures to be taken:

- Supervisors will focus on priority areas (either directly or through thematic work) and provide suitable guidance, in order to improve reporting regimes in the sectors
- NRA, feedback and other publications will provide actionable intelligence to the private sector
- Obliged institutions will improve their monitoring and reporting mechanisms
- Effective measures to ensure compliance on a risk sensitive basis will be developed
- Capacity and ability of supervisors in AML/CFT will be enhanced through recruitment, retention and training measures
- APML capability will be improved through training and process improvement, including technology

Objective: CDD measures prevent abuse of the financial and other sectors, whilst respecting the importance of financial inclusion

Expected results: Criminals will be deterred and prevented from abusing the financial and other sectors by effective barriers. CDD information will be readily available to investigating agencies. Supervisors will allow ownership and management only to ‘fit and proper’ persons.

Measures to be taken:

- Improve laws relating to company registration (especially ‘phantom firms’) and beneficial ownership, particularly in relation to transparency and access by obliged institutions
- Supervisors issue guidance on high and low risk areas
- Appropriate (on a risk-sensitive basis) supervisory legislation introduced for all sectors, as required by international standards
- Obliged institutions improve their CDD mechanisms

Strategic Theme: Money laundering threats are detected and disrupted, and criminals are sanctioned and deprived of illicit proceeds.

Objective: Improve information sharing in order to increase number of ML cases identified and taken up

Expected results: Improved sharing of information between authorities will enable cases of money laundering to be identified more effectively and efficiently. We expect to see an increase in information sharing and better quality of information, which will assist the Prosecutors in identifying criminal cases and provide evidence (directly or indirectly) for successful prosecutions

Measures to be taken:

- Ensure relevant legal gateways for information sharing exist
- Provide IT systems for sharing of information in relevant bodies; allocate resources to process requests
- Establish MOUs or other formal arrangements for sharing information and appropriate policies/procedures
- Train personnel on the legal basis for information sharing and practical implementation

Objective: Improve the end-to-end management of money laundering and asset recovery cases

Expected results: More cases will come to a successful conclusion and more assets will be recovered, particularly in relation to the higher threats identified in the NRA.

Measures to be taken:

- Prioritisation measures, in accordance with NRA, agreed by all authorities involved in financial investigation/intelligence
- Improve capability in all agencies by adopting a training strategy and developing APML training centre
- Update criminal asset confiscation laws
- Analyse and improve working practices through the financial intelligence/investigation cycle