

# FINANCIAL SECURITY

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NO. 8 MARCH 2015



**T. A. GOLIKOVA:**

*"Today, amidst new economic challenges, it's impossible not to acknowledge the growing role and importance of state oversight over every single ruble spent".*



# FINANCIAL SECURITY

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## DEAR READERS!

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In the current international political and economic situation, the risks and threats faced by the national anti-money laundering system, both internationally and domestically, remain consistently high.

Our tasks require us to reconsider our approaches, functionality as well as planning and reporting systems, to more clearly define the objectives, proposed solutions and the expected results, and finally to develop a new decision-making and follow-up mechanism that would allow us to promptly identify problems and make necessary adjustments to our anti-money laundering and terrorist financing strategy. Today, the importance of effective interagency cooperation aimed at combining efforts to address the task at hand is

greater than ever before. In this issue, Tatyana Golikova, head of the Accounts Chamber of the Russian Federation, will share her thoughts on the situation with the readers.

The publication of this issue of Financial Security journal happens at the time when we are standing very close to addressing the challenge of capital amnesty, a process overseen everywhere in the world by FATF. It is our joint task therefore to show utmost responsibility in implementing the Russian President's orders for the drafting of amendments to the Russian legislation concerning the voluntary disclosure of assets owned by individuals. In essence, it is part of a long-term plan for deoffshorization of the Russian economy. Our work in this area must be carried out in such a way as to ensure that there is no risk of Russia finding itself outside international legal framework.

***Rosfinmonitoring Director  
Yury Chikhanchin***

COVER STORY

## ANTI-CRISIS AUDIT: ECONOMIC DOWNTURN PROMPTS AUTHORITIES TO TIGHTEN CONTROL OVER BUDGET EXPENDITURES

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*Tatyana A. Golikova,*  
*Chairwoman of the Accounts Chamber of the Russian Federation*



*Tatyana A. Golikova*

Russia's system of state financial controls traces its roots back more than 350 years. Its considerable age, however, comes as no surprise as the task of controlling state expenditures was relevant both in tsarist days and in modern Russia. If anyone wishes to know just how many common problems the 21<sup>st</sup> and 19<sup>th</sup> centuries share, they should read a book by the great Russian satirist Saltykov-Shchedrin... In Russia, the responsibility for addressing this task lies with the Accounts Chamber of the Russian Federation, a state oversight body that marked its 20<sup>th</sup> anniversary this year. The big day means it is just the right time for us to look back at our past achievements and chart a path into the future.



## Our achievements over the past 20 years

Much has been done by the Accounts Chamber over the last two decades to strengthen fiscal discipline in the country. This work included almost 8,000 on-site and more than 1,000 desk audits, resulting in approx. 9,000 warnings and compliance orders being issued to companies and organizations, including executive authorities, and the detection of various violations of financial regulations totaling approx. 4.6 trillion rubles, including violations valued at over 488 billion rubles identified in 2014 alone.

The agency has become a fully-fledged participant in the country's budgetary process whose powers are sufficient to ensure effective control over public finances and disposal of property. The Accounts Chamber has the opportunity to communicate its independent opinion to both the Russian President and the highest bodies of legislative power, which, in no small measure, is due to the attention devoted to its auditing activities by the country's leadership and the gradual increase in its authority in line with evolving realities.

## New powers

Amendments introduced to the Federal Law «On the Accounts Chamber of the Russian Federation» two years ago strengthened and broadened the role of the state oversight authority by assigning to it the functions pertaining to an independent audit of government programs, achievement of strategic objectives of the country's socio-economic development, an expert review of draft federal laws and international treaties, exercising influence over various fiscal policy issues, and streamlining the budgetary process.

One of the key amendments was a requirement for law enforcement agencies to notify the Accounts Chamber of their progress in reviewing the audit results submitted to them. To facilitate progress in this area of work, the Accounts Chamber has updated its cooperation agreements with the Prosecutor General's Office, the Ministry of the Internal Affairs, the Federal Security Service and the Investigative Committee.

In 2014, the agency submitted to the country's investigative and prosecutorial agencies material relating to a total of 158 oversight measures linked to various criminal law violations, resulting in 24 criminal cases and 14 pre-investigation checks being initiated by the MIA, FCS and the Investigative Committee. The submitted material was also used to launch prosecutorial response measures, which, in turn,

resulted in the issuance of 152 warnings, initiation of 34 cases related to administrative offenses and submission of 80 claims to arbitration courts and courts of general jurisdiction.

With the help of its newly acquired legislative powers, the agency began last year the work relating to the investigation of administrative violations, which, as of early 2015, resulted in the drawing up of 101 protocols, completion of 68 administrative proceedings into offenses committed by public officials and imposition of administrative fines totaling more than 1.1 million rubles.

Today, the agency is working on the full implementation of the new amendments to the Law «On the Accounts Chamber of the Russian Federation», enacted in late 2014, which further expand the Accounts Chamber's authority, including by granting it a new power to verify the effectiveness of the use of budget funds by non-government pension funds and health insurance organizations. These funds are transferred to these organizations in the form of compulsory social insurance contributions.

The Accounts Chamber has been granted the right, when acting in coordination with the state Duma, to block any payments going through the bank accounts of organizations that fail to comply with its orders to eliminate the identified violations, putting an end to the practice whereby businesses were allowed to ignore such orders multiple times. The new powers mean that in the event of identified violations directed against the interests of the state, the Accounts Chamber may issue warnings during, rather than following the completion, of its audits.

Another key area of the agency's work concerns inter-budgetary relations. The need to strengthen control over the receipt and expenditure of public funds at all levels of the budget system was identified by Russian President Vladimir Putin. As an active participant in the work to improve inter-budgetary relations, the Accounts Chamber regularly identifies serious violations of the budgetary process and issues recommendations for their elimination.

In 2014, consolidated budget revenues of the constituent territories of the Russian Federation amounted to 8.9 trillion rubles, with expenditures at 9.35 trillion and deficit at 447.8 billion. Last year, budget shortfall was recorded in 74 regions; in 57 regions in 2011; in 67 by 2012 and in 77 in 2013. Most of the problems linked to the lack of funds in the regions are due to the economic slowdown, unbalanced budgets and rising debt burden. The Accounts Chamber already pointed at the need for

the Government to reevaluate the existing powers of the subjects of the Russian Federation and municipal entities in order to determine their actual requirements for funds needed to balance the budgets. In the area of inter-budgetary relations, it is necessary to continue the work aimed at achieving an optimal balance between fiscal capacity and creating incentives for economic growth, boosting tax revenue potential and reducing regions' dependence on subsidies.

The Accounts Chamber has repeatedly pointed out the problem of regions' public debt, which increased in 2014 by 351.5 billion rubles (20.2%) to more than 2 trillion rubles as of January 1, 2015. This increase occurred despite a 310% rise, to 250 billion rubles, in the amount of publicly funded loans and a fall in the loan interest rate to 0.1% per annum.

### Systemic violations

According to statistics, a majority of violations committed in Russia are associated with non-compliance with the principle of efficiency and cost effectiveness in the use of budget funds. The main targets of the Accounts Chamber's audits are ministries, departments and subordinated to them organizations. In 2014, audits of their activities revealed nearly 2,000 violations totaling over 250 billion rubles. Unfortunately, many state company managers are still reluctant to assume full responsibility for the use of public resources entrusted to them, or they are not fully aware of the situation at their subordinate organizations.

The Accounts Chamber regularly observes examples of uneven federal budget performance along with sub-par performance by individual chief administrators. The practice of signing contracts with commercial enterprises was continued in the second half of 2014, including the signing of short-term (typically under one month) high-value contracts, a practice that bears all the hallmarks of market collusion.

One of last year's most high profile cases in terms of public interest was an audit of the Federal Center for Pricing in Construction Industry (FCPCI), a state-owned enterprise responsible for the drafting of construction industry-related costing standards and regulations, including individual regulations for specific facilities and entire sectors of the economy, which was completed late last year. To date, there are over 150 such costing standards in use whose purpose is to increase the cost of construction. A review of the practice of application of such individual

regulations by auditors has identified estimated cost overruns related to the construction of the Vostochny Cosmodrome alone of 20% (13.2 billion rubles). As it turned out, the majority of the individual and industry costing standards were developed by commercial organizations suspected of being affiliated with the former FCPCI executives. Importantly, the cost of preparing costing standards is very high. Thus, the cost of just two costing standards for Rosatom and Vostochny Cosmodrome was 944 million rubles.

An audit of investment programs of the Federal Grid Company of Unified Energy System resulted in the launch of criminal proceedings. The company's investment program for the development of the national power grid failed to observe legal requirements and was guilty of inefficient use of budget funds. It also failed to produce proper records evidencing the use of funds. The level of implementation of the company's 2011-2013 investment program to expand power generating capacity was only 72%, while the total amount of investment financing in the company's programs in 2010-2013 stood at 514.3 billion rubles, or 95% of the target amount. The company's underperformance did not however affect the pay of its board members, which went up by 290% from 176 to 505 million rubles.

An assessment of the effectiveness of the 2010-2014 federal property privatization measures revealed budget revenue from the sale of shares of 256 billion rubles, or just 21% of the target. There are several reasons for the shortfall. One of them is that privatization of large state-owned assets was occurring in the context of insufficient regulation. There are simply no uniform requirements in Russia for the execution of such transactions, which negatively affects the validity of the applied methods of sale, as well as the amount of the federal budget revenue generated by such sales. It is a common practice for the terms of privatization to be drafted by companies registered in countries other than Russia. As a result, the selection procedures drafted by the sellers involved do not provide for sufficient level of competition. The Accounts Chamber has advised the Ministry of Economic Development to conduct a review of the regulations governing the privatization of federal property and suggest appropriate amendments thereto.

In May last year, the Accounts Chamber issued a decree requiring auditors to integrate anti-corruption measures into all future monitoring and audit activities. In 2014, such measures were integrated in 41 audits, helping authorities to identify multiple instances of corruption.





The agency keeps a close eye on all public procurement transactions. Although it is still too early to draw final conclusions, the new law, 44-FZ, appears to have had little effect so far on their efficiency and cost effectiveness. Among the biggest problems are the lack of transparency, the situation with which the envisaged in the new law, but still absent, Unified Procurement Information System was supposed to improve, and the continuously delayed enactment of the procurement justification and regulation mechanisms (the most recent amendments to the law dated December 31, 2014 postponed the introduction of these measures from 2015 until 2016).

In any case, it is the job of the Accounts Chamber to change the situation. In addition to new powers, transparency and public oversight, which lie at the heart of the Accounts Chamber's current policy, are also expected to help the agency achieve tangible results.

### Public oversight

In 2015, the Accounts Chamber unveiled the updated version of its website, containing the latest information on the use of taxpayers' money by various ministries, agencies, banks and state-owned companies. The new website allows all concerned citizens to receive detailed information on how these agencies respond to audits and warnings and what they do to remedy the identified violations, as well as, in the case of noncompliance, on what punishment is meted out to them.

Another important step in promoting public oversight is connected with the establishment of close cooperation with the all-Russia civic movement People's Front «For Russia» and the Public Chamber.

Joint work is carried out as part of expert-analytical activities and inspections conducted by the agency as well as its expert review of regulations. In line

with the arrangement, PFFR notifies the Accounts Chamber of the most pressing social problems, while the agency undertakes to take this information into account in planning its future activities. The cooperation also provides for the ongoing sharing of analytical, statistical and methodological information related to the monitoring of government programs, the May presidential decrees and the performance of the federal budget. PFFR and its regional headquarters assist the Accounts Chamber in overseeing the elimination of the identified violations in socially important areas. Control over the use of budget funds allocated for the purchase of goods, works and services for state and municipal needs in the context of establishment of a contract-based system was also exercised on the basis of the information provided by the All-Russia People's Front.

In early 2015, the Accounts Chamber signed a cooperation agreement with the Public Chamber. This document and the ensuing joint efforts are designed to enhance the role of public oversight over the activities of federal and regional authorities in the area of federal resources management and administration. The agreement also provides for the coordination of the activities of the Accounts Chamber and Public Chamber in the area of expert review of draft laws and other regulations.

To guarantee the safety of public resources and advancement of the budgetary processes within the country, it is extremely important that at a new stage of its development the Accounts Chamber shall transform itself into a public body primarily responsible for the prevention of violations rather than their subsequent detection. In conjunction with administrative and criminal liability, public oversight should encourage audited entities to reduce the number of violations and improve financial discipline.

### Interagency cooperation

In order to improve the effectiveness of its activities, the Accounts Chamber works hard to establish close cooperation with other state authorities. To this end, the agency has signed cooperation agreements with the Presidential Anti-Corruption Directorate, the Federal Treasury, the FTS, the Rosfinmonitoring, the FAS, the Federal Property Management Agency and others. All these documents constitute very effective tools. Thus, if we touch on its agreement with the Federal Financial Monitoring Service, the mutual interest of the parties lies, for example, in conducting joint activities aimed at identifying and combating illegal financial

transactions involving the use of budget funds and implementation of public investment projects and programs. The agreement provides for the exchange of information and involvement in examinations and audits of experts from both organizations. In the current difficult economic conditions, any form of successful cooperation has the potential to benefit the country.

In his speech to the expanded board of the Accounts Chamber, Russian President Vladimir Putin also highlighted the particular importance of interagency cooperation. We need to join forces in addressing the key challenges facing the country, while avoiding overlap and duplication of functions.

### Anti-crisis plan

Today we are faced with a situation which is very different from the one we encountered either in 1998 or 2008. Among the factors exerting additional pressure on the Russian economy are the mutual Russian and Western sanctions and falling oil prices. Given that much of the country's economic growth in recent years was driven by a high consumer demand, today's situation with the rising wage arrears, which stood at 2.5bn rubles as of 1 February 2015, or 22.8% more than on 1 January 2015, and slowing growth in real wages and public incomes has the potential to affect this demand very badly.

Meanwhile, the country's 2014 GDP growth amounted to 100.6%, the lowest since 1999, except

for the crisis year of 2009, with inflation reaching a double-digit value of 11.4% for the first time since 2008.

The difficult economic period, on the other hand, represents an ideal opportunity to learn from our mistakes and review some of the decisions whose effectiveness is in doubt. In this context, the Accounts Chamber considers it necessary to dedicate extra efforts toward improving the effectiveness of the federal budget administration and reducing indebtedness.

Another highly relevant task concerns changes in the current budget expenditure patterns, including, among others, with regard to the prolongation of investments made in companies' equity capital, which were originally meant to be one-off.

Despite the Russian Government's 2014 decisions to reduce the amount of funding allocated to several chief administrators of federal budget funds, they still failed to ensure the full use of the allocated funds with regard to several special-purpose budget items. For example, the amount of funding allocated to the Russian Space Agency under the Federal Space Program 2006-2015 was reduced by 11.9bn rubles, or 49.4% of annual budget allocations. Despite this, this agency managed to use only 53.3% of that amount by the end of the year. A list of such examples goes on.

2014 saw the Russian Government establish an anti-crisis fund totaling 263.8bn rubles. In addition, 282.2bn rubles of federal budget funds was earmarked for support of various economic sectors, small- and medium-sized enterprises, the labor market, single-industry municipalities as well as social expenditures.



As of January 1, 2014, there was still 130bn rubles left in this crisis fund. The Accounts Chamber intends to test the validity of reallocation of budget allocations from which the anti-crisis fund was formed.

Although the Accounts Chamber did not test the validity of the 2008-2009 anti-crisis plan, in the second half of 2014 we received a request from MPs to examine the actions taken back then. The experience acquired by us then will help us this time, as one of the new tasks assigned to us concerns a close scrutiny of the Government's current anti-crisis initiatives.

The first results of this work will be reviewed by the Accounts Chamber in late March. We plan to issue quarterly reports on the Government's actions in support of major banks that became recipients of funds from the National Welfare Fund, as well as on the use by banks of federal bonds from the Deposit Insurance

Agency totaling 1 trillion rubles for capitalization purposes. While monitoring the implementation of the Government's anti-crisis plan, it is important to pay special attention to improving internal and external competitiveness of Russian producers and the implementation of import substitution programs.

In general, the agency will plan its future activities in such a way as to ensure the concentration of the available resources on the task of identifying systemic problems, meaning that there will be fewer spot checks. In that context, the Accounts Chamber's Work Plan 2015 is currently undergoing revision. Today, amidst new economic challenges, it is impossible not to acknowledge the growing role and importance of state oversight over every single ruble spent. We understand our responsibility for this work and are determined to see it through.

## OUR KEY TASK IS TO IMPROVE TRANSPARENCY OF THE REAL ECONOMY

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*On February 19, 2015, Rosfinmonitoring reviewed its 2014 results and outlined goals for 2015. The board meeting was chaired by the Federal Financial Monitoring Service Director, Yu. A. Chikhanchin*

*Irina V. Ivanova,  
Editor in Chief*

The meeting was attended by representatives of the Presidential Executive Office, the Central Bank, the Federal Tax Service, the General Prosecutor's Office, the MIA, the Investigative Committee, the Accounts Chamber, the FAS and the FDSC.

In his report, the head of the Financial Intelligence Unit outlined the achievements of the national AML/CFT system in solving numerous AML/CFT-related tasks: «*To achieve our objective, we used the three key element of the anti-money laundering system set out in the FATF standards: rulemaking, prevention and suppression*».

One important result was the entry into force of the Federal Law No. 134-FZ, aimed at promoting transparency of the financial system and reducing the risks of illicit financial transactions. Credit

institutions were granted the right to take action against unreliable clients, which ultimately allowed them:

- to terminate more than 1,000 bank account contracts;
- to refuse to enter into 42,000 contracts;
- to refuse to carry out transactions totaling approx. 137bn rubles.

Also in 2014, the country adopted several important regulations designed to reduce the risks related to the use of public companies and state funds for money laundering and terrorist financing.

Thanks to the joint work and integrated activities carried out within interagency working groups and various federal and local committees, it was possible





to dismantle at early stages several schemes for stealing public funds.

Working hand in hand with the Bank of Russia and law enforcement officials, Rosfinmonitoring put an end to the activities of several illicit money laundering centers with operations running into billions of rubles, as well as froze the accounts and assets of more than a thousand individuals linked to terrorism.

The use of the risk-based approach was and still remains at the heart of the agency's work aimed at safeguarding the financial system and the economy of the Russian Federation against the threats of money laundering, financing of terrorism and the proliferation of weapons of mass destruction. The key role in addressing this task is assigned in 2014 to the Center for the assessment of risks.

The reports presented by us at various international venues confirmed compliance of the anti-money laundering measures adopted by Russia with the FATF standards.

Another important area of Rosfinmonitoring's work concerns cross-border cash movements.

The measures undertaken by Rosfinmonitoring jointly with the Bank of Russia as well as law enforcement and other agencies concerned have resulted in an almost 2-fold reduction in such illicit flows.

Whereas the measures implemented in the financial sector have allowed the agency to suppress the creation of large-scale currency conversion and siphoning schemes. Similar problems have been solved also at the regional level. In 2014, Rosfinmonitoring was instrumental in terminating the activities of more than 15 illegal currency conversion

centers in different regions with a total turnover of more than 90bn rubles.

During that year, the Central Bank revoked a total of 86 licenses of credit institutions for violations of banking laws, including based on the material provided by Rosfinmonitoring.

In his annual address, the President of the Russian Federation stressed the importance of preventing public funds misuse. Budget funds spent through public procurement and state-guaranteed orders and allocated to special-purpose development programs represent one of the most vulnerable sectors of economic activity and the target of numerous criminal attacks. All these crimes are committed with the direct involvement of officials.

The main threats and risks facing the public sector and the budget system are associated with the risk of losing control over state assets and budget funds, as confirmed by the Accounts Chamber and the Prosecutor General's Office. We are witnessing the creation of sustainable schemes for embezzlement of budget funds through overestimation of contract values, involvement of front companies and the subsequent siphoning of funds in the form of interest-free loans and dividends to affiliated companies.

