IMPROVING THE FINANCIAL MECHANISM COUNTERACTION TO THE LEGALIZATION OF SHADOW INCOMES IN BANKING SECTOR OF UZBEKISTAN

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ABSTRACT

The purpose of the dissertation research is to determine the ways and methods of improving the financial mechanism for countering the legalization of shadow funds based on an analysis of the financial, economic, organizational and legal components of the functioning of the banking sector. The goal formulated above led to the solution of the following tasks:

- study of the essence and content of the process of counteracting shadow incomes, financial, economic and regulatory framework of anti- legalization measures in the economy; analysis of the anti-money laundering system in credit institutions and determination of its compliance with the level of influence of shadow financial flows on the legal sphere in terms of: summarizing current international experience and highlighting directions for its implementation in the national financial and economic space; identification of the most significant ways of money laundering through the banking sector; determining the features of laundering criminal financial resources in the Republic of Uzbekistan based on the allocation of criteria for monitoring financial transactions through mandatory and optional banking control; developing proposals for improving the national mechanism for counteracting shadow financial flows. Counteracting shadow financial flows to Uzbekistan today is a relatively new direction in the credit and financial sector. Poor knowledge and insufficient development of this problem were especially pronounced during the financial crisis that began in 2007 and was of a global nature, which significantly affected the financial situation of Uzbekistan as a whole and, especially, its banking sector. This influence revealed serious shortcomings both in the theoretical and practical areas, which allowed the penetrating shadow flows to undermine or significantly weaken the financial stability of credit institutions. Insufficient knowledge of this issue requires further improvement by the latter of the mechanism for countering the penetration of criminal financial flows, which will make it possible to more effectively identify transactions of a suspicious nature, which in turn may be associated with shadow capital.

KEY WORDS. Commercial banks, terrorism, financing, corruption, internal control, system

1. INTRODUCTION

A significant increase in the negative impact of financial and economic crimes on the legal economy of different countries of the world and their acquisition of a global character is largely due to the integration processes that have recently taken place in the global financial and economic development. The pace of these changes is very fast. Illegality, as an essential feature associated with financial violations, has an auxiliary character to a certain extent, since the main vector of development is directed towards the continuation and expansion of shadow financial activity.

The general threat to economic security is now recognized by the world community, the essence of which is that in the context of the expanding shadow economy, the fact of a significant insufficiency of measures taken by the world community to limit and reduce the influence of the latter becomes obvious. It seems reasonable to recognize as an urgent need to coordinate measures to counter shadow financial flows, both at the international and local, including country, levels.

Considering the country aspect, it should be noted that in the Republic of Uzbekistan the issue of counteracting the shadow sector of the economy and shadow financial flows has become particularly acute.

The financing of organized crime, terrorism, as well as the flight of capital, fiscal crimes associated with the concealment of profits, corruption, this is a far from complete list of the main consequences of money laundering. The most important consequence of the growing influence of shadow financial structures is the deterioration of the investment climate in Uzbekistan, and, as a result, the loss or significant loss of the country's image, which has the status of investment attractiveness. At the same time, this factor potentially and actually affects the slowdown in the development of the country's economy as a whole.

Based on the foregoing, it should be noted that the problem of improving the mechanism for counteracting the legalization of shadow funds is becoming very relevant and has both theoretical and great practical significance. The banking sector, being an outpost on the way of penetration of shadow funds into the official economy and subsequent transformation into legal financial flows, plays a key role in the functioning and improvement of such a mechanism.

2. LITERATURE REVIEW

The problems of combating money laundering have been studied by economists and lawyers for several decades. Among the most important scientific works in this field G.S. Becker, M.K. Belyaev, E.T. Gaidar, S.P. Glinkin, S.M. Echmakov, R.V. Jubrin, V.A. Zubkov, E.I. Ishchenko, P. Lilly, E.L. Logiorov, G.G. Melikyan, O.N. Melnikov, D.E. Plisetsky, M.M. Proshunin, P.V. Revenkov, D. Robinson, L.M. Timofeev, G. A. Tosunyan, the works of A.V. Ulyukaev, O.V. Kurnykin, and O.I. Lavrushin can be cited. The above-mentioned scientists introduced the term "laundering of proceeds of crime" into scientific practice, defined the general principles of organizing criminal schemes, and mainly the legal point of view. It is fundamental to the establishment of systems to fight against the legalization of criminal income and the financing of terrorism approaches are explored. Uzbek scientists did not study this issue as a separate study, but as an article or within the framework of economic security. In particular, Uzbek scientists Karimov, Israilov, Khotamov, Islamov (2018), Abdulkasimov (2018), Ortikova (2010), Ganiev (2010) have researched some aspects of these problems in scientific or articles textbooks. At the same time, the works of the cited scientists, the analysis of international and national legal documents showed that the apparatus of concepts was not sufficiently developed, and a number of unresolved issues of the system of combating the legalization of criminal income and the financing of terrorism identified the problems and contents, showed that there are conflicting areas in determining its boundaries. Also, criminal way in commercial banks. The system of combating the legalization of income and the financing of terrorism has not been researched by our local scientists. The internal control rules developed in order to combat the legalization of criminal proceeds and the financing of terrorism in commercial banks do not provide for the assessment of the effectiveness of their activities. Therefore, in order to combat the legalization of criminal income and the financing of terrorism in banks, internal it is very important and necessary to evaluate the effectiveness of the control system.

