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Money Laundering and criminal connected companies

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Firma dello studente

Dedicated to my beloved Grandmother

Introduction.....	4
First Chapter.....	6
Money Laundering: origins and the modern models of laundering.....	6
1.1 <i>Origins of the money laundering concept in US, Russia and Europe.....</i>	6
1.2 <i>Modern models of laundering of criminal proceeds</i>	9
1.3 <i>Phase models.....</i>	10
1.3.1 Two-phase model by P. Bernasconi	10
1.3.2 Three-phase model	11
1.3.3 Four-phase model.....	16
1.4 <i>Circulating models</i>	17
1.4.1 Model of circulation by A. Zund.....	17
1.4.2 The cyclical money-laundering model	18
1.4.3 Four-sector money-laundering model	19
1.5 <i>Analysis of the modern money-laundering models.....</i>	21
1.5.1 Options of criminal proceeds laundering on the example of Russia	22
1.6 <i>Potential risks of money laundering through banking products</i>	25
Second Chapter	28
Fourth EU ML/TF Directive	28
2.1 <i>Global anti-money laundering groups.....</i>	28
2.2 <i>Impact of fourth EU ML/TF Directive.....</i>	29
2.2.1 Cash payment restrictions	29
2.2.2 Customer due diligence measures	33
2.2.3 Beneficial Owners	35
2.2.4 Additional amendments to the 4ML Directive	36
2.2.5 Public Officials.....	38
2.3 <i>Role and responsibilities of FIU and its anti-money laundering impact in Italy</i>	39
2.3.1 Egmont Group	40
2.3.2 Responsibilities of the FIU	41
2.3.3 Typologies of FIUs.....	42
2.3.4 FIUs' benefits and results on the example of Italy	42
2.4 <i>The fifth EU anti-money laundering Directive (5MLD) perspective</i>	47

Third Chapter	48
Gaps of the Russian legislation in the sphere of money laundering and corruption.....	48
3.1 <i>About some issues of legal counteraction on money laundering.....</i>	48
3.1.1 Ambiguous Russia.....	48
3.2 <i>Role of the Russian Central Bank.....</i>	49
3.2.1 Changes in law as a way to combat legalization of criminal proceeds	50
3.2.2 Rosfinmonitoring	52
3.2.3 Importance of FZ-134 and FZ-115.....	53
3.2.4 Increased control	55
3.2.5 «Closure of a bank account» issue	56
3.3 <i>Importance of FATF under Russian realities</i>	57
3.4 <i>Russian «legal» laundering scheme</i>	59
3.5 <i>Gaps of legal counteraction against corruption in Russia.....</i>	61
3.6 <i>Deficiencies of the Russian Land Code</i>	65
3.7 <i>Congeniality of legislative problems.....</i>	70
Fourth Chapter	72
Peculiarities of Money Laundering in Sports	72
4.1 <i>Significance of sport in the world economy</i>	72
4.2 <i>Sport as an instrument for legalization of criminal incomes.....</i>	74
4.2.1 Russian sports financing mechanisms	75
4.2.2 Investing criminal money in foreign sports as a way of money laundering.....	78
4.2.3 Some ways of “dirty” money laundering under the guise of charity and sponsors support .	81
4.3 <i>FC Tiraspol Case.....</i>	83
4.4 <i>Rostov Case</i>	88
Conclusion.....	96
References	100

Introduction

The topic of counteracting the laundering of proceeds from crime has gained relevance due to the significant volume of criminal investments penetrating the legal economy. The tendency of increasing the share of criminal capital in the economy is relevant for all states of the world.

The money laundering procedure is typical for almost all forms of organized crime, which distorts the process of making economic decisions, undermines financial institutions, aggravates social problems and, most importantly, promotes corruption.

To date, the profit obtained by criminal means is used for many purposes, for example, to cover costs associated with crimes, for investment in the sphere of activity of criminal organizations, for development of criminal business, for investment in legal economy. Obviously, all that part of income that is subject to investment in legal sectors of economy and placement in international financial markets requires money laundering.

The relevance of the problem of combating money laundering and financing of terrorism increases because of a reduction in revenues at all levels of a budgetary system, an increase in the expenditures required to finance the law enforcement sector and budget deficit.

The danger of the money laundering has multiply increased in the modern world and is a concern of the overwhelming majority of countries in the world community. Globalization of the world financial system raises the issue of the need to coordinate the efforts of states and international organizations in combating laundering of criminal proceeds at the global level. Today, special international and regional organizations, which cause changes in the legal regulation of public relations in this sphere, both at the level of a single state and at the international level, have been set up.

One of the most important strategic lines for ensuring the economic security of a country is combating laundering of criminal proceeds, which includes their detection, seizure and confiscation.

This thesis will be theoretical and practical in nature. The purpose of this paper is to clarify the legalization (laundering) of money or other property acquired by criminal means, the existing national and international mechanisms to counteract this crime, and to identify the main trends in the development of national and international criminal legal means of combating it. These goals may be achieved as a result of the following objectives:

- to reveal the social essence and danger to the public of laundering the property acquired by criminal means, and to characterize its nature;
- to determine the impact of legalization (laundering) of criminal proceeds on the national and global economy;
- to consider the major modern money laundering models;
- to investigate legal tools for combating money laundering;
- to analyze in the practical part of the thesis the ways how criminal groups launder money.

The object of the thesis is legalization (laundering) of criminal proceeds, as well as criminal legal means to combat it, existing at the national and international levels.

The subject of the research is social and economic problems arising from an increase in the number of crimes associated with money laundering.

The theoretical and methodological background of the paper is international laws and regulations, monographs of experts, materials of periodical press devoted to the problems of combating money laundering and financing of terrorism.

The empirical base of the research is compiled by data of Banca d'Italia, Egmont Group, FATF, the Auditing Chamber of the Russian Federation, the Federal Financial Monitoring Service of the Russian Federation (Rosfinmonitoring) and others.

Money Laundering: origins and the modern models of laundering

1.1 Origins of the money laundering concept in US, Russia and Europe

It is traditionally believed that the “money-laundering” concept arose in the United States in the 20s of the 20th century and is associated with the activities of famous Chicago gangster Alfonso Capone. In 1920, the 18th Amendment to the US Constitution adopted by the Congress back in 1917 and ratified on January 16, 1919 entered into force the United States representing:

«Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all the territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress¹». This was the so-called “dry law” (Prohibition).

Implementation of this law caused a negative attitude on the part of the middle class, which led to the inevitable emergence and distribution of secret production and smuggling of alcoholic beverages. There was a brisk trade in alcohol at fabulously high prices in the “black” market. Illegal production, smuggling and transportation of alcoholic beverages were the most widespread in the country during the first years of the action of the Volstead Act adopted in 1919 for the practical implementation of the 18th Amendment to the Constitution. This was done by numerous underground organizations of bootleggers, whereof profits were estimated at millions of dollars. The result of their operation was an unprecedented rampage of corruption, bribery and gangsterism².

¹ United States Constitution, 09/17/1787.

² History of the USA (1918-1945). Ed. by Sevastyanova G.N., 1985, page 108.

The resulting excess profits required the introduction of these illegal incomes in the legal turnover, that is, money “clearing” and “laundering”. According to a popular version, cash from bootlegging was mixed with the proceeds (usually, metal coins) from a network of self-service laundries (landromat) owned by Alfonso Capone. Thus, legitimization (money-laundering) of illegally obtained money was carried out.

However, let now address to the history of Russia. On the example of monuments of the Russian law, several examples of the “money-laundering” concept as a social phenomenon can be singled out. The Pskov Court Charter of 1467 distinguished between the legal and illegal methods of acquiring property³. To confirm the legality of a sale and purchase transaction, in accordance with this instrument, it was necessary to take an oath before the buyer that the new property was acquired legally. Thus, the Pskov Court Charter restricts the range of transactions that require confirmation of legality to the purchase of new things only. Article 46 of the Code of Laws of 1497 requires confirmation of the legality of a transaction on the basis of the testimonies of witnesses in whose presence the purchase and sale transaction was made. However, an oath was also allowed in the absence of witnesses⁴.

The Code of Laws of 1550 extends the requirement for a person to prove the legality of acquiring both new and old property. In accordance with this act, the condition for the legitimacy of a purchase and sale transaction was the existence of a guarantee for the seller. The guarantee was a common security on the part of constant market traders. In the absence of a security, the buyer lost the right to claim⁵.

The Council (Church) Code of 1649 has also established responsibility for the purchase and sale of things committed without any security. In this case, the notion of the legality of possession extends to the use of this thing. In addition, responsibility is established not only for the concealment of criminals, but also for the acceptance, storage or sale of stolen property. Thus, a legal prohibition on the legitimization of property obtained illegally has been established.

The opening of the Russian borders with the European states under Peter the Great leads to entering into bilateral international treaties concerning the suppression of war crimes in terms of seizure and sharing of spoils of war. Among these documents it is possible to single out the Convention with Denmark as of June 9, 1715 and the Treaty with Prussia, which, by prohibiting looting, disciplined the troops⁶ and became the progenitors of modern

³ Pskov Court Charter, 1467, page 47.

⁴ Vladimirsky-Budanov M.F. Chrestomathy on the history of Russian law. Issue. 2. Kiev. 1880, page 87.

⁵ Russian legislation of the 10th-20th centuries. In 9 vols. Legislation of the period of formation and strengthening of the Russian centralized state. 1998, page 69.

⁶ Bobrovsky P.O. Military law in Russia under Peter the Great. Issue 2, part 2, St. Petersburg, page 582.

acts and instruments relating to combating cross-border crime. The Military Regulations of 1716 defined the conditions for recognizing property as spoils of war: this includes property seized from the enemy, provided that the enemy had this property in its possession for at least 24 hours. At the same time, the previous owner of the seized property was not entitled to demand its return, since it was considered spoils of war.

The Criminal and Correctional Penal Code of 1885 established responsibility for the sale of immovable property stolen or taken by force, for the purchase of immovable property from a person who owns it illegally⁷. By their generic feature, these provisions are very close to the modern concept of legalization.

As for the Western history, here the development of the concept of legalization (laundering) of proceeds from crime, which has grown into modern legislation on combating the laundering of proceeds from crime, has progressed even more rapidly. It all started back in the Middle Ages. The first “financial harbours” were used by valorous pirates who attacked merchant ships that travelled from Europe across the Atlantic to America and back at the beginning of the 18th century.

Getting tired of their difficult craft, the recent pirates sought to settle in foreign “quiet harbours”, where they lived out their days quietly and in prosperity. Cities-states of the Mediterranean even competed with each other, seeking to lure the retired corsairs with their untold riches to settle there. It also happened that some pirates paid with their stolen stuff, buying themselves the forgiveness of their fellow citizens. For example, in 1612 there was an event that could well be considered the first case of amnesty for criminal money. England has offered full amnesty to the pirates with the right of preservation of the property gained. Does it look like today's agreements offered to some states by major drug lords?

If we go back to the 20th century, it comes into view the figure of Meyer Lansky, who gave the transnational character to the phenomenon of legalization (laundering) of money obtained illegally. To avoid the fate of Alfonso Capone sentenced to 11 years in prison for tax evasion in 1931, Meyer Lansky tried to make it as difficult as possible for the law enforcement agencies. He believed reasonably that the tax charge can be brought only if the tax authorities reveal the appropriate funds⁸. Having used the Swiss Banking Act of 1934, introducing the concept of bank secrecy, Meyer Lansky acquired one of the Swiss banks to transfer and store money there obtained from illegal organization of gambling venues, distribution of drugs, exploitation of prostitution, extortion and other crimes.

⁷ Smagina A.V. The dissertation of the Cand. Of Juridical Sciences. Legalization of criminal proceeds: a comparative analysis of criminal legislation of Russia and foreign countries. M. 2006, page 49.

⁸ Zubkov V.A., Osipov S.K. The Russian Federation in the international system of combating the legalization (laundering) of criminal income and financing of terrorism. 2-nd ed. M. 2007, page 19.

However, it was not only difficult for the tax authorities to track down money in the Swiss bank, but it was also problematic for M. Lansky himself to use it. Consequently, the money had to be in the United States again, wherefore it had to be “laundered” beforehand.

In 1937, M. Lansky received a franchise for several gaming tables in the casino of Nacional Havana Hotel. Having took advantage of the corrupt regime in Cuba in the 1930s-1950s, M. Lansky organized a transnational organized criminal gang. “Dirty money” from Florida was transferred to Havana, funds hidden in Switzerland were also transferred to Havana, where they were “laundered” through the casino and returned to the USA in the form of legitimate profits from foreign investments.

But Meyer Lansky did not use the term “money-laundering” himself. This term was first used by The Guardian, the British newspaper in connection with the media coverage of hearings on the Watergate scandal. The US President Richard Nixon's re-election committee forwarded 200,000 US dollars to Mexico as donation, whereupon these funds were returned through a firm in Miami and used in the campaign⁹. In other words, in the second half of the twentieth century the very concept of “legalization” (laundering) of proceeds from crime was born. It undergoes various changes and continues to develop until today.

1.2 Modern models of laundering of criminal proceeds

In order to combat the laundering of proceeds from crime efficiently, it is necessary to be one step ahead of those who are interested in legalization of money. And there are many such stakeholders: from drug lords and arms dealers to individuals and even countries interested in the inflow of any capital, even illegal.

Legitimization of criminal proceeds is a complex process, involving a variety of different operations performed by a variety of methods that are constantly being improved. Despite the huge variety of mechanisms and schemes of legalization, they are based essentially on one technology, which is based on the transformation of illegally received money (in cash and/or non-cash form) into legal income, that is, assets raising no suspicions of the legality of their origin.

Despite the variety of legal interpretations of the “money-laundering” term, an analysis of the structure of the modern economic system also makes it possible to reveal the economic content of this concept fairly clearly. The money-laundering operation lies in the fact that money acquired illegally receives the form in the opinion of the state and society that completely or largely hides its true origin after the completion of this operation. Thus, in the

⁹ Safire W. Safire's New Political Dictionary. Random House. N.Y. 1993. P. 398

ideal scenario, the criminal proceeds become indistinguishable from legally obtained assets after completing the laundering procedure.

In order to correctly classify money-laundering typologies, it is necessary to consider the stages of legalization of illegal incomes first, since different money-laundering typologies can be applied at different stages.

In modern economic theory, there are several basic models of money-laundering, which can be divided into two groups: the first group of models is built on the basis of phases (phase models), the second is based on cyclical cash flows (circulating models). Let's consider the mechanism of using banks within the framework of the main of these models in more detail.

1.3 Phase models

1.3.1 Two-phase model by P. Bernasconi

According to this model, the main stages of legalization are money-laundering and return to circulation (recycling), which relate to laundering of the first and second degree.

The first stage is laundering of money received directly from the commission of a crime¹⁰. The purpose of the first phase is to conceal the traces of a crime by transferring large amounts of cash into highly liquid and easily managed assets. First-degree laundering is carried out through short-term banking transactions, for example, the exchange of small bills for bills of larger denominations or currency exchange transactions. At this stage, the connection of money with the original crime is quite clearly visible; therefore this phase is the most risky for criminals.

The second stage is represented by medium-term and long-term operations, through which previously laundered money is given visibility of that obtained from legitimate sources. The aim of the actions of criminals is to incorporate money laundered into the legal economy¹¹ and to give it sensation of legality in the opinion of the state and society. At this stage, laundered funds are introduced into legal economic turnover through banks.

The Bernasconi model distinguishes also between the countries of the main crime that has become a source of income and the countries of money-laundering. Criminal proceeds are transferred from the country where the main crime is committed to the money-laundering country through the banking system, and then they are reinvested back after the completion of

¹⁰ La criminalite transfrontaliere: sophistications financieres et faiblesse judiciaire/ P. Bernasconi// Les Cahiers de la securite interieure. 1995. № 19.

¹¹ Bernasconi P. Finanzunterwelt. Zürich; Wiesbaden, 1988. P. 30.

the laundering procedure. At the same time, the following features are characteristic for the banking system of the country where money-laundering is carried out:

- lack of compulsory accounting for banks;
- possibility of opening anonymous bank accounts;
- lack of obligation for banks to identify customers;
- insufficient effectiveness of banking supervisory authorities;
- no participation of a country in international cooperation on combating laundering of criminal proceeds.

Thus, the banking system plays a key role in the model of P. Bernasconi, since initial placement of illegally obtained cash, electronic transfer of funds to the country of laundering and return of laundered capital to the owner occur through the banks.

1.3.2 Three-phase model

Each phase (stage) in this model has its own purpose and a set of ways to achieve the desired result. The model assumes the allocation of the following elements in a single process of legalization: placement, layering and integration¹².

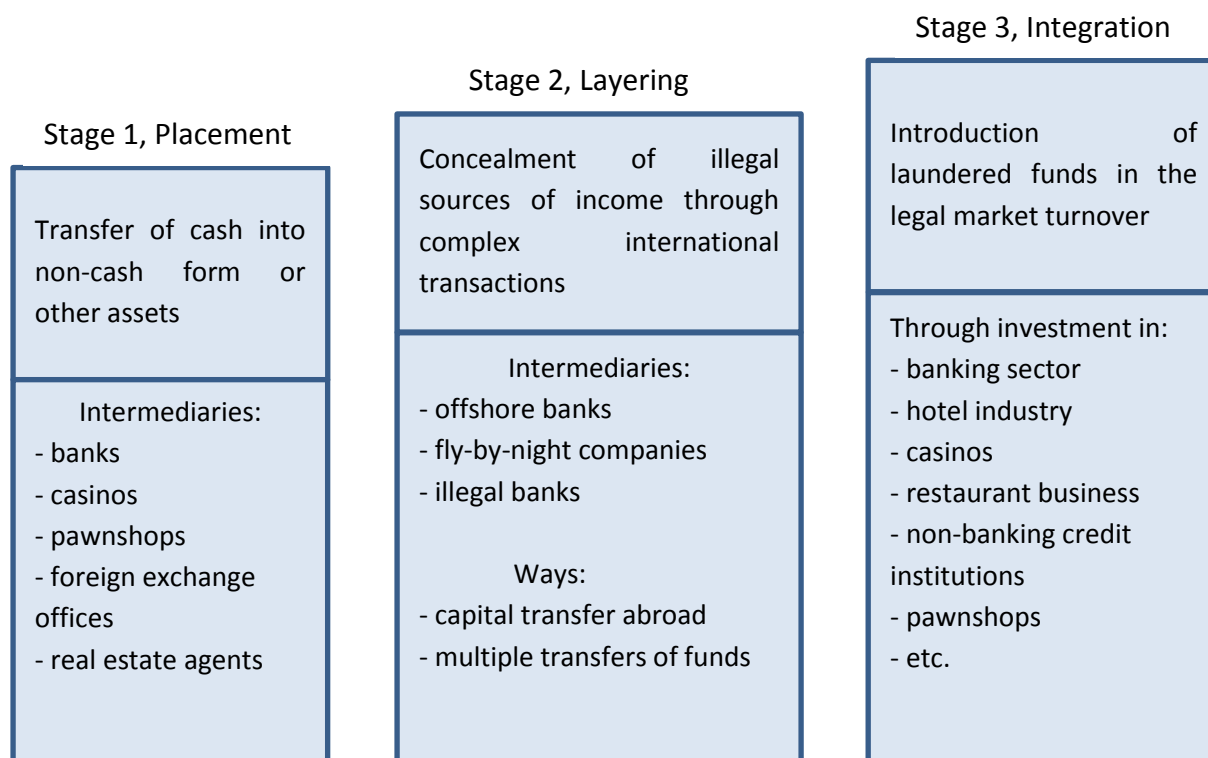


Figure 1 Three-phase model

Placement is the first stage of laundering of money received from illegal sources, the first step of money legalization and the weakest link in the process of money-laundering.

¹² Kozlov I.V. About stages of the process of legalization of criminal proceeds. M.:2007

Illegally obtained money can be relatively easily identified at this very stage. An important criterion of placement for criminals is anonymity, so the preference is given to the mechanisms and tools that ensure the fulfilment of this condition in the best way.

There are various methods of placement, which, depending on the financial institutions used, can be grouped into the following categories:

1. Placement through traditional financial institutions.
2. Placement through non-traditional financial institutions.
3. Placement through institutions of the non-financial sector.
4. Placement outside the state¹³.

Traditional financial institutions are engaged in ordinary financial business on the basis of a license or permit. These include banking and specialized non-banking financial and credit institutions (commercial banks, savings banks and associations, credit unions, mutual fund banks, pension funds, insurance companies, financial companies, investment funds) that are subordinated and managed by government regulators¹⁴.

Non-banking financial institutions that actually provide banking services are called non-traditional. These include foreign currency exchanges, brokers of securities or precious metals, commodity brokers, casinos. Recently, these financial organizations have become increasingly used to launder illegally obtained incomes and to introduce them into the usual financial turnover. This is largely due to the fact that legislation aimed at combating money-laundering is more developed and more effective in the banking sector, which limits the possibilities of launderers through the use of traditional financial institutions.

Placement through the institutions of the non-financial sector. The following types of non-financial organizations are actively used to conceal the laundering of money obtained by criminal means:

- institutions related to the entertainment industry;
- institutions related to the automotive business;
- retail, such as antique shops;
- service companies;
- other companies: construction companies.

Placement outside the state. Placement of illegally obtained income abroad without the use of official institutions is carried out through physical exporting.

¹³ Malyavin P.I. Ways and methods of laundering of the shadow capital. Belgorod, 2008.

¹⁴ Bekryashev A.K., Belozerov I.P. Shadow economy and economic crime. [Electronic resource] – URL: <http://newasp.omskreg.ru/bekryash/intro.htm>.

Physical export of money is carried out by various methods, among which the most typical are as follows:

- concealed export of money by couriers (smuggling);
- export of money in caches in vehicles or cargoes;
- mailing;
- underground banking systems.

Analysis and allocation of various methods of laundering at the first stage of placement of illegal proceeds is of key importance in preventive activities to counteract illegal money-laundering. The more types of activities on potential laundering can be analysed and consolidated from a theoretical point of view, the more the range of activities of financial monitoring bodies is expanded in practical terms at this stage of most likely detection of illegal activities¹⁵.

Layering is detachment of criminal proceeds from sources of their formation through a chain of financial transactions aimed at concealing the trace being traced. Layering aims to conceal the real sources of the funds origin and ensure the anonymity of owners of criminal assets. There is a mixture of illegal assets with the legal the same by form through financial transactions.

Detection of a crime at an early stage is of fundamental importance, since if the placement of large amounts of money was successful and it was not discovered, then it becomes much more difficult to disclose further actions on money-laundering. Here, we need to consider some of the most well-known methods used for the layering operation.

Transformation of cash into cash instruments. Once illegal incomes are successfully placed in financial institutions, they turn into cash instruments, such as checks, money transfers, bank checks, bonds and shares. Such a transfer facilitates the export of illegal proceeds from a country.

Acquisition and sale of property. When a money launderer places money in the acquired property, the latter can be subsequently resold inside the country or exported and sold abroad. This leads to both complicating the search for a money launderer and to the great difficulties in finding and withdrawing illegally obtained property.

Electronic transfer of funds is perhaps the most important of the layering methods. It provides criminals with such advantages as speed, distance, minimal traceability and high anonymity, provided huge total daily volume of transfers.

Transfer of money to accounts of other firms (from the “A” firm to the “B” firm, from there to the “C” firm, etc.). Such a transfer, concealed by fraudulent deals or through self-

¹⁵ Gvozdeva D. Action gives rise to opposition/ D. Gvozdeva// Business lawyer.2007. №12. P. 16.

liquidation of firms, makes it possible to effectively hide the source of origin of financial funds¹⁶.

Offshore territories with a preferential tax treatment, a weak system of financial control in the banking sector, a non-transparent ownership structure and absolute bank secrecy play an important role in carrying out the operations of the second phase. Fictitious firms are usually created and the traces of financial transactions are broken in such countries. The favourite places for such banking operations include in Europe: Andorra, Bulgaria, Campione d'Italia, Liechtenstein, Luxembourg, Monaco, Cyprus; in East Asia: Hong Kong, Singapore; in Latin America: Barbados, Bahamas, Bermuda, Cayman Islands, Haiti¹⁷.

Offshore banks are used at this stage with a view to withdraw funds from the direct control of the national banking regulatory and supervisory body, as well as national financial intelligence.

Integration is a stage of the legitimization process directly aimed at giving a veneer of legality a criminally acquired fortune. The goal of the stage is consolidation of the assets disparate at the previous stages into some integrated form, convenient for use by the launderer (best in the form of an account in a first rank bank). During integration, laundered money is placed back into the legal economy and integrated into the financial system along with ordinary assets obtained legally.

Let's analyse the most known methods used in the integration process.

Real estate sale. There are many ways to sell real estate, allowing you to return the laundered money back to the economy. For example, real estate can be bought by a sham corporation that uses illegal money. Revenue from the subsequent sale of this real estate is already considered legally earned income. Broken business can also be bought to make it look like the income is the result of the active operation of this business.

Distortion of prices of foreign trade transactions. This method is effective for integrating illegal proceeds back into the domestic economy. There are at least two varieties of such schemes. The first one is associated with overstating the money imported to the country in the documents in order to justify investing the corresponding money in banks. The second one is connected with overstating the volume of exports. The purpose is to justify the receipt of the corresponding amounts from abroad.

¹⁶ Investigation of crimes in the economy: Collection of methodical. recommendations of the Russian Ministry of the Interior. M., 2005, page 61. [Electronic resource] – URL: <http://www.dissercat.com/content/yazyk-kriminalistiki-v-protokolakh-sledstvennykh-deistvii>

¹⁷ Kerner H.-H., Dah E. Money Laundering. M.: International relations, 1996. P. 60.

Deals with underpricing. Examples include real estate transactions. A house is bought at a low price. After this, renovation is simulated, and the object is sold at a higher price. As a result, the external legal income is formed¹⁸.

Transactions with overpricing. They are common in the exchange turnover, in transactions with works of art, at auctions. Things, the cost of which can only be determined conditionally are sold at a very high price. As a result, high real income is generated.

Transfer pricing. It is common in export-import operations. Two contracts are drawn up: real and fictitious (with an inflated operation amount). Money is transferred to the intermediary firm, as a rule, registered in the offshore zone, under the fictitious contract. The difference between the real and fictitious price remains on the account of this firm as income.

Use of bank accounts of a foreign or joint firm. The main goal is to manipulate the money in the form of loans, payment of letters of credit, payment of fees for consultations, lecturing, making payments under fake contracts or for fictitious services, paying salaries or commissions to individuals or companies. An example may be a case of recovery of 2.7 million roubles from State Duma ¹⁹deputy Ilya Ponomarev in 2013.

The Investigative Committee instituted a criminal case on embezzlement in a particularly large amount in relation to the Senior Vice-President of the Skolkovo Foundation Alexei Beltyukov. According to the investigation, during the period from February 2011 to February 2012 Beltyukov handed 750 thousand US dollars to State Duma deputy Ilya Ponomarev from the funds of the Skolkovo Foundation illegally.

According to the ICR, Beltyukov “tried to conceal embezzlement of such a large amount, having entered into contracts with Ilya Ponomarev on behalf of the fund”. In accordance with these contracts, Ponomarev had to give ten lectures in a number of cities in Russia for 300 thousand US dollars, and to carry out research work for 450 thousand US dollars²⁰.