**Yu.A. Chikhanchin, Director of Rosfinmonitoring:**

*«Only in the case of one state-owned company, the agency successfully prevented the allocation of government contracts to entities affiliated with the company management totaling more than 5bn rubles. While the timely renewal of long-term contracts with suppliers of another state-owned company allowed us to prevent a possible theft and laundering of a total of 9bn rubles.»*

A close study of financial investigations has shown that in order to minimize risks existing in various budget-related sectors of the economy, it is necessary to develop new approaches, methods and innovative techniques, as well as, if necessary, prepare amendments to the existing legislation.

**Yu.A. Chikhanchin, Director of Rosfinmonitoring:**  
*«Part of this work has already been completed. Certain issues have been addressed jointly with the Presidential Executive Office, the Bank of Russia, the Accounts Chamber, the General Prosecutor's Office and law enforcement agencies. As a result, we identified solutions to the problems which found their way to the presidential orders, whose common theme was: increasing transparency of the real economy.»*

Extra focus was placed on control over:

- contracts worth more than 1 billion rubles;
- key installations;
- strategic enterprises;
- defense contracts.

All participating speakers praised the work carried out by Rosfinmonitoring and the level of interagency cooperation in the anti-money laundering and terrorist financing field.

## Rosfinmonitoring's Inter-regional Departments Report 2014 Results

### Northwestern Federal District

One important area of this Department's work was the rehabilitation of financial institutions, carried out on the basis of an ongoing macroeconomic analysis and financial investigations aimed at reducing the degree of involvement of the district's credit institutions in carrying out dubious financial transactions.

Thus, as a result of the NFD Department's work aimed at curbing the activities of persons engaged in illegal banking activities, the information gathered in respect of several entities involved in illegal financial schemes was forwarded to territorial law enforcement agencies and was used as the basis for undertaking large-scale searches, seizures of documents and freezing of accounts in St. Petersburg, Novgorod region and the Komi Republic.

The amount of illegally converted funds amounted to approx. 4.2bn rubles. The NFD Department's intelligence helped initiate criminal proceedings under Art. 172 of the Criminal Code «Illegal Banking Activities,» as well as curb the activities of entities involved in illegal financial schemes.

### Urals Federal District

In 2014, Rosfinmonitoring's UFD Department carried out an ongoing monitoring of financial flows in order to identify areas of risk and specific

money-laundering schemes, as well as describing typologies for their identification and methods to minimize them. Overall, this work helped identify 20 risk areas.

In order to minimize the identified risks associated with illegal financial transactions, the Department actively used the potential of the Interagency Working Group on Combating Illegal Financial Transactions under the Plenipotentiary of the RF President in the Ural Federal District, established on April 21, 2014.

Consistent with the contents of the Russian President's Message to the Federal Assembly of the Russian Federation, special attention is expected to be devoted in 2015 to the proper use of the budget funds of the Federal Service for Defense Contracts, as well as to subsidies paid to small businesses and the task of conserving the budget as a whole. Also in 2015, due to the worsening economic situation in the country, an extra focus will be placed on the study of the risks related to the use of credit and financial institutions in ML/FT schemes.

### Central Federal District

The CFD Department's efforts helped close a regional currency conversion center operated through the Auerbank with a total turnover of about 20bn rubles.

In addition, audits conducted in 2014 resulted in the revocation of licenses held by several local banks, including Priroda, Monolith, Russian Land Bank, First Republic Bank, Stroycredit, Ascania Trust, MBK and Moscow Lights.

The reason for the revocation of licenses was the banks' failure to comply with laws and regulations of the Bank of Russia and anti-money laundering legislation. Some lending institutions were also involved in carrying out numerous suspicious transactions, including related to the withdrawal of funds abroad.

### **Volga Federal District**

In 2014, Rosfinmonitoring's VFD Department conducted more than 5,000 financial investigations, resulting in more than 3,000 case materials and information reports being sent to law enforcement agencies and federal authorities.

At the 21<sup>st</sup> EAG Plenary meeting, held in November 2014, the VFD Department's case shared the first place with a financial investigation by the People's Republic of China in the Best Financial Investigation contest. The main grounds for the Department's investigation into this case were a request from the MIA of the Republic of Tatarstan regarding a criminal case against Mr. C and several related to him persons suspected of committing fraud and theft of securities issued by one of Russia's largest energy companies.

In 2014, with the participation of, or using the materials provided by, Rosfinmonitoring's VFD Department, law enforcement officials initiated 80 criminal cases and referred to court another 14, resulting in a total of 9 convictions.

### **Siberian Federal District**

Thanks to the SFD Department's efforts, the number of new business entities and individual entrepreneurs becoming involved in anti-money laundering activities in 2014 exceeded 300. There was also an improvement in the level of cooperation between Rosfinmonitoring and Siberian AML/CFT system participants, as evidenced by a 30% increase in the number of submitted reports.

The SFD Department conducted over 4,500 financial investigations and sent to law enforcement officials over 2,500 information reports warranting further investigations. With an active participation of, or using the materials provided by, the SFD Department, law enforcement agencies initiated over

200 criminal cases and referred to court another 40, resulting in a total of 15 convictions.

In 2014, Rosfinmonitoring's SFD Department conducted an ongoing comprehensive analysis of risks, devoting particular attention to suspicious financial transactions involving the siphoning of funds abroad and conversion of noncash into cash. This work helped identify 21 instances of large-scale transfers of funds abroad from the accounts of enterprises operating in the Republics of Buryatia and Khakassia, the Altai Krai, as well as Irkutsk, Kemerovo, Novosibirsk, Omsk and Tomsk regions. All these instances are now being investigated.

### **Far Eastern Federal District**

In 2014, Rosfinmonitoring's FEFD Department conducted more than 3,000 financial audits and investigations, resulting in more than 1,500 information reports, including 500 reports based on self-initiated financial investigations, being referred to law enforcement and federal authorities.

In 2014, with the participation of, or using the materials provided by, Rosfinmonitoring's FEFD Department, law enforcement agencies initiated a total of 237 criminal cases and referred to court another 147, resulting in a total of 54 convictions.

The Department's work in this area, carried out in close contact with law enforcement authorities and territorial departments of the Central Bank of the Russian Federation in the Far Eastern Federal District in the past year, resulted in the reduction in the volume of suspicious transactions linked to the siphoning of funds totaling 22bn rubles to offshore destinations through a credit institution operating in the Primorsky Krai, which represented a significant proportion of the region's offshore-related transactions.

### **North Caucasus Federal District**

In 2014, Rosfinmonitoring's NCFD Department conducted more than 3,700 financial investigations, resulting in more than 1,200 information reports on possible violations being sent to law enforcement and executive authorities of the North Caucasus Region and the initiation of a total of 61 criminal cases.

The NCFD Department carried out work aimed at combating drug trafficking and legalization of drug revenues. While working in close contact with the local law enforcement officials, the NCFD Department took steps to prevent possible security threats emanating from persons who joined the

ranks of illegal armed groups in the territory of Syrian Arab Republic. It also initiated judicial procedures to freeze the assets of persons controlled by entities involved in terrorist activities. In an effort to identify potential cash couriers acting on behalf of crime bosses, the NCFD Department checked more than 2,000 individuals engaged in cross-border cash movements.

### **Southern Federal District**

The macro-analytical studies conducted by the SFD Department helped identify several SFD banks responsible for the transfer of more than 10bn rubles to the accounts of Russian residents in Cyprus held in banks of Singapore, Latvia, Switzerland and other countries.

Financial investigations conducted in the territory of the region helped identify and arrest two organized criminal groups engaged in illegal currency conversion transactions totaling 5bn rubles.

The case materials transferred to law enforcement authorities by Rosfinmonitoring's SFD Department resulted in the conviction of the director of «Volgospets-Montazh Ltd.», who was found guilty of appropriating budget funds totaling about 280m rubles earmarked for the redevelopment of the international airports in Kazan and Anapa, and the seizure of property worth about 150m rubles.

Overall, as part of interim measures initiated on the basis of intelligence provided by Rosfinmonitoring, investigative units of the SFD Department seized the property of persons suspected (accused) of committing criminal offenses valued at 446m rubles.



***On March 23, 2015, Director of the Federal Financial Monitoring Service Yu. A. Chikhanchin briefed Russian President V. V. Putin on Rosfinmonitoring's 2014 results and its current activities. Separately, they discussed the issue of capital amnesty***

*(extract from the meeting transcript)*



**V. Putin:** Mr Chikhanchin, let's start with the agency's results for 2014. After that, I would like to discuss with you a matter concerning preparations for capital amnesty. I know your agency is involved in this work too.

Please, speak up.

**Y. Chikhanchin:** Thank you very much, Mr. President.

We have recently held a summing-up meeting with representatives of the relevant ministries and agencies, of which outcomes I would like to inform you. We think that the decision to create a mega-regulator headed by the Central Bank was a very good one, enabling us to clean up our financial institutions... The number of suspicious transactions relating to the siphoning of funds overseas has almost halved, with the number of illicit transactions aimed at converting capital into cash tumbling by a factor of 1,500. Overall, we have conducted close to 40,000 financial investigations, resulting in around 1,500 criminal cases, 300 of which are already being reviewed by courts. Also, a mechanism is now in place for freezing terrorists' assets. So far, we have

frozen around 3,500 accounts belonging to persons engaged in terrorist activities.

... Over the last year, we terminated the activities of 15 very large illicit money laundering centers with an estimated turnover of 90 billion rubles. The Federal Law No.134-FZ, which you supported, contains provisions that allow banks to freeze suspicious transactions. We used it to freeze transactions totaling 137 billion rubles.

...In accordance with your instruction, we are focusing on state contracts. Unfortunately, out of a total of over 500 contracts, around a third part is contracts linked to offshore companies whose co-founders are based overseas. We are currently developing mechanisms that will prohibit this. As instructed, we are also working on the state defense procurement program, and will have regulatory documents in this area ready by the end of the month, working together with the Ministry of Defence and the Ministry of Finance. Their drafts are already in the Presidential Executive Office.

Let me say a few words about the amnesty [of capital]. We are certainly closely involved in the

preparations, since amnesties in all countries, including Russia, take place under strict FATF's supervision. Any deviations here could put us at risk of sanctions.

Very soon, in late March, the representative of the relevant Council of Europe committee will be invited to visit our country to hold a round table discussion and tell us about how amnesties have been carried out in other countries and of the problems encountered.

In this respect, instead of waiting for the amnesty, Russian citizens, in my opinion, should begin repatriating their capital already now. After all, those

tax reminder notices that Russian residents with accounts in Britain have been receiving lately are nothing but a signal that all Russians with accounts there will need to explain where their money came from. Should they try to stall this process...

**V. Putin:** You mean, our partners could look for pretexts that can be used to prevent the return of these financial resources to Russian jurisdiction?

**Y. Chikhanchin:** Indeed, they could use financial investigation mechanisms or open criminal cases, thereby preventing the repatriation of funds in the way we hoped to achieve.

*Photo from [www.kremlin.ru](http://www.kremlin.ru)*

**RUSSIA IN THE INTERNATIONAL AML/CFT SYSTEM**

## ***EAG AND MENAFATF EXPERTS MEETING IN DOHA***

*The joint Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG) and the Middle East and North Africa Financial Action Task Force (MENAFATF) Workshop on Typologies and Capacity Building was held in Doha (Qatar) from 14 to 17 December 2014*

*Nikita A. Bobryshev,  
ITMCFM Project Manager*

The opening statement at the start of the workshop was delivered by His Excellency Sheikh Fahad bin Faisal Al Thani, Deputy Governor of the Central Bank of Qatar and Chairman of the National Anti-Money Laundering & Terrorism Financing Committee (AML/CFT), which was followed by opening remarks from the workshop co-chairs, the EAG and MENAFATF Executive Secretaries. The special attention devoted by Qatar's leadership to the topical issues of AML/CFT and the timely provision to the private sector of information on the risks and threats in this area was highlighted by the participation in the workshop of the emirate's senior officials.



The agenda of the workshop consisted of two parts: experience exchange on ML/FT typologies and capacity building. The event was attended by representatives of the private sector from the both FATF-style regional bodies (FSRBs).

### **SECTION A**

#### **Money Laundering through the Physical Transportation of Cash**

All section participants agreed that although the physical movement of cash represented a relatively expensive, compared to modern electronic techniques, method of cash transportation, it provides

## THE MENAFATF/EAG JOINT TYPOLOGIES AND CAPACITY BUILDING WORKSHOP

الدوحة، دولة قطر ١٤-١٧ ديسمبر ٢٠١٤. 14-17 DECEMBER 2014 DOHA, STATE OF QATAR



a high degree of anonymity for participants in criminal schemes. Smooth interaction between financial intelligence units (FIUs), customs and tax authorities – given that cash transportation is often accompanied by tax evasion – and similar agencies in other countries plays a key role in the successful detection of cross-border cash movements. Only joint efforts and close cooperation between different agencies have the capacity to withstand the threat posed by ML/FT.

## SECTION B

### Illicit Financial Flows and the Use of AML/CFT Tools to Combat Corruption

Workshop participants devoted special attention to the analysis of anti-corruption laws, as well as provided examples of successful cooperation between FIUs of different countries and of typological schemes for laundering corruption proceeds.

The international political and financial community currently devotes considerable attention to the issue of corruption, which limits sustainable economic growth and threatens the financial stability of not only individual countries, but also the global economy as a whole. In order to ensure that the fight against corruption remains successful and effective, FIUs must develop a sound operating procedure for dealing with corruption schemes. The FIU staff, on the other hand, must have at their disposal special work materials designed to speed up financial investigations, i.e. a list of key typologies, the guidelines for the use of databases and international communication channels, and recommendations for interaction with other departments and agencies. By criminalizing corruption as a predicate offense, ratifying and implementing the United Nations Convention against Corruption, improving domestic legal frameworks and

strengthening international cooperation, countries will contribute to the eradication of corruption in the world.

## SECTION C

### Risks and Threats of Money Laundering from Cybercrime

The development of modern payment instruments, their availability and the lack of formal boundaries in cyberspace render this sector extremely attractive to criminals, including in the context of ML/FT. Participants acknowledged the speed at which the sector was evolving and stressed the importance of proactive action on the part of FIU experts. The absence of boundaries and the international nature of these offenses impose additional requirements on the level of qualification of experts and the speed of interaction between various agencies.

Aybek Turdukulov from EAG Secretaty, painted a detailed picture of the international legal system for combating cybercrime and money laundering. While highlighting the development stages of this system, he focused on the Convention on Cybercrime, approved on November 23, 2001.

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Discussions of the agenda item titled «Capacity Building» focused on two topics: the updated FATF recommendations and the role of the private sector in the national risk assessment; AML/CFT and new technologies. Sofien Moruan and Dr. Mohammed Al Rashdan of the MENAFATF Secretariat identified the main areas of cooperation between the FATF, FSRBs and the private sector. Speakers focused participants' attention on the updated FATF Recommendations and the need for their implementation as a means of enhancing the overall AML/CFT regime in the region. Kuralaj Igembæeva, a representative of the



EAG Secretariat, made a presentation dedicated to the issues of national risk assessment and the role of the private sector. Given the length of discussions that accompanied the first FATF mutual evaluation reports, it can be argued that this topic remains urgent and highly relevant, including due to the fact that appraisers pay particular attention to the interaction between the private sector and government bodies during national risk assessments.

Victor Dostov, the Chairman of the Board of nonprofit partnership «Advancement of E-money,» spoke about the main evolutionary processes affecting payment systems and the risks supervisory authorities and the private sector may face in the near future. He noted the ability of modern electronic identification methods to match the potential of

traditional paper-based techniques in terms of user identification. For his part, Saleh Nofal, Compliance Officer at Qatar National Bank, presented a report on the use of new payment methods in the region and the related problems and risks.

The experts participating in the workshop noted the rapid evolution of methods used to commit crimes, as well as emphasized the need to increase interaction between AML/CFT regime participants both at the national and international levels. It particularly concerns improvements in the quality of information sharing processes.

At the end of the workshop, participants expressed their wish not only to continue such meetings, but also to increase their frequency, in order to remain at the forefront of the best AML/CFT efforts.

### *MENAFATF Secretariat's comments*

Cooperation between FATF-style regional bodies (FSRBs) is one of the key elements supporting the effectiveness of the global network for combating money laundering, financing of terrorism and proliferation of weapons of mass destruction. The joint Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG) and the Middle East and North Africa Financial Action Task Force (MENAFATF) Workshop on Typologies and Capacity Building, held in Doha (Qatar) from 14 to 17 December 2014 with the support of the National Anti-Money Laundering & Terrorism Financing Committee, is a good example of horizontal partnership within the FATF family. The workshop was attended by representatives of more than 60 government agencies, 48 financial institutions, 28 countries and organizations, and about 200 experts.

The event is the first joint organizational experience of the MENAFATF and EAG, as well as being a good example of partnership strengthening between the two FSRBs in pursuit of

a common cause. The success of the workshop in underscored by the organizers' ability to bring together representatives of both the public sector involved in the fight against money laundering and terrorist financing (law enforcement, prosecutors, financial intelligence units, customs and regulatory authorities) and the private sector from both regions to share their knowledge and practical experience.

Experts and participants noted a significant contribution made by the workshop presentations and lively discussions to the understanding of modern money laundering, terrorist financing and other methods and techniques. The workshop provided an excellent opportunity for experts from both regions to communicate, exchange practical experiences and discuss case studies and typologies.

MENAFATF representatives express their high appreciation to the EAG member states and EAG Secretariat staff for their contribution to the successful organization of the event and look forward to future fruitful cooperation.

**INTERNATIONAL BLOCK**

## ***CURRENT AND FORMER FATF PRESIDENTS ATTENDED THE REGULAR MONEYVAL PLENARY***

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*Russian Government delegation, led by Rosfinmonitoring Deputy Director V. I. Glotov, participated in the 46<sup>th</sup> Plenary meeting of the Committee of Experts on the Evaluation of Anti-Money Laundering and Financing of Terrorism (MONEYVAL), held in Strasburg from 8-12 December 2014*

*Alexey G. Petrenko,*

*Head of International Cooperation Department of Rosfinmonitoring*

The meeting included a speech by FATF President Roger Wilkins of Australia, who briefed the participants on the priorities of his country's presidency of the FATF, including initiatives aimed at furthering the work of his predecessor, V. Nechaev.

Consistent with the meeting agenda, a workshop on the exchange of best practices in preparation for the upcoming country evaluations under the updated FATF recommendations, which focus on the effectiveness of national anti-money laundering systems, was held. The Russian Federation made a presentation on combating the financing of proliferation of weapons of mass destruction (CFPWMD), which, given the particular relevance of this issue and the lack of the relevant experience

among the majority of the member states, aroused great interest and appreciation of the participants.

Rather heated was a discussion of the mutual evaluation report on Azerbaijan, resulting in the issuance of lower ratings for some recommendations. Despite this rather unpleasant for Baku result, Azerbaijan managed to avoid being placed under enhanced scrutiny by the FATF's International Cooperation Review Group (ICRG), which is responsible for compiling the FATF's black and grey lists. Instead, the country was placed under the regular follow-up procedure and requested to submit its target report on problematic recommendations, which primarily include criminalization of money laundering, seizure and use of provisional measures, as well as the use of targeted financial sanctions relating to terrorism and terrorist financing, next year.



Besides Azerbaijan, the Plenary heard Albania, Bosnia and Herzegovina, Malta, Moldova and Slovakia, which presented their reports on progress in eliminating the deficiencies identified during the previous Plenary meetings.

Particularly grave is the situation with Bosnia and Herzegovina, regarding which MONEYVAL again issued a public statement. So far, MONEYVAL has been able to resolve the issues relating to this country on its own without placing the «Bosnian» problem under FAFT's monitoring process, which may eventually lead to the country being blacklisted.

When discussing new areas of typological research, much of participants' support was given to the Russian delegation-sponsored topic of identifying the sources of funding of the Islamic State of Iraq and the Levant.

The Russian delegation informed the Plenary on the signing by Russia at the 13<sup>th</sup> Council of Europe

Conference of Ministers responsible for Sport (17-19 September 2014, Macolin, Switzerland) of the Council of Europe Convention on the Manipulation of Sports Competitions and the ongoing preparations for its ratification. During the discussion, it was noted that the Russian Federation paid priority attention to the issue of countering corruption in the organization and holding of major international events, including sporting ones, during its G20 presidency.

