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EUROPEAN COMMITTEE ON CRIME PROBLEMS
COMITÉ EUROPÉEN POUR LES PROBLÈMES CRIMINELS
(CDPC)

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

FIRST MUTUAL EVALUATION REPORT ON
CYPRUS

SUMMARY

1. The PC-R-EV team of examiners, accompanied by colleagues from the Financial Action Task Force (FATF) and an examiner from the Offshore Group of Banking Supervisors (OGBS) visited Cyprus between 27-30 April 1998. They were unable to visit the northern part of the island which, while under the sovereignty of the Cypriot authorities has not been under their effective control since 1974. The Cypriot authorities expressed grave concerns about the position in that part of the island.

2. Criminality in Cyprus is relatively low by international standards. There is no tradition of narcotics production and limited narcotics use. The vulnerability of Cyprus to money laundering activities of an international character flows in part from its geographical location adjacent to certain narcotics producing areas. Additionally Cyprus has an attractive onshore and offshore financial sector. In the offshore sector there are 37 banking units and more than 30,000 offshore companies have registered since 1975. The potential for abuse primarily arises at the layering stage. The attractiveness of Cyprus for laundering operations at the placement stage is diminished by virtue of the existence of foreign exchange regulations, the relatively limited role of cash operations in the Cyprus economy, and the absence of independent bureaux de change and casinos.

3. Cyprus has signed and ratified both the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention) and the 1990 Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime (the Council of Europe Convention). The Prevention and Suppression of Money Laundering Activities Law 1996 is the current legislative response, repealing and replacing the Confiscation of Proceeds of Trafficking of Narcotic Drugs and Psychotropic Substances Law of 1992. It provides a very comprehensive legal framework which compares favourably with others in place in larger countries which are members of the FATF. Its impressive legal structure, based on existing international anti-money laundering standards, is significantly in advance of any other country in its geographic sub-region. The definition of laundering draws heavily on Article 6 of the Council of Europe Convention and goes further than its requirements: It covers both instances where the accused knows as well as those where the accused was negligent and ought to have known that the property in question was proceeds. It encompasses the laundering of one's own proceeds. It does not matter whether or not the predicate offence was subject to the jurisdiction of the Cyprus courts. Cyprus has criminalised laundering of proceeds from a broad range of enumerated predicate offences (to which additional offences have been added by the Prevention and Suppression of Money Laundering Activities [Amendment] Law 1998). The law applies to both natural and legal persons. There is a system for the confiscation of proceeds which includes the reversal of the burden of proof when assessing the benefit. Though there is an impressive record of responding to international requests for restraint and other forms of assistance, there is a need for restraint and confiscation provisions to be used more in appropriate domestic cases.

4. There is a sound basis for international co-operation: Cyprus is party to the two leading multilateral Conventions and has concluded bilateral arrangements with other countries and is a party to several Council of Europe Conventions. This could be further strengthened by ratification of the European Convention on Mutual Legal Assistance. One consequence of the list approach to the issue of money laundering predicate offences is that Cyprus is precluded from offering the full range of assistance in respect of any offences, such as tax evasion, which are not so listed.

5. The 1996 Law provides for the reporting by financial businesses and supervisory authorities of suspicions of money laundering to the Unit for Combating Money Laundering (which became operational in December 1996) or to the police. This is under-pinned by a provision in the law,

making it an offence for a person to fail to disclose to the police or the Unit knowledge or suspicion acquired in a business or professional context that another is engaged in money laundering.

6. The Unit consists of 9 committed and effective individuals assigned from the Attorney General's office, the Police and Customs on detachment, though no one is dedicated to anti money laundering activities full time. Nonetheless they are able to give priority to their anti money laundering duties. The Unit plays a critical role in the anti money laundering strategy of Cyprus – evaluating and analysing suspicious transaction reports, conducting investigations, issuing directives and engaging in awareness raising and training initiatives. The Unit needs strengthening by an increase in its resources, so that at least some of its members (including its Head) are permitted to focus full time on their anti-money laundering functions, particularly prevention. It would also assist the Unit to have more statistical and analytical information available to them and appoint staff to perform strategic, operational and tactical analysis of data. The Unit needs ready access to the comprehensive statistical information on the level and spread of suspicious transaction reports in the banking sector which will become available to the Central Bank on a monthly basis. It is particularly important that the full extent of the money laundering threat within the offshore sector is subject to detailed analysis.

7. The anti-money laundering measures in the financial sector are based on careful guidance (the Central Bank has done much work in this field) and a broad ranging structure of supervision. The 1996 law, in line with FATF recommendations, contains special provisions, which require that all persons engaged in financial business institute procedures on customer identification, record keeping, internal control and supervision, and staff training.

8. Formal procedures appear now to be fully in place with respect to the banking sector, but there is an uneven spread of reporting by banks of suspicious transactions. The limited number of reports received from banks at the time of the visit were overwhelmingly from the onshore sector. No relevant financial institutions other than banks had reported suspicious transactions to the Unit. There is therefore considerable scope for the Unit, the Central Bank and other supervisory authorities to increase awareness of anti-money laundering legislation and monitor compliance by financial businesses. Further guidelines on what in the local context can amount to suspicious transactions issued as a result of consultation and co-ordination between the various actors in the anti money laundering regime (in particular the Unit and the Central Bank) would be beneficial.

9. There is great potential in the new and innovative Advisory Authority Against Money Laundering, which is intended regularly to draw together a broad range of actors from government and the private sector. It needs to co-ordinate the overall strategic response of Cyprus to the money laundering threat, and evaluate, on the basis of detailed analytical data, the success of its strategy.

10. Overall, Cyprus is to be congratulated on its excellent legal structure. It now has the opportunity to build on this and develop a fully effective operational anti-money laundering system that can adapt to changing circumstances, including the likely removal of foreign exchange controls in the near future.