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THE USE OF TYPOLOGICAL RESEARCH IN THE SYSTEM OF INTERNAL FINANCIAL MONITORING

Statement of the problem. In the process of combating the legalization of income from crime in Ukraine, the clear definition of the range and criteria for the identification of operations, which are to be under financial monitoring, as well as mechanisms for transmission of transaction's data, remains on the agenda, because this is the basis for the effective functioning of the system for prevention the laundering of "dirty" income and financing the terrorism.

According to the article 4 of the Law of Ukraine "On prevention and counteraction of legalization (laundering) of income from crime, financing of terrorism and financing of proliferation of weapons of mass destruction" [1], the financial monitoring consists of two levels:

1) mandatory financial monitoring is a set of measures of the specifically authorized body of the Executive authority for financial monitoring of information analyses regarding financial transactions that is provided by the subjects of primary financial monitoring, as well as set of measures to check such information in accordance with the legislation of Ukraine;

2) internal financial monitoring is the activity of subjects of primary financial monitoring on detecting the financial transactions that are to be under mandatory financial monitoring, and other financial transactions that may be associated with the legalization (laundering) of income.

Peculiarity of features of internal financial monitoring, as well as specifics of accounting the financial operations stipulates the detection of such operations mostly at visual monitoring.

Visual monitoring of conditions of financial transactions in order to identify those, which can be attributed to internal financial monitoring, especially at a large number of transactions, requires adequate qualification of the employees who are responsible for the detection of such operations, constant staff training and time consuming for further thorough analysis regarding the relationship of transactions with money laundering.

There are no foreseen limitations for the organization of internal financial monitoring and the financial institution independently determines the threshold amounts of financial operations and the additional criteria to identify them as doubtful, that creates a field for abuses by not only persons who intend to legalize criminal profits, but also for personnel, owners and management of the financial institution.

Analysis of recent studies and publications.

Problems and prospects of development of the national system of financial monitoring and its components in Ukraine, have found its reflection in the works of many scientists, namely: N.Y. Dondyk [3], O.Iy. Zhabyntsy [4], V.V. Kovalenko [5], I.V. Kolomiets [6], O.O. Kurishko [7], T.V. Volkovynska [9], and others.

But despite the considerable amount of theoretical and practical developments, a large number of issues in terms of mechanisms and criteria for the definition of illegal financial operations, remain unsolved and require further study.

The purpose of the said article is the research of separate means of internal financial monitoring and determination of typologies which should be used in financial institutions in accordance with the recommendations of international organizations.

Summary of the basic material. Article 16 of the Law "On preventing and counteracting the legalization (laundering) of income received by criminal way, financing of terrorism and the financing of proliferation of weapons of mass destruction" [1], specifies that the financial transaction is to be under internal financial monitoring, if the entity of primary financial monitoring has suspicion, based, in particular, on:

- risk criteria defined by the entity of primary financial monitoring on its own, taking into account the risk criteria established by the central body of the Executive power, which is in charge of the formation and implementation of the State policy in the field of preventing and counteracting the legalization (laundering) of income or financing of terrorism;

- established fact (facts), according to the results of the performed analysis, which prove the inconsistencies of financial operation (operations) to the financial status and/or the content of the activity of the client;

- typological researches in the sphere of counteraction to legalization (laundering) of income received by criminal way, or financing of terrorism, or financing of proliferation of weapons of mass destruction, which have been prepared and published by the specifically authorized body;

- it should be noted, that there is absence of identified methods of studying the operations, which have features of the internal financial monitoring in order to obtain the confidence or motivated suspicion in their connection with the laundering of funds. This is especially related to those banks, or to their structural units,

where there are no employees in charge and who are relieved from other duties save financial monitoring.

It is not always possible to determine the list of documents and statements, on the basis of which, we can draw a definite conclusion regarding the connection of the operations with money laundering.

Despite the presence of the risk Criteria for legalization (laundering) of income from crime or financing of terrorism, which have been approved by the State Decree on financial monitoring in Ukraine dt. 03.08.2010 N 126, most provisions remain non-formalized and unidentified [2].