Several bilateral meetings were held on the sidelines of the event, including negotiations concerning vital aspects of field-specific cooperation with the heads of FIUs of Bulgaria, Hungary, Cyprus, Latvia and Liechtenstein, during which participants discussed the specifics of joint financial investigations and prospects for renewal of bilateral information sharing agreements.

The next MONEYVAL meeting will be held from 13 to 17 April 2015.

## PARTICIPATION IN THE INTER-SESSIONAL MEETING OF THE EGMONT GROUP

*On January 25 – 30, 2015, the Egmont Group, consisting of 147 national financial intelligence units (FIUs), held the inter-sessional meeting in Berlin (Germany). About 280 delegates who represented 110 FIUs and such international organization as the World Bank, the United Nations and the FATF, attended to the meetings of the heads of FIUs and the working groups. The Russian delegation was headed by the first deputy Director of Rosfinmonitoring Mr. Yury F. Korotky*

The speech made by the FATF President Mr. Roger Wilkins (Australia) has confirmed the continuation of the policy pursued by his predecessor Mr. Vladimir Nechaev (Russia) which is aimed at establishing close mutually beneficial relationships between two organizations based on recognition of the special role of the FIUs in combating both money laundering and financing of terrorism (AML/CFT).

One of the main initiatives of the Berlin meeting was the launch of the project for identifying sources and channels of funding of the Islamic State, which involves extension and fundamental improvement of information exchange among FIUs and establishing by the Egmont Group close cooperative relationship with the FATF and the UN Counter-Terrorism Committee Executive Directorate (CTED) in this important area.

The discussions at the working groups meetings were focused on involvement of the FIUs in the national ML/FT risk assessments as well as on combating

the financing of terrorism and on the fight against abuse of virtual currencies, mass marketing fraud, terrorist financing and laundering proceeds of illicit wildlife trafficking and environmental crimes.

For the first time, the Russian national - Mr. Igor Alekseev, the officer of Rosfinmonitoring, became the member of the Egmont Committee (EC). He will act as the main coordinator among the FIUs of the Eurasia region (Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Uzbekistan) and the Egmont Group's governing and working bodies. His election to the EC was the international recognition of Russia's contribution in the development of the global AML/CFT system.

During the meetings, the agreements on cooperation and extension of information exchange were signed between Rosfinmonitoring and the FIUs of the British Virgin Islands, Cyprus, Kyrgyzstan, Macau and Macedonia.





# ***SUMMARIZING INTERNATIONAL BEST PRACTICES***

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*The official delegation headed by the Director of Rosfinmonitoring Mr. Yury Chikhanchin took part in the FATF Plenary meeting held under the presidency of Australia (Mr. Roger Wilkins) on February 22-27, 2015 in Paris*

*Irina V. Ivanova,  
Editor-in-Chief*

Given the increasingly dangerous threat posed by the international terrorism, combating financing of terrorism was the central issue in the agenda of the Plenary. The meeting was opened by Mr. Michel Sapin, French Minister of Finance and Public Accounts who, in light of the recent tragic events in Paris, called upon the FATF to take urgent measures for identifying and disrupting the terrorist funding flows. The speech by Mr. Sapin set the tone of further discussions.

The FATF President, Mr. Roger Wilkins, proposed to examine in detail the sources of terrorist financing and the associated money transfer and movement mechanisms and to conduct a new research of these issues, similar to the work performed by the FATF in 2008.

It was proposed to summarize the best practices related to prevention of misuse of non-profit organizations (NPO) for FT purposes for drafting a separate document that would assist countries in evaluating effectiveness of measures taken for

combating the abuse of the NPO sector and in developing the relevant national strategies. The participants noted the increased interest in joint CFT efforts undertaken by the FATF and the UN Counter-Terrorism Committee, the Terrorism Prevention Branch of the UN Office on Drugs and Crime and the Analytical Support and Sanctions Monitoring Team of the UNSC "Al-Qaida Sanctions Committee".

Pursuant to the G20 instruction regarding identification and monitoring jurisdictions that have strategic AML/CFT deficiencies and pose threat to the global financial system changes were made in the FATF "black" and "grey" lists and reports of a number of countries on actions taken for improvement of the national AML/CFT systems were heard.

Indonesia was removed from the black list, and now just five countries, namely, Algeria, Iran, DPRK, Myanmar and Ecuador remain included in this list.

As for Iran and DPRK, the status quo has not changed. Teheran still failed to criminalize terrorist financing. However, the situation with the North Korea has improved. The action plan has been developed jointly with the FATF Secretariat, upon successful implementation of which the DPRK may be removed from the lists within one year.

A substantial progress has been made by Ecuador. The counter-terrorism legislation was amended last year, which resolved the major concerns. If the partners maintain the gathered momentum, their removal from the enhanced follow-up may be considered by this coming October.

Albania, Cambodia, Kuwait, Namibia, Nicaragua, Pakistan and Zimbabwe can be congratulated with their removal from the "grey" list.

Brazil, Iceland, USA, South Africa and Japan presented their progress made under the 3<sup>rd</sup> round of mutual evaluations. The decision was made to arrange a high level mission (which would include the Russian representative) to Brazil in early April 2015. Similar missions will be arranged to the South Africa and Japan in this coming June if they fail to make progress in eliminating the remaining deficiencies.

The targeted monitoring of the United States was postponed since it will be subject to new full-scale evaluation by the FATF in June 2015.

Iceland is waiting for the final decision to be made in this coming June.

After discussion of the reports of Australia and Belgium that were evaluated with the use of the new

FATF Methodology, both countries became subject to enhanced monitoring due to low effectiveness of the national AML/CFT systems.

The delegations preceded with the revision of the International Cooperation Review Group (ICRG) procedures (started in June 2013) in respect of compilation of the said lists under the new AML/CFT Standards and Methodology for Assessing. The countries have not agreed yet on how to consider the ratings of effectiveness when placing countries in the ICRG follow-up process.

The discussion also focused on the draft guidance on virtual currency risks being currently developed by the FATF. So far, a common approach to regulation of virtual currencies has not been defined. Therefore, it was decided that, until adoption of the guidance, countries would independently determine the virtual currency monitoring and supervision policies.

Along with the Rosfinmonitoring experts, in the work of the official Russian delegation also took part representatives of the Russian Ministry of Foreign Affairs, Federal Security Service, Ministry of Finance and Bank of Russia.

The next FATF Plenary meeting will be held in Brisbane, Australia, on June 21-27, 2015.

**COMBATING FINANCING OF TERRORISM**

## ***FATF ACTION PLAN ON TERRORIST FINANCE***

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*FATF public statement on combating the financing of terrorism.  
Document adopted at the FATF Plenary meeting in February 2015*

Terrorism is an increasingly global problem that requires concerted global action by a united international community. The ISIL phenomenon shows a new type of terrorist organization with unique funding streams that are crucial to its activities; cutting off this financing is therefore critically important. Given its mandate, the FATF has a particular responsibility to develop a coordinated and decisive response to fight not just terrorist financing, but ultimately, terrorism. The UN Security Council Resolution 2199, passed on 12 February, welcomed the FATF's October 2014 statement, and the February 2015 G20 Finance Ministers' statement echoed the need for a renewed focus by the FATF on terrorist financing. This was further reinforced by the French Minister of Finance and Public Accounts, Mr. Michel Sapin, during his opening speech at the FATF Plenary meeting.

The FATF has published a report on the Financing of the terrorist organization Islamic State in Iraq and the Levant (ISIL). This significant report will contribute to the international discussion to update global efforts to counter terrorist financing. The report demonstrates that ISIL is essentially living off the capital illicitly generated by the territory it occupies, primarily by looting banks, exploiting oil fields and robbing economic assets. ISIL can be stifled by frustrating its ability to generate funds from these activities and by preventing it from obtaining funds from other sources and activities.

Using the findings of the FATF report on the sources and methods of financing of ISIL, the FATF and the FATF-Style Regional Bodies (FSRBs) will work together with international organizations to develop proposals to strengthen all counter-terrorism financing tools and report back to the G20 by October 2015.

### **Making sure the legal and institutional frameworks are in place**

FATF and FSRBs will take additional steps to make sure that all members implement measures to freeze terrorist funds and stop terrorist financing.

As a priority, the FATF will immediately review whether all its members have implemented measures to cut off terrorism-related financial flows, in accordance with the FATF Recommendations. All members are required to:

- Criminalize the financing of individual terrorists and terrorist organizations.
- Freeze terrorist assets without delay and implement ongoing prohibitions.
- Establish the capacity to develop robust designation proposals on individuals that meet the UN designation criteria.

The FATF will put pressure on any country that has failed to implement these measures and will include this in its report to the G20 in October 2015.

### **Operational measures**

It is essential in combating global terrorism that all countries do not just establish laws and regulations to disrupt terrorist financing, but that they also ensure that they are working effectively. They must also actively use them in a whole-of-government approach that focuses on combating key terrorist financing risks, including by:

- Implementing targeted financial sanctions regimes and developing the capacity to propose designations to the United Nations Security Council, and issue third country requests that meet designation criteria.
- Identifying their terrorist financing risks and developing more effective ways to detect, disrupt, deter and prosecute terrorist financing.
- Protecting their non-profit sector from the risk of terrorist abuse. The FATF is updating its best practices paper to help countries respond more effectively to terrorist abuse of this sector.
- Taking steps to identify and target individuals, including travellers, who are suspected of terrorist financing involvement, by using PNR (Passenger Name Record of air travellers),

for example, in order to stop, restrain and enable confiscation of illicit cross-border transportation of cash.

- Devising effective mechanisms to identify monitor and take action against unregulated money value transfer services, and strengthening the transparency of financial flows.
- Empowering FIUs and other competent authorities to improve the exchange of financial and other relevant information domestically and internationally in a timely manner. The ability to detect, analyze and share information about financial flows is essential to financial investigations. For terrorist-related cases, governments should be able to obtain relevant information from all sources more rapidly. To achieve this, countries should:
  - Strengthen inter-agency communication among financial intelligence units, law enforcement and intelligence services;
  - Encourage spontaneous exchanges of information among countries.

The FATF will focus on developing proposals to take forward these measures.

### **Additional work on terrorist financing**

The FATF report «Financing of the terrorist organization Islamic State in Iraq and the Levant (ISIL)» also identified a number of significant and emerging terrorist finance risks, including kidnapping for ransom, non-profit organizations, foreign terrorist fighters, social networks, among others, which all played a role in the financing of this terrorist organization. Over the course of the next three months, the FATF will conduct further research in identifying and analyzing these risks, and determine what more needs to be done to prevent financial and economic sectors from being abused for terrorist financing for new and emerging threats. The FATF will discuss the findings of this work at its June 2015 Plenary.

In September 2015, the annual Joint Experts Meeting will be held in collaboration with GAFILAT and will have as its main theme the “financing of terrorism”.

# ***CERTAIN ASPECTS OF APPLICATION OF NEW ANTI-TERRORISM LEGISLATION AS IT PERTAINS TO FREEZING (RESTRAINING) TERRORIST AND EXTREMIST ASSETS***

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***Irina A. Pankratova***



***Mikhail V. Kolinchenko***

The article analyses the most recent changes and modifications in the Russian anti-terrorism legislation aimed at improvement of the counter terrorist financing mechanism. The authors discuss in detail the procedure of enforcement of funds or other assets freezing (restraining) orders issued by Rosfinmonitoring, Inter-Agency Coordinating Authority and courts. And finally, presented in the article are amendments to the legislation that have extended the grounds for including persons in the list of terrorists and extremists.

The fight against terrorism, including counter terrorist financing efforts, is the integral part of the national security regime of any country.

For combating the financing of terrorist activity Russia has established the legislative and regulatory



framework, the core element of which is Federal Law No.115-FZ on Combating Legalization (Laundering) of Criminal Proceeds and Financing of Terrorism dated August 7, 2001 (hereinafter the AML/CFT Law).

Among other things, this Law:

- Establishes the national money laundering and terrorist financing (ML/FT) prevention system;
- Defines the responsibilities of financial institutions and other entities engaged in financial transactions for identifying and preventing ML/FT;
- Defines the main objectives, functions and powers of the national financial intelligence unit;
- Regulates international cooperation, including information sharing with foreign competent authorities and provision of mutual legal assistance.

Federal Law No.134-FZ on Amendments to Certain Legislative Acts pertaining to Prevention of Illegal Financial Transactions dated June 28, 2013 (hereinafter Federal Law No.134-FZ) introduced modifications into the legislation for improvement and enhancement of the counter terrorist financing mechanism. Besides that, the said Law contains specific provisions for bringing the Russian anti-terrorism legislation in line with the revised FATF Recommendations adopted in February 2012.

The new provisions integrated in the AML/CFT Law by Federal Law No.134-FZ cover a number of aspects, including government registration of legal entities, additional monitoring by the government authorities and liability of mala fide entities.

Special mention should be made of the procedure of practical freezing (restraining) of funds or other assets of individuals and legal entities known to be linked to extremist activities or terrorism, along with the transaction suspension mechanism.

The procedure of compiling the list of legal entities and individuals known to be linked to extremist activities or terrorism (hereinafter the List) and its dissemination to entities engaged in transactions with funds or other assets is governed by the Regulation on Listing Legal Entities and Individuals Known to be Linked to Extremist Activities or

Terrorism and Disseminating the List to Entities Engaged in Transactions with Funds or Other Assets adopted by RF Government Resolution No.27 of 18.01.2003 (hereinafter the Regulation).

Pursuant to this Regulation the Federal Financial Monitoring Services (Rosfinmonitoring):

- Lists and delists legal entities and (or) individuals on the grounds specified in Article 6 (2.1) and (2.2) of the AML/CFT Law, as advised by the government authorities;
- Updates the List to reflect changes, adjustments or extension of the designated legal entities and (or) individuals, as advised by the government authorities.

Information regarding the grounds for listing and delisting legal entities and (or) individuals (specified in Article 6 (2.1) and (2.2) of the AML/CFT Law) as well as information for updating the List is provided to Rosfinmonitoring by the RF General Prosecutor's Office, Investigative Committee, Ministry of Justice, Federal Security Service, Ministry of Internal Affairs and Ministry of Foreign Affairs.

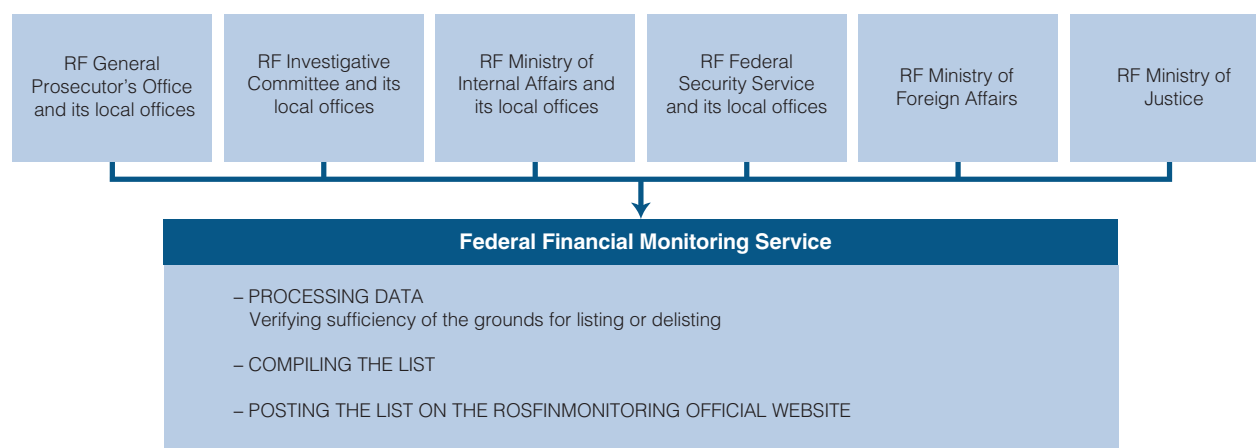
Pursuant to the AML/CFT Law credit and other institutions that are subject to this Law (hereinafter credit and non-credit institutions) are obliged to freeze (restrain) funds or other assets without delay, but not later than one business day following publication of information on listing of the relevant entity or individual on the official website of the AML/CFT designated authority, i.e. Rosfinmonitoring ([www.fedsfm.ru](http://www.fedsfm.ru)). The freezing measures taken by credit and non-credit institutions shall prevent transactions with funds or other assets by the listed entity or individual served by the relevant institution.

Besides that, the AML/CFT Law requires credit and non-credit institutions to freeze (restrain) funds or other assets owned by an entity or individual in compliance with the freezing decision made by the Inter-Agency Coordinating Authority in charge of combating the financing of terrorism (hereinafter the Inter-Agency Coordinating Authority).

The statute of and membership in this Inter-Agency Coordinating Authority are adopted by the RF President.

The Inter-Agency Coordinating Authority determines whether or not there are sufficient grounds to suspect an entity or individual of being

### Process of Compiling the List of Entities and Individuals Known to be Linked to Extremist Activities or Terrorism



linked to terrorist activities (including terrorist financing) based on the information provided by the relevant federal executive agencies.

Rosfinmonitoring is obliged to post a freezing decision made by the Inter-Agency Coordinating Authority on its official website, without delay.

It should be noted that the AML/CFT Law still contains the provisions that oblige credit and non-credit institutions to suspend transactions with funds or other assets (except for crediting the incoming funds transferred to accounts of an individual or a legal entity) for five business days following the day when a customer's instruction on execution of such transaction should be complied with.

To ensure that an individual whose funds or other assets have been frozen as well as his/her dependent family members are able to cover their basic expenses the relevant amendments and modifications were introduced into the AML/CFT Law (by Federal Law No.403-FZ of 28.12.2013 on Amendments to the Federal Law on National Payment System and the AML/CFT Law). According to these amendments individuals included in the Russian national List (in compliance with clause 2.1 (2), (4) and (5) of the AML/CFT Law) are allowed to carry out transactions with funds or other assets related to receiving and spending wages in amount not exceeding 10,000 rubles per calendar month per each dependent family member, while transactions with funds related to receiving and spending pension, educational allowance, social benefits as well as transactions related payment of taxes, fines and other mandatory payments by such individuals may be carried out regardless of their amount.

This decision is based on the provisions of UN Security Council Resolution 1452 (2002) and Section D (10) of the Interpretive Note to the FATF 6<sup>th</sup> Recommendation according to which individuals whose funds or other assets have been frozen (restrained) shall be granted access to funds necessary for basic expenses, including payments for foodstuffs, medicines and medical treatment, taxes, insurance premiums, and public utility charges.

A decision to unfreeze funds or other assets of an entity or individual who are liable to freezing measures is made by a credit or non-credit institution following removal of such entity or individual from the List.

Besides that, Rosfinmonitoring is empowered to request a court to authorize suspension of transactions on (deposit) account and other transactions with funds or other assets of entities or individuals who are found, in a manner established by the AML/CFT Law, to be linked to extremist activities or terrorism, or of legal persons that are, directly or indirectly, owned or controlled by such entities or individuals, or of natural or legal persons acting on behalf of or at the direction of such entities and individuals.

The provisions of the AML/CFT Law that establish the freezing and suspension obligations fully apply to individual entrepreneurs operating in the capacity of insurance brokers, dealers in precious metal, stones, jewellery and scrap thereof and real estate agents.

Besides that, Federal Law No.302-FZ of 02.11.2013 on Amendments to Certain Legislative Acts of the Russian Federation extended the grounds for

## *Grounds for Listing Entities and Individuals Known to be Linked to Extremist Activities or Terrorism*

- Valid ruling of the RF court to liquidate or ban the activities of an organization due to its association with extremist activities;
- Valid conviction of a person by the RF court for committing at least one of the criminal offences punishable under articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 of the RF Criminal Code;
- Decision made by the RF General Prosecutor, his subordinate prosecutors or by the federal government registration authority (or its local office) to suspend the activities of an organization following the request filed by the said prosecutors with the court to hold the organization liable for extremist activities;
- Formal accusation of a person, under the established criminal procedure, of committing at least one of the criminal offences punishable under articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 of the RF Criminal Code;
- Order of an investigator to formally accuse/ charge a person with committing at least one of the criminal offences punishable under articles 205, 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 280, 282, 282.1, 282.2 and 360 of the RF Criminal Code;
- Lists of entities and individuals linked to terrorist organizations or terrorists compiled by the international anti-terrorist organizations or by their authorized bodies and recognized by the Russian Federation;
- Convictions or rulings of courts and decisions of other competent authorities of foreign countries in respect of entities or individuals involved in terrorist activities recognized by the Russian Federation under the international treaties (agreements) signed by Russia and the Russian federal legislation.

designation by imposing criminal liability for such types of terrorist activities as:

- Undergoing training for carrying out terrorist activities (Article 205.3 of the RF Criminal Code);
- Establishment of a terrorist group, i.e. a stable group of persons who united in advance for carrying out terrorist activities, or for preparing or committing one or several criminal offences punishable under Articles 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279 and 360 of the RF Criminal Code, or participating in such criminal offence(s) (Article 205.4 of the RF Criminal Code);
- Arrangement of and participation in operations of an organization that is recognized as the terrorist organization under the Russian Legislation (Article 205.5 of the RF Criminal Code).