3. RESEARCH METHODOLOGY

Methods such as statistical analysis, average assessment, comparative analysis, abstraction, classification, generalization, calculation of indicator weights were used in writing the article. In accordance with the average assessment, the article describes the quality and state of internal control measures in the bank for the purpose of combating money laundering and terrorist financing a methodology for evaluating the effectiveness of the internal control system was developed by calculating the value weight of the criteria and indicators.

4. ANALYSIS AND DISCUSSION OF RESULTS

Based on the analysis of the activities of financial supervisory authorities and credit institutions, considering the regulatory body as the initiator of the regulatory support of credit institutions, the essential characteristics of international experience in the interaction of elements of the banking sector with regulatory structures have been identified. This made it possible to reveal the concept of the mechanism of legalization, the essence of which is the legalization of financial transactions or financial resources, including the legalization of the latter. Among a fairly large number of definitions of legalization of funds, the following seem to be the most accurate: a) a definition that characterizes legalization as a transfer or conversion of financial resources, provided that the criminal origin of such funds is known in advance and the purpose of concealing this nature is obvious, b) the definition adopted in the national legislation, which boils down to giving legal form to shadow and criminal means, as well as to the use,command and, ultimately, ownership.

Over the past decades, the international community has made significant efforts to generalize the experience of individual countries and regions in order to develop a more effective model for overseeing commercial banks, on the one hand, and for a stable financial climate in countries as a whole, on the other. The content of this work was the introduction of new norms and requirements for the provision and processing of information by credit institutions, as well as for the coordination and efficiency of banking supervision. In the dissertation research, taking into account the main areas of interaction between the financial supervisory authorities and the banking sector, as well as the forms of implementation of such interaction, a definition of the mechanism for the legalization of proceeds from crime is presented. The mechanism for counteracting shadow financial resources is a set of measures, methods and principles of control by public authorities, financial

intelligence units and primary financial monitoring entities aimed at preventing, limiting and preventing the penetration of shadow and criminal financial resources into the legal economy.

Consideration of the concept of financial monitoring is associated with the category of financial control, where both of these concepts are similar, especially in terms of regulating control procedures. Differences arise mainly in the scope and detailed consideration of the content of each regulation separately. Thus, financial monitoring is, first of all, a procedure carried out within the framework of banking supervision and implemented within the banking sector. Within the banking sector, financial monitoring is directly related to the identification of transactions subject to mandatory and optional control. In order to systematize the measures taken by the bank to implement financial monitoring, as well as to increase its efficiency and efficiency, the internal control rules of the credit institution are drawn up and constantly updated in order to counteract the laundering of illegal income. Among the established principles for the functioning of financial monitoring of a commercial bank, the principle of a ban on informing bank customers and other third parties about the actions and methods taken by the financial monitoring service to identify transactions of a suspicious nature has become widespread. Consequently, financial monitoring is a set of measures to counter shadow financial flows taken by a specific business entity located in the financial and economic space of a country or region, as well as at the international level, which is the main part of the mechanism for countering the legalization of shadow incomes.

The set of methods of this mechanism also includes internal financial supervision. The peculiarity of financial supervision in comparison with financial monitoring is manifested in the absence of interference in the operational activities of the objects of control.

Financial supervision can be not only internal, but also external, i.e. supervision by external international financial institutions. Thus, the two main components of the financial monitoring mechanism are aimed at controlling the movement of funds, but do not reflect the degree of involvement of the banking sector in the shadow economy.

Based on the analysis of international experience, models for the penetration of financial resources of the shadow economy through the global banking sector are identified.

The attention of international organizations to the issue of combating shadow incomes has a pronounced upward trend. This trend is characterized by the introduction of new standards within the international community, as well as the development of new regulations to increase the transparency of banking operations, on the one hand, and to increase the effectiveness of anti-money laundering measures at the level of credit institutions, on the other. The adoption of these measures to a certain extent limits banking secrecy, however, the goal of minimizing the risk of fraudulent activities with financial resources of the illegal and, moreover, legal economy justifies these restrictions.