It is necessary to have a clearer definition of the use of typological researches in the sphere of counteraction to legalization (laundering) of income or financing of terrorism or financing of proliferation of weapons of mass destruction, which have been prepared and published by the specifically authorized institution.

The State financial monitoring service recommends information sources that include the typologies of international organizations that operate in the field of combating the legalization of income (money laundering).

A key role in creating the international standards for combating the legalization of criminal income and financing of terrorism is given to Financial Action Task Force on Money Laundering (FATF).

FATF is an independent intergovernmental organization that develops and promotes its principles for the protection of the world's financial system from the threats of money laundering, financing of terrorism and the financing of proliferation of weapons of mass destruction. The recommendations of the FATF are generally recognized international standards to combat money laundering and the financing of terrorism.

FATF was created in 1989 by the decision of the countries of the "Great Seven". FATF consists of 34 countries and 2 regional organizations. The main means of FATF are the International standards to combat money laundering, financing of terrorism and the proliferation of weapons of mass destruction. Compliance with these standards allows countries to build an effective system Policy To Combat Money Laundering, PTCML/Financing of Terrorism, FT, and protect the national economy from the shadow capital.

According to the UN Security Council Resolution 1617, FATF Recommendations are mandatory for the use by the countries that are members of the United Nations.

For the spreading of international standards in countries that are not included in the FATF, 8 regional groups have been established according to its type:

- The Eurasia Group on money laundering (EAG);
- Asian-Pacific group to combat money laundering (APG);
- Group to combat money laundering in Eastern and Southern Africa (ESAG);

- Group of development of financial measures to combat money-laundering in South America (SAG);

- Group for the development of financial measures to combat money laundering in the Middle East and North Africa (MENAFATF);

- The Committee of experts of the Council of Europe to evaluate the measures to combat money laundering and financing of terrorism (CECEFATF);

- Caribbean Group for the development of financial measures to combat money laundering (CGFATF);

- The Intergovernmental Group to combat money laundering in West Africa (IGWAFATF).

One of the largest is EAG-the Eurasian Group to combat the legalization of criminal income and financing of terrorism. By the decision of the Constituent Conference of EAG, Ukraine has joined the Member States-observers of the said Group since October 2004.

In February 2005, EAG has gained the observer status in the FATF. From June 2010 the Eurasian Group is an associate member of FATF.

In this regard, the entities of primary financial monitoring may use references to information sources that contain the classification and Recommendations of such international organizations as the Eurasian Group to combat the legalization of criminal income and financing of terrorism (GAE) and Group to develop financial measures to combat money-laundering (FATF).

FATF recommendations establish comprehensive and consistent structure of measures that countries should apply to combat money laundering and financing of terrorism, as well as the financing of proliferation of weapons of mass destruction. The countries have different legal, administrative and operational structures and different financial systems, and therefore cannot take identical measures to counter these threats. That is why, countries need to adapt recommendations of the FATF, which determine the international standards, to their specific conditions. The recommendations determine the necessary measures, which countries should have in order to:

- identify risks, develop policy and coordination within the country;

- to pursue money laundering, financing of terrorism and the financing of proliferation of weapons of mass destruction;

- to apply preventive measures for the financial sector and other established sectors;

- to determine the authority and responsibility of the competent authorities (e.g., investigators, law-enforcement and supervisory bodies) and other institutional measures;

- to strengthen the transparency and accessibility of information about the benefits of the recipient of property of juridical persons and entities;

- to ensure the international cooperation.

FATF standards include the named Recommendations and Explanatory notes [12], together with the rele-

vant definitions in the Dictionary. The measures which are set out in the FATF Standards, must be applied by all FATF members and applying them is to be rigorously assessed through processes of mutual grades and through processes of estimates of the International Monetary Fund and the World Bank on the basis of a general methodology for assessment used by FATF.

Some Explanatory notes and definitions include examples that illustrate the possible application of the requirements. These examples are non-binding elements of the FATF Standards and are included only as a clarification. The examples are not intended to be comprehensive and although they are considered as useful indicators, they may not be suitable to all circumstances.