The three-phase model has been developed by the US Customs and is primarily designed to combat money-laundering of proceeds from drug trafficking. This is a very significant condition because: first, the retail drug trade is conducted solely for cash and, often, in small bills; and secondly, the use of cash in the US has always been limited due to the proliferation of non-cash methods of payments. A large amount of cash causes a lot of

¹⁸ [Economic and personal security]. [Electronic resource] – URL: <http://ubep44.ru/index.php?page=rassloenie-kak-faza-otmyvanie-dohodopoluchennyh-iz-nelegalnyh-istochnikov>

¹⁹ The State Duma (Russian: Государственная Дүма, tr. Gosudárstvennaya Dүma), commonly abbreviated in Russian as Госдүма(Gosduma), is the lower house of the Federal Assembly of Russia, while the upper house being the Council of the Federation [en.wikipedia.org].

²⁰ About what were the lectures on 30 thousand dollars, which MP Ponomarev read for Skolkovo.

suspicion in and of itself, so criminals need to get rid of it as quickly as possible by placing it on bank accounts, investing in securities or any other assets. An example of the US Federal Reserve System, which, in order to combat money-laundering from drug trafficking, constantly monitors cash turnover and applies economic measures to banks that receive and transfer to the Federal Reserve institution banknotes of one denomination within one business week, is indicative in this case²¹.

Thus, within the framework of the basic model of criminal income legalization, banks are a key element of the money-laundering process. Placement of illegally received cash is conducted at the stage of placement, transfer of money is conducted at the stage of layering and investing in a legal economy is conducted at the stage of integration through banks. It is worth noting that banks can detect unusual behaviour of their clients at the stage of placement of illegally obtained cash only. Money-laundering operations become indistinguishable from real payments within the framework of economic contracts at the stage of layering and integration.

1.3.3 Four-phase model

This approach to the structuring of the laundering process is used by UN experts. The main stages of legalization are as follows:

The first phase is release of cash and its transfer to bank accounts of front men who have their own accounts in banks. Such persons may be, for example, relatives of a criminal. At the same time, only one condition is complied with: intermediaries must have their own accounts in banks. At present, there is a tendency to seek intermediaries with outreach to international banks²².

The second phase is distribution of funds through banking transactions and securities transactions. At this stage, a network of informants is created, who can inform law enforcement agencies of illegal circulation of the money supply. As foreign experience shows, distribution of cash is often carried out at foreign currency exchange offices, casinos and nightclubs.

The third phase is concealment of traces of the crime committed. A money launderer has the following task: to take all measures to ensure that an outsider does not know where the money is received from and whom they are distributed to certain institutions or

²¹ Karataev M.V. Financial monitoring. Role of the banking sector in modern models of money laundering. M. 2010, page 61.

²² Shashkova A.V. The material aspect of the laundering of illegally obtained income, model and typology of legalization / A.V. Shashkova // Moscow Journal of International Law. 2011. № 1 (81).P. 151.

organizations with. In order to accomplish this task, they usually carry out the following activities:

- use for opening accounts in banks remote from the crime scene and the place where criminals live;
- money transfer from accounts of foreign firms accounts of criminals in the framework of fictitious economic contracts;
- use of an underground system of bank accounts.

The fourth phase is integration of the money by investing laundered capital in legal economy. At this stage, criminal communities invest laundered capital in highly profitable spheres and business sectors.

A key element of the model is the use of financial instruments and banking transactions, which actively use smurfing (organized purchase of easily convertible financial instruments) and structuring (payments in small amounts for different reasons to one bank account).

1.4 Circulating models

1.4.1 Model of circulation by A. Zund²³

It compares separate phases of the movement of “water” during the circulation with the movement of money in the laundering process and distinguishes the following phases:

- “Precipitation” (getting cash as a result of committing crimes): income is generated, as a result of various crimes, in the form of a large amount of cash in small bills;
- “Absorption” (primary laundering): disparate amounts come into the hands of an organized criminal group for the purpose of primary laundering by acquiring foreign currency or exchanging banknotes of small denomination for banknotes of a larger denomination;
- Formation of “groundwater” (accumulation): money is accumulated after preliminary laundering;
- “Groundwater Runoff” (money preparation and transfer abroad): money is transferred abroad through banking transactions to a branch of a criminal group responsible for laundering, or to a firm specializing in the provision of such services (at a certain charge and at a certain risk);

²³ Magomedov Sh.M., Karataev M.V. Modern models of money laundering and countermeasures/ Shadow economy and money laundering.M. 2017, page 11.

– “Ponding” (preparation for laundering): funds that can come from different countries and different sources are accumulated in the country of laundering;

– “Pumping Station” (introduction of money into a legal financial system): money is introduced through banks into the legal financial system. This is most convenient in countries where there are no requirements for the identification of clients by banks by purchasing financial assets (shares and other securities) and placing money on bank accounts;

– “Treatment Facilities” (secondary laundering): is carried out with the participation of front men, fly-by-night firms ²⁴ and offshore companies/banks through a number of transit transactions;

– Use (investment): funds are invested in medium and long-term assets, invested in the establishment of new companies or existing organizations. The goal of the stage is the final separation of funds from illegal sources of their origin and giving them legal status;

– “Evaporation” (repatriation of profits): revenues after being made legitimate can be used to purchase foreign currency and transferred back to the country where the crime has been committed. Such return is usually made in the form of borrowed funds to affiliated companies of criminals or acquisition of an equity interest in the authorized capital of existing companies and establishment of new organizations involving non-residents;

– Repeated “Precipitation” (new receipt of cash as a result of commission of crimes).

This is the essence of the circulation: some part of money is used to finance further criminal activity; the other part is placed on the accounts of reputable banks or invested in the legal economy by investing in the world financial markets and acquiring equity interests in legal companies after laundering.

1.4.2 The cyclical money-laundering model²⁵

In 1990, experts from the US Federal Reserve System developed a model that is a symbiosis of the three-phase money-laundering model and the circulation model²⁶ by Zund. It includes 3 phases (placement, layering and integration), but flow of funds is not linear but cyclical in nature. Within this model, illegal proceeds can skip one or even two phases and be directed to finance current illegal activities or activities that do not require the use of legal means (bribes to officials, etc.) in accordance with the needs of a criminal group during the

²⁴ Fly-by-night companies or business people cannot be trusted because they are likely to get into debt and close down the business to avoid paying the debts. This definition is explained in dictionary.cambridge.org

²⁵ Magomedov Sh.M., Karataev M.V. Modern models of money laundering and countermeasures/ Shadow economy and money laundering.M. 2017, page 12.

²⁶ Zund A. Der schweizer Treuhandler. 1990. № 9. P. 403–408.

course of laundering. That is, criminal proceeds do not necessarily have to go through all stages for money-laundering purposes, but can be used in an initial (not laundered) way to finance the current activities of criminals.

The main instrument of the first phase is the conversion transactions of banks, money transfers through illegal money transfer channels and smuggling of cash into the country of laundering. Banks, gambling establishments, service companies, etc. are used in order to place criminal proceeds. The direction of further cash flows depends on the specific goals and capabilities of a criminal group. A weak spot of the model is that it does not reflect the fact of saving the part of the laundered funds and implies their further use in full for the needs of financing illegal activities. Ultimately, the possibility of further unimpeded use of funds obtained as a result of commission of an offense in a legal economy (rather than financing the current criminal activity) is the goal of money-laundering. The banking system is used at all stages of the legalization process in the cyclical money-laundering model, while a list of banking services that can be used to launder criminal proceeds is constantly expanding.

1.4.3 Four-sector money-laundering model

The four-sector money-laundering model was proposed in the early 1990s by Swiss economist K. Müller²⁷. Sectors and related stages of laundering are identified within the framework of the model.

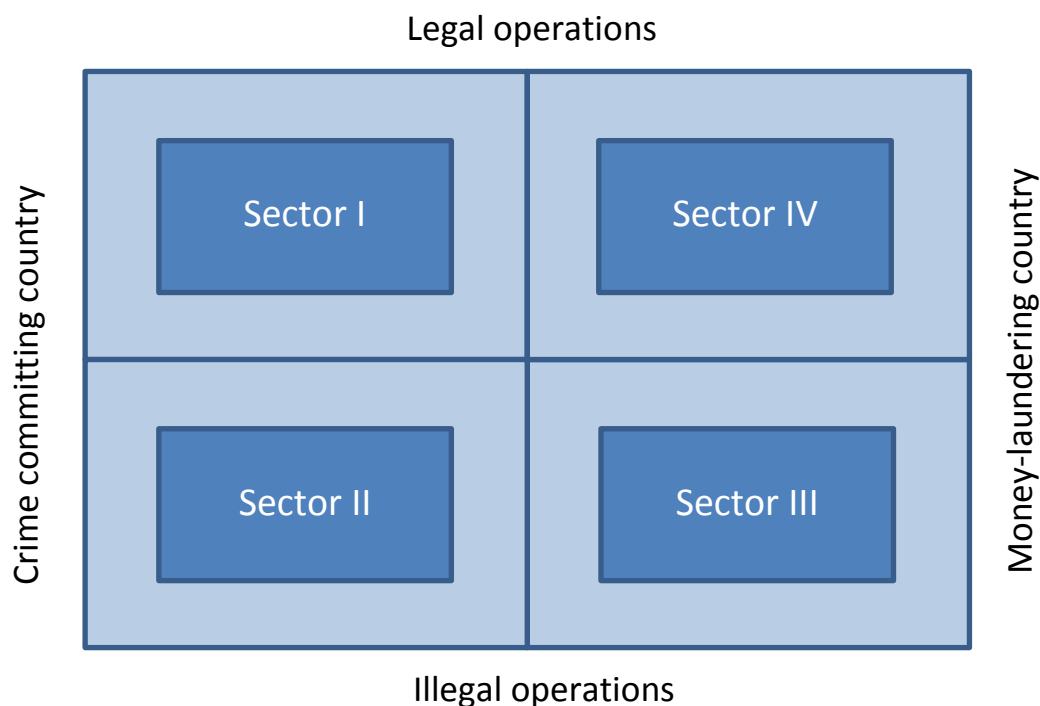


Figure 2 Four-sector money-laundering

²⁷ Müller C. Geldwäscherei: Motive — Formen — Abwehr. Zürich: Treuhand — Kammer, 1992. P. 113

Identification criteria are as follows: legality/illegality of operations and a country of the main crime/country of money-laundering.

The first sector is a country of the main crime/legality. Internal, preliminary laundering is carried out in this sector. The major instrument is currency exchange operations of banks.

The second sector is a country of the main crime/illegality. Collection of pre-laundered money into a pool and preparing them for smuggling are carried out in this sector.

The third sector is a country of money-laundering/illegality. Preparations to introduce money into the legal financial system are carried out in this sector.

The fourth sector is a country of money-laundering/legality. Concealing actions are carried out in the form of transfers, as well as banking products and services are widely used in this sector.

Control of the banking sector by the state, may, if not stop, but at least significantly hinder money-laundering. For this purpose, K. Muller developed three possible scenarios²⁸.

- Absence of countermeasures in a country of committing a crime and money-laundering: criminal proceeds can be transferred from Sector I to Sector IV, bypassing Sectors II and III. This is due to the passive attitude to the issue of money-laundering in a country of committing the main crime. Presence of laundered money in Sector IV indicates that the illegal origin of this money is no longer possible to establish in this case, since laundering has already taken place.

- Declaring and identification in a country of committing the main crime and the absence of countermeasures in a country of laundering: criminals are forced to transfer money received by criminal means to a country of laundering using the channels of illegal delivery, bypassing the placement in bank accounts in a country of committing the crime. Since a country of laundering lacks requirements to banks in terms of client identification, the placement of illegally obtained cash in bank accounts is easy and virtually anonymous.

- Declaring in a country of committing the crime and identification in a country of laundering: funds are transferred to a country of money-laundering without declaring, nevertheless, due to the need for identification in a country of laundering, they cannot be freely introduced in legal turnover. Criminals are forced to transfer money further to countries with milder bank requirements for identification.

Within the framework of this model, the key parameter that determines the directions of flows and methods of money-laundering is the obligation of banks, through which placement and laundering of criminal capital are carried out, to identify their clients. At the

²⁸ [Electronic resource] – URL: <http://docplayer.ru/54341522-Sovremennye-modeli-otmyvaniya.html>

same time, the ideal situation for criminals is the situation where banks do not present requirements for client identification and there is an opportunity to open/hold an anonymous account.

1.5 Analysis of the modern money-laundering models

Examination of modern models, describing the money-laundering process, allows to conclude that the key element of the process of criminal proceeds legalization is the use of financial (and, above all, banking) system by criminals. At the same time, the main problem is the transfer of large amounts of cash received as a result of crimes into easily managed financial instruments²⁹. These models are designed primarily to combat laundering of money received from drug trafficking, illegal arms trade, prostitution, etc. and, as a consequence, have the following common features:

- models are based on the assumption that illegal incomes have the form of cash initially, and the laundering process starts with the placement of large amounts of cash in bank accounts;
- use of cash in a country of laundering is limited due to historical traditions, as well as the development of modern payment systems and technologies;
- money-laundering transactions are cyclical and are not the result of committing a single offense (for example, a one-time embezzlement of funds), but the result of constant criminal activity (for example, drug trafficking);
- registration of companies in a country of committing the crime is preceded by a thorough verification procedure for their owners and managers, as well as the legitimacy of the sources of capital (the use of fly-by-night companies is difficult);
- banks have the opportunity to minimize their own risks of being involved in money-laundering schemes by refusing to establish contractual relations with suspicious clients/right to terminate a bank account or deposit agreement unilaterally/refuse to carry out a client's transaction if there are sufficient grounds to believe that the transaction purpose is money-laundering;
- system of supervisory and law enforcement agencies in cooperation with the financial regulatory and control bodies allows to monitor tax evasion and systematic transactions with large amounts of cash efficiently.

²⁹ Karataev M.V. Financial monitoring. Role of the banking sector in modern models of money laundering. M. 2010, page 66.

These conditions are extremely important, and failure to comply with at least one of them transforms the entire system substantially. This imposes significant restrictions on the possibility of using these models in order to develop methods for countering the laundering of criminal proceeds.

These models manifest clearly one of the fundamental shortcomings of the modern fight against money-laundering, which consists in carrying out money-laundering operations by establishing new firms or creating situations where a new client applies to a credit organization for the purpose of laundering of criminal proceeds. In this case, there is a very high probability of underestimation of the fact that quite often a firm, which exists absolutely legally and has already an account with a bank and conducts real economic activity, will be used for money-laundering operations. This applies primarily to crimes such as illegal insider trading, tax offenses and embezzlement using official positions.

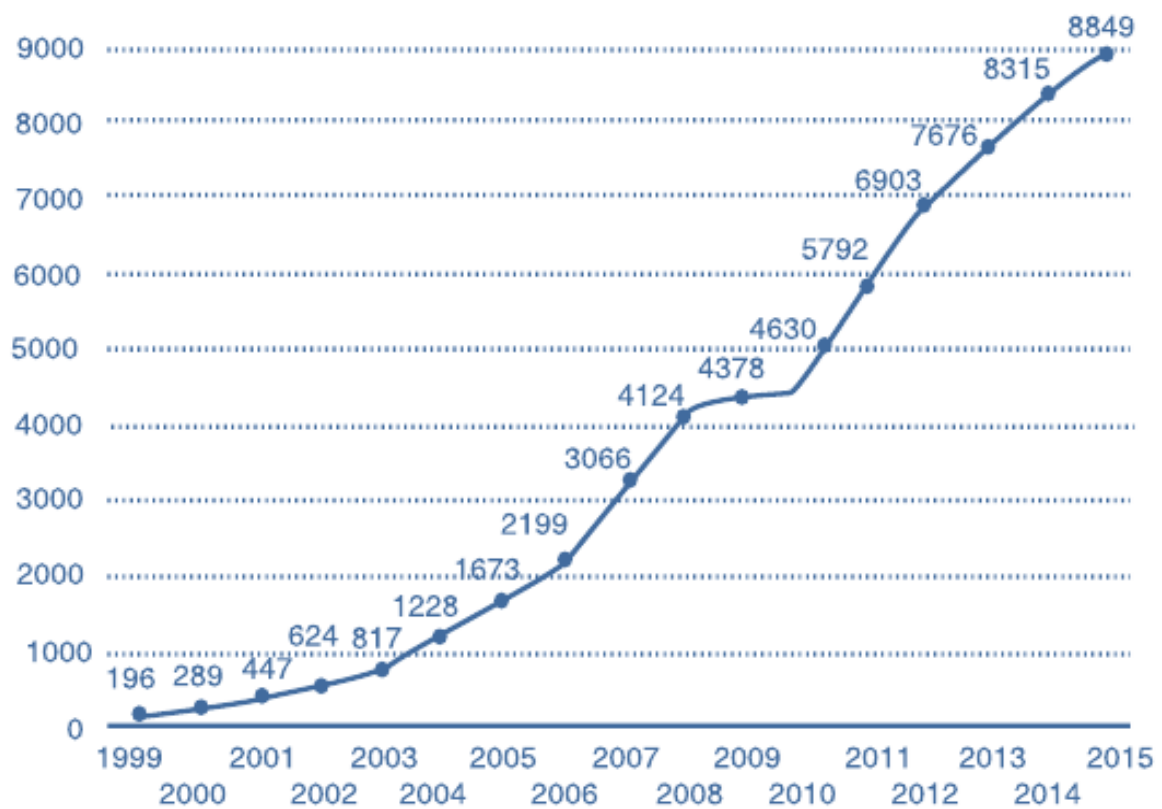
1.5.1 Options of criminal proceeds laundering on the example of Russia

The differences between the models of money-laundering are of fundamental importance for banks. The typology of these schemes is an important theoretical and practical task, because it depends on both: the choice of the counteraction strategy and the methods for managing the risk of involving a bank in the criminal proceeds legalization process.

Under the current conditions, it is advisable to consider two options of the national model of criminal proceeds laundering when illegal incomes are in a form of cash and in the case of obtaining illegal proceeds by wire transfer. This differentiation is necessary, since it is the form of initial criminal incomes that largely determines the set of methods and ways for making them legitimate. Let's consider the principle of action of these models in the practical plane based on the example of Russia.

1. Illegal incomes in a form of cash. Cash in Russia was, and today is, the most preferable instrument of payment. According to the Bank of Russia, the share of cash in the amount of retail operations is more than 80.9%. This is despite the fact that the payment of wages to the population is mainly carried out by a non-cash method. Persistently high demand of the population and businesses for cash leads to an increase in their number in circulation annually³⁰.

³⁰ Yurov A.V. Situation of cash circulation in Russia. // Money and credit № 4. 2015.



Graph 1 Source: Bank of Russia. Dynamics of the amount of cash in circulation (billions of roubles).

Unlike Western countries, it is not accepted to ask questions about the origin of money in Russia, as a consequence, large-scale transactions that are simply impossible in developed countries are made in cash. There, a large amount of cash is perceived as a definite sign of the illegality of the origin of money, but not in Russia. Modern conditions of the Russian economy make it possible to use cash almost in any amount with minimal risk to their owner both in the legal sector of the economy (in the real estate market, in the mergers and acquisitions market, in investment projects, etc.) and for corruption purposes, and also to pay for products and services in the shadow economy. Thus, one of the features of the Russian model of money-laundering is the possibility to use proceeds from crime in the legal sector of the economy directly in the form in which they were received, that is, in the form of cash. Therefore, criminals do not need to take risks and strive to transfer money to a non-cash form for money-laundering.

The use of the banking system is necessary for criminals to withdraw capital abroad if there is no possibility to invest cash in the legal sector of the economy of the Russian Federation. Further actions of criminals are described by the classical three-phase money-laundering model. Criminal money acquires a more or less legal form in the Russian Federation through the world market of loan capitals and operations in the legal sector of the economy of foreign countries, using systems of operations through offshore centres. After laundering, the funds can be placed on the accounts of respectable Western banks, invested in

the development of legal business in any country in the world or returned to Russia, but only in the form of funds borrowed by companies of the legal sector or foreign investments.

2. Illegal incomes in a non-cash form. Money-laundering has traditionally been associated among specialists in this field with illegal profits from street drug trafficking, which appears in the form of cash and laundered by placing it on accounts of financial institutions. However, money-laundering is associated not only with the specified types of criminal activity, and almost any crime in the economic sphere can serve as predicate. The main peculiarity of the money-laundering model of income received in a non-cash form is that legitimate activity is the source of illegal proceeds. Revenues acquire their illegal nature due to the illegality of their receipt by fraud, embezzlement, abuse of duties, etc. Thus, criminal money has a non-cash form initially, i.e. it is stolen from the victim's bank account.

It is possible to distinguish specific areas of risk:

- fraud and bankruptcy in the banking sector³¹;
- pyramid schemes³²;
- embezzlement of budgetary funds³³.

Classical Western models do not take into account the possibility of obtaining illegal income in a non-cash form, although these problems are very urgent for Russia. When Russian analysts try to limit the legalization process with three main stages of the classical model, this area remains without due attention, which explains the low effectiveness of anti-money-laundering measures in Russia.

In this case, it is important to distinguish two main groups of operations: operations in the country of committing the crime and operations related to the withdrawal of capital outside the country for the money-laundering purposes.

Having received income as a result of fraudulent actions or embezzlement of funds on the account in one of the banks of the Russian Federation (embezzlement of large amounts of money is made through electronic transfer, and not through physical removal of cash), criminals need to “separate” this money from the original crime. One of two main strategies can be used for this purpose: money is withdrawn abroad or withdrawn in cash after a series of transit operations using fly-by-night firms. Money cannot be left on the account in the domestic bank, as in the case of an investigation into the information received from banks, the chain of flow of funds across the country can be restored by proving the illegal origin of capital. Therefore, criminals need to withdraw money from the direct control of the national

³¹ [Electronic resource].– URL: <http://www.kommersant.ru/doc/3194823>.

³² [Electronic resource].– URL: <http://izvestia.ru/news/657283>.

³³ [Electronic resource].– URL: http://www.ng.ru/economics/2016-04-19/1_golikova.html.

monetary authorities or at least make the available capital anonymous by means of its transfer into cash.

Cash-out transaction is implementation of financial schemes aimed at the transfer of non-cash funds on bank accounts in cash, in excess of the actual needs of an economic entity. In this case, criminals use one of the main characteristics of cash, which is its complete anonymity. However, matching of cash-out and money-laundering is far from always justified. This is justifiable only when cash-out in itself is a means of money-laundering, that is, illegally obtained income initially has a non-cash form, and cash-out allows you to break the documentary track of the money flow through the banking system channels and make the capital anonymous. At the same time, criminals are not afraid of a huge amount of cash, because, as has been shown earlier, it is not difficult to apply it in the legal economy of the Russian Federation. This corresponds already to the stage of integration (embezzlement of funds with putting them to the account corresponds to the stage of placement, cash-out corresponds to the stage of layering, and the use of cash corresponds to the stage of integration) in the three-phase model of money-laundering.

An alternative option for using the banking system within the framework of the Russian money-laundering model is the withdrawal of capital abroad and laundering using offshore territories and operations involving non-residents. For example, the volume of suspicious transactions in Russia amounted to 531 million US dollars³⁴ for three quarters of 2016. In this case in 2016, the regulatory agency's main focus was on transactions related to international cargo transportation and tourism, as well as the acquisition of rights to software and intellectual property. In addition, the Bank of Russia closely followed transactions with the use of judiciary writs of execution. A year earlier³⁵, fraudsters used other methods of withdrawing assets, associated mainly with fraudulent securities and fictitious imports.

1.6 Potential risks of money laundering through banking products

Based on the analysis of the presented models describing the money-laundering process through the banking system, it is possible to draw conclusions about the degree of potential use of existing banking products for the purpose of legalization of criminal proceeds.

In case of providing services to clients, which are legal entities, money transfers, cash services and clients' transactions with non-issue securities can be recognized as the most risky for a bank from the likelihood perspective of involvement in the money-laundering processes.

³⁴ Data is provided by Bank of Russia, 2016.

³⁵ [Electronic resource]. – URL: <http://izvestia.ru/news/658120>.

Significantly less risk is incurred from collection of payments, letters of credit and bank guarantees, and the minimum risk stays with long-term deposits, salary projects and lending.

In case of providing services to clients, which are individuals, current account transactions and short-term deposits, transactions with cash in foreign currency, bank cards and precious metals can be recognized as the most risky for a bank from the likelihood perspective of involvement in the money-laundering processes, and less risky are deposits, loans and custody services, while minimal risk is borne by transactions with registered bank cheques.

In case of providing services to clients, which are credit institutions, a bank needs to show increased attention to transactions on *loro* (due to banks) and *nostro* (due from banks) accounts, banknote transactions and operations with precious metals; deposits and interbank loans are less risky, while REPO and SWAP transactions bear a minimal risk³⁶.

It is worth noting that the fact of the use of certain banking products by a client cannot be considered suspicious, since the main goal of banks is to receive profit from providing banking services to clients, but it becomes such only in case of client's "abuse" by carrying out transactions that can be used for the purposes of legitimization of criminal incomes. Depending on the level of risk that is assigned to the client on the basis of an assessment of the use of certain banking products in conjunction with his organizational profile data, a bank must determine the necessary degree of verification and measures to minimize potential risks.

As the analysis of best practices shows, today the state regulation and control bodies, international financial institutions and the banking community are intensifying their attention to the issues of preventing the use of national and global financial systems for the purpose of criminal proceeds laundering. Therefore, the policy of a modern bank should be aimed at preventing the use of its products for criminal purposes. A bank should strive to deal only with credible clients and the main task is to minimize their own risks by assessing the likelihood of involvement in the money-laundering operation³⁷.

Thus, the risk management system is one of the most important components of the organizational process of functioning of a modern commercial bank, and therefore shall be integrated into this process, based on a scientifically sound strategy and tactics, and implemented operationally. The importance of an integrated and adequate risk management system will only increase in the course of further integration of banks into the global financial system.

³⁶ Magomedov Sh.M., Karataev M.V. Modern models of money laundering and countermeasures/ Shadow economy and money laundering.M. 2017, page 17.

³⁷ Karataev M.V. Financial monitoring. Role of the banking sector in modern models of money laundering. M. 2010, page 71.

Fourth EU ML/TF Directive

2.1 Global anti-money laundering groups

The fight against money laundering received as a result of illegal business or criminal activities was and remains a key task of the law enforcement agencies of most developed and developing countries of the world.

Initially, financial crimes were investigated by national law enforcement agencies (police, prosecutions offices, tax offices, etc.), however, over time, economic crime has become global, moving beyond certain countries, closely intertwining with similar criminal groups of other countries and continents. As a result, a project was launched to create a global institutional body to combat financial crimes, namely, the Financial Action Task Force (FATF), which is by far the most influential structure in the world practice.

The organization develops recommendations for partner countries, analyses and identifies global economic crimes in the global financial market, and conducts active analytical and journalistic activities. In addition, the Eurasian Group on Combating Money Laundering and the Financing of Terrorism (EAG), the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), Egmont Group, the Financial Intelligence Unit are dealing with international economic crimes as well.



The Eurasian Group on Combating Money Laundering and the Financing of Terrorism (EAG) is a regional group in the sort of FATF. The EAG includes nine states: Belarus, India, Kazakhstan, China, Kyrgyzstan, Russia, Tajikistan, Turkmenistan and Uzbekistan. The EAG is an associated member of the FATF.



A regional group in the sort of FATF, whereof mission is to spread the policy of international standards in the field of anti-money laundering and combating the financing of terrorism (AML/CFT) in European countries. MONEYVAL is a monitoring body of the Council of Europe, and also has the status of an associate member of the FATF.



