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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

SELECT COMMITTEE OF EXPERTS
ON THE EVALUATION OF ANTI-MONEY LAUNDERING MEASURES
(MONEYVAL)

***SECOND ROUND EVALUATION REPORT ON
THE RUSSIAN FEDERATION***

SUMMARY

1. A MONEYVAL team of examiners, accompanied by two colleagues from the Financial Action Task Force (FATF), visited the Russian Federation between 8-12 September 2003, in the context of MONEYVAL's second round of evaluations.
2. The purpose of the MONEYVAL report is two-fold: to follow-up the recommendations made to the jurisdiction in the first round; and secondly, to examine more closely the effectiveness of the anti-money laundering regime at the time of the on-site visit.
3. This evaluation team found very significant improvements in the anti-money laundering system in the Russian Federation compared with the first on-site visit in 2000, and the subsequent adoption of the first report in January 2001. The main achievements are the creation of the legislative base to fight money laundering with the passage of FL No. 115, which is fully operational, and the setting up of the state system to combat money laundering, with the Financial Monitoring Committee of Russia (FMC), as the country's FIU, at the centre of the system. The political commitment to improving the anti-money laundering regime is signalled by the allocation of resources to the FMC, which has included provision for large numbers of competent and dedicated personnel, and an impressive IT infrastructure. The FMC is undertaking a major leadership role in developing the co-ordination of the system, both at the working level and at the strategic level. It is building quickly on the anti-money laundering foundations, which were laid by the Central Bank of Russia. The Central Bank continues to remain very active and is currently the second major player in the system.
4. Offences committed by organised crime (including drugs-related crimes), offences of corruption and financial/economic crime generate the majority of criminal proceeds, and therefore the largest amount of money laundering.
5. The main economic or financial crimes which generate large amounts of illegal proceeds are: fraud, illegal entrepreneurship, misappropriation of funds, theft, malfeasance (including bribery), smuggling, counterfeiting, tax evasion and embezzlement of state funds. The economic loss from such economic crimes was thought to be 51.2 billion RUB in 2001 and 33.9 billion RUB in 2002.
6. Statistics provided by the Russian authorities show the number of detected offences of economic crime and drug trafficking.

Year	Economic Crime	Drug Trafficking
2000	376,367	243,572
2001	382,406	241,584
2002	374,976	189,576
2003 (for the first 6 months)	232,829	98,707

7. So far as corruption is concerned, measures have been taken to combat corruption in relation to senior officials. However, the Russian Federation has still to ratify the Council of Europe conventions on corruption.
8. Money laundering is criminalised under A. 174 of the Criminal Code and self or own-funds laundering is addressed in A. 174.1 of the Criminal Code. All but the following are predicate offences to money laundering: failure to return funds in foreign currency from abroad; evasion of customs payments; and evasion of tax payments or insurance contributions by natural or legal persons. Smuggling remains a predicate offence.
9. The provisions of the money laundering offences in Article 174 and 174.1 of the Criminal Code have been recently amended to introduce a threshold approach into the definition. This was

regretted by the examiners, who understood that work was now in progress to improve the wording of these articles, and to remove the threshold. The examiners advise that the mental element (the knowledge standard) be revisited in this process and consideration be given to negligent money laundering.

10. There is no concept of corporate liability in the Russian Federation. The evaluators recommend that a review is undertaken, to determine the extent to which civil or administrative liability applies to legal persons in a money laundering context and whether sufficiently effective, proportionate and dissuasive sanctions are in place.
11. On the repressive side, investigations, prosecutions and convictions for money laundering are being recorded, although, at the time of the on-site visit, the numbers were reducing. The focus of the current investigative/prosecutorial effort remains still on what are described as fraud offences. The investigation and prosecution of laundered proceeds arising from serious profit-generating offences committed by organised crime and drug traffickers seem not, so far, to have been afforded the same priority. This is to some extent being remedied with the creation of the new State Committee on the Control of Trafficking in Drugs and Psychotropic Substances, which has the potential to be a major player in the future and to focus law enforcement efforts on the financial aspects of drug offences. However, investigators within this State Committee will need careful training in modern financial investigative techniques, if they are to make real progress on this aspect of their remit.
12. A willingness by the Russian authorities to restructure the laws on criminal confiscation (to focus more on criminal proceeds) was welcomed by the examiners, and should provide the opportunity for them to elaborate a comprehensive national strategy on the use of confiscation and provisional measures to undermine the activities of drug trafficking and organised crime groups.¹
13. Consideration should be afforded in the context of the restructuring of the laws on criminal confiscation to the possibility of incorporating, in whole or in part, elements of law and practice which have proved to be of value elsewhere, including *inter alia*, the reversal of the onus of proof regarding the lawful origin of alleged proceeds. "Following the money" needs to become a more routine part of criminal investigation and prosecution in major proceeds-generating offences.
14. Moreover, consistent and unified data needs to be collected, which will allow for in-depth analysis in respect of evolving patterns of money laundering investigations and prosecutions. The examiners advise that this should, at least, cover the types of predicate offences in all money laundering investigations, prosecutions and convictions, the numbers of laundering offences on behalf of third parties and the numbers in respect of "own proceeds" laundering, together with the numbers of prosecutions brought for money laundering as an autonomous offence. It would be helpful also if data is collected which shows the extent to which provisional measures and confiscations are applied in money laundering cases, and serious proceeds-generating offences generally (beyond the current statistical information on total sums seized or confiscated).
15. Federal Law No. 115-FZ on Combating Legalisation (laundering) of Criminally-gained Income and Financing of Terrorism entered into force in February 2002. It applies to organisations performing operations with monetary funds or other assets. These include banks, securities markets and insurance business in the financial sector and leasing companies, pawnshops,