The recommendations contain 40 standards, which are grouped as follows:

- A – Policy To Combat Money Laundering, PTCML/Financing of Terrorism, FT, and coordination;
- B – Money laundering and confiscation;
- C – Financing of terrorism and the proliferation of weapons of mass destruction;
- D – Preventive measures;
- F – Powers and obligations of competent authorities and other institutional measures;
- G – International cooperation.

For Ukraine, the greatest interest are typological researches of EAG, because according to the Recommendations, they conduct research of typologies (the most common schemes) of legalization of criminal income and financing of terrorism, which are characteristic for the Eurasian region. The results of typological researches allow to identify the most highly risky zone and sectors, to build an effective methodology for risk management.

Priority research themes for the region typologies are determined by the participants of the Plenary meetings of EAG. Eurasian Group broadens the research findings to law enforcement and supervisory bodies as well as to private sector institutions.

Latest typological researches of this organization are:

- "Money laundering through the securities market" (2013);
- "Legalization of criminal income and financing of terrorism with the use of cash and monetary means" (2012);
- "Study of possible directions for improving the interaction between financial intelligence units of the EAG countries to combat the activities of terrorist organizations, that operate in the Eurasian region, and which are not included in the international list of terrorist organizations" (2012);
- "Preventing crime in the field of State procurement" (Russia).

Reports on typological research of FATF can also be useful for organizing the internal monitoring by financial institutions:

"Leadership of FATF regarding the application of risk-oriented approach for prepaid cards, mobile payments and online payments (2013)".

"International advanced experience-Targeted financial sanctions related to terrorism and the financing of terrorism"(Recommendation 6) (2013).

"Leadership of FATF on financial investigations: operational issues" (June 2012)

"Specific risk factors related to the legalization (laundering) of income from corruption" (June 2012)

"Laundering of income from corruption" (2011)

"New methods of payments"(September 2010).

Let's consider the possibility of using typologies in the organization of domestic monitoring, for example, which is stated in the Typological report GAE "Money laundering through the securities market" (July 2013) [11].

Actual for Ukrainian banks is the use of typologies when conducting internal financial monitoring, mentioned in the materials of the 17th Plenary session of the GAE "Legalization of criminal income and financing of terrorist activity with the use of cash and monetary means" (Delhi, 2012) [13].

According to data, received in the course of the research, most Member States feature the growth of the cash money turnover. The increasing requirements of the economy in money, in connection with the growth of GDP, the increase of prices or due to other reasons, cause the need for an appropriate increase of money, offered by banks. However, it is worth noting, that the increase in the volume of cash turnover increases risks of their use in criminal purposes.

The main factors that stimulate the use of cash are:

- availability of financial means, such as bills, travellers cheques, bearers hares, bank checks that allow to receive payments in cash;

- the existence of a shadow economy;
- low degree of the use of non-cash payments by the individuals to pay for the goods and services;
- unofficial income of population which is received and stored in cash.

The increased use of cash when performing calculations, as well as when keeping the economic activity, contributes to the following negative consequences:

- reduction of funds to the State budget in connection with reduction of taxation base;
- change in the structure of money supply of the State in favor of cash, which greatly complicates planning and regulation of processes in the economy of the country, and as a result, is undermining the economic stability and social welfare of the State;
- promotes the growth of the shadow economy and the development of gray market because the control of cash is considerably complicated;

- contributes to the increase of the risk of illegal "centers" for financing of extremist and terrorist activity, which in turn, creates a threat to public safety.

