

**Жиноий фаолиятдан олинган
даромадларни легаллаштиришга ва
терроризмни молиялаштиришга
қарши курашиш**
республика конференцияси
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**Борьба с легализацией преступных
доходов и финансированием
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сборник материалов
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ТОШКЕНТ ДАВЛАТ ЮРИДИК УНИВЕРСИТЕТИ

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Тўпلامда жиноий фаолиятдан олинган даромадларни легаллаштиришга ва терроризмни молиялаштиришга қарши курашишда суд ва ҳуқуқни муҳофаза қилувчи органлар фаолиятининг самарадорлигини ошириш, муаммолар ва уларнинг ечимига доир илмий мақолалар жамланган.

Мазкур тўпلامда нашр этилган мақолаларнинг илмий савияси, янгилиги ва мустақиллигига уларнинг муаллифлари масъулдир.

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ЗАРУБЕЖНЫЙ ОПЫТ ПРИМЕНЕНИЯ ТЕХНОЛОГИЙ КРАУДСОРСИНГА В КАМПАНИЯХ ПО ПРЕДОТВРАЩЕНИЮ ЛЕГАЛИЗАЦИИ ПРЕСТУПНЫХ ДОХОДОВ

Аннотация: В статье рассмотрены возможности использования краудсорсинга в системе противодействия коррупции и в выявлении способов легализации преступных доходов.

Ключевые слова: краудсорсинг, информационно-коммуникационные технологии, коррупция, противодействие легализации преступных доходов.

Использование информационно-коммуникационных технологий (ИКТ) в борьбе с коррупцией и легализацией преступных доходов, в особенности, набирает всё больше популярности во всем мире. Стремление к использованию современных подходов по противодействию коррупции, подпитываемое быстрым развитием ИКТ, привело к возникновению новых интересных решений способных в значительной мере увеличить результативность проводимых мероприятий.

Как показывает опыт зарубежных стран, использование современных информационных технологий в борьбе с коррупцией предоставляет возможность создания прозрачной и открытой системы принятия управленческих решений с высокой антикоррупционной устойчивостью. Естественно, что системное противодействие коррупционным преступлениям и легализации преступных доходов, в частности, невозможно обеспечить силами и средствами исключительно правоохранительных органов. Трендом последних лет является активное использование технологий краудсорсинга в противодействии легализации преступных доходов.

Термин «краудсорсинг» образован от двух английских слов crowd – «толпа» и sourcing – «использование ресурсов» и в широком смысле означает решение общественно-значимых задач силами множества добровольцев, часто координирующих свою деятельность с помощью информационных технологий. Несомненное достоинство краудсорсинга заключается в том, что он призван обеспечивать интересы различных социальных групп, создавать диалог между государством и обществом, а также повышать общественный контроль над действиями государственных органов. Кроме того, антикоррупционный краудсорсинг дает возможность гражданам оценивать работу государственных служащих вне зависимости от их ранга и занимаемой должности, выражать свое согласие или недовольство по отношению к их деятельности.

Очевидно, что данный автор, обозначая эти этапы, ограничивается денежными средствами как предметом преступного посягательства.

Признавая действительную распространенность денежных средств и качестве предмета легализации, отметим, что подверженные легализации материальные ценности не ограничиваются денежными средствами, как на начальных, так и на последующих этапах легализации. В одних случаях изначально материальные ценности (например, объекты недвижимости, партии продукции, различного оборудования – стройматериалов, оргтехники, поступившие в распоряжение виновных в результате присвоения и растраты, злоупотребления полномочиями, мошенничества и т.д.) подлежат последующей трансформации в денежные средства, а затем – в иные материальные ценности. В иных случаях, напротив, денежные средства, полученные преступным путем, далее трансформируются в различные материальные ценности, наименование которых в результате последовательно совершаемых сделок по их отчуждению меняется, порой – неоднократно.

Необходимо отметить, что направленность действий по сокрытию легализации доходов, полученных в результате совершения преступления, трансформируется попутно этапам (стадиям) легализации.

Если для начального этапа основным содержанием сокрытия является утаивание и вуалирование истинной информации относительно субъекта, предоставившего материальные ценности (физического лица или группы лиц, совершивших преступление, явившееся источником поступления в теневой оборот материальных ценностей), факта предоставления этих материальных ценностей для легализации, а также истинного происхождения материальных ценностей, то на дальнейших этапах легализации, напротив, наблюдается явно выраженное открытое и легальное оформление сделок и операций, и соответствии с требованиями, предъявляемыми к заключению, оформлению и регистрации каких-либо сделок и повлекших перераспределение права собственности и иного законного владения материальными ценностями.

Иными словами, на последующих этапах легализации (отмывания) законность дальнейшего движения материальных ценностей как бы декларируется. Поэтому в данном случае целесообразно исследование процесса движения материальных ценностей (или их материального выражения) в хронологически обратном порядке, от более поздних и открытых форм сделок к более ранним и завуалированным.

