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METHODS OF COMBATING MONEY LAUNDERING, OBTAINED BY CRIMINAL MEANS

The fundamental methods by which a modern set of organizational and legal measures to prevent and suppress the legalization of proceeds from criminal economic activity are formed are:

- definition of the concept of legalization (laundering) of income as an activity to give legal form to income obtained by criminal means, taking into account this definition when formulating the corpus delicti of the relevant crime;
- recognition as a crime of any actions to legalize (launder) financial assets obtained by criminal means, with the establishment of appropriate liability and confiscation of such funds;
- establishing requirements for the registration of certain types of financial transactions and identification of the persons performing them, as well as requirements for the storage of these materials;
- use of a broad concept of financial transaction, covering transactions with money, securities, property, property rights, as well as certification and registration of such transactions;
- application of the broad concept of an organization carrying out financial transactions, which should include not only credit organizations, but also all other economic entities, as well as communication institutions, gambling establishments, etc.;
- restriction of commercial and banking secrets in order to obtain information necessary to identify and suppress actions to legalize (launder) proceeds from criminal activities;
- establishing restrictions on financial transactions with cash and the movement of cash across the customs border; - introduction of a category of financial transactions subject to special control (suspicious transactions) [1].

Measures aimed at combating the legalization (laundering) of proceeds from crime include:

- mandatory internal control procedures;
- mandatory control;
- a ban on informing clients and other persons about measures taken to combat the legalization (laundering) of proceeds from crime;
- other measures taken in accordance with federal laws.

With the active participation of all supervisory authorities, an automated system for collecting and processing information from financial organizations has been created and is generally functioning successfully [2].

In accordance with new international standards, the list of transactions subject to mandatory control has been significantly expanded, as well as the list of entities providing information, including at the expense of realtors, lawyers, notaries and persons engaged in business activities in the field of providing legal or accounting services.

A large number of organizations are involved in the process of control over finances in various countries, including central banks, ministries of finance, tax, customs, law enforcement, and judicial authorities. These structures usually play a large role in collecting, analyzing and providing information on money laundering to the so-called “financial intelligence agencies”.

The tasks of financial control organizations include:

- ensuring that supervised organizations have anti-money laundering programs;
- the presence of powers to regulate activities in the field of combating money laundering not only in relation to supervised financial institutions, but also to other professional persons carrying out transactions with cash;
- development of the main directions of combating money laundering in their areas;
- taking the necessary legal and administrative measures against the establishment of controlling influence or the acquisition of significant participation in financial institutions by criminals or their accomplices.

International experience shows that regulatory authorities should have sufficiently broad powers to monitor financial institutions, collect and transmit information about suspicious transactions.

Practice also shows that the effectiveness of the fight against money laundering is closely related to the ability of regulators to access the necessary information, even if there are provisions in the law on commercial and bank secrecy. A prerequisite in this case must be compliance by regulators with the confidentiality requirements of the information received [3].

In addition, possible loopholes for money laundering through uncontrolled financial organizations (such as exchange offices) and persons whose profession is associated with the movement of funds must be closed.

An important issue is the division of powers and responsibilities between regulatory organizations. In different countries, the administrative system for combating money laundering is structured differently, depending on the general principles of regulation and control and specific tasks to combat money laundering. In this context, the most typical administrative schemes for combating money laundering, their advantages and disadvantages, are of undoubted interest.

In some countries, information about suspicious transactions is immediately transferred from regulatory state or government organizations to law enforcement agencies, which analyze it, undertake the necessary investigations and refer the case, if necessary, to court. This system is quite simple, since it does not require fundamental changes in the country’s administrative system or the creation of any new organizations.

At the same time, all the enormous and extremely important work to combat money laundering, including the collection and analysis of a huge amount of financial information, falls on the shoulders of existing organizations that have other tasks in addition to combating money laundering. In practice, this rarely makes it possible to put such a fight on a systematic basis, to establish an effective system for preventing money laundering in general [4].

In the United States, a significant part of the work on collecting and analyzing information, as well as conducting investigations into suspicious transactions, is provided by organizations that monitor financial institutions. Along with this, the Federal Bureau of Investigation plays a special role in the fight against money laundering, acting as a kind of umbrella and coordinator of actions in this area.

The division of powers of regulatory authorities in the United States to conduct money laundering investigations is linked to the powers to investigate the criminal activity underlying such laundering.

The Internal Revenue Service investigates cases involving taxes and the Bank Secrecy Act, the Customs Service investigates smuggling, export-import transactions, and the Bank Secrecy Act, and the Drug Enforcement Administration investigates cases involving drug trafficking.

In 1990, in order to more clearly delineate responsibilities, the Ministry of Justice signed A memorandum of understanding with the Department of the Treasury and the Postal Service, which defined the areas of activity of these three organizations in the investigation of money laundering cases.

The FBI's approach to combating money laundering differs from that of most other federal law enforcement agencies. The FBI's focus is not simply on seizing criminal proceeds or assets, but on identifying and dismantling the criminal organization or individuals involved in money laundering.

The American anti-money laundering system creates certain difficulties in conducting investigations, since the FBI quite actively interferes in the activities of financial and law enforcement agencies, which causes dissatisfaction with the latter and a certain duplication of functions.

The activities of the FBI are also dangerous from the point of view of violating the rights of citizens and organizations, since a powerful arsenal of tools and sophisticated methods of work allow them to penetrate particularly deeply into personal lives. Only certain areas of the FBI's activities are subject to oversight when investigating money laundering cases.

Thus, in accordance with existing rules of covert operations, the methods used during the investigation are reviewed by the Committee on Covert Operations Review of Criminal Investigations (CUORC), consisting of senior officials of the FBI and the Department of Justice [5].

At the same time, the American administrative system for combating money laundering has proven to be quite effective in many cases, since it is the broad powers, financial, technical and personnel potential of the FBI that make it possible to ensure rapid and comprehensive collection and analysis of information and investigations. In addition, the FBI makes extensive use of covert operations techniques during investigations that are not available to other organizations.

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