Subject study 8: Ukraine
Type of study: Illegal cashing of funds
Brief information about the incident
It was noted, that the group of companies was debiting funds in the amount of 37.3 million UAH for the payment of bills to the securities' dealer (citizen B). The funds have been debited in the course of 4 months in 2010 for their illegal cashing.
Citizen B had transferred funds in the amount of 37.3 million UAH to the citizen A for payment of shares issued by the company X. Funds have been debited on the day of receipt of money or on the next day. Citizen A had received funds in the amount of 37.3 million UAH on the day of receipt of money or on the next day.
Analysis of documents showed that: 1. Citizen A is unemployed and does not receive income from her main work. 2. X-a construction company. In the public domain there is no data about the company X, about construction sites, equipment and the cash assets necessary for the construction, about sale of real estate which has been built, etc.
Securities, according to which the citizen U had transferred loan funds in favour of the citizen A, were bills, and not shares. The shares issued by the company X, had the evidence of fictitious nature. Thus, the price of 1 share amounted to UAH 4.3 and exceeded their nominal value by more than 4 times. The total value of all shares issued by the company X is 1 billion 160 million hryvnas. However, from the point of view of stagnation in the Ukrainian construction market and lack of information about the activities of the company X, it was obvious, that the value of the shares had been exceeded. The described scheme has been used for the illegal cashing of money.
Evidence of suspicious transactions: 1. Citizen A is unemployed and does not receive income from her work. 2. X is a construction company. In the public domain there is no data about the company X, construction sites, equipment and other funds necessary for the construction, sale of housing estate.
Measures taken: Security service of Ukraine conducts the investigation.

From the point of the threats associated with the turnover of cash, countries must conduct a consistent and tough policy to combat money laundering/financing of terrorism (PCML/FT), on a systematic basis to optimize the national legislation, which regulates the cash flow and monetary means, and must be guided by the experience in part of PCML/FT by specialized international organizations and supranational associations.

According to the analysis of information received from the countries that took part in the research, we can state, that in order to regulate the turnover of cash and monetary instruments in the Russian Federation, the Republic of Belarus, Uzbekistan, Ukraine, Armenia and Kirgizia, Kazakhstan, Turkey, Serbia, the specialized laws which govern the turnover of above mentioned risk instruments are in force.

In the framework of implementation of necessary measures to combat the legalization of criminal income and financing terrorism, the following systems have been developed and used at the State level:

- systems of identification of clients-entities and individuals that carry out the financial transactions in cash. Identification of individuals provides for the following information: surname, name, patronymic, documents confirming the identity (for resident and non-resident citizens – passport data for stateless persons and

refugees - residential information, migration cards), the address of the place of residence or place of staying;

- identification of legal entities provides for the identification of the organization's name, legal form of organization (OJSC, CJSC, PE, etc.), the taxpayer's identification number, the place of registration and place of actual whereabouts;

- criteria for suspicion and threshold values according to which the assessment of the financial operations in terms of PCML/FT is to be performed.

Based on the available materials, namely on the practice of Belarus, Russia and Ukraine, we can cite several examples of the use of cash funds and financial means and instruments in unlawful activities and we can identify the evidence of such suspicious transactions.

According to the representatives' opinion of the State financial monitoring of Ukraine, the characteristic evidence of suspicious financial operations with cash and monetary instruments are:

1) purchase and sale of cheques, traveller's cheques or other similar payment means for cash;

2) debiting of funds on the accounts in cash with their subsequent transfer to another person on the same or on the next day;

3) performing the financial transactions with securities bearer, which are not deposited in depository institutions;

4) performing the financial transactions with bills, endorsement in blank or endorsement to the bearer;

5) confusing or unusual nature of financial transaction or the aggregate of interrelated financial transactions which have no apparent economic sense or obvious legal purpose;

6) mismatch of financial transaction in the nature and the content of the client's activity;

7) regular performed transactions by a person to exchange the banknotes of small denomination, especially in foreign currency to the banknotes of big denomination;

8) substantial increase of the balance on the account of the legal entity or natural person-entrepreneur which is not related to the activity and which is used for the purchase of bearer securities;

9) regular submission of checks issued by the bank non-resident and endorsed by non-resident bank for encashment, if such activity does not correspond to the activities of the legal entity or physical person-entrepreneur who is known to the entity of primary financial monitoring, and others.

Financial intelligence unit (FIU) of Ukraine presented the following examples of schemes with the withdrawal of funds into the shadow turnover through cash transfer.