The Egmont Group is a united body of 156 Financial Intelligence Units (FIUs). The Egmont Group provides a platform for the secure exchange of expertise and financial intelligence to combat money laundering and terrorist financing (ML/TF). Egmont Group has affiliates in EMEA, America, Asia and Pacific regions.

2.2 Impact of fourth EU ML/TF Directive

A new edition of the EU Anti-Money Laundering and the Combating of Financing of Terrorism³⁸ Directive came into force in Europe on June 26, 2015. Adoption of a new Directive has been a significant step, as it has influenced the evolution of AML/CFT standards in all 28 EU member states. Legislation in seven other candidate countries will gradually converge with the pan-European one within programmes on expansion of the European Union.

The consequences of the Directive's adoption were felt also outside the EU. Legal entities and individuals carrying out certain operations in Europe – starting from opening correspondent accounts to buying real estate – faced new requirements for the identification and disclosure of information. These systemic effects will eventually lead to some degree of unification of legislation in different regions of the world.

It is important to note the most significant innovations of the Anti-Money Laundering Directive, which will not only affect the development of European legislation, but, probably, lay the foundation for best practices on a global scale.

First of all, it is worth emphasizing the very nature of European directives. It would be wrong to equate them to national laws. Special hierarchy of laws and regulations have been adopted in the EU at the supranational level. Regulations, which are documents of direct application, are at its top. Directives that have indirect application are located a step below. Unlike the regulations, the directive establishes only the objectives of regulation and allows national governments to choose ways to achieve them. Therefore, firstly, directives usually never concentrate on details, but only lay down the basic principles of legal regulation. Secondly, a fairly long period of their incorporation into national legislation is envisaged for them. In particular, the Anti-Money Laundering Directive provisions were implemented in the law of the EU member states only on June 26, 2017.

2.2.1 Cash payment restrictions

Unlike national practice, when the existing law is gradually amended, often a new regulation (legislative instrument) replaces the old one completely in the European Union. So it happened with the AML/CFT Directive. However, although it was written “from scratch” officially, its content remained unchanged by approximately 70%. This is clearly seen on the

³⁸ The full name: Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. Further under the text - anti-laundering Directive, or Directive.

scale of the scope of regulation. Both the circle of predicate crimes and the circle of subjects of the Directive remained almost unchanged. The main changes here are of a point nature.

Perhaps the most interesting is the presence of retail stores among the AML/CFT subjects (Article 2 Part 1 (3)(e))³⁹. In particular, the AML/CFT requirements will continue to be followed by those sellers that accept cash in excess of 10,000 euros or pay a similar amount in cash to their suppliers. This is a rather interesting practice, but actually the impact of this requirement on the retail sector will be insignificant for two reasons. First, despite the lowering of the threshold amount (previously it was 15,000 euros, and the European Commission proposed to reduce it to 7,500 euros), it remains quite large. Thus, the requirement is mainly for sellers selling expensive products, such as cars, antiques, luxury products, etc. They have to take measures to check their customers properly, develop an internal control programme. Secondly, this requirement is irrelevant at all for many countries. Restrictions on cash payments have already been introduced in some EU countries. Almost in all cases, limits are set that do not exceed 10,000 euros (for example, 3,000 euros in Belgium, and 1,000 euros in France).

The allowable amount of cash payments is 2,999 euros in Italy. Representatives of the European Commission assure that “cold” cash is a key tool for terrorists and criminals. However, the restriction on cash payments had a completely different goal in Italy and France initially: fighting tax evaders.

Let’s consider the restrictions on the use of cash in the EU countries in more detail.

EU Member States	Cash Payment Limits, €	Other relevant information
Austria	No limit	–
Belgium	3.000	Cash payments for real estate are prohibited. Fines from €250 to €225.000
Bulgaria	2.500	Above this limit, transaction must be done through a bank even if it’s divided into multiple payments. If done in another currency, equivalent is determined by the Bulgarian National Bank
Croatia	15.000	–
Cyprus	No limit	–
Czech Republic	14.000	The limit of coin is 50 pieces. Banknotes must be accepted without limitation, those that are damaged may be refused however

³⁹ Here and below, we refer to the official text of the Directive: Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC

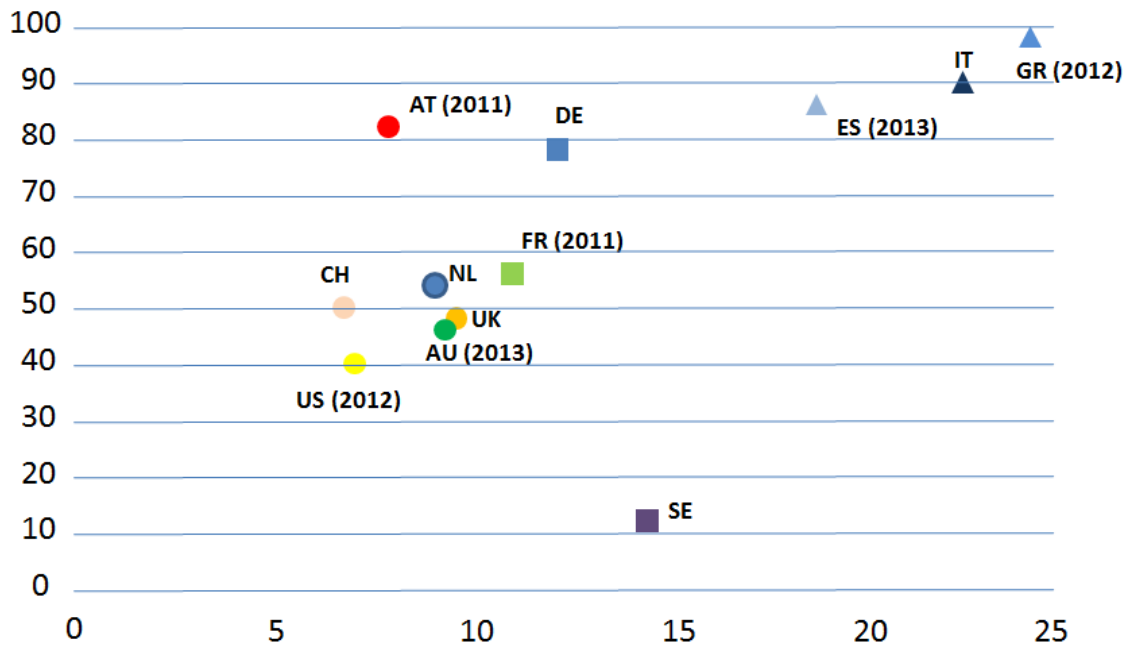
Denmark	No limit	However for any cash payments exceeding 10,000 DKK (including VAT) – approx. €1,340, both the vendor and customer are responsible if the vendor does not pay taxes or VAT
Estonia	No limit	Number of coins used for payments limited 50 at a time
Finland	No limit	–
France	1.000	€15.000 for non-resident taxpayers
Germany	No limit	–
Greece	500	–
Hungary	No limit for consumers	Limit of €5.000 per month for legal persons
Ireland	No limit	–
Italy	2.999	Fines range from €3.000 to 40% of the amount paid. €15.000 fine for any payment over €50.000
Latvia	No limit	–
Lithuania	3.000	–
Luxembourg	No limit	–
Malta	No limit	–
Netherlands	No limit	However some institutions have a duty to report identity of buyer for any unusual payments.
Poland	15.000	Limit of €3.500 for legal persons
Portugal	3.000	€10.000 for non-resident tax-payers
Romania	2.250	–
Slovakia	5.000	–
Slovenia	No limit	–
Spain	2.500	€15.000 for non-resident tax-payers
Sweden	No limit	–
United Kingdom	No limit	Businesses accepting cash payments of €10.000 or more in exchange for goods are required to register with HMRC

Table 1 Limit for cash payment in EU

The table shows that some countries have no limit on the use of cash when paying for a product or service (Germany and Sweden), while the others have the maximum threshold so low that it seems absurd (500 euros in Greece).

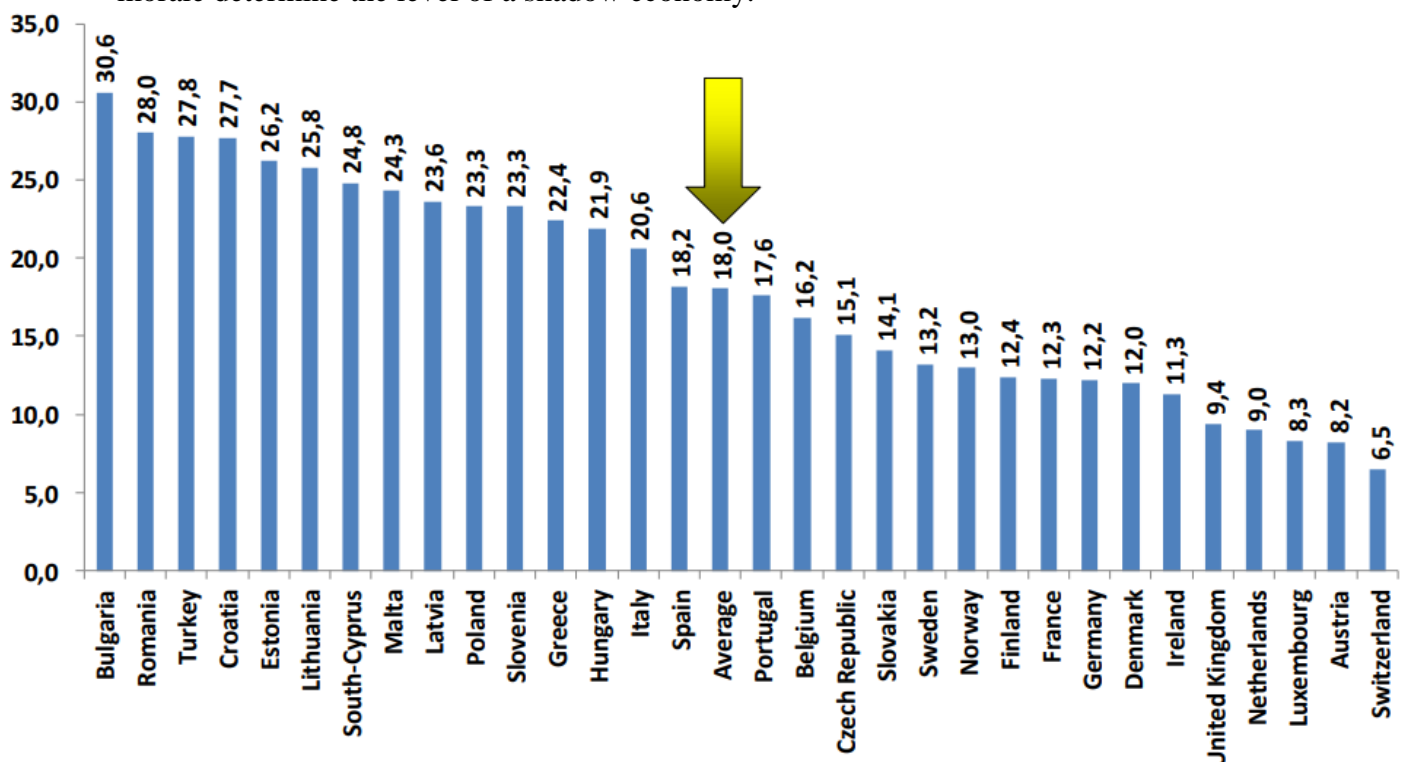
A study conducted by Deutsche Bank showed that the higher presence of cash in a country doesn't mean the existence of a larger share of shadow economy. The following chart

proves that there is no direct correlation between the volume of cash turnover and the size of shadow economy.



Graph 2 Source: Deutsche Bank Research. Share of cash payments in total number of payments in % (y-axis); shadow economy as % of official GDP (x-axis); data refers to 2014 unless otherwise indicated

For example, cash is used in large volumes in Germany and Austria, but the share of shadow economy is at a rather low level. The share of shadow economy is at an average level in Sweden, where the society has almost ceased to use cash. A set of different factors determine the level of shadow economy in each country. Famous German economist Friedrich Schneider claims that quality of institutions, the level of per capita income, tax level and morale determine the level of a shadow economy.



Graph 3 Source: Johannes Kepler University. Size of the shadow economy of 31 European countries in 2015 (in % of GDP)

Head of ECB's currency management division, Doris Schneeberger, during the Future of Cash Conference, held April 11-12, 2016, in Paris stated, that there is "no statistically demonstrable link between crime and the use of cash".

The European Central Bank announced its decision to cancel the issue of a five hundred euro note in May, 2016. According to ECB President Mario Draghi, the abolition of the largest bill will help, above all, in the fight against money laundering and crime. Time will tell whether this is so.

Directive 2015/849 applies to the organizers of online gambling also (Article 2, Part 1 (3)(f), previously only physical casinos were affected thereby. This flaw was considered an annoying omission rather than a deliberate decision; therefore it was eliminated in the course of preparation of a new regulation.

States still have the right to exempt some organizations from the obligations established by the Directive (Article 2, Part 3). This refers primarily to those institutions for which financial activity is not basic or financial services are provided only as additional to the basic service. The most common example of this kind is currency exchange for hotel guests.

2.2.2 Customer due diligence measures

Customer Due Diligence (CDD) occupies one of the central places in the text of the Directive predictably. However, not the very provisions of the CDD are of some interest, but the logic of regulation. Neutral regulation is adopted to the CDD procedure at the supranational level and in most European countries. In other words, no requirements for the due diligence process itself are established, but only its basic elements are fixed. According to the FATF Recommendations, there are five of them: customer identification (data collection), verification (validity check) based on documents and information, identification of a beneficial owner, assessment of business relationship objectives, monitoring in accordance with a risk profile.

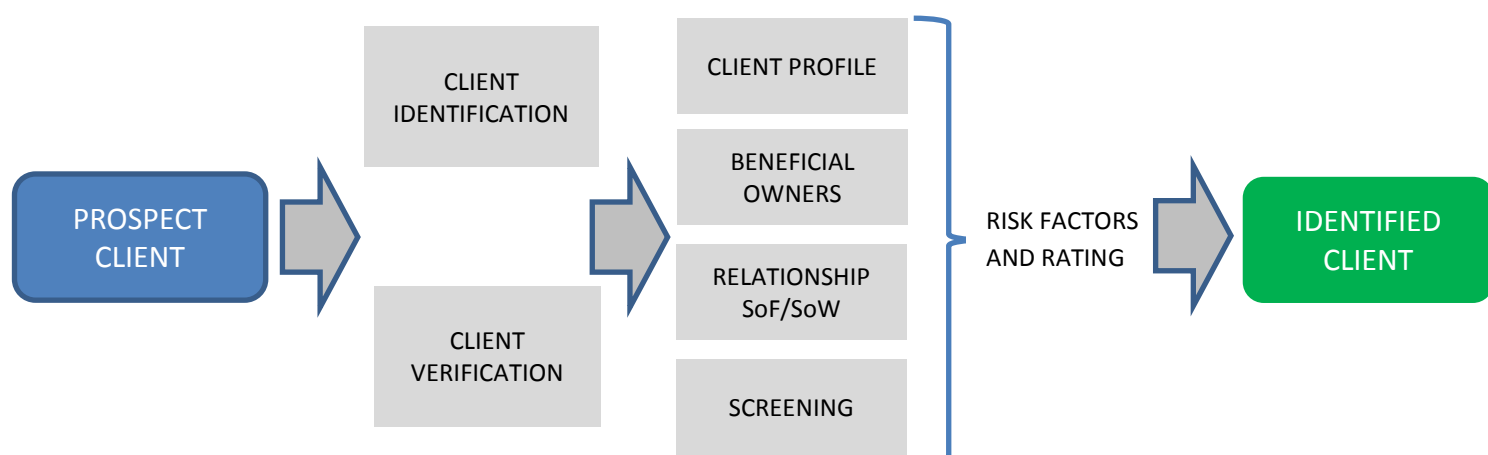


Figure 3 The customer due diligence process

The Directive proceeds from the fact that the CDD can be conducted in any form. The main thing is that it facilitates actual risk reduction. At the same time, mitigation of one element (for example, lack of information verification) can be compensated by strengthening the others (monitoring). The absence of a personal presence by itself is no longer an unconditional factor of high risk.

This approach has contributed to the emergence of fairly effective models of customer due diligence in Europe. For example, it is enough to submit a name and date of birth or a name and a place of residence to a bank to open an account in the UK, and if a financial institution can verify the validity of this information by two independent sources, the CDD is considered successful. Personal presence is required in case of doubt about the reliability of previously received information or the appearance of suspicions of ML/FT. In PayPal electronic payments system the client is considered to be fully identified if it remotely confirms the availability of a payment card issued by a regulated financial institution⁴⁰.

In virtue of the approach adopted, the customer due diligence is fixed in the Directive as a whole range of diverse solutions that vary from strengthened to simplified CDD. Specific procedures are not grouped according to strict criteria, but rather are located at one or another point of this continuum.

Following up this logic, the complete exemption from the CDD is reserved in the Directive only for strictly specified cases, where the level of anonymity is essentially the same as cash payments. In particular, some tools based on e-cash with a balance and a monthly transaction amount of no more than 150 euros have been exempted from the CDD. Such products can be used to purchase goods and services only, they cannot be replenished anonymously, and the withdrawal of funds should not exceed 50 euros (Article 12). In the case of one-time transaction, the CDD is mandatory for a transaction exceeding 15,000 euros, a transfer of funds of 1,000 euros and more, a cash payment of more than 10,000 euros, and gambling gains of 2,000 euros and more (Article 11).

Both existing and new accounts will be subject to comprehensive “due diligence”. Due to this, it is possible to identify in time accounts, which could potentially be used for illegal actions. Passive (unfavourable) companies and trusts, like those found in “Panama Papers”, will also undergo rigorous verification and harsh conditions.

The approach of the European legislator to the CDD differs, for example, from the Russian practice, where the procedure-centred model dominates: a customer is formally

⁴⁰ Financial Security Journal: Fourth EU ML/TF Directive – Key Innovation of the European Anti-Money Laundering Treatment, №12. 2016, page 65.

considered anonymous without taking a series of clearly prescribed steps, although his mobile phone number, location, pattern of transactions, data of payment cards issued thereto and so on are actually known.

2.2.3 Beneficial Owners

Strengthening of control over beneficial owners has become one of the innovations of FATF Recommendations 2012. However, in practice, it was more difficult to identify the beneficial owner than it seemed before. Difficulties do not only refer to trusts or offshore companies, where the ownership structure can be confused intentionally. Heads of small subsidiaries in large holding companies are often not just unfamiliar with the ultimate beneficiary, but have never met with him and certainly do not know his passport details. Long-standing business practice was not ready for high standards of transparency.

It has been decided to deal with the problem at the lowest level in the European Union. Legal entities are obliged to store data on their beneficial owners by default throughout the EU. This information will also be transferred to the national registries of beneficial owners (Article 30, Part 3), which will be created on the basis of already existing registries of legal entities.

Initially, it was assumed that the registries of beneficial owners and trusts cannot be publicly available for reasons of privacy protection. Since in some EU countries – for example, in Great Britain – trusts are widely used to solve, in essence, welfare issues: for example, protection of inheritance rights, interests of spouses and so on. As a result, a compromise solution has been formalised in the Directive: only those trusts whereof use entails “tax implications” should transfer data to the registries of beneficial owners (Article 31, Part 4).

However, on July 5, 2016, the European Commission published an offer document amending the 4ML Directive. These amendments continued the European Commission's statements that even more stringent restrictions are required to combat the financing of terrorism efficiently.

In addition to measures aimed directly at combating the financing of terrorism, measures were also offered to increase a level of transparency in order to prevent money laundering and tax evasion. Such measures include ensuring the full public access to the registries of beneficial ownership of companies and business related trusts.

Information on all other trusts, according to the offer of the European Commission, shall be entered in the national registries, and all persons having legitimate interest should

obtain access thereto. If a company poses a particular risk of its using for money laundering and tax evasion, the registry should contain data of beneficial owners that own at least 10% of the shares. This threshold requirement remains at the level of 25% for all other companies.

Judith Sargentini from Greens/EFA, the Netherlands, stated that companies and complex structures being registered but not conducting any activities allow people to hide funds. The public registry of trusts and companies will provide such companies with transparency⁴¹.

In its turn, the original version of Directive 4ML mentioned the requirement to enter only those trusts that create tax implications in the national registries of beneficial ownership. Information on beneficiaries of the remaining trusts should be submitted at the request of competent authorities. This exemption for trusts was made thanks to pressure made by the UK. Now, when the UK exits the EU, it was apparently decided to neglect its opinion in Brussels⁴².

Also, access to the registries of beneficial owners will be received not only by law enforcement agencies, financial monitoring entities and stakeholders, for example, journalists, but also by ordinary EU citizens.

2.2.4 Additional amendments to the 4ML Directive

As other amendments to the 4ML Directive issued on July 5, 2016, the European Commission further proposed the following measures to prevent the use of the financial system for money laundering purposes:

- containment of the risks of financing of terrorism related to virtual currencies. To prevent the use of virtual currencies for money laundering and financing of terrorism, the European Commission proposed to subordinate platforms for the exchange of virtual currencies and providers of virtual wallets to the provisions of the Anti-Money Laundering Directive. Before exchanging the virtual currency for real, they will have to check their customers (conduct due diligence), which will put an end to anonymity of such transactions;
- containment of the risks related to anonymous prepayment tools (for example, prepaid cards). The European Commission proposed to minimize the use of anonymous payments through prepaid cards, in particular, by verifying the identity of a buyer starting

⁴¹ [Electronic resource]– URL: <https://forum.bits.media/index.php?/profile/26381-april/&do=content&page=10>

⁴² [Electronic resource]– URL: <https://offshorewealth.info/deofshorization/amendments-to-eu-ml-directive-will-the-information-on-the-beneficiaries-of-trusts-become-public/>

from 150 euros instead of 250, and also expanding the range of requirements for customer verification⁴³;

– more thorough verification of third countries. The European Commission issued a document, containing a list of third countries with shortcomings in the field of combating of money laundering, at the end of September, 2016. It is planned to implement protection mechanisms with regard to these countries to prevent the use of the EU financial system for money laundering and financing of terrorism (AML/CFT).⁴⁴

Countries blacklisted by the European Commission are split into 3 groups:

1. Third countries with a high level of risk which provided a written political commitment to address the identified shortcomings and developed an appropriate Action Plan with the FATF at a high level: Afghanistan, Bosnia and Herzegovina, Guyana, Iraq, Laos, Syria, Uganda, Vanuatu, Yemen.

2. Third countries with a high level of risk which expressed political engagement to eliminate identified shortcomings and decided to seek technical assistance in the implementation of the FATF Action Plan at a high level: Iran.

3. Third countries with a high level of risk that represent the current and significant risks associated with money laundering and financing of terrorism, which have repeatedly failed to correct the identified shortcomings: the Democratic People's Republic of Korea (North Korea)⁴⁵.

Despite the proposals expressed by individual European deputies to expand the list, adding, in particular, Panama thereto, no significant changes have been made to the final version of the list.

In compiling the list of countries posing a threat to the EU financial system, the European Commission was guided by the criteria contained in Directive 2015/849, as well as by all possible expert assessments of factors that make a certain country or jurisdiction at risk of crimes such as money laundering, financing of terrorism or other financial crimes. In particular, official documents of the FATF were taken into account.

The main criteria considered by the European Commission in drawing up the list were as follows:

⁴³ Regulation (EU) No 910/2014 of the European Parliament and the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

⁴⁴ Communication from the Commission to the European Parliament and the Council on an Action Plan for strengthening the fight against terrorist financing, COM(2016) 50 final.

⁴⁵[Electronic resource]– URL: <https://offshorewealth.info/deofshorization/which-countries-threaten-eu-financial-system-because-of-money-laundering-risk/>

1. Institutional and legal framework of each country, taking into account four basic requirements:

- criminal responsibility for money laundering and financing of terrorism;
- customer due diligence;
- record keeping;
- suspicious transaction reports.

2. Powers of national competent authorities in each country;

3. Efficient application of measures to combat money laundering and the use of terrorism in each country.

In addition, the results of the verification of countries by the Financial Action Task Force (FATF) were taken into account. Reports of the FATF available to the public are published three times a year. One of them – «Improving Global AML/CFT Compliance: an On-Going Process» – defines jurisdictions with significant shortcomings in the implementation of the Action Plan⁴⁶ developed in conjunction with the FATF.

Also, the FATF issues a Public Statement, which deals directly with jurisdictions⁴⁷ that refuse to cooperate and implement the AML/CFT standards.

2.2.5 Public Officials

Problems faced by subjects under supervision in the identification of public officials (PO) are similar to those related to monitoring of beneficial owners. Therefore, it is not surprising that the possibility to solve them in the same way was discussed for several years: namely, to create state registers of PO, since it is the state that has access to the most update information on changes to personnel changes. Now the market players are forced to rely on the lists of PO drawn up by third parties, which are specialized companies. It is challenging to verify the quality of these lists, and all responsibility for their use rests with a subject of financial monitoring.

Nevertheless, PO registers did not appear. Instead, the Directive slightly enlarges the list of persons falling into this category, in particular, members of governing bodies of ruling parties, members of auditing chambers and boards of directors of central banks are included here (Article 3, Paragraph 9).

⁴⁶ Communication from the Commission to the European Parliament and the Council on an Action Plan for strengthening the fight against terrorist financing, COM(2016) 50 final.

⁴⁷ European Union Law: [Electronic resource] – URL: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32015L0849>

As before, intensified monitoring should be extended not only to PO themselves, but also to members of their families (spouses, parents, children, spouses of children), as well as “close partners” (for example, business partners) (Article 23). In accordance with the FATF Recommendations, the Directive refers not only with foreign but also with national public officials⁴⁸.

In my opinion, the problem of PO detecting still requires a solution. Strengthening of anti-corruption work requires additional sources of information, without which financial institutions cannot minimize risks.

2.3 Role and responsibilities of FIU and its anti-money laundering impact in Italy

One of the major tasks of the control bodies in the economic sphere is to detect financial tracks left by criminals. At the same time, it is necessary to take into account that illegal financial transactions have been transformed into complex intricate schemes that require the use of new improved tools for their detection currently.

In this regard, organizations of international level recommended establishing specialized bodies to collect, analyse and disseminate information on signs of laundering of proceeds from crime. Financial intelligence units (FIUs) became such specialized bodies.

In particular, the FATF, being an intergovernmental structure setting standards, as well as developing and implementing measures to combat money laundering and the financing of terrorism, indicates the need for countries to establish FIUs that would serve as national centres for collecting, analysing and reporting messages on suspicious transactions and other information related to potential opportunities for money laundering and financing of terrorism in its Recommendation 26. At the same time, it is recommended that the FIUs have permanent, direct or indirect access to financial, administrative and law enforcement information that is required for the proper fulfilment of their functions.

The FATF recommends that countries introduce measures requiring financial institutions in the service sector and a range of professions to submit reports on their customers' data and transactions and report any suspicious transactions to competent authorities. However, information transmitted by such sources is quite difficult to understand without its further analysis. To this end, the FIUs have been established as reliable, efficient systems for processing, analysing and disseminating the information received.

⁴⁸ Financial Security Journal: Fourth EU ML/TF Directive – Key Innovation of the European Anti-Money Laundering Treatment, №12. 2016, page 66.

2.3.1 Egmont Group

The Egmont Group, which is an association of financial intelligence units of a number of countries, in its definition, expressed the need to establish the FIU as a “central national body” based on the feasibility of creating a single centre in each country that would improve the collection of information, facilitated its processing and analysis on a unified basis.



