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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 EVALUATION REPORT ON
HUNGARY

SUMMARY

1. Hungary was the sixth Moneyval member State whose anti-money laundering regime was assessed in the framework of the second round of mutual evaluations conducted by the Committee. A team of Moneyval examiners, accompanied by two colleagues from Financial Action Task Force (FATF) member States visited Hungary from 3 to 6 December 2001. The purpose of this evaluation visit was to take stock of the developments which occurred since Hungary's the first round evaluation (i.e. October 1998) and to assess the overall effectiveness of its anti-money laundering system in practice.
2. The money laundering situation has not changed significantly since the first round evaluation. Economic crimes, tax fraud, smuggling, crimes against property, such as theft, robbery and fraud, continue to be considered the main sources of illegal assets. Drug trafficking, prostitution and extortion are also potential sources of criminal proceeds. Organised crime is believed to be involved in committing both predicate crimes and laundering operations.
3. The methods of money laundering have not changed much either since the first round: in the placement stage, laundering operations usually involve cash exchanged and deposited in financial institutions followed by the misuse of bank accounts for subsequent wire-transfers. Offshore or fictitious companies play a significant role in the layering stage of these operations, e.g. to justify wire-transfers. In the integration phase, proceeds are often re-invested in companies, including offshore companies, active in the catering and service sectors. The purchase of real estate, bearer securities and stocks also provides opportunities for laundering cash proceeds.
4. Given its crime situation and reacting to international requirements, Hungary has significantly improved its anti-money laundering regime since the first round. These changes reflect a new attitude of the Hungarian Government, which regards the fight against money laundering and the financing of terrorism as a priority issue on its agenda. It is recalled that the first evaluation report raised many issues of concern and included a number of recommendations for the improvement of Hungary's anti-money laundering (AML) system, in relation to the legal framework, measures in the financial sector, as well as on the operational level. In addition, Hungary was listed by the FATF among the "Non Co-operative Countries and Territories (NCCT)", between June 2001 and June 2002. To address such criticism and to increase the overall effectiveness of its anti-laundering regime, the Hungarian authorities, inter alia :
 - introduced new legislation effective from 19 December 2001 to extend the scope of the 1994 AML legislation to a large number of professions outside the financial sector in line with the relevant European Union Directives, explicitly obliged financial intermediaries subject to the AML legislation to identify the beneficiary owner in all transactions and subjected currency exchange services to stricter licensing and operational conditions and procedures;
 - amended in March 1999 criminal law provisions related to the money laundering offence (section 303 of the Criminal Code) by introducing the "all crimes" approach for predicate offences and to the confiscation of assets, which became mandatory for all offences in the course of or in relation to which assets were obtained.
 - improved financial supervision by setting up from 1 April 2000 a new single supervisory agency, the Hungarian Financial Supervisory Authority (HFSA), which was tasked to supervise banking and credit institutions, insurance companies and other financial institutions, including their active anti-money laundering supervision;