Example 1. Credit agreements.

Two insurance companies which have a common constituent composition, use a scheme of quick movement of a significant amount of money (with a difference of a few minutes) with the purpose of transferring credit funds as securities payment with the evidence of "being fictitious" to the account of a common counterparty LLC "A" with further conversion of cash less funds in to cash through an individual "A".

So, for one day, the insurance company "A" and the insurance company "B" by the end of a trading day received at 18 h. 50 min. credit funds from the bank in the amount of 50 million UAH each. At once, these funds were transferred as payment for bills with nominal endorsement to the account of LLC "A". LLC "A", in turn, at 19 h. 01 min, the received funds in the amount of 100 million UAH, were transferred to the account of an individual "A".

Henceforth, the cash was withdrawn by the individual "A" at 19 h. 25 min. It was also established that the issuer of the Bills had the evidence of being fictitious. The person "B" was the founder of insurance company "A", the insurance company "B", as well as the insurance company "A" were involved in the scheme which had been related to the fraud schemes on the real estate market.

Example 2. Deposits.

The citizens "A" and "B" deposited on their accounts more than 20 mln. UAH in one banking institution. On the same day, the citizens "C" and "D" received credit funds in cash in the same banking institution in

the amounts of 20 mln. USD each. These funds were deposited by the citizens "C" and "D" in cash as early repayment for the credit on the same day.

The citizens "A" and "B" on the same day received each 20 mln. UAH in cash as early repayment of the deposit. Citizen "A", as according to the Ministry of Internal Affairs of Ukraine, was listed as the person who was in prison. Citizen "B" had previously committed offenses related to the trafficking of drugs.

Citizens "C" and "D" were associated parties (co-founders of 2 companies).

Example 3. Cross-border transactions.

Non-resident company on the territory of Ukraine performed the conversion of foreign currency via Ukrainian enterprise, money was later withdrawn in cash. The agreement had been concluded between LLC "G" (Ukraine) and company "A" (New Zealand) for the amount of 100.0 mln. Euro for free financial aid.

In the course of a certain period of time, on the account of LLC "G" from the company "A" the funds in the amount of 74.9 million Euro and 27.5 million USD (1.0 billion USD) had been debited. The part of the mentioned funds was immediately converted into the national currency and was withdrawn in cash by the citizen «B» (he is director of LLC "G") via cash register at the banking institution to purchase agricultural products worth of 77.4 million USD.

It has been established, that in terms of a citizen "B", he was charged by the law enforcement bodies for illegal production, manufacture, acquisition, storage, transportation or forwarding narcotic drugs, psychotropic substances or their analogues without purpose of distribution.

The said citizen was declared by the State as wanted on suspicion of burglary. In the framework of the investigation, information from New Zealand financial intelligence unit was received, and it was established that the source of origin of funds on the accounts of the company "A" were the funds of non-resident companies, the accounts of which have been opened by the citizens of Ukraine consistently within ten days. Registration agent of the company "A", the company "C", is under suspicion of activities on registration of companies-shells (short term companies).

Summarizing the consideration of examples of possible schemes on money laundering from criminal income, using cash and financial instruments, it should be noted, that factors, that contribute to the emergence of risks of laundering of income by using the given means are:

- insufficient quality of internal control procedures in the banks and non-banking financial organizations;
- insufficient banks' and non-banking financial institutions' awareness about unscrupulous clients, who have been identified in the course of implementation of internal control (as a result of above mentioned causes);

- the presence of gaps in the existing profile legislations, that make it possible to use cash and monetary means in criminal purposes.

Control system, that is implemented in any financial sector, is individual and unique in each country. Sufficiency of adopted measures is determined independently by each country and is based on current practices, economic, geographical, historical and other peculiarities of the country.

However, for the purpose of exclusion or prevention of appearance of such schemes, may be, it is necessary to analyze the legislation of the country, it is necessary to assess the efficiency of measures to be taken, the effectiveness of control mechanisms, and, if necessary, to consider the possibility of their changes and additions, taking into account new recommendations of FATF.