**Thus, Federal Law No.134-FZ established strict requirements (that are fully in line with the international standards) for ensuring transparency and optimizing the mechanisms of monitoring designated entities and individuals, legal entities that are, directly or indirectly, owned or controlled by designated entities or individuals and natural or legal persons acting on behalf of or at the direction of designated entities and individuals.**

It should be noted that enforcement of the new provisions of the federal legislation showed that

*The term “freezing (restraining) of funds or other assets” means:*

- Freezing (restraining) of non-cash funds or uncertified (book-entry) securities means that owners, entities engaged in transactions with funds or other assets as well as other individuals and legal entities are prohibited from carrying out transactions with such funds or securities owned by an entity or individual included in the List of entities and individuals known to be linked to extremist activities or terrorism, or by an entity or individual who are reasonably suspected of being linked to terrorist activities (including financing of terrorism), but do not qualify for designation (inclusion in the List).
- Freezing (restraining) of assets means that owners or holders of such assets and entities engaged in transactions with funds or other assets are prohibited from carrying out transactions with such assets owned by an entity or individual included in the List of entities and individuals known to be linked to extremist activities or terrorism, or by an entity or individual who are reasonably suspected of being linked to terrorist activities (including financing of terrorism), but do not qualify for designation (inclusion in the List).

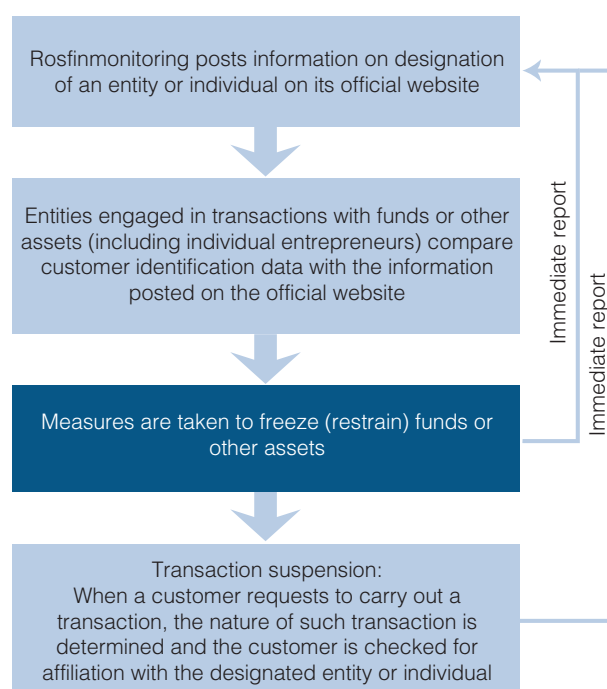
credit institutions promptly enough froze funds of the designated entities and individuals.

In particular, since the adoption of these provisions, credit institutions froze (restrained) over 1.5 thousand accounts of the entities and individuals included in the List.

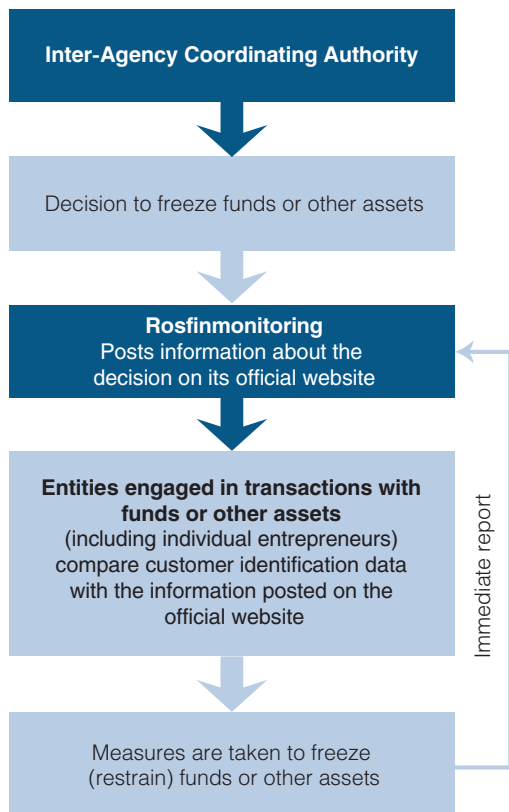
The following should be noted with regard to effectiveness of practical suspension of transactions of persons affiliated with the designated entities and individuals (the so-called associates) by court rulings. The integrated approach applied jointly with the law enforcement agencies yielded positive results. For example, a number of court rulings were issued for suspending financial operations of persons who acted under control or at the direction of the designated entities and individuals.

Enhancement of international cooperation pertaining to identification of potential channels used for funding extremist activities and terrorism with involvement of persons controlled by or acting at the direction of the designated entities and individuals will improve effectiveness of proactive judicial measures applied for preventing extremist and terrorist related offences.

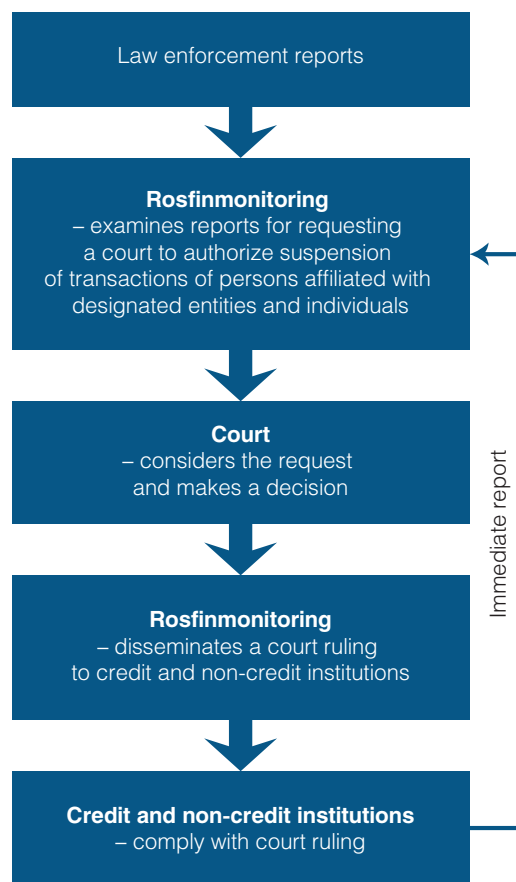
**Freezing of Funds or Other Assets  
and Suspension of Transactions  
by Rosfinmonitoring’s Resolution**



### Freezing of Funds by Decision of the Inter-Agency Coordinating Authority



### Transaction Suspension by Court Ruling





## EDUCATION AND SCIENCE IN AML/CFT SYSTEM

## EDUCATIONAL VECTOR OF COUNTERING ILLEGAL FINANCIAL OPERATIONS

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*Adam U. Albekov,*

*Principal of the Rostov State University of Economics (RSUE), Honored Worker  
of Science of the Russian Federation, Doctor of Economic Science, Professor*



*Adam U. Albekov*

Countering illegal financial operations is the priority task in ensuring financial security of Russia, which never loses importance. According to law enforcement authorities, in 2013, more than 42 thousand crimes were committed in the Russian credit and financial sphere, of which almost 16% - on a large and especially large scale. Over only the last three years, damages from detected crimes exceeded 20 billion rubles<sup>1</sup>. Amount of corrupt crimes detected in the course of prosecutor's examinations grew by 4%, and those revealed by military prosecutors – by 11%. The First Deputy General Prosecutor of Russia Alexander Buksman communicated this information at the coordination meeting of chief executives of law enforcement authorities of the Russian Federation, “Amount of damage detected based on prosecutor's

<sup>1</sup> Rossiiskaya Gazeta. 05.03.2014. URL: <http://www.rg.ru/2014/03/05/dengi.html>.

investigation exceeded 10 billion rubles. It means a 7 times increase against the previous year”, he noted (according to ITAR-TASS).

In these circumstances, Russia takes large-scale measures to combat money laundering and financing of terrorism: the law on countering illegal financial operations was adopted to expand authorities of supervisory agencies and strengthen their responsibility for decisions made; a National Center for the Assessment of Risks and Threats to National Security designed to be an important tool in handling the issue of de-offshorization of the Russian economy started its operations, and so on.

In this context, proactive development of the educational vector of countering money laundering and financing of terrorism becomes an important accompaniment to control and supervision activities in the national financial monitoring system. The task of development of the educational vector may be laid down as provision of the Russian economy with highly-qualified personnel able to not just combat the existing threats of money laundering and use of criminal funds for illegal purposes, but also to prevent such threats.

It is significant that the Rostov State University of Economics (RSUE) has been contributing to education of personnel to counteract illegal financial operations for more than seven years already.

Since 2009, the Rostov State University of Economics (RSUE) pursuant to the partnership agreement with the independent non-profit organization International Training and Methodology Center for Financial Monitoring has been organizing training workshops in the form of task-oriented training to enhance knowledge in the sphere of combating money laundering and financing of terrorism for all categories of organizations and their employees. More than 4000 persons completed their training in 2009-2014.

Along with educational activities, RSUE performs scientific research on the problems of financial security in general, and combating money laundering in particular. An example is the research paper *Modernization of Risk Management Tools of Financial Institutes in the Sphere of Money Laundering or Financing of Terrorism Based on Enhancement of Financial Literacy of Individual Customers* prepared in 2012-2013 by employees of RSUE who had been awarded a grant by the Russian Ministry of Education and Science as part of the Federal target program “Academic and Educational Staff of Innovative Russia”.

The research rendered the following findings and conclusions:

- conceptual model and complex of methods for assessment of risks associated with involvement of financial institutions' customers in money laundering activities are based on a combination of economic and psychological approaches and selection of statistical tools, which significantly upgrades ML/FT risks management tools;
- a technique for construction of customers' profiles was developed to determine probability of “active” or “passive” involvement of individuals in the sphere of money laundering or financing of terrorism;
- scoring method of preventive assessment of risks associated with involvement of financial institutions' customers in money laundering or financing of terrorism allows for real-time scoring of risks in order to take a prompt decision on further customer service;
- the method of individual underwriting for detection of the risk of money laundering in cooperation with individual customers allows to estimate the degree of deviation of the risk associated with a particular customer from average risk and to identify whether such risk rests within certain limits established by the financial institution as part of its risk management system;
- the program on utilization of forms and methods of promotion of financial literacy of population as a tool for management of financial institutions' risks in the sphere of money laundering or financing of terrorism may be implemented along the three lines: extension of educational programs, utilization of information and telecommunication technologies and advanced training of employees of financial institutions that work with individual customers, and promotion of financial literacy of consultants and lecturers;
- scientific-methodological recommendations on management of financial institutions' risks of money laundering and financing of terrorism were developed to extend (as compared to

those established by regulations) the coverage of internal control programs, especially, with regard to customer identification procedure and monitoring of customer's operations;

- a complex of preventive measures was elaborated for self-regulatory organizations; for educational institutions; for supervisory authorities of the regional financial market, executive agencies of constituent entities of the Russian Federation; their provisions may be used to update the national AML/CFT policy and to take justified decisions on amendment of legal documents in this sphere and of financial practices.

Accumulated experience in training of staff to combat money laundering and financing of terrorism promoted integration of RSUE into the network AML/CFT Institute. Over the previous year, several lines of cooperation of RSUE with ITMCFM and the network AML/CFT Institute were formed, including:

- RSUE representatives' participation – on invitation by ITMCFM – in international events devoted to the problems associated with AML/FT (including the 20<sup>th</sup> Plenary Meeting of the Eurasian Group on Anti-Money Laundering and Combating the Financing of Terrorism and the research-to-practice conference Methodological Approaches to Implementation of FATF Standard "Risk Assessment and Application of Risk-Oriented Approach");
- expert assistance in development of professional standards for officers of governmental authorities employed in the sphere of AML/CFT, and organizations that perform operations with funds or other property;
- elaboration of terms of reference for execution of scientific research on the subject Development of Methods of Risk Analysis with Regard to Activities of Non-Credit Institutions Liable to Take Measures to Combat Money Laundering and Financing of Terrorism (approved by the Expert Methodological Council of the International Training and Methodology Center for Financial Monitoring, record No. 4 of 24.09.2010);



- exchange of experience in organization of educational process and methodical support in training of personnel for the national anti-money laundering system.

Taking part in the activities of the network AML/CFT Institute, RSUE continues to actively build its scientific and educational capacity in training of personnel for the national financial monitoring system.

In response to growing national and regional demand for specialists in financial security and monitoring of the financial system in 2014, the department of financial monitoring was organized as part of the RSUE structure in 2014. It is the first department in the south of Russia that develops new educational programs and carries out scientific research related to development of approaches and methods for countering money laundering and financing of terrorism.

Lecturers of the department of financial monitoring prepare bachelors with major in "economics", specializing in "finance and credit". Employment of innovative methods and interactive formats in the educational process allows formation in future graduates of the department of financial monitoring of cultural and professional competencies required for employees of both the organizations that are subject to primary financial monitoring and of supervisory authorities. Top priority is given to formation of the following professional competencies:

- analytical competencies that imply the ability to analyze activities of financial and economic systems and structures to reveal threats to secure functioning of those, analytical competencies; to perform financial investigation regarding financial and economic agents, disclose formal typologies of financial fraud;

- organizational competencies that imply the ability to organize performance of the financial agent's internal control department of the financial agent, to develop internal control rules and other instruction and administrative documents, to organize efficient cooperation with the competent authority.

Elaboration of training documents has started in order to establish the specialization "financial security" as part of the "economics" division to train AML/CFT personnel.

In autumn 2014, master's program "Financial Monitoring" was launched. The program is meant to provide training and advanced training to employees of organizations that are subject to primary financial monitoring, i.e. organizations performing operations with funds or other property that fall within the scope of 115-FZ Concerning Anti-Money Laundering and Combating the Financing of Terrorism. Such organizations include nearly all types of financial institutions, some communication organizations, economic entities that are of strategic importance to security and defense of Russia, etc.. The range of organizations subject to primary financial monitoring in the south of Russia is extensive. Thus, as of November 1, 2014, 42 regional credit institutions and 189 branches of credit institutions from other regions carried out their activities in the Southern Federal

District<sup>2</sup>. As of the beginning of the year 2014, the number of leasing organizations in the south of Russia constituted 50<sup>3</sup>. The number of insurance companies in the region exceeds 150<sup>4</sup>. According to 115-FZ Concerning Anti-Money Laundering and Combating the Financing of Terrorism, each organization that is subject to primary financial monitoring shall have one of its officers acting as a special executive in sphere of AML/CFT. Respective qualification requirements to such an executive are set out in individual regulations. Correspondingly, the objective of the master's program "Financial Monitoring" is to provide qualified personnel to subjects of primary financial monitoring.

Besides, in order to promote economic and financial literacy and to lower the degree of involvement of people in illegal financial operations, the course in financial monitoring and combating money laundering and financing of terrorism was in 2014 integrated in the program for training of bachelors, specialists and masters in the majority of departments and divisions of RSUE.

RSUE sees the potential for development of the educational vector for countering illegal financial operations primarily in cooperation with participants of the network AML/CFT Institute. RSUE further plans to strengthen scientific and educational AML/CFT potential to turn the University into the academic platform for development of the national financial monitoring in the south of Russia.

<sup>2</sup> Review of banking sector of the Russian Federation. December, 2014. URL: [http://www.cbr.ru/analytics/bank\\_system/obs\\_1412.pdf](http://www.cbr.ru/analytics/bank_system/obs_1412.pdf)

<sup>3</sup> Ranking of leasing companies operating in the south of Russia, according to the results of year 2013. URL: <http://expert.ru/ratings/renking-lizingovyih-kompanij-robotayuschih-na-yuge-rossii-po-itogam-2013-goda/>

<sup>4</sup> Insurers in anticipation of crisis URL: <http://www.expertsouth.ru/stati/finansy/strahovschiki-v-predvkushenii-krizisa.html>

## UNIQUE SET OF PROFESSIONAL COMPETENCIES FOR ROSFINMONITORING EMPLOYEES

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*The top-priority trend in advanced training of Rosfinmonitoring employees on AML/CFT issues is formation of currently sought-after professionally relevant personal qualities, the system of professional values and the complex of professional knowledge in the sphere of combating money laundering and financing of terrorism, skills and competencies compliant with modern requirements of financial and legal practices*

*Anna V. Bulayeva,*  
*reporter*

From November 13 to December 19, 2014, the International Training and Methodology Center for Financial Monitoring organized the advanced training course of 74 academic hours on the program “Countering money laundering and financing of terrorism” for employees of the Central Office and inter-regional departments of Rosfinmonitoring (via video conferencing).

The main training targets were development with trainees of a complex of basic knowledge:

- on main lines of Rosfinmonitoring activities and inter-agency cooperation in the sphere of combating money laundering and financing of terrorism;
- on procedure and conditions of state civil service and on responsibility of state civil servants for corruption;



- on basics of business etiquette and protocol;
- on the national and international system for combating of money laundering and the financing of terrorism (fundamentals of organization and holding of financial investigations, macroanalysis and typology studies);
- on supervisory activity in the sphere of combating money laundering and financing of terrorism;
- on responsibility for legal violations in the sphere of combating money laundering and financing of terrorism as well as current issues of information security and protection.

Leading experts of Rosfinmonitoring as well as instructors of the Moscow City Management University of the Government of Moscow and the Russian Academy of National Economy and State Service attached to the President of the Russian Federation spoke as lecturers.

Participants acquired a unique set of professional competencies including:

- holding of primary and in-depth financial investigation including organization and

performance of analysis, collection of data from a variety of sources and interpretation of data, strategic analysis;

- formulation of proposals and hypotheses including those based on incomplete data;
- preparing information on performance in the sphere of combating money laundering and financing of terrorism to be delivered to highest bodies of state authority;
- analysis and pooling of international cooperation experience, development of proposals to enhance the cooperation including comparative research in operations of financial intelligence units to be presented to international committees and expert groups;
- elaboration of proposals to improve AML/CFT legislation;
- management of personal development and professional activities.

Upon completion of the training, more than 50 employees of Rosfinmonitoring who succeeded in their tests and exams received certificates of completion of advanced training.

### *Dmitry N. Kalashnikov, 1<sup>st</sup> category specialist of the Department of Financial Investigations of the Inter-regional Department of Rosfinmonitoring in the Siberian Federal District*



One of the main prerequisites of efficiency of AML/CFT system is formation of the pool of personnel who possess abilities, skills and competent knowledge in special issues and lines of analytical activity and are capable of ensuring high quality of practical tasks accomplishment.

For this purpose, from November 13 to December 19, 2014, the International Training and Methodology Center for Financial Monitoring organized the training course on the program "Countering money laundering and

financing of terrorism" for employees of the Central Office and inter-regional departments of Rosfinmonitoring.

The training was meant for employees who have worked in Rosfinmonitoring for less than one year and thus lack practical knowledge. So, in the Inter-regional Department in the Siberian Federal District, three employees of the Department of Financial Investigations completed the training.

Worth mentioning is the training format of a video conference – theoretical material was supported with case studies, slides were used for illustration purposes, live discussion was held in the "question-answer" format, the course

provided a plenty of up-to-date information. This format allowed obtaining the best possible effect in a friendly manner.