Figure 4 Source: egmontgroup.org. The structure of the Egmont Group

Today the major definitive requirements for the FIUs presented by the Egmont and the FATF groups are almost identical. Accordingly, the functions that define them are the same being as follows: acquisition, analysis and further transfer of the information disclosed.

2.3.2 Responsibilities of the FIU

With the adoption of a new edition of the FATF Recommendations, new responsibilities have been imposed on financial intelligence units (FIUs). Now they not only analyse current reports on suspicious transactions, but also deal with strategic analysis of challenges and threats⁴⁹, coordinate a national risk assessment. The range of information available for financial intelligence units should be expanded for this purpose. They should gain access to information from centralized registers of banking and payment accounts, as well as to centralized databases that EU member states should create in order to identify the holders of banking and payment accounts.

Pursuant to Directive 2015/849, the responsibility of the FIUs for the effectiveness of national AML/CFT treatment has increased as well. If earlier the main criterion of the quality of work was the number of investigations made and sentences on money laundering or financing of terrorism, now the list of parameters has greatly expanded. The financial intelligence units should assess the number of subjects under supervision, their approximate audience, and the market volumes. In addition, the share of suspicious transaction reports that led to real investigations is calculated, and a report on usefulness of the information obtained from them is sent to the entities of financial monitoring (Article 44, Part 2).

The appearance of such requirements is not accidental. Tightening of the formal approach leads inevitably to a sharp increase in the number of reports on suspicious transactions. As a result, law enforcement agencies receive huge array of data, most of which are of no value. This increases the costs of the FIU itself, the economy as a whole, and, importantly, makes it difficult to identify real risks in itself. The European legislator⁵⁰, following the FATF, draws the attention of governments to the fact that quality, and not the number of reports on suspicious transactions, should be on the first place.

Financial information shall be disseminated both domestically and internationally. Since money laundering is often a global phenomenon, it is extremely important for the FIU to join forces with other national financial information intelligence units.

⁴⁹ [Electronic resource]—URL:<http://npaed.ru/RU/emoney/documents/press-releases/282-2016-02-02-09-06-24>

⁵⁰ European Union Law: [Electronic resource] — URL: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32015L0849>

2.3.3 Typologies of FIUs

All financial intelligence units are usually divided into four main types⁵¹: FIUs of an administrative type, which are either part of an administrative authority, or are subordinated to such authority, or are an independent administrative authority. The most common scheme is where the FIU operates within or under the supervision of the Ministry of Finance or the central bank of a country. The financial intelligence units of most EU countries belong to this type.

FIUs of a law enforcement type are created within law enforcement agencies and represent the most effective method of forming a public authority with the appropriate law enforcement powers.

FIUs of a judicial or prosecutorial type are created within the judicial branch of the state power and, more often, under the jurisdiction of prosecutions offices. They are typical for the European continental legal system, where public prosecutors are part of the judicial system, and their powers extend to investigative bodies. This allows them to lead criminal investigations and supervise them.

FIUs of a “mixed” or “hybrid” type represent various combinations of the above types of the FIU organization in order to take advantage of several types at once.

2.3.4 FIUs’ benefits and results on the example of Italy

Important innovation in the operating principles of the Financial Intelligence is the mandatory presence of an officer of the National Financial Intelligence in a country with which there are close financial relationships. For example, there is a department based at the Financial Intelligence of Italy wherein employees of the Financial Intelligence of all European countries work, and likewise officers of the National Financial Intelligence of Italy are present in all countries of Europe⁵².

There is a national body for counteracting financial and economic crime, namely the Financial Intelligence of Italy, and there is also an autonomous body, which is the Financial Intelligence Representative Office of the Bank of Italy in the Republic of Italy. The first one reports to the Minister of Economy of the country, and the second is subordinated to the Chairman of the Board of the Bank of Italy.

⁵¹ Thony J.F. “Processing Financial Information in Money Laundering Matters, The Financial Intelligence Units” European Journal of crime, Criminal Law and Criminal Justice, 1996, Brussels, page 3.

⁵² Golets G.A. Society and law: The financial intelligence units of the EU countries in countering the legalization of criminal proceeds, №3 2009, page 263.

The tasks of financial intelligence are more extensive, they cover the control of activities of financial institutions, national companies, and individuals. The financial intelligence unit monitors electronic payment systems, tracking out and freezing “suspicious transactions” (financial control and control over the turnover of precious metals).

In Italy the FIU reports to the Central Bank for the seizure of bank accounts of participants in the illegal process when a dubious financial transaction is identified⁵³.

The Central Bank notifies the national banks and financial institutions wherein suspicious bank accounts are placed. In Italy, they will block the account for 15 days. If the suspicions are confirmed, law enforcement agencies perform a detailed check on the basis of information provided by the FIU officers.

If an extra-large-scale illegal financial transaction has been committed, the case will be investigated by the General Prosecutions Office, and moreover, the case will be monitored under the guidance of the FIU director personally. Large and medium-sized illegal operations are investigated by regional prosecutions offices. This operation is effective for persons who are residents of these countries.

When identifying international financial and economic crimes in Italy, the FIU reports the available information to the Central Office of the Financial Intelligence of Italy. This unit, in close cooperation with the FATF, conducts an international investigation, which results in bringing to justice of all participants in illegal financial transactions by national law enforcement agencies.

The statistical data of crimes solved are included in the annual reports of financial security organizations and cover indicators by the number of committed economic crimes (solved and under investigation), as well as the number of persons brought to justice and the amounts of funds that were returned to the legal financial turnover⁵⁴.

The number of applications for illegal financial transactions received by the FIU under the Bank of Italy is growing year after year.

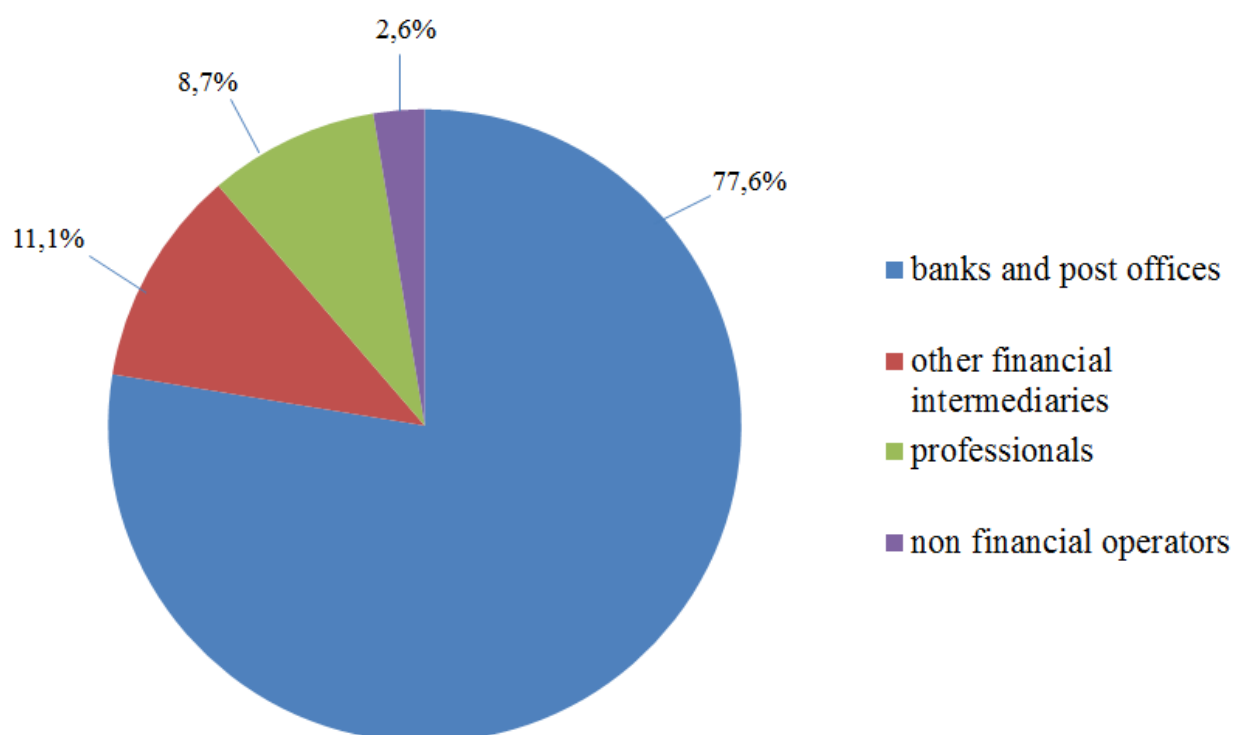
	2013	2014	2015	2016
Reports received	64.601	71.758	82.428	101.065
Percentage variations compared to the previous year, %	–	11,1	14,9	22,6

Table 2 Source: FIU 2016 Annual report

⁵³ Kovalenko A.D. European measures on combating legalization of illegal incomes, page 3.

⁵⁴ [Electronic resource]– URL: uif.bancaditalia.it/homepage/index.html?com.dotmarketing.htmlpage.language=1

Based on these data, it can be concluded that the number of applications received by the FIU increased by 1.5 times in 2016 and the increase amounted to 156% compared to 2013.⁵⁵ Growing indicators testify to the increased vigilance and awareness of people and organizations. The overcoming of the threshold of 100,000 reports, more than doubled in the last six years (in 2011 there were 49.075), highlights not only the persistence of a growing trend starting from 2008, but also a progressive acceleration of the pace of growth (11%, 15%, 23%).



Graph 4 Source: FIU 2016 Annual report

The graph shows that the largest number of applications for suspicious transactions was submitted by banks and post office, which amounted to 78,418 applications or 77.6% of the total number of applications. The contribution of other financial intermediaries was also significant and amounted to 11.1%. Among professionals, the largest number of applications for suspicious transactions comes from National Council of Notaries, lawyers, accounting experts and consulting firms which represent 94,2 % of the total amount of professionals.

⁵⁵ Informazioni di dettaglio sulle segnalazioni di operazioni sospette sono contenute nei Quaderni dell'antiriciclaggio, Collana Dati statistici, pubblicati sul sito internet della UIF.

Breakdown by reporting category	2013	2014	2015	2016
Total	64.601	71.758	82.428	101.065
Money laundering	64.415	71.661	82.142	100.435
Terrorism financing	131	93	273	619
Financing of weapons of mass destruction proliferation programs	55	4	13	11

Table 3 Source: FIU 2016 Annual report

Almost all applications received in 2016 concern suspicious transactions related to money laundering (100,435 out of 101,065). A significant increase in applications for financing of terrorism in connection with the escalation of terrorist activities by subjects associated with ISIL and the perception of this risk by economic operators can also be noted. The initial number of applications related to financing of terrorism amounted to 741 pieces, but some applications were reclassified during the analysis within the FIU and included in the Money laundering category later. In 2016, only 11 reported of suspicious transactions related to financing of weapons of mass destruction proliferation programmes.

Regioni	2015		2016		<i>(variazione % rispetto al 2015)</i>
	<i>(valori assoluti)</i>	<i>(quote %)</i>	<i>(valori assoluti)</i>	<i>(quote %)</i>	
Lombardia	16.892	20,5	25.373	25,1	50,2
Campania	8.436	10,2	9.769	9,7	15,8
Lazio	8.928	10,8	9.325	9,2	4,4
Veneto	6.430	7,8	7.841	7,8	21,9
Piemonte	5.711	6,9	7.100	7,0	24,3
Emilia-Romagna	5.579	6,8	6.979	6,9	25,1
Toscana	5.105	6,2	5.908	5,9	15,7
Puglia	4.800	5,8	4.519	4,5	-5,9
Sicilia	4.394	5,3	4.497	4,4	2,3
Liguria	2.267	2,8	2.911	2,9	28,4
Calabria	2.034	2,5	2.127	2,1	4,6
Marche	1.837	2,2	2.067	2,0	12,5
Friuli-Venezia Giulia	1.400	1,7	1.488	1,5	6,3
Abruzzo	1.171	1,4	1.265	1,3	8,0
Sardegna	1.369	1,7	1.153	1,1	-15,8
Trentino-Alto Adige	969	1,2	1.099	1,1	13,4
Umbria	805	1,0	949	0,9	17,9
Basilicata	611	0,7	521	0,5	-14,7
Molise	447	0,5	316	0,3	-29,3
Valle d'Aosta	224	0,3	212	0,2	-5,4
Estero ¹	3.019	3,7	5.646	5,6	87,0
Totale	82.428	100,0	101.065	100,0	22,6

Table 4 Source: FIU 2016 Annual report

As for the territorial distribution of the applications, Lombardy plays a leading role here, which is confirmed by a significant increase in the contribution of this region both in absolute and relative terms (+50.2%). In general, almost all economically important regions of Italy have significantly increased the volume of reporting in relation to 2015 (Liguria: +28%, Emilia-Romagna: +25%, Piedmont: +24% and Veneto: +22%).

It is also important to note a significant increase in the reporting of suspicious transactions (+87%) reported by Italian intermediaries working abroad. Switzerland is one of the most vigilant foreign countries (3.901) followed by the Principality of Monaco (389) and San Marino (240).

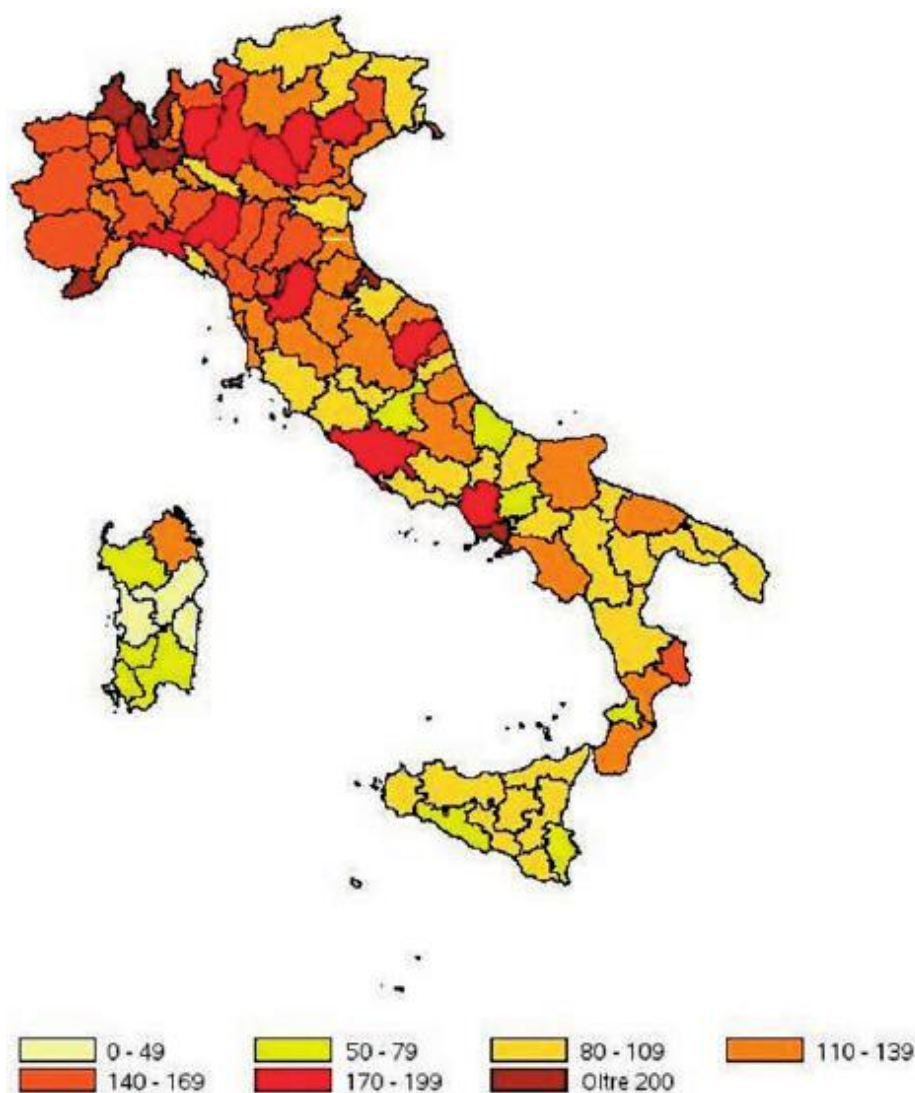


Figure 5 Source: FIU 2016 Annual report

The normalized values on a provincial basis show that in the highest class, identifying a number of reports of more than 200 units, border provinces of Imperia, Como, Varese,

Verbano-Cusio-Ossola and Rimini are placed. Milan and Naples also emerge, where a large part of the reporting flow is concentrated, and Prato⁵⁶.

Despite the fact that Italy has a strong legal and organizational basis for combating money laundering and financing of terrorism, there is a large number of illegal incomes in the country. Organized crime is a historically widespread problem in Italy.

It is worth paying attention to the fact that splitting of the financial intelligence agency is applicable to most countries of the united Europe. This principle of mutual control has shown its efficiency and relevance. However, the legislative principles are being improved, as are the methods of committing economic crimes.

As a general principle, we can state the strengthening of the role of special services in the fight against financial and economic crimes. However, the process of fight is continuous, with the obligatory improvement of its methods. To prevent financial crimes efficiently and bring those responsible to justice, the monitoring bodies should use the latest and most advanced means in their work, and the punishment for economic crimes shall be severe and inevitable.

The European Union is a unique association with a well-developed institution for countering the criminal origin money laundering, while significantly differing from an institution created in the United States, which is rightfully considered to be the first to combat money laundering at the state level.

2.4 The fifth EU anti-money laundering Directive (5MLD) perspective

While the EU member states continue to implement the provisions of the Fourth Directive, there is a debate regarding the development of the Fifth Directive at the EU level. In particular, the issue of data protection and personal safety of individuals whose data will be included in the central registries of beneficiaries remains topical. In order to study this issue in more detail, work on the Fifth Directive (5MLD) can be started in the near future. In addition, other important changes can be made to the Fifth Directive⁵⁷.

However, before the 5MLD Directive comes into force, negotiations between the European Council and the European Parliament should be held. Therefore, it is possible that the final text will be significantly different from the draft version.

⁵⁶ Banca D'Italia Eurosistema: Rapporto Annuale dell'Unità di Informazione Finanziaria. Roma, Maggio 2017.

⁵⁷[Electronic resource] – URL: <https://offshorewealth.info/deofshorization/registry-beneficiaries-ireland-authorities-prolong-deadline>

Gaps of the Russian legislation in the sphere of money laundering and corruption

3.1 About some issues of legal counteraction on money laundering

Legislation of most countries is characterized by certain gaps in the contemporary world. This is due to a number of factors, which are based on various economic, political, ethnic, historical and other reasons. Anti-money laundering and anti-corruption legislation is the parts of the legislation of any country that has the biggest number of gaps. Russia is no exception in this matter. The reasons for the gaps of Russian legislation are that it developed in stages and chaotically. For its fairly long evolution of development, almost no attention was paid to the systematization of existing provisions, and only the creation of new ones was carried out. However, without the elimination of existing gaps in the legal counteraction to money laundering and corruption, the creation and application of new provisions will be ineffective.

Consideration of issues of gaps in legal regulation can be found in the works by A.Ya. Prokhorenko, M.I. Melnik, B.V. Volzhenkina, A.N. Chashkin. Unfortunately, quite a few studies have been devoted to researching these gaps, most of which are superficial. A feature of most of the studies of anti-money laundering in Russia was that they were of a partial nature⁵⁸.

3.1.1 Ambiguous Russia

Currently, Russian legislation in the field of combating the laundering of criminal proceeds lags far behind, does not correspond to international legal instruments. It should be understood that legalization (as a crime) originated in the United States of America, where a slightly different, in comparison with Russia, system for monitoring the income and expenditure of individuals and legal entities has been formed.

In Russia, to prosecute for money laundering, for example, from drug trafficking, it is necessary first to establish the fact of receiving the money from the sale of drugs, and then

⁵⁸ Kononov V.A. Vestnik OGU №11: About some problems of legal counteraction on corruption in Russia.M.2014, page 251.

catch the offender on its spending. At the same time, it is necessary that the expenditure has the purpose of “giving a legitimate form to the possession, use and disposal of the above monetary funds or other property”. The very few are detected and for scanty amounts as a result of such crimes. It is much easier to attract for such crimes in the United States: if there is only suspicion of such an act, law enforcement agencies can request a report on sources of income, compare them with expenses and all the undeclared spent amounts will be considered laundered criminal income.

In the US, in order to dispose of property, in most cases it is necessary to explain the sources of origin of this property. Therefore, under such circumstances, owners of criminal proceeds try to make financial transactions and other deals in order to legitimate sources of origin of property. In Russia, basically, in order to spend your money, you do not need to prove to anyone that their receipt is legal⁵⁹.

Until recently, financial monitoring in the Russian Federation was carried out at a low level, and the money received as a result of the commission of crimes could be spent almost without hindrance, without hiding it in legally obtained incomes. However, the desire to increase investment attractiveness and development of international economic relations required strengthening the system of fiscal control and increasing the efficiency of the anti-money laundering measures, including by criminal legal means. This necessitates the impeccable regulation and proper application of the provisions on responsibility for money laundering.

The international legal instruments ratified by the Russian Federation have not yet been adequately developed in the legislation. For this reason, a number of anti-money laundering provisions and by-laws differ from international legal provisions in this area. This fact allows D.V. Rybakov⁶⁰ and B.G. Tsedashiev⁶¹ say that due to the “corruption” of legislators, the legal regulations are designed by them so that the subjects of laundering avoid liability successfully, while investing criminal incomes in legal business.

3.2 Role of the Russian Central Bank

In his annual message of the President of the Russian Federation to the Federal Assembly, Vladimir Putin stressed that “it is necessary to increase transparency of the economy... It is necessary to continue the principle-based and firm line on getting rid the

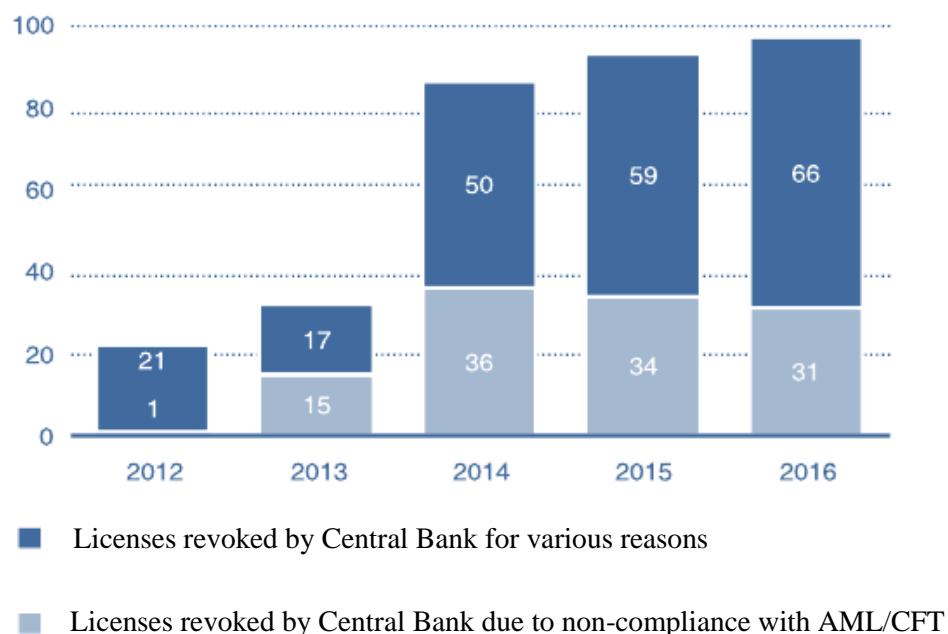
⁵⁹ [Electronic resource] – URL: <https://www.kommersant.ru/doc/3071206>

⁶⁰ Rybakov D.V. Legalization of funds or other property in the Russian criminal law: M., 2002. P.20.

⁶¹ Tsedashiev B.G. Application of criminal law as a direction of combating legalization (money laundering) of funds or other property acquired by criminal means: M., 2005. P. 133.

credit and financial system from all sorts of “laundry firms” or, as they say, “laundries”⁶². This statement was made in 2013 against a full-scale campaign launched by the Central Bank of the Russian Federation against credit institutions suspected of links with the shadow economy.

Thus, only in the first half of 2017, the Central Bank revoked 34 licenses from the banks for various reasons, including due to non-compliance with the requirements of the legislation in the field of anti-money laundering and combating the financing of terrorism (hereinafter referred to as AML/CFT). The most explosive was the revocation of the license from PJSC⁶³ Bank Jugra. According to the Central Bank, as of July 1, 2017 Jugra held the 29th place in the banking system⁶⁴ of Russia in terms of assets. According to the Banki.ru portal, the total amount of deposits of individuals in Jugra by the beginning of July, 2017 was 184.67 billion roubles (2.64 billion euros).



Graph 5 Source: Russian Central Bank

3.2.1 Changes in law as a way to combat legalization of criminal proceeds

In 2013, the AML/CFT legislation of the Russian Federation was supplemented by several regulations that were extremely important for the organization of this work in commercial banks. Thus, for example, on April 29, 2013, Regulation of the Bank of Russia

⁶² Message of the President of the Russian Federation to the Federal Assembly // Russian newspaper. 2013. 13 December.

⁶³ Public Joint Stock Company is a type of company in many successor states of the Soviet Union, in particular in Russia. Its distinguishing feature is the right of stockholders to trade in stocks without the permission of other stockholders [en.wikipedia.org].

⁶⁴ [Electronic resource] – URL: <https://www.rbc.ru/finances/28/07/2017/597b81569a7947ee5a064d4b>

No.375P dated March 2, 2012 «On Requirements for Internal Control Rules of a Credit Institution for Anti-Money Laundering and Combating the Financing of Terrorism»⁶⁵, came into force. In accordance with this subordinate regulation, credit institutions were required to bring their own system of AML/CFT internal corporate provisions in line with the requirements of the regulator.

Such an internal corporate normative provision is designed to regulate the most important principles for the construction and operation of the AML/CFT system in a commercial bank. Previously, a subject of financial monitoring when issuing such a provision was obliged to agree a document with the AML/CFT official supervisory authority. At the same time, banks that have a license of a professional participant in the securities market agreed the rules of internal control both with their direct regulator, which was the Bank of Russia, and with the Federal Financial Markets Service⁶⁶. According to the practice, the consequence of the difference in the approaches of the Bank of Russia, as well as the FFMS, to the understanding of the proper organization of the AML/CFT system and, accordingly, the requirements made on the basis of this understanding, was the lack of a uniform construction of the AML/CFT system in supervised commercial banks.

In order to overcome this negative trend, the legislator has consistently taken a number of steps. First, at the end of 2011, the requirement of Law FZ-115⁶⁷ On Mandatory Coordination of the Rules of Internal Control over Financial Monitoring of a Subject with a Controlling State Body was abolished⁶⁸. Secondly, unified requirements to the rules of internal control and AML/CFT programmes and measures regulated by them were developed and approved. And finally, in July, 2013, the FFMS was abolished, and its functions were assigned to the Bank of Russia⁶⁹ by the President of the Russian Federation. Thus, by mid-2013, the necessary legislative conditions were created to build the most similar AML/CFT management systems in commercial banks that operate on the same principles and meet uniform requirements. At the same time, the Bank of Russia began to apply appropriate

⁶⁵ Messenger of the Bank of Russia. 2012. No. 20.

⁶⁶ The Federal Financial Markets Service(FFMS) was a Russian federal executive body which regulated Russian financial markets and operated from 2004 until it was disbanded in 2013. Its functions were taken over by the Central Bank of Russia [en.wikipedia.org].