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INTERNATIONAL COOPERATION IN THE FIELD OF COUNTERING THE LEGALIZATION OF INCOME FROM CRIMINAL ACTIVITIES IN UZBEKISTAN

Annotation: Dynamically developing international cooperation in all fields, such as legal, financial, economic and social fields are creating an environment for large-scale changes which are being implemented in our country with high interest. It means Uzbekistan conducts an open, mutually beneficial and constructive foreign policy based on the national interests of the country. As all spheres, Uzbekistan is developing mutual cooperation with international organizations in legislative, finance and security sphere. It gives to our country more chance and opportunity to create complex system for combating crimes however developing partnership with transnational companies can open the door international and financial crimes. The article gives information about the activity of international cooperation of The Republic of Uzbekistan in AML/CFT.

Keywords: Money laundering, financing of terrorism, international cooperation, international AML/CFT standards, FATF, EAG.

Over the past several decades, the increasing role of globalization can cause not only advantages, but also disadvantages. These disadvantages try to slow down the process of development in any sociality and sphere. One of the main drawbacks is the increase in the number of criminal acts at the international level, and this may be related to financial crimes such as money laundering, financing terrorism that are widespread throughout the world when money laundering has become an increasingly prevalent issue. As a result, both financial institutions and countries which are suffered from financial crimes constantly looking for new ways to fight money launderers and think about creating complete system of anti-money laundering with the help of international cooperation. The term "anti-money laundering" specifically refers to all policies and pieces of legislation that force financial institutions to proactively monitor their clients in order to prevent money laundering and corruption. These laws also require both that financial institutions report any financial crimes they find and that they do everything possible to stop them.

The set of anti-money laundering laws entered the global arena after the Financial Action Task Force (FATF) was created. In 1989, the intergovernmental institution was founded and consists of "G7" member countries in Paris. The FATF is one of the most influenced and important organization in the sphere of Financial

crimes such as money laundering, financing terrorism and related threats to the integrity of the international financial system, which combats financial crimes by preventing their implementation. The creation of the Group was a response to the increased laundering of criminal proceeds worldwide. Given the difficulty of identifying dirty money in the international financial system, an understanding of the urgency of developing collective measures to counter financial crime has arisen.⁶⁵

The FATF strategy consists of the following main components: development international standards in the fight against money laundering and financing of terrorism, the development of reliable and effective regional bodies organized according to the same principles as the FATF and the expansion cooperation with relevant international organizations.

Nowadays The FATF cooperate with the majority of organizations such as Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG), Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering measures and the Financing of Terrorism (MONEYVAL), Asia Pacific Money Laundering Group (APG), Middle East and North Africa Financial Action Task Force (MENAFATF), Financial Action Task Force on Latin America (GAFILAT), Inter-Governmental Action Group against Money Laundering in West Africa (GIABA), Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), The Caribbean Financial Action Task Force (CFATF) and other organizations related to Anti-Money Laundering actions.

One of the main and strategically important organization (EAG) is a FATF-style regional body which comprises 9 countries: Belarus, China, Kazakhstan, Kyrgyzstan, India, Russia, Tajikistan, Turkmenistan and Uzbekistan. 15 more states and 18 international and regional organizations have observer status within the EAG.⁶⁶ The main tasks of the EAG are: assistance in the dissemination of international standards in the field of combating money laundering and terrorist financing, taking into account the peculiarities of the regions; development and implementation of joint activities within the competence of financial intelligence units; evaluation of the effectiveness of measures taken to counter the laundering of criminal proceeds and the financing of terrorism; coordination of cooperation programs with international organizations, working groups and interested states; analysis of trends (typologies) in the sphere of money laundering and financing of terrorism; sharing experiences in countering such crimes and providing technical assistance to Member States. A schedule has been approved for conducting mutual evaluations of EAG member states on the compliance of their national financial monitoring systems with international standards in this field. As a basis for mutual evaluations, the Methodology for assessing national complexes of measures to

combat money laundering and the financing of terrorism will be applied, approved in 2004 by the FATF together with the World Bank and the IMF⁶⁷.

All key EAG events (plenary meetings, working groups, seminars for evaluators, donor conferences) are held with the active participation of representatives of the FATF, the IMF, the World Bank, the Committee of Experts of the Council of Europe MONEYVAL, the USA, the UK, Ukraine.⁶⁸

The integration of the Republic of Uzbekistan into the global economy is directly related to the complex of work to improve the national system of combating money laundering and financing of terrorism (AML / CFT) in accordance with international standards. In 2004, the AML / CFT Law was adopted, which was entered into force in 2006.

Financial Intelligence Unit (FIU) - Department for Combating Economic Crimes at the General Prosecutor's Office of the Republic of Uzbekistan. Formed by Government Decree dated July 6, 2001. Initially, the Department was created as a unit to combat tax crimes. By the Resolution of the Cabinet of Ministers of Uzbekistan dated November 28, 2002, it was transformed into the Department for Combating Tax and Currency Crimes with the assignment to it of functions to counter offenses in the monetary sphere. Since 2018, transformed into the Department for Combating Economic Crimes.