I believe the training was very efficient since it allowed Rosfinmonitoring employees to systematize their AML/CFT knowledge and to acquire new knowledge and skills. Information on legislative issues, organization of our operations and international cooperation is especially useful in practice.

Certainly, the time assigned for training is not enough to cover all issues pertaining to activities of AML/CFT system and operations of Rosfinmonitoring. For this reason, in my view, the following relevant issues might receive greater attention in organization of further training courses:

- Mechanism of freezing, seizure and confiscation of criminal assets;

- predicate crimes in relation to money laundering including tax crimes;

- function of Rosfinmonitoring in execution of control over state defense contracts and strategic organizations;

- detection of attributes of bogus companies.

Surely, acquired knowledge will allow me and my colleagues to organize our work in a more effective way, to ensure higher quality of financial investigations, to secure wider practical application of knowledge acquired, and will contribute to further development of our potential.

In conclusion, I would like to thank the organizers and lecturers for such a useful training.

### *Olga P. Glyzina, leading expert for the Supervision and Enforcement Division of the Interregional Department in the Urals Federal District*



The government places increasingly higher requirements to professional qualification of civil servants, which is why advanced training in various forms is a prerequisite for efficient official activities of Rosfinmonitoring employees, and the training program elaborated by the ITMCFM contributed to attainment of this purpose a lot. The compact and easy-to-comprehend course comprises the optimum set of lectures that introduce participants to diversified activities of the Federal Financial Monitoring Service.

Rosfinmonitoring activities are multi-faceted, and every particular officer certainly does not encounter all of its aspects at his/her working place, in his/her day-to-day operations. However,

knowledge of all the aspects is necessary so that every employee could feel himself/herself a part of the integrated international system for combating money laundering and financing of terrorism.

The ITMCFM is uniquely positioned to generalize the national and international AML/CFT experience, which explains why its educational programs are in exceptional demand. I would like to receive further training in the ITMCFM next year. AML/CFT legislation is extremely dynamic in its development, which calls for qualified analysis of legislation for practical use. Being an officer of the Supervision and Enforcement Division, I would be interested in attending lectures concerning supervisory activities of Rosfinmonitoring, and analysis of judicial practice – both criminal and administrative.

*Alexey A. Samarin, Expert of the Division of International Experts  
of Rosfinmonitoring International Cooperation Department*



I rate the quality of training provided by the ITMCFM as high, and this program of advanced training is not only of critical importance to new employees, but is also very useful for experienced officers. The course of lectures promotes comprehension of operations of Rosfinmonitoring as a system, which helps in further activities that call for cooperation among administrations, departments and other organizations. Just as one cannot build a house without a foundation, one cannot get the work running without

fundamental knowledge of all lines of functioning of the Service. Materials provided during the lectures are prepared by experienced officers who possess expertise, which ensures high quality of information and lecturers' readiness to answer any question. The course was of great help to me personally. In virtue of my functions, I often communicate with other departments on many issues, and now that I completed the training, entering into some details of their work is much easier.

I would enjoy taking part in other programs offered by the ITMCFM and I believe they provide the same high quality.

# ***RUSSIA'S ENGAGEMENT WITH BRICS STRENGTHENS***

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*Irina V. Ivanova,*  
*Editor in Chief*

At the plenary meeting of the Financial Action Task Force on Money Laundering, held in Paris this February, Russia and BRICS signed their first AML/CFT document titled Memorandum of Understanding between a network Anti -Money Laundering and Counter Financing of Terrorism (AML/CFT) Institute and the Association of BRICS Business Schools (ABBS). This was the second such meeting organized by the FATF and an indication of Russia's continued policy toward strengthening engagement with other fellow BRICS members.

At the meeting, Russia was represented by Rosfinmonitoring Director Yu. A. Chikhanchin, Deputy Director V. I. Glotov, Head of International Cooperation Department A. G. Petrenko, ABBS President and Acting Provost of the State University

of Management (SUM) V. V. Godin, and Director of a Network AML/CFT Institute V. V. Ovchinnikov.

The meeting resulted in the adoption of several decisions concerning, among others:

- elaboration of the possibility to organize joint workshops of BRICS AML/CFT experts to share experiences of coordination and collaboration between the national ministries and agencies involved in AML/CFT;
- elaboration of the possibility to develop joint training programs for BRICS members with the involvement of educational institutions of Brazil, India, China and South Africa in the activities of the AML/CFT Network Institute;
- the organization of a joint workshop to share experiences in the preparation for a new round of mutual evaluations, especially for the national risk assessment.



The idea behind the establishment of the Association stems from the BRICS countries' desire to contribute to the worldwide development of business education. With their rising importance as the most active growth areas in the global

economy today, Brazil, Russia, India, China and South Africa also represent management education systems that are characterized by dynamic trends of development and significant potential to add to global learning.

## Reference

The BRICS Association of Business Schools was officially established on 31 January 2009 in Bangalore, India.

ABBS was conceived as an initiative to bring together business schools from the BRICS countries in a common forum for sharing experiences and pursuing cooperation and academic exchanges for common benefit. ABBS is headquartered at Xavier Institute of Management & Entrepreneurship (XIME), Bangalore, India.

Prof. J Philip, XIME provost, was elected first president of ABBS. Today, the post of ABBS

president is occupied by acting provost of the State University of Management (Russia) V. V. Godin.

With the support of Rosfinmonitoring, a Network AML/CFT Institute is consistently expanding international cooperation in the field of AML/CFT personnel training with educational institutions of countries acting as Russia's partners in the international AML/CFT system.

Rosfinmonitoring director Yu. A. Chikhanchin is the chairman of a Network AML/CFT Institute Board.



## ***Memorandum of Understanding between a network Anti-Money Laundering and Counter Financing of Terrorism Institute and the Association of BRICS Business Schools***

Paris, 2015

A network Anti-Money Laundering and Counter Financing of Terrorism Institute, of the one part, and the Association of BRICS Business Schools, of the other, hereinafter referred to as the «Parties,» with a view to developing and strengthening cooperation in the field of education and science, acting on the basis of mutual interest in establishing effective cooperation between the Parties, agree as follows:

### **Article 1**

The purpose of this Memorandum is to promote cooperation and collaboration between the Parties in the field of personnel training, research and strengthening educational ties.

### **Article 2**

The Parties shall support the development of integration processes in the field of education and science, as well as the establishment for these purposes of an information base and regulatory framework.

### **Article 3**

The Parties shall jointly organize academic and research conferences, symposia, workshops, round tables and other events.

### **Article 4**

The Parties shall share experience, information, educational programs, research findings, and teaching and methodological materials on issues of mutual interest, as well as establish joint working groups to address issues related to the implementation of this Memorandum.



### **Article 5**

The Parties shall work together to improve the quality of education and contribute to the advancement of science, afford each other advisory, methodological and other types of assistance necessary for the implementation of the Memorandum, as well as contribute to the establishment of direct contacts and cooperation between educational and scientific organizations of the Parties.

### **Article 6**

The Parties shall promote mutual exchange of trainees as well as research and teaching personnel of educational institutions/organizations of the Parties.

### **Article 7**

The working languages of the Parties during the implementation of this Memorandum shall be Russian, English and Chinese.

#### **Article 8**

This Memorandum shall not affect the rights and obligations of the Parties under other contracts and agreements to which they are parties.

#### **Article 9**

Any disputes between the Parties arising out of, or in connection with, this Memorandum shall be settled through consultations and negotiations.

#### **Article 10**

Any interaction between the Parties hereunder shall be based on the principals of equality, the rule of law, gratuitousness, reciprocal information sharing and mutual commitment to the effective implementation of the Memorandum.

This Memorandum shall enter into force upon its signature by the Parties.

This Memorandum is made in two copies having equal legal force, one for each of the Parties.

## THE JOURNAL GUEST

# MEMORANDUM BETWEEN A NETWORK INSTITUTE AND ABBS: PRESENT-DAY CONDITIONS AND FUTURE PROSPECTS

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*Konstantin V. Litvinov,*  
*Deputy Editor in Chief*

The Association of BRICS Business Schools (ABBS) was officially established on January 31, 2009 at a conference hosted by Xavier Institute, Bangalore, India, by a group of business schools and Russia's State University of Management. Its main objectives are:

- to establish a platform for dialogue, cooperation and exchange of experiences between business schools and centers of excellence, on the one hand, and enterprises operating in a fast-changing business environment, on the other hand;
- to enhance leadership of the educational institutions in order to encourage positive changes, strengthen global competitiveness and social responsibility, as well as to promote innovation and creativity, and respect for cultural values;
- to represent the interests of its members in other associations.



*Vladimir V. Godin*

Vladimir Godin, president of the Association of BRICS Business Schools and acting provost of the State University of Management (SUM, Russia), shared with the Financial Security journal his thoughts on the current and future challenges facing ABBS.

## Reference

BRICS is the acronym for an association of five major emerging national economies: Brazil, Russia, India, China and South Africa. The BRICS members are all developing or newly industrialized countries, but they are distinguished by their large, fast-growing economies and significant influence on regional and global affairs; all five are G-20.

The foreign ministers of the initial four BRIC states (Brazil, Russia, India, and China) met in New York City in September 2006, beginning a series of high-level meetings. A full-scale diplomatic meeting was held in Yekaterinburg, Russia, on 16 June 2008.

The BRICS countries are described as the fastest-growing major economies whose key economic advantage is underpinned by their access to the crucial for the global economic growth natural resources.

- Brazil is a major producer of agricultural products;

- Russia has abundant mineral resources;
- India boasts cheap intellectual resources;
- China has a powerful industrial base;
- South Africa is rich in natural resources.

Besides their rich resource base, the BRICS countries are also known for their large populations (43% of the world's population) and, consequently, cheap labor, which act as an obstacle to high rates of economic growth. It is predicted that the considerable size of these countries' economies will allow them in the future to transform economic growth into geopolitical influence.

**V. V. Godin:** *"The macroeconomic conditions for the existence of the Association are based on the need for certain countries to join forces to achieve a multiplier effect in the production of goods and services, promotion of education and other spheres of life. And in 2008, a group of like-minded people from the BRICS countries established ABBS as the basis for a common educational space to be used for academic and student exchanges, publication of a magazine, integration of modern communication technologies, etc."*

The main areas of ABBS activities are:

- organizing international student forums;
- development of student and academic staff exchange programs;
- joint projects;
- international scientific cooperation;
- publishing.

Student forums of the Association of BRICS Business Schools bring together students for participation in the following activities:

- discussion and presentation of projects;
- business play;
- contests and quizzes;
- competitive debates;
- musical and dance programs that reflect the diversity of the BRICS members' cultures.

**V. V. Godin:** *"Exactly forty years ago, the premises of our university, then known as the Moscow Engineering and Economic Institute, became home to the USSR's first business school."*

*O.V. Kozlova, the provost of the MEEI at the time, said that the country's future depended on the emergence of new business leaders, including executives and managers. Back then it sounded very revolutionary, as most people just could not fathom the idea that one can be trained to be a manager."*

*While today there is no shortage of universities offering management courses, in the mid-1970 O. Kozlova was very much alone in her pursuit to establish the first Soviet business school, and time has proven her right.*

*What is being done by Rosfinmonitoring today resembles that same revolution in education that took place forty years ago. In this sense, I understand and appreciate the idea of a network institute, the creation of which I am inclined to regard as a breakthrough in educational process, as it leads to the emergence of the common for many countries professional standards and educational programs that meet the needs of practical work.*

*While the second part of this process involves the promotion of financial literacy and culture in our countries. It is extremely important to train people in such a way as to ensure that compliance with all the requirements in this area, including in the field of anti-money laundering and terrorist financing, becomes second nature for them. In this respect, students of a Network Institute and BRICS business schools get a very clear idea about what and how they need to do things."*

The signing on the sidelines of the FATF Plenary in Paris of the Memorandum of Understanding between the Network Institute and ABBS, which was witnessed by the heads of BRICS delegations, has already become a notable event in the field of AML/CFT training.

Interest in this cooperation is being shown by our Eurasian partners. At the moment, we have already received a request from the Kyrgyz Republic, which



is especially nice given that the current President of Kyrgyzstan, Almazbek Atambaev, is a graduate of the State University of Management, one of the ABBS founders and a member of the Network Institute. In early March, the State University of Management was visited by a Kazakh delegation, which explored the potential for participation in the project of several Kazakh universities and inquired about the cooperation between the Association and the Network Institute.

**V. V. Godin:** *"In a nutshell, the essence of the Memorandum is this: the educational standard which is being established at the Network AML/CFT Institute will be communicated to all members of the Association of BRICS Business Schools. In fact, the Network Institute acts as a collective member of ABBS and its management are actively involved in all activities carried out by the Association".*



PRIVATE SECTOR

## GENERAL PROBLEMS LINKED TO RUSSIA'S BAD DEBTS

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**Andrey V. Reznikov,**

*Dean of the Faculty of Economics and Management of the non-commercial partnership for the development of education and science «Institute of Education and Science,» PhD, Associate Professor*

**Yekaterina V. Dovgaya,**

*a leading bids expert at Hewlett-Packard*



*Andrey V. Reznikov*



*Yekaterina V. Dovgaya*

The 2009-2014 credit market growth in Russia contributed to higher levels of bad debts, which are traditionally viewed as bank assets whose current market value is close to zero. To determine the amount of bad debts, market analysts use a metric defined as the level of bank customers' overdue debt. According to the Central Bank, the size of the country's bank loan portfolio rose to 36.4 trillion rubles in 2014.

Whereas, the total amount of overdue debt in the banking sector reached 2.0 trillion rubles, or 43% more than in 2013.

Based on the data published by the Central Bank, the amount of the Russian banks' overdue debt is growing faster than their credit portfolios. For example, the amount of Sberbank's bad debt increased last year by 18.5% (from 267 to 316.5bn

Fig. 1. Total loan debt (trillion rubles)

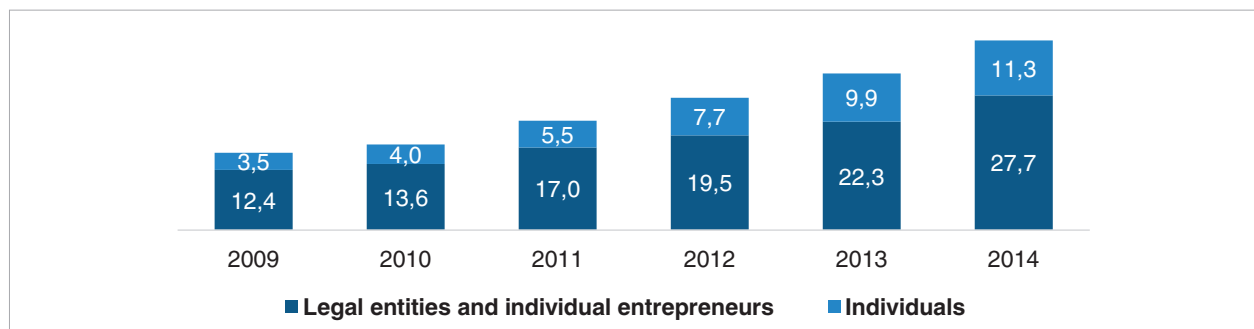
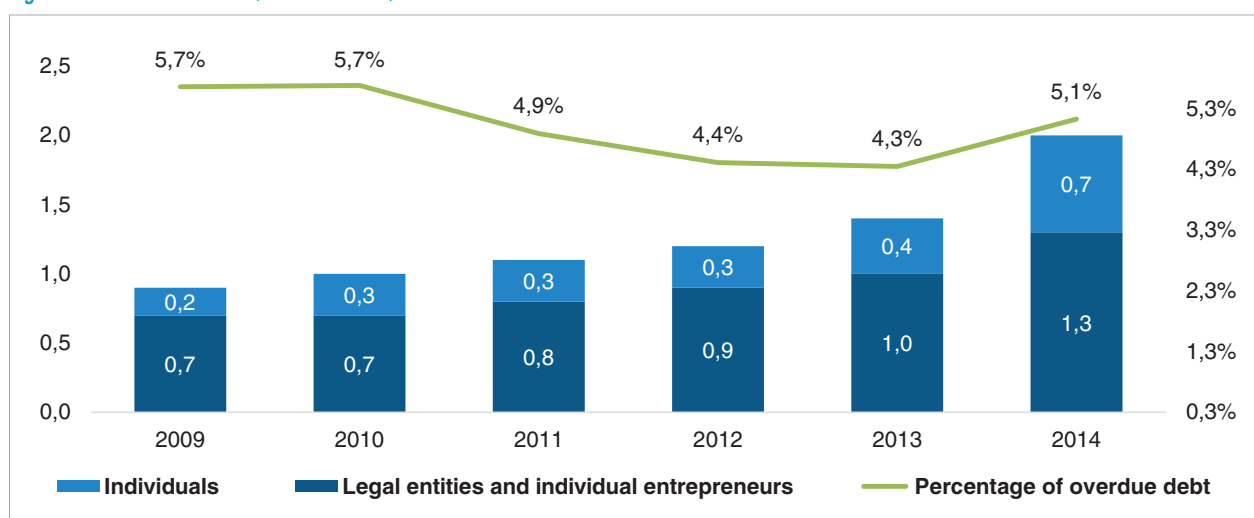


Fig. 2. Overdue loan debt (trillion rubles)



rubles), VTB's by 66% (from 99 to 165bn rubles, of which more than 50 billion in December 2014 alone), and its retail arm VTB24's by 79% (from 73 to 130 billion). At the same time, the banks' loan portfolio grew at half the pace of their overdue debt: by 32% at VTB and 21% at VTB 24. The growth of loan arrears registered by Russian Agricultural Bank was 48% (from 98 to 149bn rubles), with lending increasing by 13.5%.

There are some banks that saw the amount of overdue debt in their credit portfolio almost double in size in 2014. Thus, Alfa-Bank's loan arrears increased by 125% (from 37 to 83bn rubles) vs a 36.5% rise in loan portfolio; Gazprombank's by 90% (from 14.7 to 28bn rubles) vs 30%; and FC Otkritie by 91% (from 15.6 to almost 30bn rubles), although in this case the bank's credit portfolio increased even faster.

The situation looks better if we juxtapose the amount of the banks' bad debts with the entire size of their credit portfolio. In this case, Sberbank's share of

overdue debt is only 2%, VTB's 5%, Gazprombank's 0.9%, VTB24's 7.7%, and Alfa-Bank's 5.7%.

Over the past five years, the amount of overdue debt in Russia's banking sector averaged 4.0-5.5%. The main reason for this was the active use by banks of various debt instruments, such as debt outsourcing, assignment of claims to debt collection agencies and restructuring. Disposal of non-performing loans allows banks to clean their balance sheets of bad debts and boost liquidity levels with the help of recovered funds.

Experts of the Center for Macroeconomic Analysis and Short-Term Forecasting (CMAKP) expect the share of bad debts in the country's banking sector to increase to an average of 14-16.5% by mid-2015. This process, as explained at the Gaidar Forum by Mikhail Mamonov, cannot be influenced even by the Bank of Russia, the financial markets mega regulator. The pace of credit portfolio growth under one of the scenarios (if the Bank of Russia sticks

with its current policy of key interest rate hikes as a means of slowing down the ruble's decline against other currencies) will be close to zero already by the end of 2015, and will become negative (minus 5%) in Q1 2016.

#### *Leaders in terms of share of bad debt in credit portfolio*

Bank	Share of overdue debt in banks' credit portfolio
1. Svyaznoy Bank	34,0%
2. Uniastum Bank	17,8%
3. Renaissance Credit	17,1%
4. Russian Standard Bank	16,0%
5. TKS Bank	15,9%
6. MDM Bank	15,8%
7. Home Credit Bank	15,4%

The problem of bad debt growth, which primarily implies late payment or complete non-return of bank loans by individuals and legal entities, is currently central to the financial security of the economy. Any increase in the share of overdue loans in the portfolio leads to an increase in the volume of reserve capital set aside by banks to cover such loans. With a reduction in the actual level of capital adequacy, the need to increase the capitalization of banks becomes systematic. In this case, banks need help from the government, which has several tools to resist the build-up of arrears:

1. Strip the banks that have unsustainable levels of bad debts of their license. This option, however, is only useful when used against small banks, given that the likelihood of a chain reaction being triggered by the revocation of a license held by a mid-sized bank is significant, as the 2014 experience with Sodbiznesbank attests.
2. Recapitalization. This is the most capital-intensive and least effective method for providing government support. Its effectiveness will be higher though if recapitalization financing is only provided to banks that have already written off their bad loans, restructured most of their loan portfolio, set aside the necessary reserves and are capable of attracting private investors. After all, we all remember that a strong infusion of

capital into state-owned banks in late 2008 created macroeconomic problems, namely, the devaluation of the ruble.