⁶⁷ FZ [federalniy zakon] – means a federal legislative act of the Russian Federation adopted in accordance with the Constitution of the Russian Federation.

⁶⁸ On amending the Federal law «On counteracting legalization (laundering) of proceeds from crime and financing of terrorism» and the Russian Federation Code of administrative offences: federal law 08.11.2011 № 308-FZ // Collection of legislative acts of the RF. 2011. № 46, art. 6406.

⁶⁹ On abolition of the Federal service for financial markets, change and repeal of certain acts of the President of the Russian Federation: Presidential decree 25.07. 2013 № 645 // Collection of legislative acts of the RF. 2013. № 30, p. II, art. 4086.

punitive sanctions actively with respect to credit institutions that ignored the innovations of the legislation.

3.2.2 Rosfinmonitoring⁷⁰

The Federal Financial Monitoring Service (Rosfinmonitoring) updates and brings to the attention of commercial banks a list of legal entities and individuals in relation to which there is evidence of their involvement in extremist activities or terrorism on a regular basis⁷¹. Entering an individual or a legal entity in this list in accordance with the Law FZ-115 is the grounds for a credit institution to refuse opening a bank account, and the grounds for blocking an already opened account, if a transaction involving such an individual or a legal entity is detected.

The Bank of Russia decided to adopt the experience of Rosfinmonitoring, and in September 2013, the regulator formed and brought to the attention of credit institutions a list of residents, being participants in foreign economic activities, in which activities the Bank of Russia revealed signs of illegal withdrawal of money from the Russian Federation, laundering of proceeds from crime, and financing of terrorism. In case of identifying individuals and legal entities among clients of a commercial bank included in this list, the Bank of Russia strongly recommends that such clients shall be denied in transactions. In addition, this list should be used by credit institutions to check potential clients when considering the issue of entering into a bank account agreement, as well as in assessing the objectives of their financial activities, financial position and reputation⁷².

Thus, the Bank of Russia outlined a new approach in assisting banks in identifying individuals and legal entities associated with the shadow economy. The distribution of lists of individuals and legal entities whose acceptance for servicing is subject to increased legal risks for commercial banks appears to be a very effective AML/CFT course that needs to be developed.

Moreover, it would be appropriate to grant credit institutions the right to create and distribute lists of individuals and legal entities that are found to be engaged in the conduct of

⁷⁰ Rosfinmonitoring is a Federal Service that was created by a decree of President Vladimir Putin of November 1, 2001, and aimed to collect and analyze information about financial transactions in order to combat domestic and international money laundering, terrorist financing, and other financial crimes [en.wikipedia.org].

⁷¹ On approval of the Resolution on procedure for determining the list of organizations and individuals, for which there is information about their involvement in extremist activity or terrorism, and bring this list to the attention of organizations performing operations with monetary funds or other assets: Government decree 18.01.2003 № 27 // Collection of legislative acts of the RF. 2003. № 4, art. 329.

⁷² On reducing the risk of loss of goodwill and involvement of authorized banks in the exercise of legalization (laundering) of proceeds from crime and terrorist financing: Bank of Russia letter 30.09.2013 № 193.

respective transactions independently. Unconditionally, this process should be centrally managed, therefore, for example, the Association of Russian Banks (ARB) could form such lists, and the Bank of Russia or Rosfinmonitoring could approve them and inform the credit institutions thereof.

3.2.3 Importance of FZ-134 and FZ-115

The most discussed regulatory document for the AML/CFT system was FZ-134 «On Making Amendments to Certain Legislative Instruments of the Russian Federation Concerning Counteraction to Unlawful Financial Transactions»⁷³. This regulatory legal instrument has introduced a number of fundamental novelties in the national AML/CFT policy aimed at maximally bringing it in line with generally recognized international provisions in this area, as well as eliminating existing gaps in Russian AML/CFT legislation.

Thus, Clause 14 of Article 7 of Federal Law 134 establishes the obligation of a client of a bank to provide, upon request of the latter, information and documents required for exercising control functions assigned by law. Previously, in accordance with FZ-134, a credit institution was obliged to request such information and documents, but the situation where a client refuses to provide them was not envisaged. Also, Law FZ-134 eliminated another gap: the legislator included tax crimes in the number of predicate (preceding laundering).

In general, the changes introduced were very positive. For example, Clause 11 of Article 7 of Law FZ-115⁷⁴, in a new wording, authorizes a credit institution to refuse to execute a client's order for a transaction if employees suspect that the transaction is being carried out for money laundering purposes (suspicious transaction). This provision significantly strengthened the repertoire of measures of commercial banks' influence on a disreputable client.

The lack of real counteraction to clients who regularly conduct suspicious transactions by commercial banks resulted from the imperfection of the AML/CFT legislation. Back in 2005, the Central Bank of Russia published a letter demanding that commercial banks take measures to stop a client from suspicious transactions⁷⁵. However, the AML/CFT legislation did not provide any leverage to a client on the part of a credit institution in a situation where a client ignores the bank's requests for providing explanations of the economic feasibility of the transactions conducted and supporting documents. Moreover, in accordance with Clause 3 of

⁷³ Collection of legislative acts of the RF. 2013. № 26, art. 3207.

⁷⁴ Federal Law "On Countering the Legalization (Laundering) of Proceeds from Crime and Financing of Terrorism" of 07.08.2001 N 115-FZ

⁷⁵ Messenger of the Bank of Russia. 2005. No. 70.

Article 845 of the Civil Code of the Russian Federation⁷⁶, a bank has no right to determine and control the directions of using the client's funds and establish other restrictions on his right to dispose of monetary funds at his own discretion⁷⁷. Knowing this, people connected with the shadow economy, were free to conduct their transactions, not paying attention to the requirements of banks, while at the same time seriously damaging the business reputation of the latter and discrediting them in the opinion of law enforcement and state authorities.

Currently, the above gap in the legislation has been eliminated by Law FZ-134. However, is it possible that the right granted to credit institutions become a duty? In the event that a commercial bank has sent a notice to Rosfinmonitoring about the commission of a suspicious transaction by a client and has not taken measures to refuse further operation of an account, the state supervisory authority should reasonably have the question of the reasons why the bank allows the transaction by a client, while its employees had suspicions that it was carried out for the purpose of laundering criminal proceeds or financing terrorism. In my opinion, a subordinate regulation or an information document of the Bank of Russia on the procedure for the use of the right to refuse a client to conduct a suspicious transaction by credit institutions, as well as further actions to be taken by a commercial bank with respect to a suspicious client in the case where such right is used is required.

Another very useful novelty of Law FZ-134 is the emergence of the possibility for a credit institution to refuse to open a bank account in the presence of suspicions that the account is being opened for the purpose of laundering criminal proceeds and (or) financing terrorism. Previously, a bank could refuse to enter into a bank account agreement in the following cases:

- 1) Availability of information about participation in extremist activity in relation to a potential client;
- 2) Failure to provide the documents required for identification of a potential client, or submission of false documents;
- 3) Absence of a legal entity at the address of its location.

In this connection, a commercial bank had to open accounts for persons traditionally used by shadow businessmen in creating fly-by-night companies and other ways of laundering criminal proceeds: persons who cannot give clear explanations about the purposes of opening an account; persons acquiring financial products of a bank the value of which is clearly not correlated with the declared income or the position held (for example, students of educational institutions of secondary vocational education who register bank cards with a cash withdrawal

⁷⁶ The Russian Civil Code.

⁷⁷ Collection of legislative acts of the RF. 1996. № 5, art. 410.

limit of at least 2 million roubles a month); obvious antisocial elements (for example, persons who are in a state of alcoholic or narcotic intoxication, having traces of beatings, tattoos, untidy appearance, etc.); and other subjects.

Surely, the considered legal provision should be recognized as quite effective, as it allows a commercial bank already at the stage of considering a person's application for opening an account to cut off the majority of potentially suspicious customers. At the same time, it is obvious that the phrase “availability of suspicions” is by no means unambiguous and needs clarification.

What are the specific criteria for the suspicion of a person the presence of which may lead to a refusal to open a bank account? Who should make a decision to refuse to open an account: a director of a credit institution, an employee of a customer service hall, or representatives of the economic security service? I think that it is also necessary to adopt a special subordinate regulation that clarifies the issues raised or entrusting the bank with the obligation to independently regulate the procedure for refusing to open an account with its own corporate regulations.

Thus, the general revolutionary nature of Law FZ-134 and FZ-115 require clarification and additional regulation of individual provisions, but the need to adopt the legal rules contained therein has long been relevant. The need for reforming the AML/CFT system has been repeatedly stated by the banking community, and the changes introduced by Law FZ-134 and FZ-115 meet the expectations of commercial banks in general.

3.2.4 Increased control

In addition, the Central Bank of Russia plans to stiffen the measures to fight for the disposal of the banking sector from questionable transactions through common clients. According to the recent explanations of the regulator, banks need to monitor carefully not only their customers, but also, if possible, inform Rosfinmonitoring of other's and suspicious transactions. Comparing the data from different banks on the transactions conducted by the same clients, the financial intelligence and the Central Bank will be able to identify dishonest fighters with money laundering among bankers. In the situation when a client of one bank, while being a client of another bank, conducts transactions in the latter subject to mandatory control, information on such transactions, if it became known thereto, should be sent to Rosfinmonitoring by the first bank.

Anti-laundering Law FZ-115 includes real estate transactions worth more than 3 million roubles (43.5 k €), withdrawal from the account or transfer to the account of amounts

over 600 thousand roubles (8.5k €) , transfer to the accounts of individuals of more than 600 thousand roubles, leasing transactions, interest-free loans, transfer of funds on behalf of a client of not a credit institution, etc. in a list of transactions subject to mandatory control⁷⁸.

The fact that this information will duplicate similar information from a bank wherein the transactions were conducted does not worry the authorities. Moreover, such an interpretation makes sense, namely to improve the fight against dubious transactions of bank clients. Duplication of information is not a problem at all, it is interesting to see cases when one bank has reported a known transaction or a deal of its client conducted in another bank, and the bank wherein this transaction was conducted has not. If a bank shows a significant number of transactions, which it has not reported to, this may become a reason to think about the quality of its operation within anti-laundering activities. And the insufficient quality of AML/CFT in a bank is one of the most common grounds to revoke a license from a bank.

Pointing out the inconsistency of the broad interpretation of the law, the banking community most often cites a standard argument that an increase in anti-laundering load will increase the final cost of banking services for their clients. In addition, in their opinion, reporting the transactions of their clients conducted in other banks assumes legal risks. Basically, a bank reveals another's bank secrecy. If a client sues a bank for disclosure of information on the transaction conducted in another bank, there is a chance that he will win the case, because the law does not explicitly require reporting clients' transactions conducted in other banks.

3.2.5 «Closure of a bank account» issue

The position of the Central Bank regarding suspicious transactions on transfer of funds upon closure of a bank account by a client remains disputed. The regulator's opinion reduces to the fact that when an account is closed, a transaction shall be conducted, even if a bank considers it suspicious from the point of view of the anti-laundering law. The attitude of the Bank of Russia regarding the rules for transferring funds when closing a bank account was published on the website of the Association of Russian Banks. Namely, the Central Bank indicates that the legislation does not contain any restrictions and prohibitions in terms of accounts whereto the balance of funds may be transferred upon the instruction of a client upon the termination of a bank account agreement. According to the Civil Code (CC), a bank account agreement is terminated upon an application of a client at any time, and a bank cannot limit this client's right. When closing an account, its owner has the right to dispose of the

⁷⁸ [Electronic resource] – URL: <https://www.kommersant.ru/doc/3077546>

remaining funds at his discretion, for example, transfer them to his account in another bank or to another person. At the same time, under the Law «On Combating Legalization (Laundering) of Proceeds from Crime and Financing of Terrorism» (FZ-115), a bank has the right to refuse to execute a client's order to conduct a transaction if suspicions about its illegality arise⁷⁹.

Up to now, banks adhere to the position that, having executed a client's order to close an account, they can deny him in conducting a suspicious transaction for transfer of funds. “It does not matter when the transfer is carried out, upon closing an account or not, in all cases a bank should be guided by the anti-laundering law and internal guidelines that are individual for each bank”, Alexander Yastremsky⁸⁰, a bank lawyer, said.

The banking community is puzzled by the position of the Central Bank and sees no reason to change the existing practice. Despite the bewilderment of bankers, the position of the Bank of Russia is supported by Rosfinmonitoring as well. “Verification of compliance with the requirements of Law FZ-115 is required in any case, including when closing an account”, Rosfinmonitoring indicates. “However, there are really no legal grounds for not sending a payment, even in cases where it does not comply with Law FZ-115⁸¹”. If a sending bank reveals that, by closing an account, a client has given an order for a suspicious transaction, it shall forward a notice to a receiving bank, which is already entitled to take measures. In my opinion, this is a serious gap that should be resolved at the legislative level, since a potential fraudster can easily transfer “dirty” money to another account for the purpose of further laundering upon closing a bank account.

3.3 Importance of FATF under Russian realities

Taking the way of strengthening the position of credit institutions in matters of countering clients, conducting suspicious transactions on a regular basis, the legislator reflected AML/CFT international legal standards in the legal system of the contemporary Russian State based on the common legislative and regulatory compliance practices of FATF member states (Financial Action Task Force on money laundering), an organization of international cooperation in the field of AML/CFT. The requirements formulated by FATF are combined in a legal instrument, which is commonly referred to as The Forty

⁷⁹ [Electronic resource] – URL: <https://www.kommersant.ru/doc/3041412>

⁸⁰ [Electronic resource] – URL: <http://lawedication.com/blog/2016/07/21/perevod-denezhnyx-sredstv-pri-zakrytii-bankom-scheta/>

⁸¹ Digest of the depositor. Issue №. 129/230.

Recommendations⁸² (despite the fact that these are requirements, and non-fulfilment of these “recommendations” entails the application of relevant international sanctions).

Russia as a full member of FATF assumed an obligation to bring domestic legislation into conformity with The Forty Recommendations; therefore, in accordance with Recommendation No.10 of Law FZ-134 a fundamentally new term for the Russian legislation, namely a “beneficial owner” is introduced. A beneficial owner in a new edition of Law FZ-115 shall mean an individual who ultimately, directly or indirectly (through third parties) owns (has dominant participation of more than 25% of capital) a legal entity, or has the ability to control its activity. However, the legislator did not take any further steps beyond the definition of a beneficial owner and establishing the obligations of a credit institution to identify a beneficial owner⁸³.

At the same time, Recommendation No.10 requires FATF member countries to obligate commercial banks to refuse to open an account in the absence of information on a beneficial owner, and terminate the business relationship if an account has been already opened. Instead, the Russian legislator says that if a beneficial owner is not identified, as a result of taking measures to identify beneficial owners, then the sole executive body of a client can be recognized as such.

Building an efficient AML/CFT system is one of the primary goals in strengthening Russia's financial security. Therefore, the need to develop a special academic financial and legal discipline, whereof subject would be the implementation of the AML/CFT legislation and the interaction of financial monitoring entities with representatives of the shadow economy, bona fide consumers of financial services, state supervisory bodies, law enforcement agencies, and international organizations, is obvious. At the same time, at least representatives of financial and economic specialties and lawyers studying the financial and banking law⁸⁴, as well as law enforcement officers specializing in the exposure of economic crimes, should possess this knowledge.

⁸² FATF Recommendations. International standards to anti-money laundering, terrorism financing and the financing of proliferation of weapons of mass destruction /Moscow,2012.

⁸³ [Electronic resource] – URL: <http://delat-delo.ru/spravochnik/terminy/benefitsiarnyj-vladelets.html>

⁸⁴ Nadezhin V.I. Problems of jurisprudence and practice. Combating the laundering of proceeds from crime and terrorist financing. Nizhny Novgorod, page 122.

3.4 Russian «legal» laundering scheme

Imperfection of the Russian legislation in the fight against “dirty” money laundering is clearly reflected in the following scheme. In 2016, a new scheme for money laundering through court judgments, which is protected by law from all sides, was introduced in Russia. The Federal Bailiff Service ⁸⁵(FBS) was the key element in the fraudulent chain. The essence of the scheme is that two legal entities – a resident and a non-resident – agree on the collection of a debt through arbitration courts or by entering into amicable agreements⁸⁶. The plaintiff is a non-resident who demands to pay off a debt, and a resident-respondent agrees with his demand. Courts rule to recover from the debtor's account and issue an order of enforcement in this case unconditionally. A non-resident files it with the FBS, which begins enforcement proceedings, on a legal basis.

Funds from a debtor's bank account are debited to the account of the FBS and transferred to the recoverer's account in a foreign bank. Thus, money laundering is performed through the state institution, i.e. the FBS. According to the Bank of Russia, about 16 billion roubles, or more than 10% of the total volume of identified doubtful transactions for the year, were transferred to foreign accounts with the help of this scheme in 2016. In total, courts have issued judgments on claims (which have signs of such a scheme) for more than 37 billion roubles. The amounts of claims vary from 0.4 billion to 6 billion roubles. The scheme, using court judgments, is not new itself. It was the courts that were the key element of the so-called «Moldovan scheme» of embezzlement and withdrawal of funds from Russia widely used in 2010-2013. In Moldova, a fictitious debt of the Russian commercial entity owed to a local company was filed against a local company that filed an application with the Moldovan court to issue a court order to collect the debt from a firm and from a frontman, being a Moldovan citizen, who acted as a solidary respondent. More than 20 billion US dollars has been withdrawn from Russia within the «Moldovan scheme»⁸⁷.

A new scheme is unique because engaging the bailiffs makes it virtually invulnerable. The scheme is protected from all sides by law and is still applied. Technically, this scheme does not violate the law; the courts and the FBS act strictly within their competence, and banks have no official reasons to consider a transaction as suspicious and counteract its conduct since a court judgment is involved⁸⁸. The key problem is that courts lack authority to

⁸⁵ Federal Bailiffs Service is a federal law enforcement agency within the Russian ministry of Justice.

⁸⁶ [Electronic resource] – URL: <https://www.kommersant.ru/doc/3208167>

⁸⁷ Feinberg A. Tkachiov I. Moldovan laundry: how did you get \$ 20 billion from Russia. 2017.

⁸⁸ Torbin Y.G. Combating legalization and transferring of bank assets abroad. Moscow, 2016. P.92.

verify the essence of transactions between a creditor and a debtor, as well as the existence of the activities of these companies.

Based on the checks made by the Central Bank, the debtors do not exist at the indicated addresses, they do not carry out real activities, and the turnover on their accounts is insignificant in comparison with the amounts of debts. It is quite possible to identify them, basically. However, courts have no opportunity to verify the legality of debt collection and compare the amounts of recovery with the scale of the debtor's activities. The bailiffs at their own stage cannot also stop the fraudsters. The FBS does not have the authority to evaluate court judgments, but only enforces them.

The next stage is the banks, but they cannot do anything. The order for the transfer of funds is received, in fact, not from a participant of the scheme, but from the state agency, namely the FBS, and the banks are not allowed to refuse it. In this case, banks are hostages of the situation, even if the signs of the transaction indicate that it can relate to the number of transactions for the withdrawal of assets abroad, they have no grounds to refuse to execute the court judgment.

In order to ensure counteraction to the scheme within the applicable laws, the Bank of Russia should publish recommendations for credit institutions. As part of the implementation of their own internal control rules, banks should decide on the qualifications of transactions conducted within this recovery scheme as suspicious. At the same time, banks should show increased attention to all the transactions of such a client, use the right to reject other transactions and, in case of repeated rejection within a year, use the right to terminate account agreements.

Another solution to the problem may be a reform to stiffen the requirements for the creation of arbitration courts. Arbitration courts should approach the solution of such issues in a more substantive way and examine how far the enforcement judgment may violate the rights of other creditors, that is, not satisfy the plaintiff's claims just formally only on the ground that the debtor is willing to repay its debt. In addition, recently a bill was introduced to the State Duma, introducing liability for arbitrators (both Russian and foreign) for abuse of power and commercial bribery.

The accession in 2018 to a multilateral agreement on the automatic exchange of financial information provided for by the Uniform Financial Reporting Standard⁸⁹ for tax purposes will enable Russia to combat off-shore economy and tax evasion more efficiently.

⁸⁹ [Electronic resource] – URL: <https://news.rambler.ru/money/37721610-banko-prachechnyy-kombinat/>

3.5 Gaps of legal counteraction against corruption in Russia

The problem of corruption in Russia is becoming threatening. Corruption has become widespread in all branches of power, it affects all spheres of society. As to the level of corruption, Russia holds one of the leading places in the world in terms of the level of corruption.

The crimes of public servants threaten the rule of law, human rights, disrupt morality of society, trust in power, the principles of public administration, equality and social justice. So far, a number of major anti-corruption laws and socially-significant regulations have not been adopted in Russia. As a result, many corrupt officials are “off the hook”⁹⁰. The special danger of such crimes is due to the fact that they are committed by persons who, by the nature of their activities, are obliged to combat offenses and ensure law and order themselves.

The fight against corruption in Russia acquired the features of a campaign: in pursuit of indicators, law enforcement agencies began to prosecute teachers of universities, doctors, other officials standing on the last steps of the modern “table of ranks” against the flourishing corruption in the top government echelons. This “strategy” causes both surprise and rejection of such priorities, significantly reducing the authority of the policy taken in the above area.

Corruption in Russia is caused by a complex of problems in social, legal, economic and political spheres. But corruption is also largely determined by such factors as the peculiarities of the moral state and psychology of an individual. Therefore, in the conduct of social and economic, administrative reforms aimed at preventing corruption, criminal-legal opposition shall acquire essential significance. Pavel Yani remarked rightfully that no measures can compare by the strength of preventive influence with the fear of an official being exposed and punished⁹¹.

One of the most important means of countering corruption crimes should be not so much the transparency of activities of officials, the development of civil society, as much as criminal legislation. And it is necessary to prioritize modification of dispositions of articles in accordance with current social and legal realities, eliminating contradictions between provisions of some articles, criminalizing all criminal legal manifestations of corruption over intensification of repression by toughening the sanctions of articles. Reference points in the improvement of criminal law should be law enforcement practice and provisions of international legal instruments.

⁹⁰ no longer in difficulty or trouble.

⁹¹ Yani P.S. Criminal legislation and the fight against corruption // Corruption in public authorities: nature, countermeasures, international cooperation: Collected papers / Ed. P.N.Panchenko, A.Yu. Chuprova, A.I.N. Novgorod. - 2001. - S.76-79.

The Federal Anti-Corruption Law of the Russian Federation provides very limited explanation of what is meant by corruption⁹². So, to qualify an act as corrupt, it is necessary that a corrupt official sells his authorities, that is, those legal authorities that belong directly to him. If he uses for his own purposes the authorities of another close person (colleagues at work, office, acquaintance, etc.) by using professional, moral, ethical, authoritative influence on this subject, then there is no corruption in such deeds.

Moreover, according to the applicable laws, one cannot qualify the use of corruptly proper functions as corrupt acts. That is, we are talking about cases where, for example, the head delegates to his subordinate those functions that he did not have the right to delegate to him, and the latter committed corrupt acts for the time these functions belonged to him. The acts of both are illegal in this case, but not corrupt. A vivid example: the head of a bank delegates the functions of the bank manager to a clerk for the time of his vacation.

It is important for the qualification of corruption acts to prove that the corrupt official acted against the interests of the country and society. This fact makes it difficult for law enforcement agencies to qualify acts as corrupt. The results of this difficulty are as follows: the exclusion of liability with implicit signs of the committed, the possibility of subjective interpretation of the “legitimate interests of society and the state” category by law enforcement agencies and the court⁹³.

Having considered some peculiarities and shortcomings of the qualification of acts as corrupt, I would like to consider the differentiation of corruption from related close offenses.

We can trace two approaches to the legal understanding of similar phenomena in the Russian anti-corruption legislation. First of all, it is actually corruption itself, and secondly, it is a violation of anti-corruption standards by a person, that is, unified rules, restrictions, thresholds of rights established for a certain area of activity.

A feature of the procedural application of the anti-corruption legal array is that law enforcement agencies are allowed to use it in the “extended” investigation only when the qualifying signs of corruption are clearly traced. Moreover, another important feature of the qualification of near-corruption offenses and corruption is that the investigation and search system cannot be used if disciplinary near-corruption offenses are detected. Such an investigation is only internal. Often, individuals are unfairly accused and dismissed, as a result of such investigations, and sometimes the unidentified harm in this type of investigation is so great that ordinary dismissal is not an appropriate sufficient form of punishment. It is

⁹² FZ-273 "On Counteracting Corruption".

⁹³ Mityukhin, A.K. On Some Aspects of Legislative Counteraction to Corruption / A.K. Mityukhin. - Moscow: Perun, 2010.

possible to apply the investigation and search actions only when administrative violations with a clearly defined corruption composition of the offense are established.

The fight against corruption in the system of investigation and search actions (ISA) is disclosed in Law FZ-273 as a type of activity for the prevention, detection, investigation of corruption offenses. However, there are serious problems in the application of such an anti-corruption system on a practical level. Let's consider some of them.

The basis for ISA is information about a crime committed (Investigation and Search Actions Federal Law)⁹⁴. However, the law does not indicate the need to perform a search function under the circumstances. Unfortunately, there is no current monitoring programme for corruptly dangerous units or even monitoring the activities of individual officials in Russia, which, of course, significantly reduces the efficiency of using this system and counteracting the plundering of state money and the abuse of their position by officials. Currently, despite the existence of a sufficiently extensive system of law enforcement and internal control bodies, only a single state body can legally exercise search powers in the fight against corruption, which is the bodies of the Federal Security Service⁹⁵. The Federal Security Service Federal Law notes that the FSS can take search actions not only to counter foreign intelligence, but also to combat all criminality, including corruption.

ISA do not provide for personal search of things, persons, transport, forcible bringing to an agency of inquiry or preliminary investigation of persons suspected of committing a crime, even if there are solid facts about their involvement in the crime. This gap in the legal regulation of ISA becomes especially relevant in cases where it is necessary to conduct a personal search of a suspect of an offense, for example, to identify a bribe that has just been given, or which may still be near such a person. It is quite common practice when law enforcement officers were accused of abuse of their powers on such or similar basis.

The Constitution of the Russian Federation provides that everyone has the right to personal inviolability. Although, the provisions of the Constitution also provide for the possibility to be guided by federal legislation when deciding on the issue of personal search, inspection of things, transportation, etc. Access to information that requires court authorization is prohibited in the ISA regime. This is information that constitutes a certain kind of secret. Anti-corruption efficiency of law enforcement bodies applying ISA will continue to be rather low in the future until the relevant procedure for their access to information will not be simplified⁹⁶.

⁹⁴ FZ «On Investigation and Search Actions».

⁹⁵ FZ «On Federal Security Service».

⁹⁶ Chashin, A.N. Corruption in Russia / A.N. Chashin. - Moscow: Business and Service, 2009.

An analysis of Article 59 of the Public Service Federal Law allows to conclude that the legislator has split all corruption offenses committed by state or municipal employees into two groups: serious offences, which entails dismissal from the public service in connection with loss of confidence, and others wherefore penalties can be applied not related to the termination of employment relations.

When applying disciplinary actions, an employer shall take into account the requirements provided for in Article 59 of the Public Service Federal Law which are as follows: the nature of a corruption offense committed by a public servant⁹⁷, its severity, circumstances whereunder it was committed, observance of other restrictions and prohibitions by a public servant, requirements for prevention or resolution of a conflict of interests and the performance of his duties established for the anti-corruption purpose. These circumstances should be taken into account also by prosecutors when applying prosecutorial response actions in order to eliminate violations of anti-corruption legislation.