In addition, it is necessary to pay particular attention to the fact, that a very effective tool, in terms of identifying and clarifying areas of risk in different spheres, is the formation of a permanent partnership with the private sector.

As a separate measure, it is offered to consider the possible amendments to the relevant legislation, which regulate the circulation of cash and monetary instruments, which will enable to:

- reduce to conditionally safe level the maximum possible limit of cash withdrawals by individual entrepreneurs and legal entities;
- introduce the obligation to pay income tax by legal entities and individual entrepreneurs when withdrawing cash which exceeds the permissible limit;
- set mandatory identification of individuals who repay money to the bearer, set limits on repayment of monetary means to bearer;
- limit the payments between legal entities, as well as between legal entities and individuals with the use of cash.

Thus, the process of creating an effective system of internal financial monitoring with the help of typological research:

- must be directed not only to document the facts of legalization, but also to the disclosure of economic crimes;
- it is necessary to work out such a course of development of internal financial monitoring, which would meet the requirements of specialized international institutions in the field of prevention and counteraction of legalization (money laundering) of the income from crime, and would create conditions for further effective functioning of the national economy;
- will require the improvement of the legislative framework in the field of prevention and counteraction of legalization (money laundering) of income from crime and the formalization of its criteria.

Conclusions. Research of typologies for the legalization of criminal income and financing of terrorism,

should be aimed at improving the efficiency of detection of crimes by employees of law enforcement and supervisory bodies, as well as, by the employees of private sector organizations.

Study of typology will promote more effective detecting of attempts of money laundering and the financing of terrorism, as well as, the termination of the facts of committing such crimes and other types of crimes, that are predicative in relation to money laundering, based herewith on the best international experience in this sphere.

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Акімова О. В. Використання типологічних досліджень в системі внутрішнього фінансового моніторингу

В статті розглянуті можливості використання провідного досвіду у сфері протидії та запобігання легалізації доходів, отриманих злочинним шляхом, національною системою фінансового моніторингу України за допомогою типологічних досліджень, які розробляються міжнародними організаціями, перш за все, такими як Група розробки фінансових заходів боротьби з відмиванням грошей – ФАТФ (FATF) та її регіональною Євразійською групою – ЕАГ (EAG). Використання типологій дозволяє оперативно реагувати на незаконні фінансові операції і виявляти додаткові критерії віднесення їх до сумнівних.

Ключові слова: фінансовий моніторинг, типологічне дослідження, фінансування тероризму, легалізація злочинних доходів, критерії підозрливості, протидія правопорушенням.

Акимова Е. В. Использование типологических исследований в системе внутреннего финансового мониторинга

В статье рассмотрены возможности использования ведущего опыта в сфере противодействия и предотвращения легализации доходов, полученных преступным путем, национальной системой финансового мониторинга Украины с помощью типологических исследований, которые разрабатываются международными организациями, прежде всего, такими как Группа разработки финансовых мероприятий борьбы с отмыванием денег – ФАТФ (FATF) и ее региональной евразийской группой – ЕАГ (EAG). Использование типологий позволяет оперативно реагировать на незаконные финансовые операции и обнаруживать дополнительные критерии отнесения их к сомнительным.

Ключевые слова: финансовый мониторинг, типологическое исследование, финансирование терроризма, легализация преступных доходов, критерии подозрительности, противодействие правонарушениям.

Akimova O. V. The Use of Typological Research in the System of Internal Financial Monitoring

The article considers the possibility of using the advanced experience in the sphere of combating and prevention the legalization of income obtained from crime by the national system of financial monitoring of Ukraine with the help of typological studies, which are being developed by the international organizations, first of all, such as the Financial Action Task Force on Money Laundering (FATF), and its regional Eurasian Group (EAG). The use of typologies allows to respond promptly to illegal financial operations and identify the additional criteria of classifying them to the category of dubious.

Keywords: financial monitoring, typological studies, financing of terrorism, legalization of criminal income, criteria for suspicion, preventing crime.

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