- created a high-level policy-making and co-ordination body, headed by a special government Commissioner, to co-ordinate the different authorities and institutions involved in Hungary's anti-money laundering system;
 - abolished bearer (savings-deposit) passbooks, including the prohibition to open new passbooks and the phasing out of existing ones in a graduated procedure. Accordingly, credit institutions may only accept savings deposits from clients duly identified and registered. Equally, only registered securities can be offered to the public or issued in series;
 - regulated foreign exchange services so that from 1 January 2002 only credit institutions and their agents may be authorised by the Hungarian Financial Supervisory Authority (HFSA) to offer currency exchange services. Under the new regulations, managers and employees of bureaux de change will be subject to enhanced scrutiny, including verification of their criminal records;
 - strengthened the FIU, whose staff was significantly increased ;
 - intensified the training provided for the staff of financial service providing organisations.
5. With these changes, the examiners consider that all serious shortcomings previously identified have been corrected and that most if not all recommendations made in the first round report were positively responded to. They also note with satisfaction that since the on-site visit, several additional measures were introduced in the area of prevention and criminal law. Hence, the examiners consider that Hungary is generally in compliance with the requirements embodied in the 25 other (NCCT) criteria.
6. However, this new AML regime, which has become robust and comprehensive, needs to be firmly rooted in domestic practice. In addition, the examiners of the second round evaluation have identified some issues which need further addressing in the system and made recommendations for improvement. These issues are primarily related to the implementation of the AML legislation and the lack of results in the criminal justice area.
7. In the area of prevention, the compliance level in general is satisfactory, but certain professions need further attention. The Hungarian authorities need to ensure that the legal professions subject to the expanded 1994 AML legislation are provided with guidance as soon as possible, so as to enable them to prepare internal rules and thus help compliance control. This is particularly urgent for those professions which have no experience in implementing AML measures or still resist their new responsibilities. Further training of these professions is also a key to their effective implementation of the AML - regime. A particular area where guidance is urgently needed - across the financial sector - is the identification of the beneficial owner.
8. The reporting of suspicious transactions has improved in quality and increased in number since the first round. The Hungarian FIU has received over 3000 STRs during this period. However, the number of criminal investigations based on the STR-system is still rather modest. This lack of effectiveness should be closely monitored by the Hungarian authorities. In this context, the examiners detected a potential risk of over-reporting by certain banks, which might stem from the current level of liability on employees or an erroneous interpretation of the role of the compliance officer. Moreover, they noted that in Hungary's AML-regime the power to suspend suspicious transactions has been "delegated" to the financial service providers. This creates vulnerabilities with regard to liability challenges and financial damages, which many other jurisdictions have addressed by placing the power to suspend transactions with the FIU.
9. Despite highly motivated police staff, criminal investigations into money laundering are seldom successful and indicate insufficient co-ordination and/or focus on criminal assets.

The examiners consider that law enforcement results need to improve in general and that further training in financial investigations and a higher level of co-ordination within the police may bring improvement in this area.

10. The legal framework in the area of criminal law is generally sound but clearly should generate more confiscations and convictions. Hungary's criminal justice system so far obtained only 1 conviction, which the examiners believe is partly due to diverging interpretations as to the proof requirements of the money laundering offence. They recommend that the Hungarian prosecution authorities give unambiguous instructions to prosecutors on the interpretation of the money laundering offence and the related evidentiary requirements, or amend the definition of money laundering, as appropriate.
11. Equally, the amount of criminal assets recovered from criminals is not commensurate to the considerable efforts made by the Hungarian authorities. The examiners believe that further substantial efforts are necessary to retrieve and recover criminal assets. This particularly applies to the criminal justice authorities during the whole process from police investigations through prosecutions to court cases.
12. In the area of international cooperation, much progress has been made, but the examiners recommend the review of the provisions regarding the implementation of foreign orders for provisional measures or confiscation as well as the adoption of regulations on the sharing of confiscated assets. They also advise that the Hungarian authorities proceed with the necessary arrangements to keep records and statistics on mutual legal assistance requests (including freezing and confiscation orders).
13. As commercial - often front - companies seem to play an increasingly important role in money laundering operations in Hungary, the examiners noted with concern that the current system of company registration does not allow the routine identification of beneficial owners, in particular foreign ones. In addition, Hungary offers offshore corporate services, i.e. the registration and operation of international business companies (IBCs), of which approximately 600 exist at present but will need to be abolished by 2005. Their activities cannot be easily monitored and the examiners believe that the current registration process is too easy and may be misused. Pending the phasing out of these companies, they recommend that the Hungarian authorities urgently take the necessary arrangements in order to develop a registry of the beneficial owners of these companies, which will be accessible to the FIU and other law enforcement authorities. They further recommend that the Hungarian Courts of Registration be required by law to obtain the identity of the real owners (including natural persons as ultimate beneficial owners) before the registration of a company.
14. The evaluation team believes that the adjustments proposed would contribute to making Hungary's anti-laundering regime produce more results and thus become a fully effective system.