The practice of public prosecutor's supervision shows that there are problems of dismissal in connection with the loss of confidence due to a failure to take measures to resolve conflicts of interest in the service, a failure to provide information on incomes, property and property liabilities by the heads of local administrations appointed to a position under a contract entered into according to results of the competition.

Based on literal interpretation of Part 11 of Article 37 of the Federal Law of the Russian Federation On General Principles of the Organization of Local Self-Government in the Russian Federation, dismissal of the heads of local administrations is possible only for violation of the legislative requirements that prohibit the implementation of entrepreneurial activities, as well as other paid activities and being a member in governing bodies, guardian or supervisory boards of foreign non-profit non-governmental organizations and their structural units operating in the Russian Federation.

The possibility of dismissal of the heads of administration in connection with the loss of confidence due to a failure to take measures in resolving conflicts of interest in the service, a failure to provide information on incomes, property and property liabilities is not provided for by law at all⁹⁸.

Summing up the consideration of the indicated problem, it should be noted that in some cases, the regulation of issues of applying the disciplinary responsibility of municipal

⁹⁷ Dobrobaba V.V. Traditions and innovations in the legal regulation of the institution of disciplinary responsibility of state civil servants of the Russian Federation // State power and local self-government. - 2013. - No. 3. - P. 29-31.

⁹⁸ Tuganov Yu.N., Zhuravlev S.I. On the issue of bringing civil servants to disciplinary liability for corruption offenses // Russian Justice. -2014. - No. 4. - P. 57-60.

employees leads to a violation of the principle of the inevitability of responsibility for committing corruption violations and is subject to adjustment.

Currently in Russia, positive references, assistance in employment, study cannot be regarded as an object of bribery or commercial bribery, since the benefit of non-monetary value cannot be regarded as a bribe under the applicable Criminal Code of the Russian Federation.

In view of the foregoing, I believe that not only money, securities, other property, benefits, services or work of monetary value should be consolidated as a single subject of bribery, but also various benefits and services of non-monetary value.

3.6 Deficiencies of the Russian Land Code⁹⁹

Having allowed the alienation of land into private ownership, the legislator of the Russian Federation counted on the conscientious, lawful behaviour of an official obliged to act for the benefit of society, making decisions about the fair distribution of the public domain, which is land. But often this duty contradicts the possibility of gaining the benefit by an official, because as a rule, there are always several claimants for each plot of land, presenting (openly and privately) various arguments by their content. In essence, a market situation develops for an official: there is a commodity, which is a decision to provide land, there is demand and various “prices” of demand proposed by buyers.

The very federal land legislation, which is extremely complicated and confusing, contributes to this phenomenon in no small measure. Fourteen years have passed since the Land Code of the Russian Federation entered into force, and so many amendments were made thereto. There are legislative instruments regulating land legal relations, along with the Land Code, but, unfortunately, despite such a long period of formation of land legislation in the Russian Federation, it is not devoid of many shortcomings up to the present time.

Uncertain or contradictory legal instruments in the field of land use facilitate officials to abuse authority to manage land plots. Upon enforcement, due to the absence of a direct legislative prohibition, officials are not limited in interpreting the statutory provisions depending on their interests in the issue to be resolved, i.e. the land legislation contains questionable provisions that stimulate the speculative actions of the concerned parties¹⁰⁰.

⁹⁹ Here and below in this paragraph, we refer to the official text of the Land Code of the Russian Federation. http://www.consultant.ru/document/cons_doc_LAW_33773/

¹⁰⁰ Volkov G.A. Principles of the Russian land law - Moscow: Publishing House "Gorodets", - page 336.

Thus, Article 30 of the Land Code provides for the provision for construction from lands in state or municipal ownership, with the preliminary agreement of the location of facilities to be constructed. The procedure for making a decision on prior agreement of the location of a facility established by the Code provision is the most non-transparent and potentially corrupt scheme for granting land plots in the Land Code, as it creates statutory prerequisites for the municipality to abuse its right. The application of this procedure actually guarantees to a specific “selected” person the acquisition of a land plot, since by virtue of Clause 8 of Article 31 of the Land Code a decision on preliminary agreement of the location of a facility is the basis for the subsequent decision to grant a land plot for construction and is valid for three years. While applying the procedure for the provision of land without prior approval of the location of a facility, which provides for bidding, the consequences for a particular person are unpredictable.

In accordance with Clause 12 of Article 30 of the Land Code the local self-government bodies have the right to establish a list of cases where the granting of land plots that are in municipal ownership, which they have the right to dispose of in accordance with the land legislation, is carried out exclusively by tenders. At the same time, the land legislation contains no specific grounds and conditions for applying the procedures for granting land plots with prior agreement of the location of facilities and without, and the responsibilities of local government bodies are not provided for, i.e., the decision on the form of granting a land plot is taken by the municipality, or rather by an official at his own discretion.

According to Clause 3 of Article 31 of the Land Code the local self-government bodies should inform the population about possible or forthcoming provision of a land plot for construction. Citizens, public organizations (associations), religious organizations and territorial public self-government bodies have the right to participate in solving issues affecting the interests of the population, including through the purchase of land plots for state and municipal needs and the provision of these land plots for construction.

However, the terms for expressing their opinion by the concerned parties have not been determined by law, nor has the algorithm of actions of local self-government bodies been defined when objections are raised regarding the proposed construction¹⁰¹. Again, there are grounds for alternative behaviour of officials: accepting or ignoring the views of stakeholders. It does not follow unambiguously from the meaning of the Land Code that this provision is aimed at protecting the population, but it gives an official the opportunity, with

¹⁰¹ Volkov G.A. On the Unification and Systematization of Legal Norms Regulating Land Relations // Ecological Law of Russia. The collection of materials of scientific and practical conferences.

reference to the receipt of an objection, to refuse to make a decision on granting a land plot upon receipt of more favourable offers.

In order to exclude the facts of alternative law enforcement, it is necessary to abolish the procedure for granting a land plot with a preliminary agreement on the location of a facility.

Legislation does not also explicitly prohibit the transfer of rights when applying this procedure. However, an application can be filed by a person who wishes to receive money from a commercial transaction using a previously “agreed” land plot subsequently. Thus, the procedure for preliminary agreement of the location of a facility can be used by selected individuals for enrichment without any financial costs. The legislation does not provide any responsibility for such actions.

Local government is the closest level of authority to people. Due to the basic principles of the land legislation, local government bodies shall own, use, dispose of municipal land in the interests of the development of municipal formation and social and economic interests of their citizens. Effective use of land is one of the own sources of local budget formation designed to provide tasks and functions related to the subjects of local self-government. Quality of life of the population of a municipal formation can be improved at the expense of budgetary funds. At the same time, one of the main mechanisms for replenishing the revenue side of a local budget using the right to dispose of land plots granted to municipalities is the use of auction procedures (bidding/tenders), the use of which can bring million revenues to a local budget.

However, the applicable land legislation of the Russian Federation contains the requirement to provide land plots exclusively by bidding only in relation to land plots for housing construction. In the case of provision of land plots with the preliminary agreement of the location of a facility, as noted above, the bidding is not conducted, i.e., the plot is provided on the most favourable terms for the developer. It is not hard to guess that only those selected and close to officials can use this scheme, which is essentially corrupt. After all, land plots could be transferred into ownership by selling it at tenders, on which, as a rule, the declared value increases many-fold.

Absence of tenders is permitted by the land legislation also in cases where land is provided for individual housing construction, personal subsidiary economy, for the organization of agricultural enterprise, etc. At the same time, there are many people wishing to obtain land for these purposes, especially in urban localities, which indicates that the plots are in demand, and the exercise of rights thereto, if there are bidding procedures, would entail significant revenues to the budget.

Thus, it is necessary to abolish legally the allocation of land without the use of bidding procedures or clearly establish exceptional cases of granting land without using it.

Due to legal gaps in the Article 36 of the Land Code, there was also a practice of acquiring rights to land plots under the destroyed buildings, constructions, as a rule, having a small area. The price of such illiquid real estate is accordingly low, and it is acquired only with the purpose of subsequent registration of rights to the land plot located below it, the price of which is higher than the value of the destroyed facility. After the acquisition of rights to the land plot, the destroyed facility is not restored by the owner, as a rule.

Currently, there is no direct legislative prohibition on carrying out such actions, which allows officials who facilitate the commission of these actions to become unjustly rich, while reducing the reserves of municipal property¹⁰².

Quite a lot of questions are caused by the assessment of land plots carried out for the purpose of bidding, since the cost of comparable plots is very different. Often, the assessment of a land plot, as well as all real estate sold by the municipality, is conducted according to a unspoken arrangement of local government bodies with an appraiser that underestimates the cost of the site. The result of such actions is inflicting damage to the budget.

In view of the above, the assessment shall be carried out by a truly independent expert organization in order to determine the real market price of land plots. The way-out can be the legislative recognition of a list of institutions accredited in the corresponding field that will conduct such an assessment. If this is not the way to eradicate abuses in full, then at least it should significantly reduce the amount of damage caused to the budget.

Gaps are also contained in the legislation regulating the bidding. Thus, in accordance with Clause 11 of Article 38 of the Land Code, a bidding process organizer has the right to refuse to conduct the bidding not later than fifteen days before the day of the bidding. As the practice of public prosecutor's supervision shows – local government bodies often resort to this provision of the Land Code in case of receipt of applications from “favourable” persons or when persons undesired by officials are registered to participate in the bidding.

Legislation does not determine the grounds for making this decision, regulating only the timing of making thereof. Thus, the bidding can be cancelled without an explanation of the reasons. Subsequently, other ways of providing the land plot are being sought.

A legal gap exists in the provisions that establish the grounds for recognizing the bidding as void. At the same time, such grounds are often used in order to preserve the

¹⁰² Sahakyan A.V. Problems in land law and ways to overcome them // New legal thought: scientific and analytical journal. - Volgograd: Research Institute of Contemporary Law, Volgograd Academy of Public Administration. - ISSN B. and. 2010. N 1 (38).

interests of selected persons. Thus, in case of expiration of the decision on the cancellation of the bidding, the person in the interests of whom the bidding was declared, regardless of the number of participants, declares the price step by step, which is several times greater than the real market value of the land plot, which, surely, he does not intend to pay. His real intentions are not to allow other participants of the bidding to win (and consequently, to gain the rights to land). Becoming the winning bidder, he subsequently refuses to sign the bidding protocol, which entails the consequences set forth in Clause 5, Article 448 of the Land Code, which is loss of deposit (usually an insignificant amount).

The bidding process organizer has the right, and not the obligation to make a decision on the holding of repeated bidding. In order to avoid undesirable consequences for concerned persons, the land plot can be transferred to the “selected” person using another procedure that excludes the bidding, fortunately, the land legislation contains a lot of such schemes, based, in fact, on the law¹⁰³.

The land legislation allows for a change in the permitted use of land, which is also used by municipalities. Thus, as already noted, in addition to the widespread use of various schemes for the registration of land plots for construction through preliminary agreement of the location of a facility by municipalities, they use schemes to change the permitted use of land for the purpose of avoiding significant amounts of payment for land. For example, the right to a land plot for the placement of sports facilities is acquired, for which, by virtue of the law, a decreasing coefficient of payment for land is established, and later the permitted use of the site is changed for placing commercial properties.

Law enforcement officers, rights holders, monitoring bodies are forced to eliminate in court legal gaps in the land legislation that promote the emergence of corruption schemes.

Corruption in the sphere of land legal relations has recently been very much discussed in the mass media of the Russian Federation, at the federal level its eradication is linked to the creation of an open access to an information resource¹⁰⁴, which will reduce the possibility of using various shadow schemes in view of the public nature of the process.

However, it is impossible to suppress the actions of officials allowing them to gain benefits at the expense and the detriment of society, without changing the very land legislation.

The suppression of the use of corrupt schemes, i.e. prevention of corruption, is possible only through the establishment of legislative prohibitions. In order to exclude the

¹⁰³ Abdulkaramova V.M. Gaps of land legislation used for corruption purposes by officials of local self-government bodies. URL: <http://отрасли-права.рф/article/981>

¹⁰⁴ Arzumanyan A.V. Prospects for the development of federal and regional legislation on state registration of land rights // Man and the law. - M., 2008, No 1. - P. 150-159.

facts of abuse their right by officials, protect the interests of individuals and legal entities, I think it is necessary to do the following on a legislative level:

- to establish a closed list of permitted use of land plots that are to be provided without bidding procedures (for example, for the placement of utilities, transport, social infrastructure);
- to provide for the possibility of selling the rights to land plots only with the use of bidding procedures, namely electronic trading;
- to exclude the procedure of preliminary agreement of the facility location;
- to determine a list of accredited institutions for conducting land assessment at the federal level;
- to prohibit the change in the permitted use of the land plot, entailing a change in its value;
- to create a single open information resource about land plots.

3.7 Congeniality of legislative problems

Having analysed the anti-laundering gaps, I would like to note the general features of the gaps in the whole array of the legislation. A significant number of provisions of the legislation is represented by subordinate regulatory and legal instruments, and not by laws, characterized with their smaller legal force and significance.

There are also many contradictions between the Constitution of the Russian Federation and the anti-corruption legislation. In particular, the Constitution prohibits a person to testify against himself, and this is the basis of the anti-corruption legislation, if acts related to corruption are committed against a person, the family of a public servant is obliged to report their incomes, although they have the right to refuse it etc. The creation and application of new provisions, the activities of law enforcement agencies will be inefficient without the elimination of existing gaps in the legal counteraction of corruption and money-laundering.

Peculiarities of Money Laundering in Sports

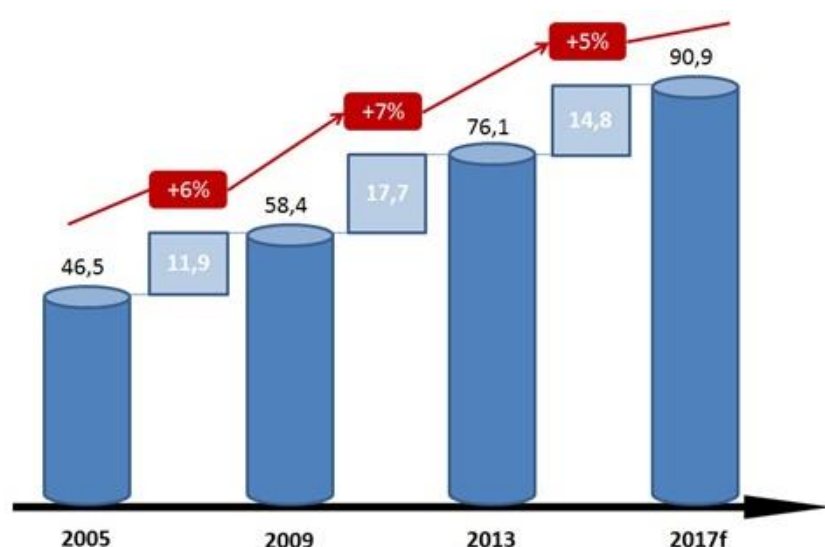
4.1 Significance of sport in the world economy

The growing trend of globalization makes it easier for criminal groups to use sports more for money laundering and other fraudulent transactions.

It is increasingly difficult for the criminal community to make fraud with the help of various front companies and real estate transactions during the crisis, and also because of the obsolescence of schemes for money laundering. Therefore, criminals are increasingly using sports to implement their dirty business. Money laundering takes place perhaps under the guise of buying a club, transfer or rental of a player, as well as under the guise of a bookmaker's office.

Over the past thirty or forty years, money has become an integral part of big sports and their influence has both positive and negative factors. The development of sports, the construction of new sports schools, bases, and stadiums in countries “lagging behind” can be regarded as positive factors. Negative factors include corruption, mafia, money laundering and other illegal activities.

According to the estimates of the European Commission, the sports sector occupies about 2% of the total GDP of the European Union. The importance of sports in the economy is confirmed by the following charts¹⁰⁵.



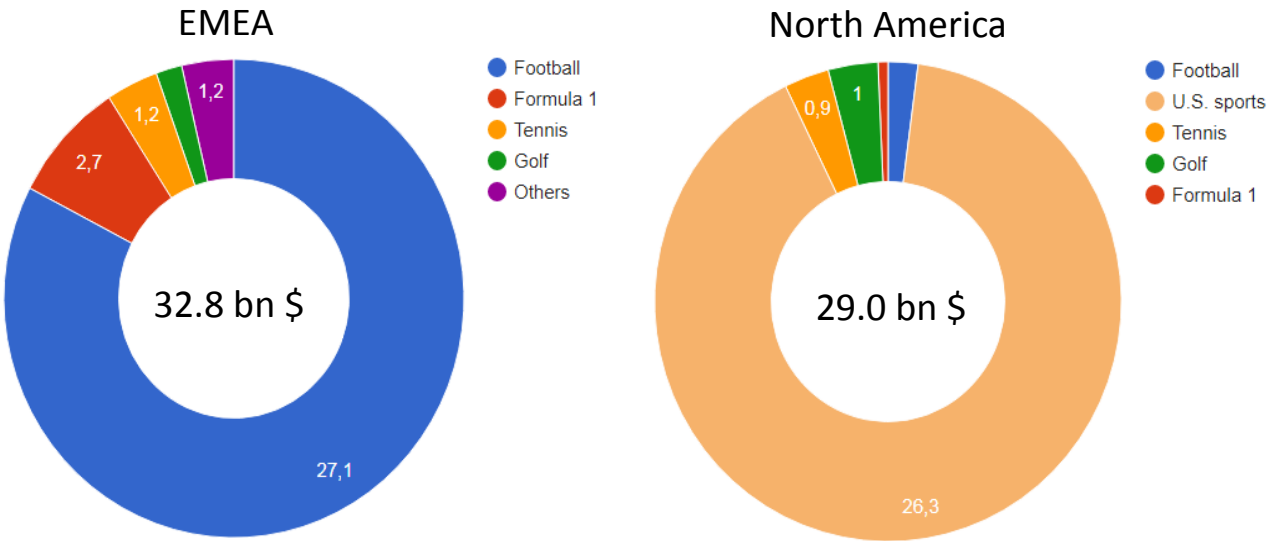
CAGR (%)

Sport	2005-2009	2009-2013	2013-2017
Football	8%	9%	5%
U.S. sports	5%	5%	4%
Formula 1	3%	4%	4%
Tennis	2%	5%	3%
Golf	3%	2%	4%
Other	11%	9%	9%
Total	6%	7%	5%

Figure 6 Sports market growth and revenue (bln \$)

¹⁰⁵ European Commission Press Release Database. Sport as a growth engine for EU economy. Brussels, 19 June 2014.

Based on the chart, we can see that the growth in the revenues of the football sector far exceeds the incomes of other types of sports. This is due to the fact that such important football events as the Soccer World Cup, the European Championship, the Champions League and the UEFA Europa League bring more money than for example the Formula 1 Grand Prix, Wimbledon or NBA games. An important factor is that the sports market with an annual growth of 7% is growing faster than the GDP of most countries.



Global Sports Market,%	EMEA	North America	Asia Pacific	Latin America
	43%	38%	13%	6%

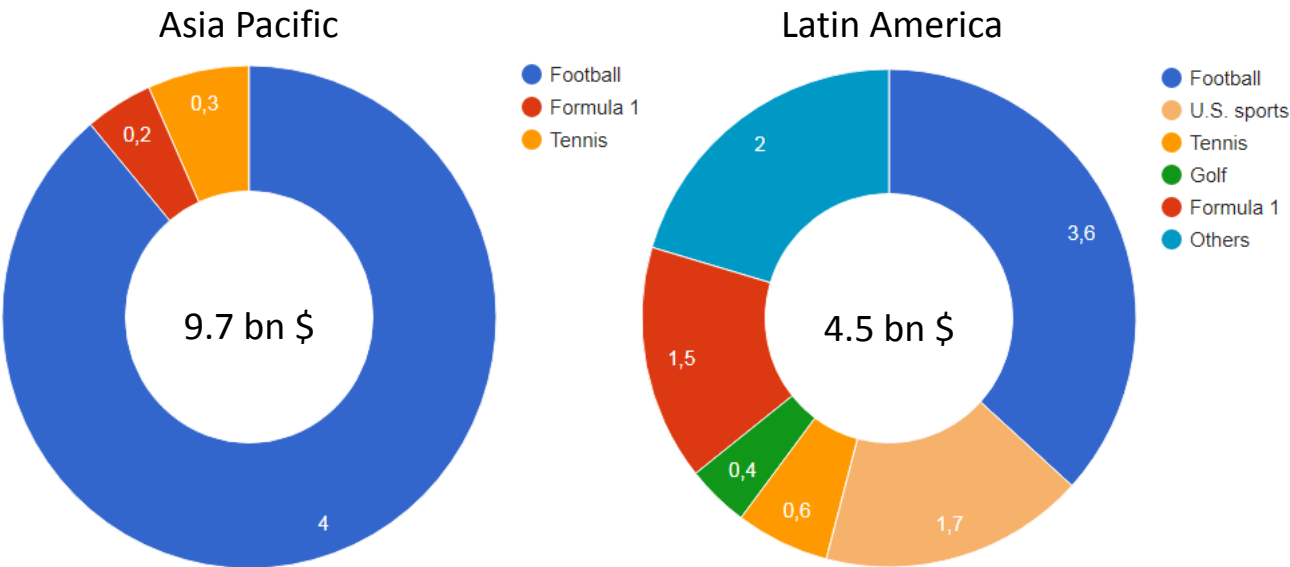


Figure 7 Global sports market, %

Analysing the income in different geographical areas in more details, we can say that football is the most profitable sports in 3 areas: EMEA (Europe, Middle East, Africa), Asia Pacific and Latin America with incomes of 27.1, 4 and 3.6 bn. \$, respectively. As for North America, the most popular sports here are the so-called U.S. Sports (basketball, American football, baseball) which brought 26.3 bn. \$. Football has brought less than 1 bn. \$¹⁰⁶ “only”. Given the huge cash turnover, it is not difficult to guess that the sports sector is a tasty morsel for many criminal groups.

4.2 Sport as an instrument for legalization of criminal incomes

Money laundering in sports can take place in various forms, from the simplest ones, using frontmen, to the most sophisticated ones, such as illegal possession of advertising rights, illegal cross-border money transfers, tax evasion, etc.

The sports industry is viewed by criminal groups not only as a source where money can be laundered and profit can be illegally appropriated, but also where a criminal can obtain the image and reputation of “benefactors” acting solely disinterestedly and in the name of such noble goals as the development of mass sports, support of children's and youth sports and other. This image, allows them to avoid proper financial control by the tax and other regulatory authorities, and hope for indulgence from the law enforcement agencies.

In addition, criminal sponsors receive the necessary social and “legal” status in the local community, free access to the elite of society. Criminal leaders, in their opinion, as if buying an “admission ticket” into society, become popular figures.

This “legalization” allow criminals to conduct their “shadow” business more successfully and even receive budgetary funds, in particular, profitable contracts for the construction of sports facilities (thereby also masking the receipt of their criminal proceeds).

According to the experts of FATF¹⁰⁷, high profitability of certain types of entertaining sports events, excessive commercialization of sports, attraction of large investments into this sphere, a complex and diverse network of numerous legal entities and individuals (agents, sponsors, clubs, offshore companies) associated therewith promote money laundering in professional sports. The most “vulnerable” to money laundering are sports such as football, basketball, hockey, horse racing, motorcycle racing and volleyball.

Some athletes, who have become dollar millionaires, begin to invest in the “money laundering” business themselves. For example, some players of FC Zenit (St. Petersburg)

¹⁰⁶[Electronic resource] URL: [https://www.atkearney.com/communications-media-technology/article/Winning in the Business of Sports](https://www.atkearney.com/communications-media-technology/article/Winning%20in%20the%20Business%20of%20Sports)

¹⁰⁷ Money laundering and sports// FATF Report. Money laundering through the football sector. July. 2009.

granted high interest “loans” in the amount of more than 70 million roubles to criminal leaders of the Tambov organized criminal community for servicing “clients” in financial schemes for laundering of “dirty” money¹⁰⁸.

As noted by the FATF experts, sports is “vulnerable” to criminal activities in connection with the lack of adequate professional management, unpredictability of sports performance, large disparities in the salaries of athletes and coaches. Thus, one talented player can bring huge and difficult to control revenues to a sports club, while losing only one promises a serious deterioration of the financial situation. Both cases create conditions for the use of “dirty” money¹⁰⁹.

The process of legalization of criminal proceeds is facilitated by a huge turnover of cash in the sphere of sports, which allows criminals to come up with various schemes for exchanging small bills for large ones, transferring cash to non-cash.

It is noteworthy that the existing mechanisms for financing sports clubs, including charitable donations and sponsorship, play a special role in money laundering in professional sports.

4.2.1 Russian sports financing mechanisms

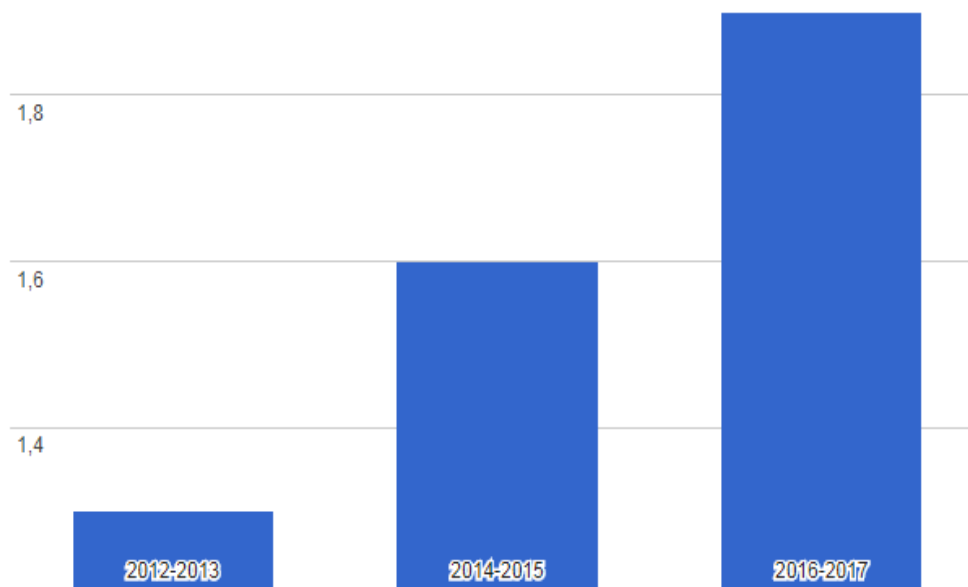
If in the US, Canada and a number of European countries professional sports in many ways is a developed business structure, and is self-sustaining from the proceeds of ticket sales, advertising, broadcast of matches, etc., in Russia in most cases it is loss-making and exists at the expense of state support, sponsorship and charity of Russian oligarchs.

At the same time, the state support of sports is constantly growing, which is clearly seen through the example of Russian football. Thus, Russia spent about 1.3 billion US dollars on the current expenses of football clubs of the Russian Premier League and the National League in 2012-2013, 1.6 billion US dollars in 2014-2015, and will spend 1.9 billion US dollars in 2016-2017¹¹⁰. And this despite the fact that Russian football clubs, in contrast to other types of sports, really have the opportunity to profit from their professional activities.

¹⁰⁸ Livanov B. Anyukov believed "nephew of Kumarin" and lost millions // Fontanka. RU. 01/13/2014. URL: <http://www.fontanka.ru>

¹⁰⁹ Vulnerabilities of the football sector// FATF Report. Money laundering through the football sector. July. 2009.