3. Changes in the reporting procedures (e.g., a debt that is 6 months overdue is classified as a «good» asset). This path leads to a decrease in transparency of the banking system and increases risks.
4. Purchase of bad debts and other toxic assets on banks' balance sheets. This tool is widely used around the world. To make it work, Russia needs to create a «bad bank» or a similar institution for storing toxic debts.

A bad bank is a financial structure created to accumulate the assets of private banks the likelihood of which being returned is either zero or close to zero. A bad bank is a 100% state-owned entity whose mission is to accumulate «toxic» assets by purchasing them from banks and to carry out work aimed at recovering debts. The creation of a bad bank allows authorities to remove distressed assets from banks' balance sheet and release funds that in turn can be used to increase lending. The activities of bad banks are typically funded by the state through the issuance of government bonds or loans by the central bank, although the specter of such funding instruments may be much wider.

Bad banks first began to appear in 1988, when Grand Street National Bank was specifically created to house the bad energy- and real estate-related loans of the U.S.-based Mellon Bank. In addition, the U.S. government established Resolution Trust Corporation to help sell loans in support of bankrupt savings banks. The amount of toxic assets that were channeled into the newly established banks totaled approx. 8% of GDP.

Other successful examples of bad banks include the Swedish state company Securum, established during the 1990-1994 financial crisis for the purpose of taking on bad debt primarily linked to real estate from the state-owned Nordbanken bank; Korean Asset Management Corporation in South Korea; and State Savings Protection Fund in Mexico.

In January of this year, the Russian Government showed interest in creating a bad bank by incorporating some steps in this direction into its anti-crisis plan 2015-2016. The main purpose of the newly established financial entity will be to help maintain the stability of the country's banking

system and improve the real economy. According to Deputy Finance Minister Alexey Moiseev, the proposed measure is not aimed at boosting banking capital, but rather at solving the problems faced by businesses. It will not be a typical bad bank created solely for the purpose of capitalizing banks. It is already known that the new structure will buy distressed assets, including securities, from banks and backbone enterprises of the real sector, of which there are expected to be no more than 300. According to the Russian Minister of Economic Development, Alexey Ulyukayev, the new institution may be run using the same operating procedures as those employed by the Bank for Development and Foreign Economic Affairs.

The main strategic objectives of the new institution are:

- to reduce the debt burden of the real sector of the economy through partial restructuring, on the one hand, and recovery of some of the overdue debts, on the other;
- to prevent the bankruptcy of financial institutions representing the banking sector;
- to ensure the collection of account receivables held by consumers against the real sector of the economy;
- to reduce the cost of credit through a decrease in the level of credit risk;
- to increase the rate of capital turnover;

- to achieve an increase in business activity of economic entities.

That said the schemes for purchasing bad loans also have their pitfalls. The first problem concerns the pricing of bad assets. If the price is too low, there is a chance that further recapitalization will be needed in the future. If, on the other hand, the price is too high, it will result in excessive credit risks for the state, as well as encouraging irresponsible behavior among banks. To eliminate the «moral hazard,» the government must establish clear criteria for participating in the bailout program and provide motivation for resumption of business activity. The second problem pertains to banks' reluctance to provide financing to businesses whose debts they have disposed of.

And finally, the third most important problem is the absence of a proper legal framework and a high probability of duplication of functions with the Deposit Insurance Agency and the Bank for Development and Foreign Economic Affairs, both of which may significantly reduce the effectiveness of the new institution.

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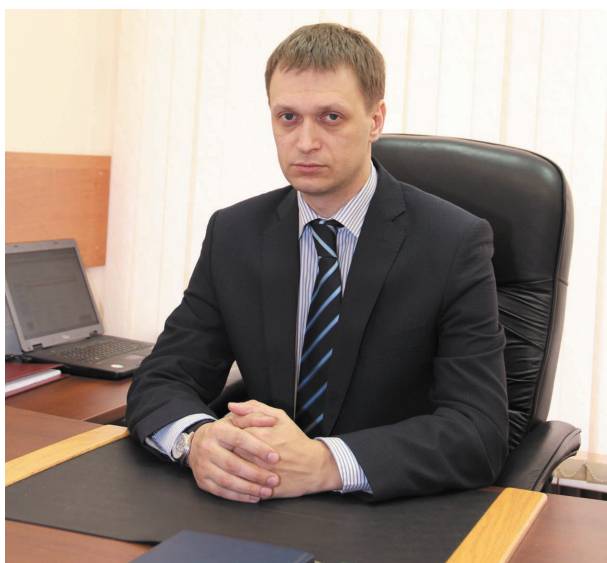
## DRUG TRAFFICKING

# COMBATING DRUG TRAFFICKING: REGIONAL EXPERIENCE

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*One of the key strategic objectives of Russia's national anti-drug policy, approved in 2010 by the Presidential Decree No 609, is to undermine the economic foundations of drug trade, primarily by combating the legalization of proceeds derived from drug trafficking*

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*Yevgeny S. Gileta*

Given the geographical position of the Siberian Federal District, sitting in the path of the north-eastern drug trafficking channel, which constitutes a separate artery of the so-called «northern route» used for smuggling Afghan opiates, consolidation of efforts of drug enforcement and financial intelligence agencies is key to successful combating of drug money laundering.

A joint meeting of the boards of the Federal Drug Control Service and Rosfinmonitoring was held in September 2013. One of the meeting outcomes was a decision requiring Rosfinmonitoring's SFD Directorate and the Council of Heads of Territorial Drug Control Authorities in the Siberian Federal District to set up an interdepartmental working group to coordinate joint efforts aimed at combating the laundering of



drug revenues. The working group is made up of representatives of all territorial bodies of the Federal Drug Control Service located in Siberia. The group's efforts are also supported by the Centre for Analysis of the North-Eastern Drug Trafficking Route.

The working group's activities cover the following areas:

- **Trainings.** Short monthly workshops dedicated to various topical issues are held for FDCS employees at Rosfinmonitoring's Inter-regional department in the SFD.
- **Methodological support.** During the working group meetings, participants discuss practical issues related to the use of the Agencies' various capabilities for combating the laundering of drug revenues. Among the contributors to this work are various research institutions, including the Siberian Law Institute of Russian Federal Drug Control Service and the Northwest Institute for Advanced Studies of the Russian Federal Drug Control Service.
- **Analysis of enforcement practice,** typological characteristics of money laundering transactions, regional specifics of legitimate business sectors and the risks of their use for money laundering purposes.
- **Preparation of proposals aimed at strengthening cooperation for consideration by the Chairman of the Council of Heads of Territorial Drug Control Authorities.**

Although the group has been conducting its activities for less than a year and it is therefore still too early to talk about any concrete results, the usefulness of the meetings held by it is already evident. Various joint anti-drug revenue laundering techniques that have been tried and tested in some regions are being replicated in other territories, a method that ensures a consistent approach to the issue of qualification of crimes.

A close scrutiny of drug trade-related transactions points at a pyramid structure, where revenue from the sale of single doses is accumulated at the bottom of the pyramid prior to being transferred to bank and e-wallet accounts of higher-rank dealers. Then, with the help of numerous transactions, the funds are laundered and used to purchase expensive cars and real estate property, or placed on deposit accounts.

Using its knowledge of the drug money laundering schemes, the group closely examined the mechanism for the confiscation of legalized drug revenues, which was incorporated in the Criminal Code of the Russian Federation in June 2013 by the Federal Law No. 134-FZ, and developed a methodology for carrying out such confiscations.

As a result of a joint financial investigation, the Soviet District Court of Tomsk ordered the confiscation of monetary assets and a high-value vehicle owned by Mr. M, who was convicted for multiple offenses covered by Articles 228.1 and 174.1 of the Criminal Code.

It was one of the first court rulings in Russia authorizing the confiscation of legalized drug revenues.

TRENDS

## IMPLEMENTATION OF «IN REM» CONFISCATION IN THE RUSSIAN LEGISLATION

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In recent years, potential implementation of non-conviction based confiscation, the so-called «in rem» confiscation, in the legal system of the Russian Federation has come to the top of the agenda. In brief, there are generally two types of confiscation used internationally: criminal asset confiscation, confiscation «in personam» (against person), and non-conviction based asset confiscation, confiscation «in rem» (against thing). Both types of confiscation have their own distinctive features and specificities.

«In personam» confiscation is part of a punishment imposed on a convict in course of a criminal proceeding. Such confiscation is used when there are no doubts that a particular person is guilty of committing a crime and is the element of criminal prosecution.

«In rem» confiscation is often used irrespective of whether or not a criminal proceeding is instituted for committing an offence against property, although, assets are forfeited on the grounds of a probable criminal conduct. Unlike «in personam» confiscation, «in rem» confiscation is an action not against a particular individual, but against the asset itself and is implemented as part of the civil rather than criminal process.

Incorporation of both criminal and «in rem» confiscation into the legal system allows for achieving a number of socially desirable objectives. In particular, it makes it possible to forfeit assets of third parties who are not charged with committing a criminal offence and where there is no direct evidence indicating the criminal origin of assets. Such third parties include individuals who own significant assets and have family or other ties with an offender and are not able to reasonably explain the origin of such assets.

It also allows for forfeiting assets in a situation where a criminal prosecution is discontinued (e.g. due to death of a suspect (defendant) or because his/ her actions do not constitute a crime), but significant assets of potentially criminal origin are identified.

«In rem» confiscation helps law enforcement agencies to restore social justice and maintain the rule of law, enhances the capability of the state to prosecute criminals by use of adversary proceedings and, therefore, reduces the scope of abuse of power by those who wish to make their assets look like legitimate ones.

Listed below are the main supranational instruments that recommend countries to implement «in rem» confiscation in their national legislation.

The UN Convention against Corruption of 2003 (UNCAC) “softly” recommends countries to confiscate property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence (Article 54(1)(c)).

Pursuant to FATF Recommendation 3 countries should consider adopting measures that allow confiscation of proceeds of ML, FT and predicate offences without requiring a criminal conviction.

Since in practice «in rem» confiscation is impossible without the requirement to prove the legitimate origin of funds, the international instruments recommend countries to establish in the national legislation the requirement according to which an offender is obliged to prove the legitimate origin of allegedly

criminal proceeds, to the extent that such requirement is consistent with the fundamental principles of their domestic legislation and with the nature of a court or other legal proceeding.

An option to shift the burden of proof to a person who holds allegedly criminal assets is set out in FATF Recommendation 3 and also in Article 31 (8) of the UNCAC, Article 12 (7) of the UN Convention against Transnational Organized Crime, Article 5 (7) of the UN Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances of 1988 and Article 3 (4) of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and on the Financing of Terrorism – the Warsaw Convention (the latter is not ratified by Russia).

The experts often argue that non-conviction based (NCB) confiscation cannot be implemented in the Russian legal system since Article 49 (2) of the RF Constitution prohibits shifting the burden of proof. However, a literal interpretation of the said prohibition allows for making a conclusion that it is applicable only in case of a criminal proceeding. Since the NCB confiscation is regulated by the civil legislation, the presumption of guilt set out in Article 401 (2) of the RF Civil Code is applied in case of «in rem» asset forfeiture.

Another argument against implementation of «in rem» confiscation is that by its nature NCB confiscation is inconsistent with the legal system of a country.

In fact, the concept of NCB confiscation initially emerged in the common law countries and was premised on the notion that a “thing” offends the law, and became common in maritime law so that vessel, not the captain or crew, could be sued. However, later on, the «in rem» confiscation concept was adopted by the civil law countries (such as Liechtenstein, Switzerland and Thailand).

According to Theodore S. Greenberg non-conviction based forfeiture is a tool for all jurisdictions to consider the fight against corruption, a tool that transcends the differences between systems<sup>1</sup>.

Presented below is a detailed analysis of the Russian legislation that governs the asset confiscation issues.

According to the RF Civil Code (Article 235 (6) (2)) confiscation is one of the grounds for cessation of ownership. Article 243 stipulates that, in the situations specified by the law, an owner may be deprived of his/ her property without compensation by a court ruling as a sanction for committing a criminal or other offence.

<sup>1</sup> Stole Asset Recovery: A Good Practices Guide for Non-Conviction Based Asset Recovery/ Theodore Greenberg, Linda Samuel, Wingate Grant, Larissa Gray; translation by – M – Alpina Publishers, 2010, p.38.

Confiscation, as a sanction against an offender, is also provided for in the RF Criminal Code (Article 104.1) and the RF Code of Administrative Offences (Article 3.7).

So, the “confiscation” concept, as it is defined in the Russian legislation, is covered only by the aforementioned provisions. However, apart from confiscation, Article 235 of the RF Civil Code also sets out other grounds for cessation of ownership. Of primary interest are those grounds that could be used for «in rem» asset confiscation as it is defined in the international tools.

First of all, worth mentioning is probably intentional inconsistency in definition of NCB confiscation in different international instruments. According to Article 2 of the UNCAC confiscation means the permanent deprivation of property by order of a court or other competent authority. The UN Conventions against Transnational Organized Crime and against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances define confiscation in a similar way. As one can see this definition does not specify the grounds for deprivation of the owner's property; possible guilt of a person who holds assets that are liable to confiscation; process in which a confiscation-related case should be heard; and other specificities that could distinguish between possible types of confiscation.

On the other hand, the Warsaw Convention and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and on the Financing of Terrorism define confiscation in a different way. Confiscation is defined in these Conventions as a penalty or measure ordered by a court following proceedings in relation to a criminal offence or criminal offences resulting in the final deprivation of property (Article 1 of both Conventions).

«In rem» confiscation is mentioned in the Warsaw Convention in the context of possible cooperation between countries. In particular, according to Article 23 (5) of the Convention the Parties shall co operate to the widest extent possible under their domestic law with those Parties which request the execution of measures equivalent to confiscation leading to the deprivation of property, which are not criminal sanctions, in so far as such measures are ordered by a judicial authority of the requesting Party in relation to a criminal offence (provided that it has been established that the property constitutes proceeds of crime).

Therefore, the existence of the grounds for deprivation, by an order of a court or other competent authority, of property that hypothetically (which is



unproven, but highly probable) has the criminal origin forms the basis for determining whether or not «in rem» confiscation is incorporated in the legal system of a country. Furthermore, the term “confiscation” may not be used in relation to such deprivation of assets.

Now, let's come back to Article 235 of the RF Civil Code which sets out the grounds for cessation of ownership. According to Clauses 2(8) and 2(9) of this Article subject to appropriation for the benefit of the Russian Federation is property if no evidence showing that it has been acquired using the legitimate income is presented (as required by the RF anti-corruption legislation) and also valuables other assets and earnings therefrom if their owners fail to prove that they have been acquired in a legitimate manner (as required by the RF anti-terrorism legislation).

As one can see, these two grounds do not refer to confiscation, as this concept is defined in the Russian legal system, but still lay the foundation for NCB confiscation in the context of the requirements set forth in the aforementioned international instruments.

The provisions of Article 235 (2) (8) of the RF Civil Code are further implemented in Article 17 of Federal Law No.230-FZ of 03.12.2012 on Control over Consistency of Expenditures of Persons Holding Government Offices and other Individuals to their Income according to which, upon receipt of information indicating that expenditures of the reporting persons and their relatives (listed in the Law) are inconsistent with their income, the RF General Prosecutor or prosecutors subordinated to him shall apply, in a manner established by the civil procedure legislation, to a court for appropriation for the benefit of the state of land plots, other real estate property, transport vehicles, securities and shares of (interest in

authorized capital) of companies in respect of which the reporting person failed to present evidence of their legitimate acquisition.

It should be noted that control over expenditures is exercised in respect of the limited number of persons listed in Article 2 of Federal Law No.230-FZ. It is also clear that not all assets may be appropriated to the benefit of the state. For example, funds on bank accounts are not included in the list of assets subject to appropriation (deprivation).

This provision is completely unrelated to the criminal legislation, i.e. property may be appropriated irrespective of whether or not a criminal offence has been actually committed. In other words, it is presumed a priori that excess profit is illegal.

Another provision that allows for «in rem» confiscation is set forth in Article 235 (2) (9) of the Russian Civil Code and is further implemented in Article 18 (1.2) of Federal Law No.35-FZ of 06.03.2006 on Combating Terrorism according to which the federal authorities engaged in combating terrorism and empowered to conduct detective operations are authorized to demand family members, relatives and close associates of a person who has committed a terrorist act to provide information confirming the legitimate origin of funds, valuables, other assets and earnings therefrom.

If no reliable evidence of legitimate origin of funds, valuables, other assets and earnings therefrom is produced, the relevant records are filed with the RF prosecutorial authorities, after which assets in question are appropriated (forfeited) via the civil route similar to that described above (Article 17 of Federal Law No.230-FZ).

The powers to collect information on legitimate origin of assets of persons who have committed a terrorist act, their family members and close associates are mirrored in Federal Law No.144-FZ of 12.08.1995 on Detective Activities.

Such grounds for identification and appropriation (forfeiture) of assets were established by the legislators with consideration for high danger of these crimes for the public and potential use of offender's assets for preparing and committing repeated terrorist attacks. Similar practice exists in Israel. For example, clause 119 of the Defense (Emergency) Regulations provides for possible demolition of houses of terrorists<sup>2</sup>.

Now, let's consider the scope of application of NCD confiscation set out in the supranational instruments

and possible improvement of the Russian legislation in this respect.

Speaking about shortcomings in the use of «in rem» confiscation domestically, it should be noted that assets of terrorists are liable to appropriation (forfeiture) only if a criminal offence is actually committed. At the same time, no direct relation between assets and a particular crime is provided for in Article 17 of Federal Law No.230-FZ, it is just assumed that such assets are obtained in illegal manner. The scope of application of «in rem» confiscation set out in the UNCAC is limited by the criminal offences listed in this Convention which are covered by Articles 160, 174, 174.1, 201-204, 285, 286, 290-291.1 of the RF Criminal Code.

In our opinion, when compiling the list of offences conviction for which may launch the process of identifying the relevant assets and their appropriation to the benefit of the state using the civil procedure, the extent of threat posed by such offences and their profitability should be taken into account. Besides that, «in rem» confiscation should not apply to assets returned to their legitimate owners in compliance with Article 81 (3) (4) of the RF Criminal Procedure Code and also to assets that are liable to confiscation under Article 1041 of the RF Criminal Procedure Code. Apart from terrorist acts and the aforementioned corruption-related crimes, such offences should also include sale of narcotic drugs, psychotropic and similar substances and their precursors and also plants containing drug or psychotropic substances (Articles 228.1 and 228.4 of the RF Criminal Code), human trafficking (Article 127.1 of the RF Criminal Code), use of slave labor (Article 127.2 of the RF Criminal Code) and other highly profitable criminal offences punishable under the RF Criminal Code that generate illegal assets.

We believe that such offences should be listed in the Federal Law on Detective Activities, along with the terrorist act.

Pursuant to Article 54 (1) (c) of the UNCAC discontinuation of prosecution due to death of a suspect or defendant (Article 24 (1) (4) of the RF Criminal Procedure Code) charged with committing of a crime included in the proposed list may also constitute the grounds for identifying tainted assets and applying to court for «in rem» confiscation.

These, in our opinion, are the prospects of implementation of non-conviction based confiscation in Russia.

<sup>2</sup> URL: [http://www.nevo.co.il/Law\\_word/law01/999\\_194.doc](http://www.nevo.co.il/Law_word/law01/999_194.doc) (accessed on 04.02.2015).



# INTERNATIONAL STANDARDS AND REQUIREMENTS FOR CAPITAL AMNESTY PROGRAMS

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In view of a large number of voluntary tax compliance (VTC) programs implemented by many countries across the globe (Australia, Albania, Argentina, Bangladesh, Belgium,

Hungary, Spain, Italy, Kazakhstan, Kyrgyzstan, Malta, Pakistan, Turkey, France) and potentially high risk of abuse of such programs for money laundering purpose, the FATF, being the global standard setter on combating money laundering and the financing of terrorism (AML/CFT), adopted the procedures for managing AML/CFT policy implications of VTC programs (hereinafter the Procedures) in 2012, which were further revised in June 2014.