At the present stage, as a result of the evolution of various methods and forms of control over the transformation of shadow financial resources into the legal economy, three models have emerged for monitoring the penetration of criminal funds through banking institutions: the amount of these transactions exceeded a certain fixed threshold. A similar control system exists, in particular, in the United States, as well as in Australia; b) establishing a ban on making certain transactions for large amounts in cash, if such transactions do not occur through an established financial intermediary. The Italian experience shows the possibility of carrying out transactions through a statutory financial agent who is obliged to report to the state on the transactions carried out; c) the control of transactions carried out by the institution takes place in the form of suspicious transaction reports, the criteria for which are determined by the institution itself, while the supervisory authorities recommend that such criteria be applied to large transactions.

An analysis of various measures to prevent the penetration of shadow and criminal funds into the legal economy through the banking sector indicates a rather low efficiency of such measures and the need to improve them. The low efficiency is connected, first of all, with the complexity of applying financial control tools at different stages of banking operations. Another factor influencing the assessment of the effectiveness of control measures is related to the qualifications of employees and the timeliness of their response to a particular transaction. The third aspect of low efficiency can be the relatively short decision-making time for each specific operation.

According to the credit organization's system for combating money laundering and terrorist financing errors identified by the organization in the evaluation of the effectiveness of the structural unit and in the process of inspection by external auditors and control bodies it is necessary to use the proportions of detected errors . To prevent negative events from the point of view of compliance with the goal and to determine their causes it is necessary to assess the possibilities of control in terms of focus.

Effectiveness reflects the degree to which the state achieves both general and highly etailed goals. National Anti-Money Laundering and Anti-Terrorist Financing System the unit of measure of efficiency is the number of criminal cases initiated under Article 243 of the Criminal Code of the Republic, persons involved in money laundering. the fine paid to the state for the damage caused by the activity and assets forcibly returned

from the total amount of capital inflow from abroad its size can be calculated (provided that its criminal background is known). Due to the lack of these statistics, the system for combating money laundering and terrorist financing qualitative assessment of the efficiency in terms of effectiveness and expediency of its sub-systems - proceeds of crime it should be implemented by evaluating the performance of structural units to fight against legalization and financing of terrorism.

Table 1. Assessment of the effectiveness of internal control units in commercial banks for the purpose of combating the legalization of criminally obtained income and the financing of terrorism

Name of indicators (indicators)	The value of the indicator (indicator)	indicator weight (fi)
1. Mandatory control during the reporting period operations to be performed number of detection errors	$r \in N$ (pl.)	25 %
2. Suspicious transactions during the reporting period number of detection errors	$r \in N$ (pl.)	6.25%
3. Customer and profit during the reporting period in identifying recipients number of errors	$r \in N$ (pl.)	6.25%
4. Supervisor during the reporting period mandatory found during inspection operations to be controlled number of detection errors	$r \in N$ (pl.)	6.25%
5. Supervisor during the reporting period suspicious found during the inspection the number of errors in identifying operations	$r \in N$ (pl.)	6.25%
6. Criminally during the reporting period legalization of received income and against the financing of terrorism internal control for combat purposes of the controlling rules compliance with requirements	1 - not compatible	fifty %
	0 - compatible	0%

Source: Mirkhayotov MM (2019) Criminalization in Commercial Banks assessment of the effectiveness of the system for combating money laundering and terrorist financing. Finance and Banking, 5, pp. 28-36. www.journal.bfa.uz

To do this, in accordance with the average assessment according to formula 1 in Table 1, money laundering in banks and terrorism t he following are specific criteria and indicators that can describe the quality and status of internal control measures for anti-money laundering purposes.

$$R = \sum_{j=1}^{6} \frac{r_i \times f_i}{100}$$

Author Mirkhayotov M.M. in the article entitled "Criminalization in Commercial Banks assessment of the effectiveness of the system for combating money laundering and terrorist financing" the following is mentioned.
Here r_i - i - the value of the indicator (indicator);
f_i – i – indicator (indicator) weight;
R - income obtained by criminal means in a credit organization internal for the purpose of combating legalization and financing of terrorism performance indicator of the control system, their values are as follows meets the range (criteria):
Lower e $[0.5; \infty)$ – low level of efficiency;
Satisfactory e $[0.25; 0.5)$ – the level of efficiency is satisfactory;
Ryugori e $[0; 0.25)$ – high level of efficiency.
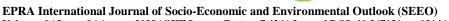The weight of each indicator is based on the following conclusions is selected.

CONCLUSIONS

Taking into account the above, in the system of combating the legalization of proceeds of crime and the financing of terrorism, our country uses the best foreign experiences in this field, including all government to automate the processes of identifying criminal transactions related to the centralized use of the database and money laundering the application ensures rapid control and illegal activities are prevented in time. The special criteria proposed by the author for a more qualitative analysis of both the bank's separate structural structures for combating the legalization of criminal income and the financing of terrorism, as well as the effectiveness of the entire country's countermeasures system and it is appropriate to use indicators.

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