



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

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Poland

1st Compliance Report

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Poland is a member of MONEYVAL. This Report from Poland under step 1 of the Compliance Enhancing Procedures was adopted at MONEYVAL's 55th Plenary Meeting (Strasbourg, 4-7 December 2017). For further information, please refer to MONEYVAL website: <http://www.coe.int/moneyval> .

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LIST OF ACRONYMS

AML/CFT	Anti-money laundering and combating financing of terrorism
CC	Criminal Code
CEPs	Compliance Enhancing Procedures
CPC	Code of Criminal Procedure
CDD	Customer Due Diligence
CTR	Cash transaction report
DNFBPs	Designated Non-Financial Businesses and Professions
EU	European Union
EUR	Euro
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
KYC	Know your customer
LEA	Law Enforcement Agency
MER	Mutual Evaluation Report
ML	Money Laundering
MLA	Mutual legal assistance
SAR	Suspicious Activity Report
SR	Special recommendation
STR	Suspicious transaction report
UN	United Nations
UNSCR	United Nations Security Council resolution

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1st Compliance Report submitted by Poland

Note by the Secretariat

Introduction

1. The purpose of this paper is to introduce Poland's first compliance report to the Plenary concerning the progress that the country has made to remedy the deficiencies identified since the 54th Plenary (26-28 September 2017).
2. MONEYVAL adopted the mutual evaluation report (MER) of Poland under the 4th round of mutual evaluations at its 41st Plenary meeting (April 2013). Poland was placed into regular follow-up and has submitted in total six follow-up reports.
3. The 53rd Plenary had noted in May/June 2017 that Poland had made progress in addressing many of the deficiencies identified in the 4th round MER since the adoption of that report in 2013. This included recent progress, such as the criminalisation of the funding of terrorist organisation and individual terrorists for "any purpose", a deficiency the country rectified with amendments made to the Criminal Code in April 2017. Nevertheless, MONEYVAL stated at the time that the draft AML/CFT Law which is expected to address the outstanding deficiencies in relation to preventive measures (R.5, R.13 and SR.IV) as well as the deficiencies in relation to targeted financial sanctions (SR.III) had not yet been adopted.
4. In September 2017, the 54th Plenary noted that the draft AML/CFT had still not been adopted. Taking into account the clear parameters and expected deadlines set by the Plenary (in December 2016 and May/June 2017 respectively) which Poland had not met on both occasions, as well as the severity of the outstanding deficiencies on a number of core and key recommendations, the Plenary considered the application of Step 1 of its Compliance Enhancing Procedures (CEPs). Mindful of the already advanced legislative process for the draft AML/CFT Law, the Plenary considered it appropriate to use enhanced peer pressure to ensure that the remaining legislative process is accelerated as much as Poland's constitutional process allows for. In addition to this, the Plenary considered that there are other deficiencies which would remain outstanding despite of the adoption of the draft AML/CFT Law. These are notably some remaining deficiencies under R.3. The Plenary decided to apply Step 1 of CEPs with regard to Poland and asked the country to report back at its 54th Plenary in December 2017.

Progress made since the 53rd Plenary (May/June 2017)

5. The Polish delegation informed the Plenary in its first compliance report about progress made since the September Plenary. This relates primarily to the fact that the Permanent Committee of the Council of Ministers has adopted the draft AML/CFT Law. The draft is currently being discussed by the Legislative Commission designated within the structures of Governmental Center for Legislation, before it is finally submitted to the Council of Ministers for adoption. According to the compliance report, this adoption is envisaged for November 2017. It is further planned that the Polish Parliament adopts the law shortly after, with the signature by the President and promulgation of the law finalising the legislative procedure before the end of the year. The Secretariat would be grateful if the Polish delegation could update the Plenary during the discussion of the compliance report about the most recent developments in the legislative process. The draft AML/CFT Law aims at addressing the outstanding deficiencies identified in the 4th round MER relating to R.5, 12, SR.III and SR. IV. The Secretariat would be grateful to receive a translation of the draft Law in due time.
6. However, outstanding deficiencies under R.3 fall outside of the area of the draft AML/CFT law. Such deficiencies are notably: the discretionary character of the confiscation of instrumentalities (according to Article 44 of the Criminal Code, courts may order confiscation, but are only obliged to do so when the law expressly provides this), including when they are owned by third parties; and issues related to the effectiveness of the confiscation regime which is difficult to assess in the present desk-

based review. The report does not contain any information on tangible progress with regard to these deficiencies.

Conclusion

7. There has been some progress since the September Plenary with regard to the outstanding deficiencies of the 4th round MER. This is notably with regard to the legislative process of the draft AML/CFT Law, in particular the adoption of the draft law by the Permanent Committee of the Council of Ministers. This however appears to not yet have been the last hurdle at governmental level, which would directly lead to the submission of the draft law to Parliament. The Plenary should invite the Polish delegation for an oral update on the most recent developments in the legislative process for the draft AML/CFT Law.

8. Bearing in mind on the one hand that the adoption of the draft AML/CFT Law had been discussed during several Plenaries in the past, the present 55th Plenary should on the other hand take into account that some tangible progress has been achieved by Poland in the very short period between the 54th Plenary at the end of September and the submission of the present progress report in early November. For that reason, it is proposed that Poland reports back at the 56th Plenary in April 2018. Should the draft AML/CFT Law still not have entered into force by then, it is suggested that the Plenary considers adopting Step 2 of CEPs.

The MONEYVAL Secretariat