In general, the international requirements for capital amnesty may be divided into the procedures related to implementation of VTC programs and the best practices of managing AML/CFT policy implications of VTC programs.

## **VTC Program Implementation Procedures**

Recognizing the potential for voluntary tax compliance programs (VTC) to be abused for the purpose of moving funds, particularly where the program fully

or partially incorporates elements of tax amnesty or asset repatriation, the FATF deems it necessary to take prompt action to ensure that the program is not negatively impacting:

- a) Technical compliance with the FATF Recommendations (for example if the program explicitly exempts full or partial application of AML/CFT measures);
- b) The effectiveness (for example, if excessively large volumes of transactions related to the program overwhelm the capacity of financial institutions, DNFBPs, FIUs or other competent authorities to apply AML/CFT measures effectively);
- c) and/or ML/TF risks across the global network (for example, if the operation of a VTC program is impeding the effective implementation of AML/CFT measures).

The key element of these Procedures is that countries implementing or considering the implementation of a VTC program should cooperate with the FATF Secretariat throughout the entire process.

According to the FATF Procedures countries should *use the best practices related to management of AML/CFT policy implications of VTC programs. This document set out the principles that are based on the international best practices of implementation of VTC programs and shall not be breached. Countries that do not comply with these principles could be considered for placement in the ICRG follow-up process.*

### Best Practices of Managing AML/CFT Policy Implications of VTC Programs

Compliance by countries with the principles will allow them to maintain effectiveness of their AML/CFT systems. Where a country introduces a VTC program, such program is reviewed by the FATF Secretariat for compliance with four principles.

### Principle 1: Effective application of AML/CFT preventive measures

The effective application of AML/CFT preventative measures is a prerequisite for addressing and mitigating the money laundering and terrorist financing risks associated with implementing any type of voluntary tax compliance program.

Listed below are the elements which countries should incorporate into their VTC programs to ensure that they do not pose an unreasonable ML/FT risk or seriously undermine the effectiveness of the AML/CFT regime:

- a) Taxpayers should be required to deposit repatriated assets with financial institutions that are subject to AML/CFT measures;
- b) The application of the program should take into account the ML/FT risks of funds or other assets repatriated from countries that do not adequately apply the FATF Recommendations;
- c) The authorities should raise awareness among financial institutions on the potential for abuse and the ML/FT risks inherent in the VTC programs;
- d) The authorities should raise awareness among financial institutions that any documents or statements issued by the competent authorities in relation to the VTC programs are not official endorsements that the assets involved are of legitimate origin.

### Principle 2: Prohibition of exempting AML/CFT requirements

The FATF Recommendations do not allow for full or partial exemptions from AML/CFT requirements in the context of implementing voluntary tax compliance programs. Therefore, when implementing a voluntary tax compliance programme, national authorities should ensure that its terms do not allow, in law or in practice, for full or partial exemptions from AML/CFT requirements. Voluntary tax compliance programs which do so are in breach of the FATF Recommendations<sup>1</sup>.

<sup>1</sup> A VTC program does not breach Principle 2 if the taxpayer is exempted from prosecution for previously not reporting (or incorrectly reporting) taxable income, funds or other assets, and for money laundering, insofar as it exclusively relates to the proceeds of this incorrect or non-reporting of taxable income, funds or other assets, provided that:

- The funds or other assets are of lawful origin;
- There are no exemptions from undertaking AML/CFT requirements (including CDD and reasonable measures, where necessary, to establish the origin of the funds or other assets);
- In cases where the taxpayer's funds or other assets originate from other predicate offence(s), the taxpayer is subject to prosecution for these other predicate offence(s) and related money laundering.

This means ensuring that the VTC programs are consistent with the following AML/CFT requirements, as relevant:

- a) Financial institutions are required to conduct CDD on taxpayers who are transferring, repatriating or depositing assets under the program, as appropriate, based on an assessment of the applicable risks;
- b) Financial institutions are required to identify the beneficial owners of the accounts into which the assets are being transferred, repatriated or deposited under the program.
- c) Financial institutions should, where necessary, take reasonable measures to establish the origin of the assets being transferred, repatriated or deposited, in accordance with applicable CDD requirements.
- d) Financial institutions are prohibited from accepting deposits under the program by way of wire transfers that are not accompanied by required originator and beneficiary information.
- e) The authorities should advise financial institutions that AML/CFT measures are applied to the program, and financial institutions are not exempted from reporting suspicious transactions to the financial intelligence unit (FIU), particularly in relation to: (i) declared/repatriated funds or other assets that are thought to have resulted exclusively from tax offences which are not punishable under the program, and (ii) taxpayers who are reluctant or uncooperative in disclosing information concerning customer identification or the source of the funds or other assets being repatriated under the program. Consideration should be given to require the systematic reporting to the FIU of all repatriated funds or other assets or by making such information directly available to the FIU in some other way.
- f) Taxpayers are not exempt, by law or in practice, from investigation or prosecution for ML/FT in relation to repatriated funds or other assets.

### **Principle 3: Domestic coordination and cooperation**

A VTC program may impact on a number of authorities at the domestic level, including the tax authorities, the FIU, law enforcement, supervisory authorities, prosecutorial authorities and customs authorities. Consequently, it is important to ensure that all relevant domestic authorities are able to coordinate and cooperate, as appropriate, with a view to detecting, investigating and prosecuting any ML/FT abuse of the program. The following best practices should be taken into account for meeting this objective:

- a) Mechanisms should be in place to enable the relevant authorities to coordinate, cooperate and share information, as appropriate, in preparation for the program's implementation, throughout its duration, and after its expiration;
- b) The tax authorities should have the authority to conduct their own investigations into the origin of assets subject to the program, or should be able to refer such investigations to other appropriate authorities who are authorized to conduct such investigations, in accordance with the role of the tax authorities and the terms of the VTC program;
- c) A mechanism should be in place which enable information related to the program (e.g. on taxpayers and/or declared/repatriated funds or other assets) to be shared between competent authorities that hold such information and the FIU;
- d) The authorities involved in the program should be adequately resourced to manage their roles in the program, in addition to their normal functions.

### **Principle 4: International cooperation**

VTC programs involving asset repatriation, by their nature, impact more than one country. In some circumstances, this may increase the potential ML/FT risks. The following best practices ensure that, where more than one country is impacted by a VTC program, the authorities can provide the widest possible range of mutual legal assistance and exchange of information to mitigate these risks and ensure that any related ML/FT activity is effectively investigated and prosecuted:

- a) The authorities of countries from which funds or other assets are likely to be repatriated should provide the widest degree of cooperation to the authorities implementing the VTC program;
- b) Mechanisms, such as bilateral and multilateral treaties and other international arrangements, should be in place to enable the country implementing the VTC program to proactively share information and cooperate with the authorities of countries from which funds or other assets are being repatriated and other affected countries;
- c) The repatriation of funds or other assets from countries that do not adequately apply the FATF Recommendations should be subject to enhanced due diligence and scrutiny.

Given the above, it can be stated that the FATF does not prohibit capital amnesty, but requires countries to comply with the FATF procedures and principles. Where a country adequately coordinates and cooperates with the FATF under its tax amnesty initiative, the risk of negative scenario may be ruled out.

## FINANCIAL INTELLIGENCE UNITS OF THE EAG STATES

# FINANCIAL INTELLIGENCE UNIT OF THE REPUBLIC OF UZBEKISTAN

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In August 2004, the Republic of Uzbekistan adopted the Law on Combating Laundering of Criminal Proceeds and Financing of Terrorism that came into force on January 1, 2006.

This AML/CFT Law established the legislative framework for building the national AML/CFT system and for setting up the designated AML/CFT authority.

Pursuant to the RU President Decree on Measures for Strengthening the Fight against Financial,

Economic and Tax Crimes and Money Laundering of April 21, 2006 the Department on Combating Fiscal and Foreign Currency Crimes and Money Laundering under the General Prosecutor's Office of Uzbekistan (hereinafter the Department) was designated as the national AML/CFT authority.

It should be noted that the Department is also the independent law enforcement agency in charge of combating economic crimes and is empowered to conduct detective operations and interrogations.





Thus, the Department is the financial intelligence unit (FIU) of a hybrid type since it is established under the prosecutorial authorities, but at the same time has the powers similar to those vested in the law enforcement agencies.

The FIU model adopted by Uzbekistan makes it possible to integrate the financial analysis, detective and interrogation units under one umbrella, which enables the Department to perform the complete cycle of the work starting from receipt of STRs through institution of criminal proceedings. Such organizational structure also resolves the common problem related to lack of feedback from the law enforcement agencies on the use of information disseminated by the FIU.

The main AML/CFT objectives of the Department include:

- Monitoring, as required by the law, transactions with funds or other assets;
- Coordinating the activities carried out by entities engaged in transactions with funds or other assets and by the authorities involved in the AML/CFT efforts;
- Arranging for and conducting review and analysis of reports filed by credit and other financial institutions on transactions with funds or other assets carried out by legal and natural persons to detect their possible involvement in money laundering and financing of extremism (terrorism);
- Analyzing ways and methods used for laundering criminal proceeds and rendering financial and other support to terrorist

organizations, as well as data and information on natural and legal persons known to be linked to terrorist activities;

- Monitoring compliance by legal entities and individuals with the AML/CFT legislation;
- Cooperating and exchanging information in the AML/CFT area with competent authorities of foreign countries pursuant to the international agreements and treaties signed by Uzbekistan.

Acting in compliance with its mandate, the Department contributed to the development of the national AML/CFT legislative and institutional framework.

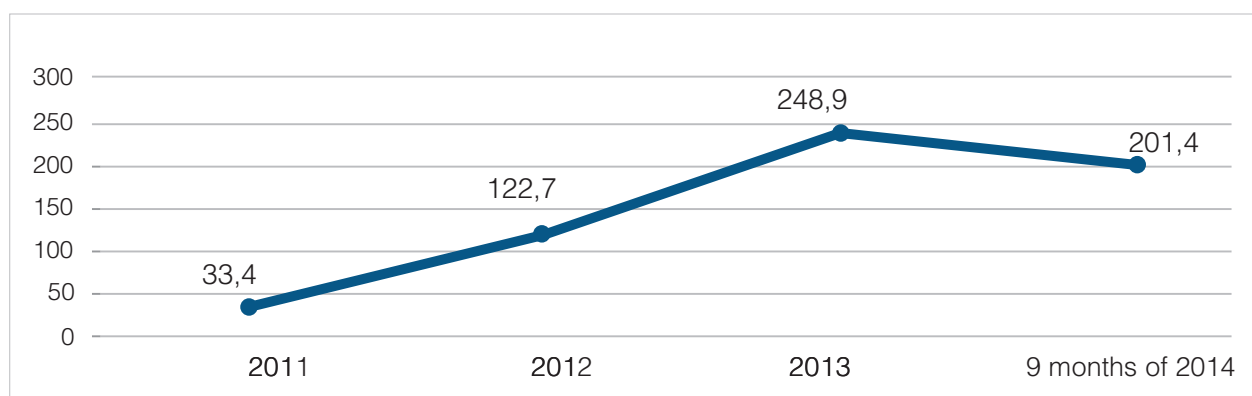
For further strengthening and enhancing the national AML/CFT system of Uzbekistan the provisions of the basic AML/CFT Law were profoundly revised in 2009. The introduced amendments vested additional powers in the Department to access information, develop and adopt, jointly with the supervisory, oversight and licensing authorities, the internal control rules and directly cooperate with foreign competent authorities.

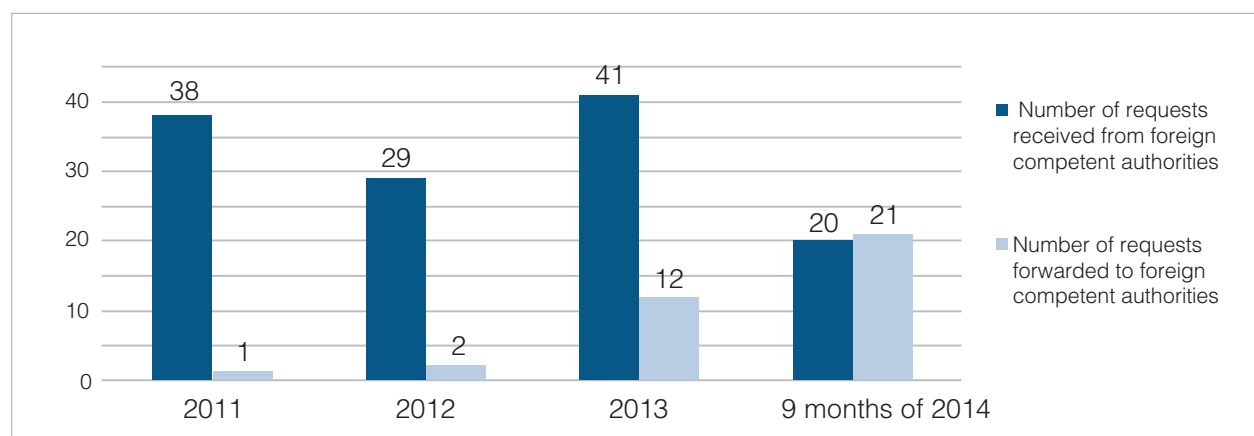
The Department has adopted, jointly with the relevant ministries and agencies, 12 internal control rules for various types of entities engaged in financial transactions with funds or other assets and monitors compliance with these rules.

Besides that, the new procedure of filing reports with the Department was adopted by the Government resolution of October 12, 2009.

These measures resulted in significant extension of the Department's database and in growth of number of STRs filed by financial institutions and DNFBP.

*Diagram 1: Number of received STRs (thousand)*



*Diagram 2: Information exchange between the Department and foreign competent authorities*

Along with improvement of the regulatory framework, the Department also took steps for extending international cooperation and establishing channels for direct coordination and information exchange with foreign FIUs.

In 2011-2014, the Department executed 128 requests received from foreign law enforcement agencies and financial intelligence units. During the same period of time, in course of monitoring transactions with funds or other assets and conducting financial investigations, the Department sent 36 requests to foreign competent authorities.

The Department ensures engagement of the Republic of Uzbekistan with the Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG), which is one of the key aspects of its international cooperation.

The Department's representative actively participate in the plenary meetings, meetings of the working groups, mutual evaluations and other events held under the auspices of the EAG.

At the 14<sup>th</sup> EAG plenary meeting held in June 2011 in Moscow (Russia), the Agreement on the EAG was signed pursuant to which the EAG officially became the international organization.

The Agreement on the EAG was ratified by Law No.ZRU-307 of December 13, 2011, and pursuant to Resolution No.16 adopted by the Government of Uzbekistan on January 23, 2013 the Department was designated as the competent authority responsible for implementation of this Agreement.

In 2011-2014, the Department significantly extended the scope of cooperation and information exchange with foreign competent authorities.

In July 2011, the Department, being the FIU of Uzbekistan, was granted membership in the Egmont

Group. The fact that the Department obtained membership in this organization within a relatively short period of time demonstrated high level of compliance by the Uzbek FIU with the FATF requirements and Egmont standards.

Currently, the Department coordinates and cooperates with over 30 foreign FIUs.

Besides that, the legislative framework of cooperation was strengthened by signing memorandum of understanding and information exchange agreements with the FIUs of Belarus, India, Kyrgyzstan, Russia and Turkmenistan. It is planned to sign similar documents with the financial units of China, Cyprus, Poland, Indonesia, Kazakhstan and UAE.

In August 2014, the Department signed a Memorandum of Understanding (MoU) with the US DOJ Drug Enforcement Administration for further improvement of international inter-agency cooperation in the fight against laundering of drug trafficking proceeds. This MoU also provides broad opportunities for exchanging information with other US AML/CFT authorities, in particular with FinCEN and Office of Foreign Assets Control of the US Department of Treasury.

Following adoption of the revised FATF Recommendations in 2012, it was necessary to upgrade the mechanisms of coordination of domestic inter-agency cooperation for enhancing effectiveness of the national AML/CFT system.

In this context, pursuant to the instruction of the President of the Republic of Uzbekistan the Uzbek government adopted resolution on May 7, 2012 on establishment of the Inter-Agency Working Committee for studying and implementing the revised FATF Recommendations. This Committee consists of the heads of 15 ministries and agencies.

Establishment of this Committee was not just important step for further improvement and enhancement of the national AML/CFT system, but also demonstrated high-level political commitment of the country leadership to fight against transnational organized crime, corruption and terrorism.

The Committee established the expert group consisting of the most highly skilled and experienced officers of various government agencies. The group is actively involved in drafting regulations for implementing the requirements of the revised FATF Recommendations and eliminating deficiencies in the AML/CFT system revealed in course of mutual evaluation.

The efforts undertaken by the Committee resulted in adoption of a number of regulations that ensured implementation by financial institutions of the risk-based approach, enhancement of CDD procedures and improvement of supervision over compliance with the AML/CFT legislation.

At present, the Committee is focused, among other things, on arrangement for the national ML/FT risk assessment and on development of the concept and methodology of this assessment.

The Department pursues an extensive outreach campaign for raising awareness on requirements of the international standards and provides professional development training for AML/CFT officers and employees of the government agencies and private sector.

In particular, the Department held, jointly with the International Training and Methodology Center

for Financial Monitoring (ITMCFM) and OSCE, the international workshop devoted to the revised FATF Recommendations in March 2013 in Tashkent city. The workshop was attended by the representatives of the EAG member states and became the first event of this kind held within the EAG framework.

Being considered and discussed at the workshop were the new requirements of the FATF Recommendations, including application of a risk-based approach, inclusion of tax crimes into the predicate offences, improvement of financial monitoring mechanisms for combating corruption, enhancement of transparency of beneficial ownership and strengthening inter-agency coordination and international cooperation.

On September 22-23, 2014, the Department hosted the workshop on national risk assessment in Tashkent city.

The attendees shared the best practices related to conducting national risk assessment, applying risk-based approach and implementing international AML/CFT standards.

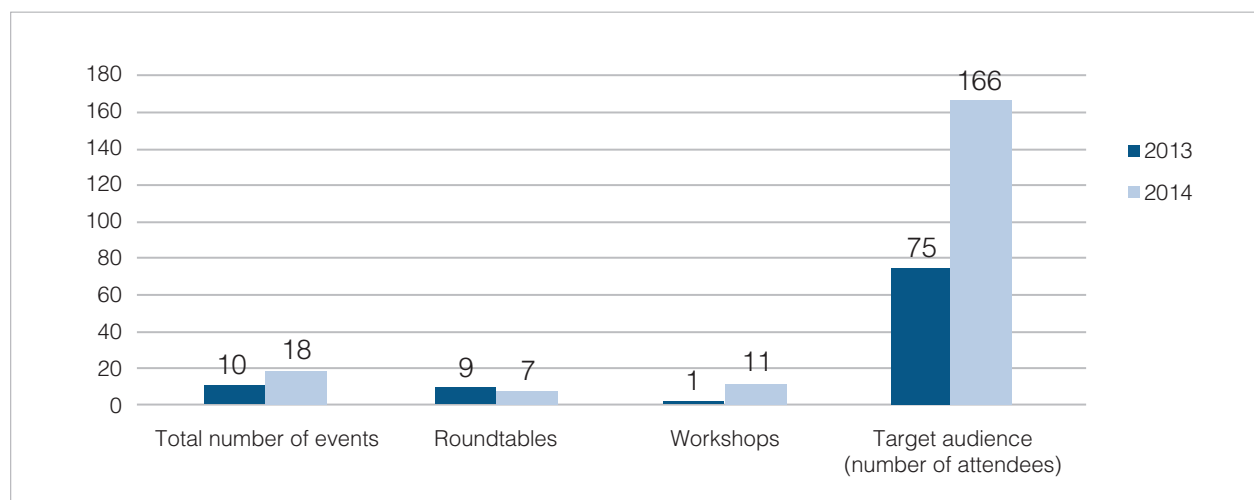
In June 2013, the Department was connected to the EAG video conferencing system (VCS), which enabled it to more actively use the modern IT technologies for professional development training purposes.