¹ The Russian authorities have advised that, since the on-site visit, confiscation as an additional penalty has been abolished. At the same time, the evaluators have been informed that the future role of confiscation is being carefully considered in the development of the Russian Federation's national strategy to combat money laundering and terrorist financing.

federal post offices, gaming and bookmaker offices and dealers in precious metals and jewellery. The law was amended in January 2003, in part to extend its scope to include entities offering certain non-financial services. The law requires reporting organisations undertaking operations with monetary funds or other assets to report under Article 7 suspicious transactions (and provides within the law a list of indicators) and also under Article 6, transactions subject to mandatory control to the FMC, and accordingly, lifts confidentiality. Article 6 defines transactions that are subject to mandatory control as those monetary or other transactions where the amount is equal to or exceeds RUB 600,000 (approx. US\$ 20,700) and which have one of the qualifying features mentioned in this article. Article 7 also provides for the identification of natural or legal person(s) in a transaction, document retention, and the development of rules of internal control and programmes for checking the performance by reporting institutions, as well as the appointment of officials responsible for the observance of these rules.

16. The current legislation does not, however, cover all areas of identification obligations. The main weakness is that identification issues in relation to beneficial ownership remain unaddressed in a clear and comprehensive fashion, both in relation to individual account holders and corporate entities. The Russian authorities are urged to ensure that the relevant legislation in respect of all credit and financial institutions comprehensively addresses the issue of identification of beneficial owners before or during the establishment of business relationships or conducting transactions for occasional customers and in relation to legal persons. It is also advised that the related issues of customer identification and due diligence should be further addressed, to cover comprehensively the situations where enhanced due diligence is required and where banks need to build up customer business risk profiles. The requirements for enhanced identification procedures in respect of high risk customers and identification procedures connected with the creation of non-face to face relations, together with the identification procedures required in relation to introduced business particularly should be further addressed.
17. The evaluation team welcomed the greater commitment to anti-money laundering measures generally in the banking sector – and indeed within the whole financial sector generally, which has been achieved largely through the proactive efforts of the Central Bank. Nonetheless, the Central Bank still needs enhanced powers to fulfil its supervisory role in this area to even greater effect, particularly Article 73 of the Federal Law on the Central Bank of the Russian Federation needs amending to remove the current supervisory limitations, and Article 61 (including the relevant articles in the Federal Law on Banks) need amending to ensure that criminal infiltration in the ownership of banks is identified and prevented. In this regard, the Central Bank’s legal power to revoke licences where criminal infiltration in the ownership of a bank has been established needs to be addressed in legislation. That said, so far as the FMC and the Central Bank are concerned, the advances that have been made by them towards the creation and development of an effective money laundering system are significant and real. It is very encouraging that most banks (approximately 85%) are now making regular reports to the FMC.
18. In 2002, the FMC received 374,469 reports. 164,031 were suspicious transactions and 210,438 were mandatory control reports – the vast majority of both types of reports came from the banking sector, with a very small number from insurance and the securities market participants.
19. In the non-banking financial sector, further progress is needed in the development of anti-money laundering supervision, training and outreach – to ensure proper systems are in place and to generate the submission of more suspicious transaction reports. Those supervisors should follow the lead provided by the Central Bank in order to bring their sectors up to the same levels achieved in the banking sector. The human resources of the supervisory authorities in respect of insurance and securities market participants appeared to the examiners to need supplementing.

20. In the further development of the Russian anti-money laundering system, the role of a strong and proactive Inter-Agency Working Group, chaired at a senior level by the FMC, fostering increased co-ordination and co-operation between law enforcement bodies and other major players will be vital. The examiners consider that it would be helpful if the State Committee on the Control of Trafficking in Drugs and Psychotropic Substances played a part in their work. The Working Group currently has a strategic role in developing inter-agency plans. The examiners consider that it should also develop key performance indicators for the system as a whole and monitor progress against them, and make regular reports to Government on the performance of the system as a whole. In this way, the Russian Federation can further build upon the rapid progress that has been made in such a short time.

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