¹¹⁰ Aminov A. The agent is the main character of the Russian football // Echo of Moscow. URL: <http://www.echo.msk.ru/blog/aminovalisher/1212551-echo>



Graph 6 Expenses of Russian Premier League and National League football clubs, bn \$

Thus, V. Galkin writes about Russian sports as a “surrealistic phenomenon”¹¹¹, combining therein simultaneously obvious unprofitability and unreasonable salaries of players, exorbitant amounts of transfer transactions in a “poor” country by international standards.

Almost all large sports clubs and teams in Russia are financed by state corporations (OJSC Gazprom, Rosneft, RZD, VTB, Sberbank, Rosoboronexport, etc.). For example, well-known Russian oligarch Vladimir Potanin finances aquabike (jet sport racing); Arkady Rotenberg finances Dynamo hockey club; Gennady Timchenko finances Army Sports Club hockey team (St. Petersburg); Vladimir Lisin finances the Shooting Union of Russia; Mikhail Prokhorov finances the Russian Biathlon Union; Alisher Usmanov and his wife Irina Viner finance Russian Fencing Federation, Russian Canoe Federation, Russian Rhythmic Gymnastics Federation, etc.

It should be noted that such sponsorship is very successful at times. It is reasonable to mention charity by Vladimir Potanin, a representative of the world-famous philanthropic campaign named Oath of Donation, whereof members are obliged to give half or more of their fortune to charity. Potanin himself has already spent about 2.5 billion US dollars for the construction and operation of Rosa Khutor Olympic ski resort and the Russian International Olympic University in Sochi¹¹². Moreover, he transfers the ownership over the university building to the state and continues to finance the academic teaching of students of this university at his own expense.

¹¹¹ Galkin V. About financing of professional sports in Russia: Current Status and Prospects. URL: <http://vadim-galkin.ru/sport-2/sport-business/o-finansirovanii>

¹¹² Washington Post// Who spends and how much to prepare for the Sochi Olympics in 2014.URL: <https://www.washingtonpost.com/lifestyle/style/did-the-winter-olympics-in-sochi-really-cost-50-billion-a-closer-look-at-that-figure/>

It is no secret that charity itself is sometimes imposed by the state, which turns this voluntary business into an indispensable condition for the functioning of large business. Sometimes, large business spares no expenses for big sports, wishing to show its loyalty to the current regime of power. Unfortunately, there is almost no benefit from such charitable big money received in professional sports (sometimes rashly and without the desire to achieve specific results). Moreover, such “easy” and uncontrolled money often corrupts athletes and coaches, creating the conditions for theft and financial abuse.

Other “philanthropists” are engaged therein in the field of professional sports on a really voluntary basis, but solely guided by criminal motives. After all, such charitable activity is only one of the convenient ways to legalize proceeds obtained by criminal means, especially by organized criminal groups.

Some sports clubs become actually depended on such “charitable” capital. Thus, Spartak hockey club (Moscow) appeared in a difficult financial situation in 2013, the actual owner of which was Investbank deprived of a license for dubious financial transactions. This bank funded this sports club in full, and had “its” people¹¹³ (insiders) in its leadership.

Sports in the post-Soviet countries became a very “comfortable” place for criminal investments immediately after the collapse of the USSR. It is no coincidence that professional sports and mafia became similar concepts in the 1990's, as many sports clubs were the favourite haven of organized criminal groups in those years.

Unfortunately, the positive changes do not happen so quickly, but the criminals continue to circle around the Russian sports. Thus, in September of 2011, R. Saimanov, the sports director of Rubin football club was sentenced to 8.5 years of imprisonment¹¹⁴ for creating a gang and organizing the killing of seven people. Saimanov was responsible for financing of Rubin football club and its transfer policy. Major criminal investments in the “purchase and sale” of football players and successful performances of football players of this club were associated with his name.

Football in Russia may not be so openly or on such a large scale as it was in the 1990's, but it is still financed and at the same time embezzled by the legalized criminal leaders. In particular, some representatives of the football world declare the direct participation of criminals and dubious characters in financial transactions related to the activities of such well-known football clubs as Zenit, Rubin and Rostov¹¹⁵.

¹¹³ RBC Sport// The collapse of "Investbank" threatens the existence of "Spartak".URL: <http://sport.rbc.ru/article/194442>

¹¹⁴ Tass// Ex-director of FC Rubin Rustem Saymanov was sentenced to 8.5 years imprisonment.URL: <http://tass.ru/obschestvo/512455>

¹¹⁵ Aminov A. Who runs a billion euros? URL: <http://a-minov.livejournal.com/29450.html>

For example, here is a description of the state of modern Russian football given by A. Aminov: “The so-called football family is today a thief clan that turned the beautiful industry into a rotting event called Russian football, with a price tag of over 1.5 billion euros a year and shameful income of 45 million US dollars. They need an annual growth of budgets, lack of control, weak RFU without any publicity¹¹⁶”. Perhaps, this is an overly categorical and straightforward conclusion, which does not fully reflect the objective situation in Russian football, but, unfortunately, widely known facts and circumstances cannot help but alarm.

For example, at various stages the patron of the football clubs, such as Krylya Sovetov (Saratov), Volga (Nizhny Novgorod), Dynamo (Makhachkala) was called “authoritative businessman” Osman Kadiev, who is still wanted by the US FBI for extortion and communication with organized crime. Kadiev was a founder of a casino network in various cities of Russia, and currently promotes the idea of combining Dynamo and Anzhi¹¹⁷, two Dagestan football clubs.

It is possible to give another example. Thus, a leader of the Podolsk OCG (organized crime group), very rich and well-known in the criminal world, S.N. Lalakin (the nickname “Luchok”), is now not only an honorary citizen of the city of Podolsk, manages Vityaz the central city sports club, but, according to some information, became one of the “beneficiaries” of Zenit, a famous Russian football club. And this is no wonder, there are people connected in the past with organized crime, accused of racketeering, creating front firms for laundering “dirty” money even among the leaders of the all-Russian sports federations of sports. The entry of such persons is still undesirable for many countries. It is interesting that some of them have recently had affiliated institutions engaged in business in the field of professional sports, which were headed by their close relatives. These institutions controlled the withdrawal and laundering of Olympic money, transfer contracts, etc. And all these outrageous facts of the sports community are well known and openly discussed in the mass media.

4.2.2 Investing criminal money in foreign sports as a way of money laundering

Large opportunities for money laundering for criminal groups are represented by investing in foreign sports business, especially in sports clubs that work with a large amount of cash and have a network of all kinds of small firms related to the gambling business, offshore zones, etc.

¹¹⁶ Ivanov S. A football family today is a thievish clan // Soviet sport

¹¹⁷ Kadiev Osman: I wanted to unite "Anji" and "Dynamo" Makhachkala // Soviet sport

Recently, the number of billionaires, mainly from the post-Soviet countries, investing money in the sport of Western countries, has increased enormously. Natives of the former USSR invested huge sums in sports clubs of Great Britain, the USA, Italy, Greece, Holland, Israel and many other leading countries of the world (including, probably, the reason of legalizing their not absolutely lawful money).

It is interesting that the authorities of large Western countries, who have proclaimed an implacable fight against money laundering, in fact actively promote the investment of dubious Russian capital in the sports industry of their countries. On the contrary, they do not show any special sensitivity in studying the legitimacy of the origin of this money (*Pecunia non olet?*¹¹⁸).

A “trend setter” of investing money into foreign sports is undoubtedly the famous Russian billionaire, the “citizen” of the world, R. Abramovich, who bought Chelsea football club in 2003, and invested in its purchase and development, according to Forbes, 1.3 billion US dollars¹¹⁹. However, it should be acknowledged that R. Abramovich helped a little Russian sports as well: he created the National Academy of Football, a charity organization, financed the salary of Guus Hiddink, the Russian national team ex-coach, and built a number of sports facilities in regions.

Abramovich's example was contagious. Thus, another famous Russian oligarch M. Prokhorov invested almost 200 million US dollars in the construction of the sports arena in Brooklyn and the acquisition of a controlling stake in New Jersey¹²⁰, a leading US basketball team.

It is also possible to single out other large Russian businessmen who invested colossal funds in foreign sports. A. Usmanov is a shareholder of Arsenal football club, I. Savvidi of Greek PAOK, Chigirinsky of Dutch Vitesse, Yu. Korablin (former mayor of Khimki Moscow area) of FC Venezia.

Insufficiently patriotic position of some Russian oligarchs and large businessmen can be understood, since many of them are guided by purely commercial interests, including those related to the expansion of their foreign business and the availability of “private jets” in a number of comfortable countries for living. But how can we understand the activities of some of the largest state corporations and the so-called “natural monopolies”, investing fabulous amounts of money into foreign sports instead of Russian sports?

¹¹⁸ è una locuzione latina il cui significato letterale è «Il denaro non ha odore» [it.wikipedia.org].

¹¹⁹Korrespondent// Forbes estimated how much Abramovich spent on Chelsea. URL: <http://korrespondent.net/sport/football/1350728-forbes-podschital-skolko-abramovich-potratil-na-chelsi>

¹²⁰Stroev S. Why did Prokhorov invest \$ 200 million in the American economy? URL: <http://mirnov.ru/arhiv/mn823/mn/30-1.php>

For example, according to press reports, OJSC Gazprom has already provided sponsorship to Schalke 04 German football team in the amount of 125 million euros. It is also suggested to spend, according to some information, about 40 million euros, to participate in the official partnership of the UEFA Champions League and 4 million euros for the maintenance of Crvena Zvezda (Red Star) Serbian youth football team. It is also planned to supply gas and electricity to Chelsea football club. It is no coincidence that the correspondent of Novaya Gazeta {from Russian, New Newspaper} asks a sacramental question: “Chelsea, Schalke, Crvena Zvezda are gasified ... Why do not we see these localities on the map of Russia?”¹²¹.

In July 2013, another major state-owned company in Russia, OJSC Aeroflot, suddenly refused to sponsor CSKA, the Russian football club, and preferred to enter into a sponsorship contact with Manchester United (according to the British press, amounting to 100 million pounds). In particular, as an official carrier, Aeroflot will provide services for this club in “arrangements and strategic advising” and even paint one of its planes in the colours of Manchester United¹²².

At the same time, the Russian Football Union is experiencing financial difficulties and great challenges in obtaining sponsorship and charitable assistance. N. Tolstykh, the RFU head stated that he had twice asked Gazprom to extend the sponsorship contract with the RFU, but there was no response¹²³.

The money of OJSC Gazprom continues to “emerge” abroad, sometimes under unexpected circumstances. For example, in Spain in 2013, Andrei Petrov, a certain “developer”, who has laundered 56 million “dirty” euros received from Russia through a local hockey club, was detained. According to the press, the source of abundant financial injections from abroad was Gazprom. The specified “developer” organized in this country an organized criminal community, which included a member of the Parliament of Catalonia, the president of the hockey club and other “substantial” people¹²⁴.

¹²¹ Kobylkina D. "Chelsea", "Schalke", "Crvena Zvezda" are gasified ... Why do not we see these localities on the map of Russia?

¹²² ITAR-TASS// Aeroflot signed a sponsorship contract with the football club Manchester United. URL: <http://itar-tass.com/sport/630830>

¹²³ Tolstykh N. I remember that I was resting. I do not remember when // Football. URL: <http://football.sport-express.ru/reviews/39458>

¹²⁴ Newsru.com// In Spain, arrested developer Andrey Petrov, who for two years washed 56 million euros from Russia through a local hockey club. URL: <http://www.newsru.com/crime>

4.2.3 Some ways of “dirty” money laundering under the guise of charity and sponsors support

FATF experts note a lot of ways to launder “dirty” money in sports committed by representatives of organized criminal communities and the criminal world.

As a rule, “dirty” money comes through various affiliates at a time when the sports club is experiencing serious financial difficulties. It is interesting that money comes with the blessing of federal, regional or municipal authorities often, provided that “benefactors” will get the opportunity to receive state or municipal orders for the construction of sports and other facilities. In fact, such orders are received by criminals who launder their “dirty” money in such a way successfully.

Sometimes criminal investors simply buy a sports club for “dirty” money. Afterwards, they recapitalize the newly acquired property by obtaining loan facilities. The value of the club's shares rises sharply after investing in the development of the club, the purchase of players, etc. Loans are repaid through the issuance of new shares. The controlling stake remains in the hands of criminal investors. “Dirty” money and legal revenue receipts are mixed up, disguised. It is difficult to establish the fact of money laundering, and sometimes it is simply impossible.

One can also face the opposite situation, when a sports club is acquired by criminal investors for money obtained legally. These investors “promote” the image of the club, raise the salaries of players and coaches, purchase new sports equipment, and build sports infrastructure facilities. However, purchases and contracted construction work is carried out exclusively through “their” firms, controlled by them, at very high prices. All the profits from contracted work and sales are transferred later to the management of an offshore company controlled by an organized criminal community. Thus, apparently quite “legitimate” commercial activity of the sports club becomes an important tool in the laundering of criminal money.

It is characteristic that criminals, owning a club, can launder “dirty” money regularly and in large volumes, using simple fraudulent methods, for example, by manipulating accounting documents, artificially increasing the incomes and turnover of money allegedly coming from the sale of tickets, service companies, trade and public catering on the premises a sports facility.

Thus, you can often observe a situation when the stadium is full of empty seats, although supposedly all tickets are sold, including those at high prices. Along with other objective reasons, this situation can be explained by the implementation of the money laundering scheme. In particular, an attempt made by criminal owners or managers of this

sports facility to launder money by fictitious buying a large number of tickets from themselves in order to legalize their small bills received from criminal proceeds (drug sales, prostitution, illegal gambling).

Sponsors support provided to sports clubs, including from well-known international companies, does not always correspond to the requirements of the applicable laws. For example, Horst Dassler (the son of a founder of Adidas) has established International Sport and Leisure (ISL), which has entered into sponsorship contacts with FIFA, IAAF and the IOC to advertise products produced by Adidas France. Sponsorship money came to the bank regularly, where there was already a list of sports officials who were entitled to “legitimate” extra payments for entering into such a sponsorship contract. Thus, illegal income of mafia sports officials was legalized¹²⁵.

Criminal investments are also very well laundered by organizing “fixed” matches using bookmaker’s offices, Internet totalizers¹²⁶, as well as transactions related to the “purchase and sale” of football players. For example, a “benefactor” agrees to transfer 10 million euros for the conclusion of a transfer deal for the player. However, he really negotiates the transfer of 5 million euros, the rest of 5 million euros is returned to him by the sports club through various offshore schemes. As a result, 5 million “dirty” euros are “laundered” and acquire a legal origin.

As experts FATF note, deliberate misleading of the sports community about ostensibly very high price for “sports goods” to receive “surplus value” lays in a basis of this criminal way of money laundering. And for some reason, often the competent authorities do not want to ask what the real market price of “bought” and “sold” football players is, and where fraudulent actions, money laundering and direct deception of the sports world are.

The Russian market of criminal transfers, participation of football agents for the use of “kick-back¹²⁷” schemes and laundering of “dirty” money therein is a serious problem for today. However, it should be noted that this is not only a purely Russian, but also a big international problem. For example, in 2013, the Italian Tax Police suspected 41 football clubs and 12 football agents in money laundering in transfer transactions, and immediately took adequate measures. *La Gazzetta dello Sport* reported that the searches took place in the offices of Milan, Juventus, Napoli and Lazio. Parma, Atalanta, Genoa, Catania, Palermo,

¹²⁵ Jennings A. Who is killing FIFA. Strangeness of world football. 2011, page 365.

¹²⁶ Practice in fighting against match-fixing (criminological analysis and practice)]. *Vestnik RMOU – RIOU Bulletin*, 2012, no. 3.

¹²⁷ A kickback is a form of negotiated bribery in which a commission is paid to the bribe-taker in exchange for services rendered [en.wikipedia.org].

Fiorentina and some other teams were also mentioned. Unfortunately, law enforcement bodies in Russia prefer not to deal with this problem at all, unlike Western countries.

4.3 FC Tiraspol Case

In May of 2015, FC Tiraspol ceased to exist. The reason for this was a loud scandal connected with the illegal possession of the club and, as a result, with serious violations of the FIFA and UEFA Charters. The fact of the illegality of the existence of football clubs, such as Tiraspol and Sheriff, remains relevant even today.

From the scheme below, we see that FC Tiraspol and FC Sheriff are under the control of one owner, Mr. V.A. Gushan, which contradicts Article 18 of Part 2 of the FIFA Charter fundamentally: «Every Member shall ensure that its affiliated clubs can take all decisions on any matters regarding membership independently of any external body. This obligation applies regardless of an affiliated club's corporate structure. In any case, the Member shall ensure that neither a natural nor a legal person (including holding companies and subsidiaries) exercises control over more than one club whenever the integrity of any match or competition could be jeopardised».

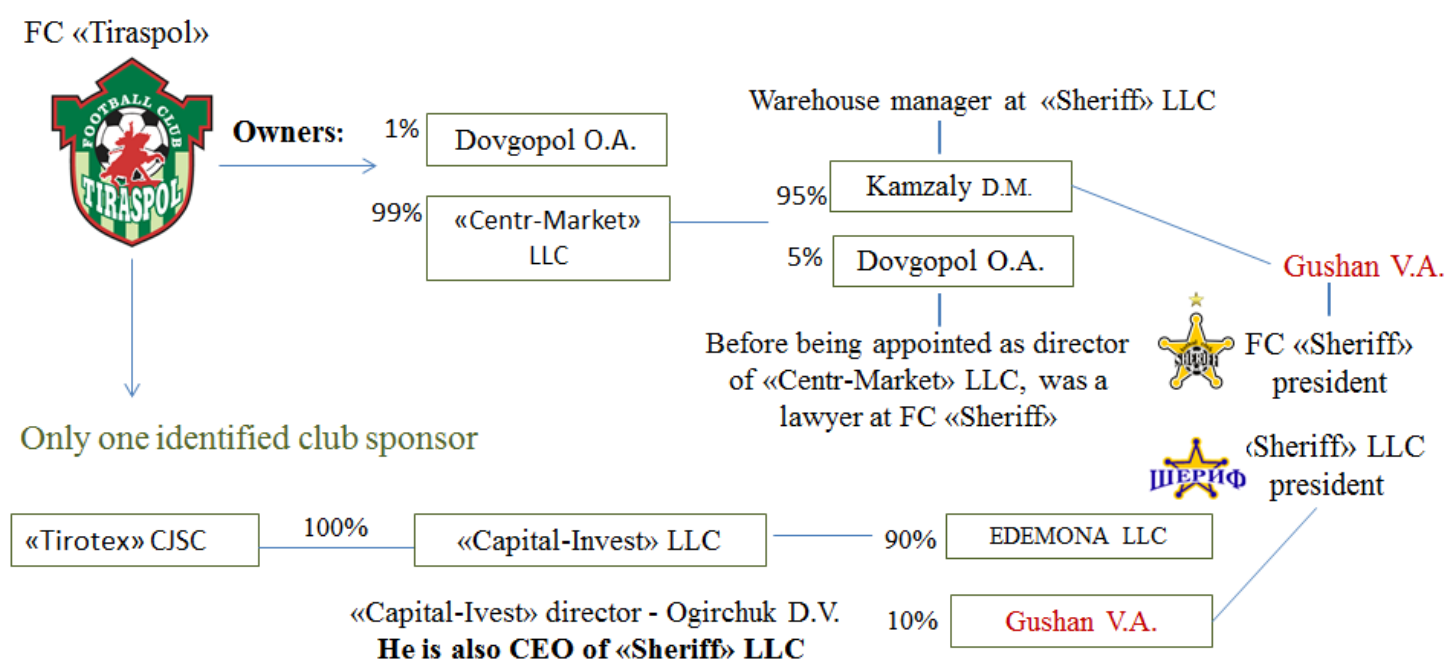


Figure 8

The extract from the state register of legal entities of the Pridnestrovian Moldavian Republic states that the owners of FC Tiraspol¹²⁸ are as follows:

¹²⁸ The case was described by using materials of the investigation process conducted by the journalists of famous russian sport site – Sports.ru.

1) Oleg Anatolyevich Dovgopol, a share of participation amounts to 1%.

2) Centr-Market, LLC, Tiraspol, a share of participation amounts to 99%.

In turn, the owners of Centr-Market, LLC are as follows: Dmitry Mikhailovich Kazmaly, with a share of participation of 95% and Oleg Anatolyevich Dovgopol, with a share of participation of 5%.

The Director of Centr-Market, LLC is Oleg Anatolyevich Dovgopol. Before the appointment of O.A. Dovgopol as Director of Centr-Market, LLC, as follows from his biography, he was the head of the legal department of FC Sheriff since 2000, and he combined his activities with the position of a deputy since 2005. He did not have any business prior to assuming the office of the Director of Centr-Market, LLC. In any case, there is no information about any other activities related to business after the position of the lawyer of Sheriff club.

As follows from the PMR¹²⁹ President's Decree No.897 as of November 23, 2011, D.M. Kazmaly was the Warehouse Manager of the trading storage of Sheriff, LLC and was subordinate to V.A. Gushan the President of Sheriff, LLC and FC Sheriff. Kazmaly was awarded a medal "For Distinguished Conduct in Labour" for selfless labour in a position of "the Head of the warehouse of the trading storage of Sheriff, LLC".

Initially, Centr-Market, LLC – was established to privatize the Tiraspol city market. On March 15, 2007, Centr-Market, LLC was registered, and the Tiraspol city market was privatized in the same period. Based on the PMR President's Decree No.234RP as of March 26, 2007, the Tiraspol city market was successfully privatized. The balance-sheet value of the facility amounted approximately to 460 thousand US dollars. In addition to the privatization of the facility, the company undertook to invest in the improvement of the market, as follows from the official web site of Centr-Market, LLC.

Upon its establishment, Centr-Market, LLC conducts the construction and commissioning of trading buildings and pavilions at full tilt. At least from the beginning of 2012, D.M. Kazmaly, holding the position of the Warehouse Manager of the trading storage of Sheriff, LLC, becomes the owner of a 95% stake in Centr-Market, LLC, which owns:

- an object (Tiraspol city market), acquired in the process of privatization with a balance-sheet value of at least 460 thousand US dollars;
- with investment commitments to improve the infrastructure of the city market;
- the owner of FC Tiraspol with an annual budget of at least 500 thousand euros.

There is an insignificant likelihood ratio that D.M. Kazmaly discovered entrepreneurial competencies, at least 1.5 years before, and became a co-owner of the football

¹²⁹ Pridnestrovian Moldavian Republic –Transnistria.

club, participating in European competitions and taking the 3rd place in the Moldovan National Division, independently. In due course, O.A. Dovgopol is a member of the Renewal party, which is quoted even by Wikipedia¹³⁰ as party that represents, among other things, the interests of Sheriff. From the above facts it becomes clear that the owners of FC Tiraspol, namely the founders of the main beneficiary – Centr-Market, LLC – are fictitious owners and are controlled (including financially) by a third person, Sheriff Holding Company, LLC, namely, by its President V.Gushan. By the way, I.M. Kazmaly, a brother of D.M. Kazmaly held an office of the Director of Sheriff Holding Company during the same period. Thus, Centr-Market, LLC, owning 99% of the shares in FC Tiraspol, has the following composition of owners:

1) D.M. Kazmaly officially held the position of the Warehouse Manager of the trading storage of Sheriff, LLC, at least until January of 2012, and he holds a 95% stake in Centr-Market, LLC, with assets exceeding 1 million euros as of April of 2013, and owns 99% of the shares of FC Tiraspol, with the minimum budget of 500 thousand euros per year.

2) O.A. Dovgopol officially held the position of the lawyer of FC Sheriff, was the Director of Centr-Market, LLC since 2007, has a share of participation in FC Tiraspol and Centr-Market, LLC, works as a deputy, and does not even have a hint of work in companies other than those connected with Sheriff (he worked in the state security agencies until 2000).

In less than a few years, these citizens prove themselves to be successful entrepreneurs, win a privatization contest, receive the ownership of the Tiraspol city market, invest significant funds in its development, and then become owners of FC Tiraspol, officially eligible to participate in matches under the auspices of UEFA and taking the 3rd place in the Moldovan National Division of the Championship. Did the Moldovan Football Federation have any doubts at the time when the license of FC Tiraspol was issued?

The only found sponsor of FC Tiraspol was Tirotext. FC Tiraspol does not conduct an active transfer policy, does not own a sports infrastructure, its fan club does not exceed 50 people, and there are no confirmed sales of television broadcasts. The club depends solely on the funds invested by Centr-Market, LLC or Tirotext, its sponsor. There is no information about the sponsor on the web site of FC Tiraspol. The only sponsor, judging by the location of the logo on the uniform of players, is Tirotext. Tirotext is 100% owned by Capital Invest, LLC.

The owners of Capital Invest, LLC are the following:

1) V.A. Gushan, with a 10% stake, who holds an office of the President of FC Sheriff concurrently.

¹³⁰ [https://en.wikipedia.org/wiki/Renewal_\(Transnistria\)](https://en.wikipedia.org/wiki/Renewal_(Transnistria))

2) Edemona Limited, LLC, a Cyprus company, with a 90% stake (most likely it is owned by Gushan himself or beneficiaries close thereto). The Director of Capital Invest, LLC is D.V. Ogirchuk, who holds an office of the CEO of Sheriff, LLC concurrently.

Tirotex in fact is the only possible financial donor of FC Tiraspol. In the event that Centr-Market, LLC does not have the ability to provide the club with funds for any reason, the activities of FC Tiraspol directly depend on the decision of the management of Tirotex. The management of Capital Invest and its shareholder can directly instruct the management of Tirotex on the issues of financing FC Tiraspol.

The management and the shareholder of Capital Invest are affiliated entities of Sheriff, LLC and FC Sheriff. V.A. Gushan holds in both entities two top positions, namely the office of the President. Sponsorship in FC Tiraspol has a fictitious basis. Tirotex carries out the insuring activity of financial security of FC Tiraspol exclusively. Conditions where under FC Tiraspol will receive sponsorship from Tirotex depend personally on D.V. Ogirchuk, the CEO of Sheriff, LLC, and V. Gushan, the President of FC Sheriff. Having disclosed the structure of the owners of FC Tiraspol and the source of funding from Tirotex, it is necessary to specify the rules for the prohibition of such ties by FIFA and UEFA in accordance with Part 2 of Article 18 of the FIFA Charter: «Every Member shall ensure that its affiliated clubs can take all decisions on any matters regarding membership independently of any external body. This obligation applies regardless of an affiliated club's corporate structure¹³¹».

In any case, the Member (the Football Federation of Moldova) shall ensure that neither individuals nor legal entities (including holding companies and affiliates) exercise control over more than one club, whenever the integrity of any match or competition may be jeopardized.

According to the article 9.2.1 criteria «A» L 0.3 FIFA Regulations Club Licensing: «Ownership and control of clubs: The license applicant must submit a legally valid declaration outlining the ownership structure and control mechanism of the clubs and confirming the following:

No natural or legal person involved in the management, administration and/or sporting performance of the club, either directly or indirectly:

a) holds or deals in the securities or shares of any other club participating in the same competition;

b) holds a majority of the shareholders' voting rights of any other club participating in the same competition;

¹³¹ FIFA Statutes. Regulations Governing the Application of the Statutes Standing Orders of the Congress// Status of Leagues and other groups of Clubs. April 2015 Edition.

c) has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of any other club participating in the same competition;

d) is a shareholder and alone controls a majority of the shareholders' voting rights of any other club participating in the same competition pursuant to an agreement entered into with other shareholders of the club in question;

e) is a member of any other club participating in the same competition;

f) is involved in any capacity whatsoever in the management, administration and/or sporting performance of any other club participating in the same competition;

g) has any power whatsoever over the management, administration and/or sporting performance of any other club participating in the same club competition¹³²».