The Department is a subdivision of law enforcement-type financial intelligence and implements a set of measures in the sphere of combating the legalization of illegal proceeds, the financing of terrorist activities, and tax and currency crimes. The structure of the Department has consolidated units for financial analysis, operational search activities and inquiries, which ensures a complete cycle of countering money laundering from receiving reports of a suspicious operation to initiating a criminal case within one department. This structure, as well as direct interaction with the prosecution authorities, ensures continuity and consistency of procedural actions to identify and suppress predicate crimes, as well as facts of the legalization of criminal proceeds, from initiating criminal proceedings to its consideration in court. Since the foundation of the Eurasian Group, the state has been part of it: until 2005, Uzbekistan had observer status, and then joined the Group as a full member. In 2009, a mutual evaluation of the EAG of the Republic of Uzbekistan took place. The report was approved by the 12th EAG Plenary meeting. In May 2015, the 22nd EAG Plenary meeting was held in Uzbekistan. During these meetings in Uzbekistan adopted and considered different changes:

- The mutual evaluation report (MER) of the Republic of Uzbekistan was adopted by the 12th follow-up report of the Republic of Uzbekistan was adopted by the 13th EAG Plenary Meeting in November 2010;
- The second follow-up report of the Republic of Uzbekistan was adopted by the 17th EAG Plenary Meeting in November 2012;

⁶⁷ Kubenko I.V. [The activity of the Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG)]. *Obrazovanie. Nauka. Nauchnye kadry = Education. Science. Academic Personnel*, 2013, no. 7, pp. 155–157. (In Russ.)

⁶⁸ https://studme.org/41325/pravo/mezhdunarodnoe_sotrudnichestvo_sfere_finansovogo_monitoringa
Studme. Teaching materials for students (info@studme.org) © 2013 - 2018

⁶⁵ <http://www.fedsfm.ru/activity/fatf>. The Federal Financial Monitoring Service of Russia Federation 2018

⁶⁶ <https://eurasiangroup.org/en> About EAG. The Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG) 2018.

- The third follow-up report of the Republic of Uzbekistan was adopted by the 21st EAG Plenary Meeting in November 2014.

- The fourth follow-up report of the Republic of Uzbekistan was adopted by the 23rd EAG Plenary Meeting in November 2015.

- The fifth follow-up report of the Republic of Uzbekistan was adopted by the 24th EAG Plenary Meeting in June 2016.⁶⁹

Mutual evaluation meetings have developed Uzbek AML/CFT system and adjusted with FATF recommendations (40+9). During the past years, the following laws and basic regulations of the Republic of Uzbekistan were amended and modified:

- Criminal Code of the Republic of Uzbekistan;
- Law of the Republic of Uzbekistan on Combating Terrorism;
- Law of the Republic of Uzbekistan on Combating Legalization of Proceeds Obtained through Crime and Financing of Terrorism;
- Law of the Republic of Uzbekistan on Public Foundations;
- Law of the Republic of Uzbekistan on Bank Secrecy;
- Regulation on Corporate Governance of Commercial Banks (registered with the Ministry of Justice on 05.07.2000, Reg. No.943; amendments came into effect on 17.11.2015 y).

In addition, new version of 2 laws were adopted:

- Law of the Republic of Uzbekistan on Accounting;
- Customs Code of the Republic of Uzbekistan.

In conclusion, partnership with international organizations of Uzbekistan slightly developed year by year. As a good example of cooperation with foreign organizations in AML/CFT system is active actions of our government.

In addition, we can find out that, the effect of the above changes as a result of cooperation between Uzbekistan and the EAG, in the field of financial control and countering money laundering. The results of cooperation are clearly demonstrated in the following table:

Table № 1

The statistics of AML/CFT in Uzbekistan 2013-2015 years⁷⁰

Years	Financial investigation conducted by AML/CFT body of Uzbekistan		Revealed connection to ML/FT as a result of data provided by reporting entities		Revealed connection to ML/FT through other means (FIUs financial investigation, information of law enforcement bodies)		Information transferred the law enforcement agencies	
	ML	TF	ML	TF	ML	TF	ML	TF
2013	7	-	12	-	2	12	19	12
2014	6	-	14	-	3	22	16	20
2015	34	-	7	-	2	12	10	12

From the table it is clear that, from year to year the number of detected crimes in the field of money laundering with its own AML / CFT system increases, and on the contrary, the number of detected crimes is reduced based on information received from reporting entities. This demonstrates the growth of efficiency and independence of its AML/CFT body of Uzbekistan.

⁶⁹ http://www.eurasiangroup.org/files/Mutual%20Evaluation/FR_2016_1_rev_1_eng.pdf The fifth follow-up report of the Republic of Uzbekistan was adopted by the 24th EAG Plenary Meeting in June 2016.

⁷⁰ http://www.eurasiangroup.org/files/Mutual%20Evaluation/FR_2016_1_rev_1_eng.pdf The fifth follow-up report of the Republic of Uzbekistan was adopted by the 24th EAG Plenary Meeting in June 2016.