Since the connection to the VCS, over 200 representatives of Uzbekistan took part in 29 events.

Thus, the Department, being the key element of the national AML/CFT system of Uzbekistan, ensures effective operation of the system and its



Diagram 3: Participation of Uzbek representatives in the EAG events through video conferencing



compliance with the international standards and also is actively engaged in extensive international cooperation.

In summary, it should be noted that the effectiveness of the AML/CFT system of Uzbekistan is recognized by the leading international organizations. In particular, such reputable organization as Basel Institute of

Governance placed Uzbekistan, along with Italy, Spain, Canada, South Korea and USA, in the lowest ML risk category.

All the above demonstrates the achievements of the Republic of Uzbekistan in strengthening the AML/CFT system and high-level political commitment to combat money laundering and financing of terrorism.

## VIDEOCONFERENCING

# ***RISKS OF SECURITIES MARKET PARTICIPANTS, TYPOLOGIES AND LEGAL ASPECTS OF AML/CFT***

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*Konstantin G. Sorokin,  
Special correspondent*

In the beginning of 2015, ITMCFM continued the tradition of holding workshops to increase the potential of the national AML/CFT systems. In the first quarter the form of workshops slightly changed. Traditional thematic experience exchange round tables were preceded by workshops aimed to familiarize the participants of the national AML/CFT systems with amendments to the Russian law as well as with international practices.

As due to the treaty on the Eurasian Economic Union, which came into effect on 1 January 2015 the most relevant topics were related to the securities market, ITMCFM arranged three thematic events each including a lecture and a round table discussion. It is notable that the workshops attracted representatives of the most diverse authorities including such supranational structures as the CIS Executive Committee.

The first workshop, **Identification of high-risk areas for the professional securities market participants**, took place on January 23, 2015. The Russian party of the workshop introduced the participants to the principal concepts of the securities market, classic money laundering

typologies and methods of international money transfers in the context of the securities market. The countries exchanged their experience in the relevant issues of ML/TF through the securities market.

Russian economy may be characterized by extrusion of shadow financial transactions from the banking sector to the other sectors such as the securities sector. The Russian party was mostly concerned with the presence of foreign participants among the shareholders of the MICEX as incomparability of the scope of trading activities in Russia and on the international market invokes a risk of potential market manipulations. MICEX has expert committees consisting of about 400 experts. These collective consultative bodies take a certain part in formation of the MICEX policy. The Russian securities market may be characterized by the fact that half of these market participants are located in Moscow. Another peculiarity is that, as opposed to other countries, Russian stock brokers bear no responsibility for the clients' losses. It was illustrated by the case when the recent growth of the Swiss franc resulted in significant losses for many foreign market participants including but not limited to the brokers due to the use of marginal tools. As opposed to Russia, in other countries brokers are obliged to cover such losses (including the clients' losses).



It was noted that the key to prevention of ML/TF risks on the financial market was the fact that brokers can see when their clients act strangely and/or non-typically and, being a conscientious market participant, inform the supervising authority.

According to the lecturer, one of the risk areas was related to the federal loan bonds being actively used by dishonest market participants due to inter alia high liquidity and comparative ease of title transfer (as it is impossible to track the owner by the serial numbers).



The lecturer also told about the increasing trend of establishing holding structures out of various legal entities (non-bank financial institutions such as insurance companies, pension funds, etc.) that might be used by dishonest market participants to withdraw money abroad. The structures of this kind shall be properly supervised. Through self-regulatory organizations that represented the industry, a number of such dishonest holding structures tried to promote legislative initiatives so as to weaken the government control and/or used other methods of lobbying for their interests.

The annual turnover of the Russian securities market is 40 trillion Roubles (four budgets of the Russian Federation). In 2015, 15 Russian participants of the securities market were deprived of the licenses. Currently one can see heightened interest in the so-called “sleeping” companies that have been active before and own the licenses required to operate in the financial markets. Such a company costs about 300 thousand USD on the shadow market.

The practice of interagency cooperation between the Federal Financial Monitoring Service, MFA and FSS revealed the so-called “third step” in the hierarchy of schemes using fly-by-night companies (first of all those to move money abroad). The current objective is to identify and document organizations of a higher level. It is significant that starting step four, it becomes possible to find the money that have been stolen in the process of the execution of government

contracts. Active mixing of funds is also highly used to prevent tracing the flow and origin of money.

The lecturer presented some interesting schemes such as so-called “bill scheme” when a bank issues bills of exchange and cashes the bills itself through some men of straw.

New information technologies make it possible to transfer funds from a Russian broker's account to a trust in London by a very complicated flow of payments almost in a moment.

Representatives of the Belorussian party shared their experience during the round table discussion. On January 5, 2015 updated laws and regulations governing the securities market came into force in Belarus (it superseded the law of 1993 as amended). In 2014 Belarus FIU received about 5 thousand reports related to obligatory AML/CFT supervision of the securities market. It was less than 4% of all the reports received by the FIU in 2014. The reports specified the amounts from 191 million euro to 0 (in case of gift or exchange transactions). The current situation in Belarus reminds of the years 2008-2009 when the crises caused an active flow of funds through the country. Money came to non-resident accounts and in a short time (usually in less than 24 hours) was transferred abroad. As Belarus residents took almost no part in these schemes identification and documentation thereof was quite complicated. Belarus financial market has 72 participants. They include 29 banks and 42 non-banking institutions; 69 have a broker license, 69 have a dealer license, 35 have a depository license, 18 have a trustee license and 1 has a license to perform exchange activities (Belorussian Currency and Stock Exchange). One participant may have licenses for several types of activities. In 2014 Belorussian supervisory authorities imposed one (1) penalty for delayed report submission to FIU. Belorussian system may be characterized by the fact that its depository system has two levels, all the transactions shall be made via the central depository (actually being a government authority even though it has a depository license and has never been explicitly assigned the status of a government authority). All the off-exchange transactions are registered by the Exchange and the supervisory authority, the Ministry of Finance, may see the transaction details if needed. The Exchange does not allow trading western securities which make it impossible to use this method of money withdrawal. In 2014, there were made 5,815 exchange transactions (to the amount of 479 BYR with the exchange rate being 10,000 BYR for 1 USD) and 10,438 off-exchange transactions (to the

amount of 48,648 billion BYR with the exchange rate being 10,000 BYR for 1 USD) in Belarus.

In the Republic of Uzbekistan this sphere requires licenses and has 150 participants. They include 40 investment intermediaries, 36 investment consultants, 31 depositories, and 28 trustees. The law specifies no punitive sanctions. No licenses were revoked in the previous year. The volume of the stock market in 2014 was more than 1 trillion UZS (the rate was 2,400 UZS per 1 USD), the volume of securities market was 91.6 billion UZS. Depositories registered more than 1 trillion UZS on primary stock transactions and 83.8 UZS as secondary stock transactions. The sector is supervised by the Center for Coordination and Control of the Securities Market. The FIU and the Center have a well-established information exchange through secure communication channels.

Representatives of the FIU in Kazakhstan demonstrated an interesting scheme of money withdrawal when the management of a joint-stock company participated in opening accounts in the names of fictitious physical bodies (170 persons) for the company to buy the stocks it emitted at higher prices. In the opinion of the round table participants, these actions were aimed to manipulate the market. The materials have been submitted to the law-enforcement agencies that are now investigating the details.

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The next workshop, **Eurasian Economic Union and the issues of ML/TF (Legal Aspects)**, took place on January 30, 2015 at the premises of ITMCFM.

During the workshop, a representative of Federal Financial Monitoring Service familiarized the participants with the legal status of the Eurasian Economic Union (EEU) that had been operating since January 1, 2015.

The parties discussed the initiative offered by the government of the Republic of Belarus in the end of 2014 and related to development of the EEU Customs Code (now the Union Customs Code is applicable). Later the Customs Union may be merged with EEU.

The peculiarity of the Treaty of the EEU acting since January 1, 2015 is that the Treaty regulated the issues of mostly economic character. Issues of AML/CFT and issue of legal assistance have not been covered by the final version of the Treaty.

The sphere of AML/CFT is currently regulated by the Treaty of anti-money laundering and counter-terrorism financing in the process of transfer of cash and/or monetary instruments through the customs border of the Customs Union dated November 19, 2011.

In the process of discussion, the participants touched the issue of humanitarian exception. That entailed the situation when the customs authorities suspended the money transfer and a physical person was left with no monetary assets to support him/herself. Such situations may negatively affect the image of the country. The participants believed that the Treaty dated November 19, 2011 should be revised by analogy with the humanitarian exception (UN Security Council Resolution 1452) for the persons included into the list of terrorists. The participants also noticed that enforcement of the Treaty might be complicated by possible losses entrepreneurs may incur in case of groundless suspension of money transfers.

The participants mentioned that the Treaty dated November 19, 2011 covered only physical persons' transactions and did not cover freights and/or postal items. However the Treaty should cover these types of transfer, too. Otherwise FATF might raise an issue.

In the process of the workshop, the participants discussed FATF Recommendation 32 (Cash couriers) and the problem of considering the Eurasian Economic Union as a subject of international law and a supranational structure as related to compliance with the requirements of the Recommendation. Participants of the discussion found it necessary for the EEU to obtain a status of observer in AML/CFT international organizations (and first of all FATF and UN). To obtain the status of observer the EEU shall inter alia have the status of an international organization. The Union Customs Code contains many references to the national law that allows a situation when one country is found compliant with the requirements of FATF and the other is not.

Synchronization of AML/CFT policy within the EEU is somewhat complicated by the fact that Armenia is included into MONEYVAL and is not included into EAG. This increases significance of the CIS Council of Heads of Financial Intelligence Units as a platform to unite the countries of CIS being members of different FSRBs.

Participants of the workshop determined the following issued that shall be solved by the Customs Union and EEU:

- Discrepancies between the currency and the customs legislation (goods transfers require a minimum number of documents while money transfers require much more documents). This invokes a problem of confirmation as in some cases transfer of goods may be fictitious,

- Identification of non-residents for account opening as the banks can identify the residents of their countries by checking validity of the provided documents (passport, etc.) but cannot do the same for the residents of other countries.



The parties noted how difficult it was to synchronize the lists of terrorists and extremists. Different countries use different criteria of inclusion into the list. The issue requires coordination and resolving. In this connection it becomes very important to use various forms of cooperation, for example with the CIS Anti-Terrorism Center (has a database of about 5,000 persons).

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The third workshop was devoted to a no less relevant subject: **Typologies in the sphere of AML/CFT. Experience of the EAG member states in organization of work with typologies.** The workshop took place on February 5-6 in the premises of ITMCFM. Employees of the FIUs of Belarus, Kazakhstan, Tajikistan and Uzbekistan participated via video conferencing.

Typology is a description of a scheme comprising of several connected elements including the characteristic features of the most typical elements of a certain modus operandi; typologies require three types of knowledge: Identification, accumulation and distribution.

Investigation of the typologies used for legalization of criminal proceeds and terrorism financing plays a significant role. The results of typological investigations allow identification of the highest-risk areas and sectors and build an efficient risk management system. EAG investigates the typologies used for legalization of criminal proceeds and terrorism financing in the region of Eurasia. The foreground subjects of typological investigations are determined by the participants of the EAG Plenary Meetings. During the 21<sup>st</sup> Plenary week,

the WGTYP listened to the final report on the typological investigation “Cybercrimes and Money Laundering” (managed by Ukraine) and determined the subjects of typological investigations and researches for the year 2015.

The workshop included discussion of various typologies of criminal behavior:

- Offences in the sphere of government procurements,
- Embezzlement of public funds,
- Tax crimes,
- Corruption offences,
- Suspicious activities,
- Legalization of criminal proceeds.

It shall be noted that most typologies have a formalized character and the strategic goal of working with such typologies is to develop and perform automatic monitoring of the formalized typologies. The workshop participants familiarized themselves with the experience of the Federal Financial Monitoring Service in automating the process of identification and analysis of suspicious activities, developing corresponding typologies, methodology of building a uniform data base for analytical issues, methodology for classification of transactions, participants of transactions and/or other information objects, as well as applying software solutions for work with typologies.

The workshop concluded with a round table discussion “Arrangement of work with typologies in FIUs” where the participants shared their experience in automating the work of FIUs and gave examples of interesting typologies.



## NEWS BLOCK

## ***New Challenges for Banking Systems***

The annual Gaidar Forum titled «Russia and the World: New Dimensions,» was held in Moscow from 14 to 16 January 2015.

The event, organized since 2010, brings together representatives of the government and banking sector, economic and financial experts, as well as legal professionals.

Traditionally, the forum becomes a platform for discussions of the socio-economic problems affecting the Russian and global economy, the key trends in the financial industry and the latest developments.

The key event of the second day of the forum was a panel discussion titled «New Challenges for Banking Systems». The existing currency market volatility, economic slump and unstable financial system represent major challenges for the vast majority of banks, increasing the risk of money laundering and terrorist financing. Despite the difficult situation, the Central Bank of the Russian Federation is determined to pursue its policy of the banking sector rehabilitation designed to ensure both the stability of the financial sector and protection of the interests of depositors and investors. According to experts, governments around the world should support these efforts. The result of a prudent policy in the field of the banking industry regulation could be the creation of a new banking landscape in the country and improvements in the quality of banks' capital.



Similar problems are faced today by the European Union, where banks are registering an increase in credit risks as well as rising volumes of illicit capital and corruption proceeds, all of which have the potential to affect the stability of the global financial system and actualize the AML/CFT issues for banks.

In general, meeting participants noted the ability of the Russian banking system to maintain stability in the current environment and the growing relevance of the issue of toxic assets. In these conditions, the importance for the Central Bank to have a well-thought-out policy designed for long-term and proactive engagement with all the participants in the country's financial system cannot be underestimated. Only then will it be possible to overcome the economic crisis and ensure the necessary compliance with legal requirements governing the banking industry.

## ***A Regular Meeting of the Expert Advisory Group of the National Anti-Terrorist Committee***

A regular meeting of the Expert Advisory Group of the National Anti-Terrorist Committee was held on 20 February 2015 at the office

of the Rosfinmonitoring Board under the chairmanship of Rosfinmonitoring Director Yu. A. Chikhanchin.





The meeting agenda comprised the following items:

1. Analysis of Russia's participation in international organizations specializing in combating the financing of terrorism and extremism. Measures to improve interagency cooperation in the promotion of national interests in this area in the current international situation.
2. Measures to combat the financing of international terror cells operating in the territory of the Russian Federation, taking into account growing threat posed by the Islamic State.

Besides the permanent members of the group representing the central executive bodies of the Russian Foreign Ministry, Federal Security Service, Ministry of Internal Affairs, Ministry of Justice, Prosecutor General's Office, Investigative Committee, Federal Drug Control Service, Federal Customs Service, Federal Tax Service and Federal Financial Monitoring Service, the meeting was also attended by members of the Security Council of the Russian Federation and National Anti-Terrorist Committee.

Participants discussed topical issues and approaches to resolve issues of interagency cooperation in the area of terrorist financing in the course of representation of Russia's interests in the international arena, as well as measures to counter the rise of the international terrorist organization ISIS.

## ***FATCA-2015: knowing your reporting obligations***

Starting March 2015, all Russian financial institutions, primarily banks, that have entered into an agreement with the U.S. Internal Revenue Service on FATCA are required to report to the U.S. tax authorities on details of financial accounts held by U.S. citizens.

The Foreign Account Tax Compliance Act, designed to combat tax evasion by U.S. tax residents using foreign accounts, came into force on July 1, 2014.

On 17 March 2015, a conference dedicated to FATCA was held in Moscow. The purpose of the conference

was to provide insight into the FATCA requirements and help Russian financial institutions avoid mistakes in submitting their reports. During the conference, representatives of the leading consultancy firms and banks shared their views on the intricacies of the FATCA reporting process.

The main topics of the conference were:

1. FATCA and Russian legal requirements: contradictions and unknown facts.
2. FATCA's place in Russia's financial system – competent authorities' opinion.



3. How to draw up a FATCA-related report correctly? What is the procedure for reporting dormant/zero-balance accounts?
4. How to correctly notify state authorities and the Central Bank on bank customers subject to FATCA reporting requirements?
5. How to organize reporting to IRS in such a way as to minimize the risks of sanctions from Russian regulators?
6. How to minimize the risks of withholding tax penalty?
7. How to organize your customer identification process to ensure compliance with FATCA and avoid violation of Russian regulations?
8. How to organize the monitoring of changes in customer details?
9. What should the responsibilities of the FATCA Responsible Officer be?
10. How to verify a company's readiness for FATCA-compliant operations?



The conference was attended by representatives of the Federal Financial Monitoring Service and Federal Tax Service, employees of the International Training and Methodology Center for Financial Monitoring, as well as more than a hundred representatives of banks and other financial institutions.

## ***FATF Report: Financing of the Terrorist Organization Islamic State in Iraq and the Levant***

In February 2015, the FATF Plenary adopted the FATF's report: Financing of the Terrorist Organization Islamic State in Iraq and the Levant. The report analyzes how this terrorist organization generates and uses its funding. This knowledge is crucial in order to determine how FATF and the international community can choke off ISIL funding.

Information collected from a wide range of sources and countries such as Saudi Arabia, Turkey and the United States, demonstrate that ISIL's primary source of income comes from the territory it occupies. The appropriation of the cash

held at state-owned banks, gave ISIL access to an estimated half a billion USD in late 2014. The exploitation of oil fields also generates significant funds for ISIL, particularly when it first took control of them. This report identifies other sources of funding that ISIL relies on to finance its terrorist activities and the regular investments into its infrastructure and governance requirements.

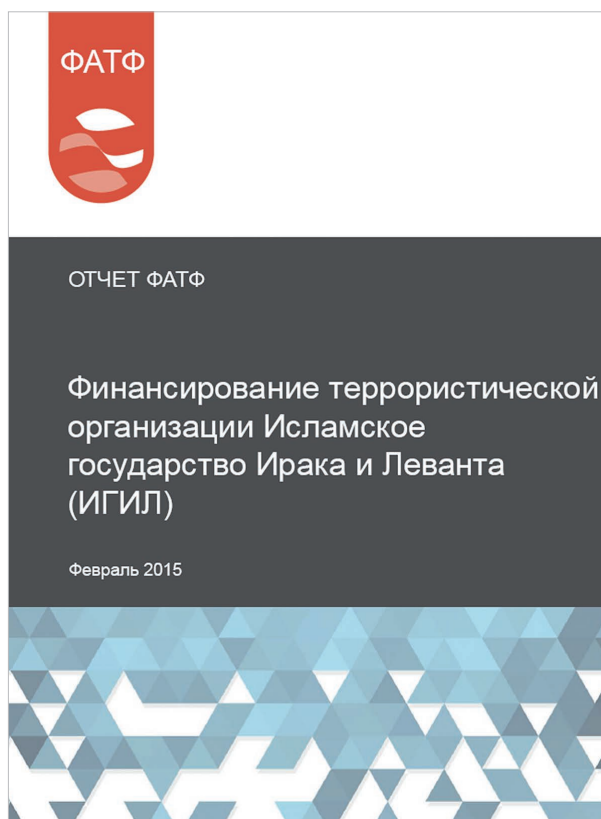
Globally, there has been a strong and clear response on the need to disrupt ISIL's financial flows and deprive it of its assets. Many countries have established stronger legal, regulatory and operational frameworks, to detect and prosecute terrorist financing activity, in line with the FATF Recommendations. But more needs to be done. This report highlights a number of new

and existing measures to disrupt ISIL financing, for example:

- Request countries to proactively identify individuals and entities for inclusion in the UN Al Qaida Sanctions Committee list;
- Share practical information and intelligence at an international level, both spontaneously and on request, to effectively disrupt international terrorist-related financial flows;
- Suppress ISIL's proceeds from the sale of oil and oil products, through a better identification of oil produced in ISIL-held territory;
- Detect ISIL fundraising efforts through modern communication networks (social media).

Further in-depth research is needed to determine the most effective countermeasures to disrupt ISIL funding.

*The Russian version of the report is available at the ITMCFM website: [mumcfm.ru](http://mumcfm.ru).*



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