FIFA deliberately does not provide the exact concept of direct control in order to cover the existence of any connections, corporate entities that can influence the management of a football club and the achievement of sports results by a club by its definition. Indeed, V.A. Gushan, an affiliate of FC Sheriff does not directly own shares in FC Tiraspol, does not own shares in Centr-Market, LLC. He has indirect control through the fake owners of Centr-Market, LLC over the management of FC Tiraspol and has the ability to influence its sporting results, taking into account paragraphs f) and g): both owners of FC Tiraspol were employed by Sheriff: both the club and the holding company.

The majority participant, D.M. Kazmaly was, at least until January 2012, in direct subordination of the President of FC Sheriff and the President of Sheriff, LLC, while holding the position of the Warehouse Manager of the trading storage of Sheriff, LLC. Within a short period of time, both owners became owners of an asset that exceeds their income significantly, in addition, D.M. Kazmaly, being a simple manager of the warehouse of Sheriff, LLC, begins to manage FC Tiraspol after some time. In accordance with Part 3 of article 51 bis UEFA Statutes: «Altering the legal form or company structure of a club to facilitate its qualification on sporting merit and/or its receipt of a licence for a domestic league championship, to the detriment of the integrity of a sports competition, is prohibited. This includes, for example, changing the headquarters, changing the name or transferring stakeholdings between different clubs. Prohibitive decisions must be able to be examined by the Member Association's body of appeal¹³³».

The UEFA Charter specifically prohibits the use of data concealment schemes for real club owners. A fraud with the replacement of the labour order and forged records in the work record book and indications that D.M. Kazmaly had no relation to Sheriff, LLC was

¹³²FIFA Club Licensing Regulations. URL: <http://www.fifa.com/mm/document/affederation/administration.pdf>

¹³³[Electronic resource] – URL: <https://resources.fifa.com/mm/document/affederation/administration/>

misleading. Particular attention should be paid to the fact that these two clubs participate in European competitions, these two clubs take the first lines of the championship, and most importantly, FC Tiraspol and FC Sheriff represent control, impact on the sports results by one owner.

4.4 Rostov Case¹³⁴

At the turn of 2006-2007, the following financing model was chosen for financing the main sports team of the region, FC Rostov in the administration of the Rostov region: non-profit organizations began to be introduced into the scheme for paying for contracts of football players, coaches and other club employees to provide financial intermediation services. The Fund for Support and Development of Professional and Youth Football and the Fund for Support and Development of Football in the Rostov Region were among the first such NGOs.

These funds had not only almost similar names, identical addresses, were established and administered by the same persons, but also a common operational task, which is to cover the expenses of the club.

The scheme worked as follows: when entering into an employment contract between a club and a football player, the latter was offered to sign an agreement with the fund, within which a player received part of the income in the form of financial assistance. Commercial enterprises registered in the region (including those with state participation) transferred funds to the Fund by the order of the regional administration, and the latter provided an additional payment to the employees of the club.

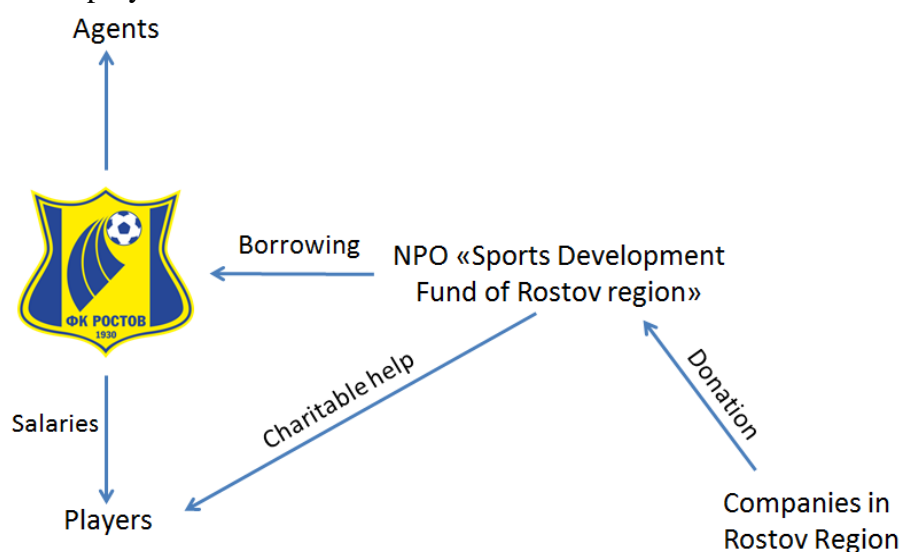


Figure 9

¹³⁴ The case was described by using materials of Novaya Gazeta. URL: <https://www.novayagazeta.ru/articles/2014/07/22/60433-rostovschiki>

Proceeding from the scheme, it becomes obvious that the club involved non-profit organizations for the so-called tax optimization. The money of sponsors came to the Fund in the form of donations and in accordance with Article 149 of the Tax Code of the Russian Federation was not subject to taxes, as well as payments of the fund itself to football players in accordance with Article 217 of the Tax Code.

A year after the start of a new scheme, the first failures happened: the football players stopped receiving money from the Fund and appealed to the Chamber for Dispute Resolution of the RFU¹³⁵. But the chamber, which considered employment disputes between the club and a football player only, proved to be incompetent in the proceedings with third parties, and made several unfavourable decisions.

After that, the financing scheme was modified somewhat: the club itself was included in the cooperation between a player and the Fund, with which both parties began to conclude surety agreements. Thus, the club began to act as a guarantor of payments to players, and the Fund entered the legal field of the RFU partially.

Later, as evidenced by the former employee of the RFU, agreements with the Fund were concluded by all employees of the club, including the CEO, which allowed reducing the load on the payroll sheet of the club by transferring the main cash flow to the Fund. The financing model was optimal, so only the sites and persons responsible for filling the club's budget from the regional budget were changing.

The fund began to receive more money after the change of power in the Rostov region. Judging by the data of the Federal Service for Financial Monitoring, the increase was significant: “the National Sports Development Fund of the Rostov Region, NGO received more than 2 billion roubles on its current account with the Russian National Bank (the same bank was also the settlement bank for the football club) during the period of 2011-2013”.

The Fund, according to its Charter, had a wide range of types of statutory activities: from promoting healthy lifestyles and supporting veterans of sports to participating in the implementation of the Federal Programme for the «Development of Physical Culture and Sports for 2006-2015». However, as established by the tax authorities, this statutory activity was not financed in the first place. Based on the materials of the tax audit: “90% of all payments accounted for the financial support of football players, coaches and club employees. Funds received as donations to the Sports Development Fund of the Rostov region, NGO, were indirectly managed by Rostov Football Club to encourage players and coaching staff, that is, this organization was created only in the interests of the football club.” In addition, the Fund began to issue loans to the club.

¹³⁵ The Russian Football Union.

Let's consider the payroll of the club's employees and the proportion of payments of the club and the Fund. According to the data of the Federal Service for Financial Monitoring for 2012, the goalkeeper of Rostov, Stipe Pletikosa, received 23.5 million roubles in a form of financial assistance from the Fund, while his annual income amounted to 7.6 million in the club; Aleksandr Gatskan received a grant in the amount of 18 million roubles (and 7.3 million roubles in the club); Roman Adamov received charitable assistance and a grant in the amount of 17 million roubles (3.3 million); Isaac Okoronkvo received 21 million roubles in the form of financial assistance (3.2 million); the financial assistance to the head coach, Miodrag Bozhovich, amounted to 17.8 million roubles (and 4.8 million in the club). The main purpose of this scheme was tax optimization. The money was received by the football players in a form of grants, charitable or material assistance, and these payments, according to the Tax Code, were not subject to the 13% income tax, and the actual employer of the players (Rostov Football Club) avoided insurance payments (about 30% of the employee's income amount).

If we take into account that more than 2 billion roubles were allocated to the fund were given free of charge to the employees of the club, it is not difficult to calculate how much the Rostov Region (budget and the Pension Fund) was underpaid during the period of 2011-2013, i.e. nearly about 1 billion roubles.

Mikhail Filippov, an expert at Nalogovik¹³⁶, says that these transactions could be contrary to the Charitable Activities and Charitable Organizations Federal Act: "Judging by the picture described, the main source of income for the players was the charitable fund. If these payments were systematic, then we can conclude as follows: the money was sent by the Fund to perform the functions of the athletes, which they had to perform in accordance with the current employment contracts with the club. In this case, the tax authority can consider this as intentional tax evasion. Therefore, the materials can be sent to the law enforcement agencies for the adoption of a procedural decision to initiate criminal proceedings on the grounds of Article 199 of the Criminal Code of the Russian Federation (evasion from payment of taxes)".

The expert also notes that the decision of the Inter-District Department of the Federal Tax Service No.23 gave examples of only two sponsors who financed the team through the Fund: Donenergobyt, LLC and Combine Plant Rostselmash, LLC.

These enterprises entered into an agreement with the club for the provision of advertising services during the home matches of RFPL-SOGAZ in the 2011/12 season, while Rostov showed a small amount of revenue from these transactions, and major funds were received under financial assistance agreements by the Sports Development Fund of the

¹³⁶ Russian Law Firm.

Rostov region, NGO. Further, the sponsor's money received on the Fund's account was transferred to personal card accounts and personal accounts of football players, coaching staff and club employees in a form of grants and financial assistance. Thus, the main payments were illegally not included in the VAT tax base.

It should be noted that both enterprises were strategic for the Rostov region, and the list of transactions with the club indicated by the tax inspection (amounting to 70 million roubles) is clearly incomplete.

It is also important that the audit was carried out by the Rostov Inspectorate, and it probably made the decision that it considered permissible under the conditions of its region.

As for Donenergoby, LLC, this enterprise was one of the largest electric power suppliers in the region, which could cover the loss arisen as a result of multimillion-dollar gratuitous payments by increasing the tariffs for electricity for individuals and legal entities.

In addition to advertising contracts, transfer transactions for the acquisition and sale of football players proved to be also interesting. One of them – regarding the sale of Rostov's rights of Czech defender Roman Gubnik in 2010 – should be discussed separately.

On April 30, 2010, Rostov Football Club signed an agency agreement with Sport Invest International, a Czech company of agent Viktor Kolarz, who represented the interests of former Spartak's players, such as Martin Jiranek, Radoslav Kovac, Marek Suchy, and former Zenith's players, such as Kamil Contofalsky, Radek Sirl. Under the terms of the described agreement, "the agent commits himself for a fee to do a complex of legal and other actions on behalf of OJSC Rostov Football Club aimed at selling the club's rights of Roman Gubnik to Hertha, a club of the German Bundesliga. That is, the player shall be transferred from Rostov to Hertha, and his agent shall assist in the implementation of this transfer and get commission therefor".

The deal itself with certain reservations is not remarkable, since someone had to perform some "technical work". So, it was performed by Victor Kolarz: the transfer agreement between the clubs was concluded on May 13, 2010. And on September 8, 2010, Rostov Football Club received 900 thousand euros from German Hertha, and 890 thousand euros were transferred by the Russian club to the account of Sport Invest International into one of the banks of Prague on the same day. This amount turned out to be an agency fee of Kolarz's company for the very "complex of legal and other actions". Proceeding from the logic conclusions, FC Rostov received a delta of 10 thousand euros from the sale of the football player worth almost 1 million euros, but this is not also true: as established by the Tax Inspectorate No.23 of the Federal Tax Service, Rostov Football Club did not include VAT in the amount of 6 million roubles into the fee agreed with a foreign football agency.

Thus, from the externally profitable transaction, for which the club could receive about 1 million euros, it received a loss of about 5.6 million roubles.

The deal with the sale of Roman Gubnik, which formed a hole in the budget of Rostov, was not the only one wherein agent Victor Kolarz took part. On June 18, 2012, Rostov signed an agency agreement with Sport Invest International to provide services for the transfer of football player Mihail Papadopoulos from Rostov to the Polish club of Zagłębie. On June 22, the transfer deal between the clubs was concluded: Rostov received from the Poles 150 thousand euros soon, 50 thousand of which were transferred to the account of the agent. On June 28, 2012, another agency agreement was signed with Sport Invest International, this time regarding the arrangement of transfer of Jan Holenda, a football player of Anzhi. The transfer agreement between the clubs was signed on the next day already. As part of this transaction, Rostov transferred 250 thousand US dollars to the account of the Dagestanian club, and 200 thousand US dollars to the Prague bank to the account of Sport Invest International.

Another big deal, which aroused great interest, was related to the transfer of Florent Sinama-Pongolle, the French forward to Rostov. On August 31, 2012, Rostov Football Club signed an agency contract with Friends & Football International LLC, which was the Serbian agent of Dejan Joksimovic, representing the interests of such players as Guillermo, a goalkeeper of Locomotive and Milos Krsic, a midfielder of Fenerbahce.

The scope of the agreement between the club and the agent was the organization of the transfer of Sinama-Pongolle from the Portuguese club of Sporting. However, the contract of the player with the Portuguese expired on September 6, 2012, and he signed the contract with Rostov club in the status of a free agent already. Nevertheless, on September 19, Rostov paid an agency fee of 1 million euros to Friends & Football International LLC. Let's take a closer look at this deal.

This transfer was the first after returning of sports management under the leadership of Aleksandr Shikunov to the club. Using the principle of follow the money, we will try to track the way of the funds from the club to the ultimate beneficiary of this deal. Considering the fact that the Ministry of Sports in the Rostov region was appointed the main administrator of the budget allocated to Rostov Football Club in the form of a subsidy, it can be assumed that the expenses of Rostov Football Club for the services of Friends and Football International LLC (FFI) agent worth 1 million euros for football player Florent Stephane Sinama-Pongolle were reimbursed from the budget of the Rostov region. Who became an owner of this million?

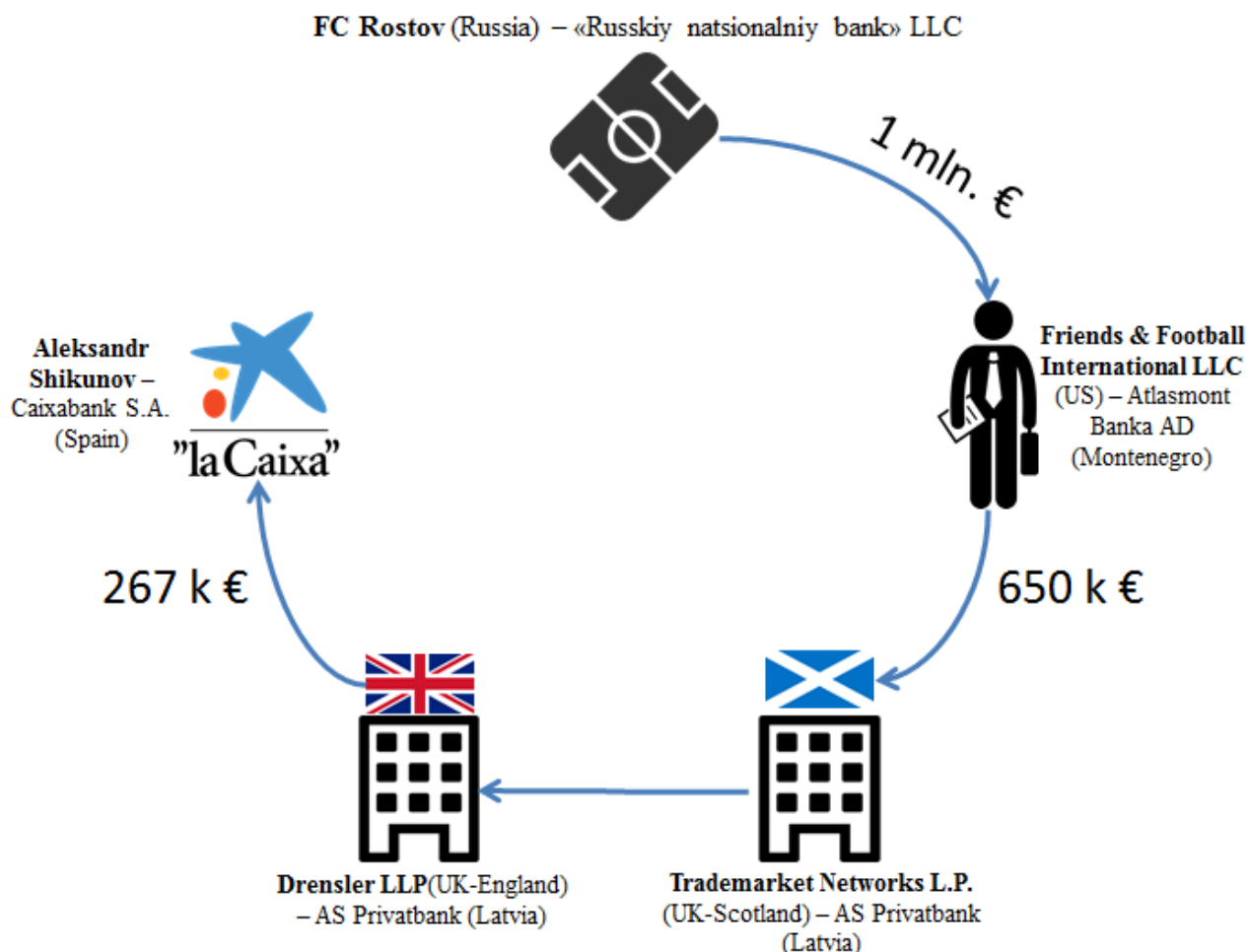


Figure 10

According to the Commercial Register of the U.S. state of Delaware, where FFI is registered, the owners and managers of the company are concealed. In accordance with the agency agreement, the intermediary company in the transaction for the transfer of Sinama-Pongolle was represented by the FIFA licensed agent, Dejan Joksimovic, a citizen of Serbia. According to the transfermarkt.com web site, analysing the connection of football agents with football players and publishing a cost estimate of players, FFI and Dejan Yoksimovic have never been connected to this football player.

According to the Tax Inspectorate No.23 of the Federal Tax Service, FFI agency fee was paid from the club's foreign currency account on September 19, 2012 in the amount of 1 million euros. According to the Federal Service for Financial Monitoring, the funds were received from the club's account to Russian National Bank, LLC to the account of the counterparty in the Montenegrin bank of Atlasmont Banka AD. The rights to Sinama-Pongolle until September 6, 2012 belonged to Sporting Portuguese Club, but the football player was already a free agent at the time of entering into the employment contract.

On the next day after receiving the money from Rostov, FFI signed an agreement with Trademark Networks L.P. registered in Scotland (Suite 1, 78 Montgomery street,

Edinburgh). The scope of the agreement was “provision of services for the transfer of Florent Sinama-Pongolle, the French player, to the Russian football club of Rostov”, and its actions “on successful mediation in the transfer of the French player from Sporting to Rostov are indicated among the special merits of Trademark Networks L.P. The employer undertook to pay 650 thousand euros to its British partner. Such deals are devoid of legal meaning, because their main conditions are services that are no longer required in connection with the football player's transfer. Thus, Trademark Networks L.P. could be used simply as a link for the further movement of money.

There is no information about the owners and management of Trademark Networks L.P. due to a special form of ownership of the company (Limited Partnership) in the Commercial Register of the UK. However, it is known from the contract that the interests of the company were represented by certain Taras Sokolovsky, and the settlement bank was AS Privatbank, the Latvian “daughter” of the group of companies of Privat of Ukrainian oligarch Ihor Kolomoisky. According to the SWIFT banking system, the money was received in full on the account of Trademark Networks L.P. in the Latvian bank on October 1, 2012.

On the same day, Trademark Networks L.P. transferred the previously received amount of money to Drenslar LLP, another British company (Suite 1, The Studio, St. Nicholas CLO SE Elstree, Hertfordshire WD 6) to an account opened all in the same AS Privatbank. This company is a next link in the money flow chain, and we know much more about it. According to the Commercial Register of the UK, Drenslar LLP was registered in 2006 and belonged to British Milltown Corporate Services Limited and Ireland & Overseas Acquisitions Limited for a long time. Two of these entities are well known in the world of transnational crime, since the services of the companies established thereby were used by criminal groups of various countries and stripes: from Mexican drug cartels to Asian “triads”. One of the latest promulgated facts about Milltown and Ireland & Overseas was the receipt of three billion hryvnias from the budget of Ukraine under state contracts in the energy sector by Gazenergoleasing controlled thereby (the possible beneficiary whereof was called the closest supporter of Viktor Yanukovich, People's Deputy of Ukraine Yurii Ivaniushenko).

It is noteworthy that there is no complete information on income and expense transactions in the financial report of Drenslar LLP for 2012, and the company has 118 thousand pounds on its account.

The source of origin of money is not so important for people who administer the process of money laundering. However, it is important to understand that the area of application of sites for money laundering expands by means of sports: “clearing” the money of Mexican drug dealers, the same people and companies serve the interests of football

functionaries. It remains to find out who are they. To do this, we will return to the further movement of money, because the funds received earlier on the account of Drenslar LLP in Privatbank did not remained there for a long time.

On October 8, 2012, according to the data of the SWIFT banking system, Drenslar LLP transferred 167 thousand euros to Caixabank S.A., a bank in Barcelona, to the account opened in its branch in Ibiza by Aleksandr Shikunov. According to the data of the Cadastral Register of Spain, Aleksandr Shikunov and his wife Tatyana Shikunova (who probably had equal access to the account in Caixabank S.A) acquired elite apartments, with an area of 116 square meters and a market value of 506 thousand euros, in Ibiza in November 2012.

Under the terms of the transaction, 123 thousand euros were paid to the former owner of the real estate as a result of the repayment of his mortgage loan, and the couple took out a mortgage loan all in the same Caixabank S.A to pay the rest of the cost of the apartment. Later, according to the SWIFT banking system, Drenslar LLP transferred 50 thousand euros to Aleksandr Shikunov's account in Caixabank S.A. twice: on March 19 and June 30.

There could be other transactions from Trademark Networks and Drenslar, but documentary evidences are currently not available. The picture is as follows: the money of the Rostov region budget from the club was sent to the Montenegrin bank to the account of a company registered in the U.S. state of Delaware, then moved to a Latvian bank to the account of a British company whereof associated persons are suspected of money laundering by foreign law enforcement agencies, and then found its owner in the person of Aleksandr Shikunov, who purchased real estate in Ibiza, an elite municipal formation of Spain.

One question remains: who got the rest of the hundreds of thousands of euros driven out from the club through this long chain of offshore companies? The statutory documents of Rostov Football Club and its form of ownership (OJSC) establish a strict executive procedure for the settlement of major transactions – and the payment of 1 million euros to the agent, considering the low book value of the club's assets, should be considered as such – the decision on approval should be made by the Board of Directors. It was and remains composed of representatives of the Rostov officials and business elite entirely.

Conclusion

The purpose of this thesis was the analysis of such a dangerous social phenomenon as money laundering. The major money laundering models and the risks associated therewith have been described. European measures to combat illegal operations have been considered and the activities of international organizations to ensure financial security have been determined. The role and importance of international financial intelligence units have been shown by an example of Italy. Based on the above material, an attempt has been made to systematize the list of threats that endanger stable development and functioning of an economic system.

The main gaps in Russian legislation and their use in money laundering have been revealed in the paper. The activities of the Central Bank of Russia and its measures to prevent money laundering have been also analysed.

Summarizing the chapters written:

- The history of origin and development of the concept of legalization (laundering) of proceeds from crime, both in the US and Europe, and in Russia, from the 15th to the 20th century, is considered in the first chapter. The chapter deals with the major methods, ways and models of money laundering, which are the main issues of the modern economic science, due to the fact that the problem of money laundering due to globalization, the threat of serious consequences for the world community's economy has turned into the international problem in the 21st century. The money laundering activity of criminal organizations has been analysed, characteristic features have been detected, and also the example of the Russian model described the process and risks of using banking products and the banking sector for money laundering.

- The Anti-Money Laundering Directive 2015/849 became the key figure in the second chapter. This chapter studies the current European mechanisms for countering the money laundering and financing of terrorism. Key disadvantages and advantages of regulation at national and international levels have been identified. The trends of the legal regulation of international cooperation in combating money laundering have been analysed.

An important role in the chapter has been assigned to the activities of the international financial intelligence unit. Its main functions, typologies and duties have been considered.

The example of Italy made it possible to figure out the results that financial intelligence could achieve during 2013-2016 in more detail.

Summing up the chapter, it can be confidently asserted that quite effective and efficient legal, organizational, structural and information mechanisms for countering the money laundering and corruption have been created in the EU. A positive trend is an integrated approach to the implementation of such interaction in the EU, taking into account the close and symbiotic relationship between these categories of crimes. This factor is certainly important given the complexity, danger, scale of these crimes and the need to combat them effectively and efficiently.

- The main gaps in Russian legislation in the sphere of money laundering and corruption have been examined in the third chapter. A comparative analysis of the differences between criminal prosecution in Russia and the US has been carried out. Based on the results obtained, it can be concluded that to date the criminal legislation of the Russian Federation in the field of combating the money laundering is largely behind., does not comply with international legal standards and positive examples of legislative structures of foreign states. This affects the quality of counteraction to this type of crime negatively.

To create an effective anti-money-laundering system in Russia based on international experience, it is necessary to take the following set of measures:

- creation of a comprehensive system to prevent and hinder money laundering in conjunction with measures to improve the tax treatment, prevent capital outflow and reduce a scale of corruption;
- improvement of legal mechanisms, strengthening regulation and supervision over companies and financial institutions;
- expansion of cooperation between the federal centre and regions in the field of combating money laundering;
- formation of an interaction system between the state and the private sector aimed at pushing money laundering schemes out from business practice;
- more active participation of Russia in international cooperation in combating the money laundering.

One of the main focalized point of the chapter has become the definition of measures to combat money laundering by the Central Bank of Russia and other federal agencies. The key importance of federal laws 134 and 115 has been determined.

The final part of the chapter describes the Russian “legal” money laundering scheme and reveals shocking shortcomings of the Russian land code that allow corrupt officials to

engage in bribery and money laundering with impunity. Based on the results obtained, measures have been proposed to improve the land legislation.

- The purpose of the fourth chapter was to identify weaknesses and loopholes for money laundering in modern sports. As the economic importance of sports, especially football, increases, over the past three decades, money has gradually begun to have major impact on the world of sports. Such cash inflow gives a positive effect, but it also has negative consequences. Taking into account the amount of money involved the risk of money laundering and corruption increases.

The chapter identifies links with other well-known typologies of legalization of criminal proceeds, such as money laundering through trade operations, through the securities market, the real estate sector and betting houses.

Also, some problems of financing the Russian sports, participation in this activity of representatives of the criminal world have been analysed. Specific measures to combat money laundering, as well as organized crime in the sphere of professional sports, have been proposed.

In the final part, the criminal activity of two well-known football clubs, Sheriff Tiraspol and FC Rostov, has been described. A detailed analysis of shadow operations associated with player transfers, under-the-table wages and the influence of the owners of the clubs on the outcome of matches has been conducted.

The results of the analysis showed that money laundering in football is a very serious problem, which shall be addressed not only at the national, but also at the international level.

In this paper the problem of the significance and danger to the public of money laundering for the international community was raised.

I believe that this thesis allowed showing the evolution of legal means of counteraction to this crime from a national to an international legal level. The results obtained in this thesis are quite interesting, given the importance that this problem has achieved in the modern context.

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