

# STATEMENT

## On 2004-2005 Activities of the Interagency Committee on Combating Counterfeit Money, Fraud with Plastic Cards and Other Payment Instruments, and Money Laundering

### Introduction

The Republic of Armenia President's Decree NK-234A from October 8, 2004 assigned the Interagency Committee on Combating Counterfeit Money, Fraud with Plastic Cards and Other Payment Instruments, and Money Laundering (hereinafter: the Committee), established under the Republic of Armenia President's Decree NK-1075 from March 21, 2002, to provide for the introduction of measures aimed at meeting the commitments of the Republic of Armenia before the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).

The President's Decree required to approve an action plan for realizing the above-stated commitments (hereinafter: the Action Plan), and to submit it to relevant government bodies and officials for implementing their respective parts of the Action Plan. In this regard, Armenia had been given a one year period for introducing legislative changes and establishing relevant institutions or, otherwise, providing substantiated arguments for not doing so. Currently, the majority of envisaged measures have already been taken.

Nevertheless, according to applicable rules of procedure, the Council of Europe has requested Armenia to provide a Progress Report by November 10 of the current year. The report should be done through filling in the questionnaire provided by MONEYVAL, which also emphasizes the gaps in terms of the recommendations still to be implemented. Hence, this statement becomes essential for dealing with the above-articulated issues and for the Committee to determine a realistic Action Plan.

It has been decided that the Committee will periodically report to the President. Such reporting is believed to enable the Committee to establish an awareness standard acceptable for the President. According to the decisions of MONEYVAL, the current process of assessing member countries will last until 2010 in four rounds. Armenia has passed the first round only (due to its late accession of the Council of Europe). However, the second and third round assessment reports of a number of Eastern Europe countries show that, in addition to legislative changes, MONEYVAL brings forward comprehensive requirements both in qualitative and institutional terms.

Under the said logic, this statement will cover the following issues: a) the works implemented by the Committee within the reporting period (from July 2004 to January 2006); b) preparation of the Action Plan and the interim report to MONEYVAL; c) further tactical arrangements and

directions for the works of the Committee. Accordingly, this statement will end up in articulating certain conclusions.

### **Committee Works Implemented in the Reporting Period**

The Committee called 5 meetings, of which 2 in 2004 and 3 in 2005. The meetings were held pursuant to the pre-determined agenda reflecting on specific issues. Minutes of the meetings were taken, and decisions were voted for and approved by the members of the Committee.

In 2005, the Committee discussed and approved the rules of procedure for its activities, also establishing a working group to implement relevant works in between the meetings of the Committee. The Central Bank has been providing secretariat functions for the Committee.

The chronological account of the Committee activities within the reporting period is provided below:

- a) At its second meeting of October 22, 2004, the Committee approved the Action Plan establishing January 2005 as the deadline for its implementation.
- b) At the meeting of February 20, 2005 the Committee considered the current progress with the implementation of the Action Plan and, in view of the late adoption by the National Assembly of the Law on Combating Legalization of Criminal Proceeds and Financing of Terrorism, established a new implementation deadline.

At the same time, the representative of the Ministry of Justice was proposed to establish a group of experts within the ministry to examine the legislative framework for combating money laundering and terrorist financing in Armenia and, based on MONEYVAL recommendations, provide an expert opinion, It was decided that the Action Plan would be reconsidered after having the expert opinion of the ministry.

The meeting considered the works aimed at the establishment of the Financial Monitoring Center (FMC) with the Central Bank, and the strategic approach to this issue.

The Committee resolved to apply to the President for the extension of its membership, as a number of MONEYVAL recommendations assume involvement of tax and customs authorities. Moreover, the Committee members agreed that for the effective implementation of the country's commitments under international treaties related to combating money laundering and terrorist financing, a representative of the Ministry of Foreign Affairs should be included into the Committee.

- c) In March 2005, the Central Bank received the expert opinion of the Ministry of Justice concluding that MONEYVAL recommendations concerning changes in the Criminal Code and the Criminal Procedural Code (as discussed in the next part of this statement) are incompatible with the logic of Armenian legislation and, accordingly, cannot be

implemented in Armenia. The reasoning for this opinion basically repeated the counterarguments provided earlier in 2003 to the MONEYVAL assessment team. Nevertheless, those counterarguments had been refused by the assessment team after due consideration.

- d) In the meeting of September 19, 2005 the Committee considered its rules of procedure and approved the schedule for preparing an interim Progress Report to MONEYVAL, which implied consideration of MONEYVAL recommendations still to be implemented while taking into account the expert opinion of the Ministry of Justice. Meanwhile, the following principle was adopted, that in responding to the questions touched upon in the interim Progress Report to MONEYVAL, new information should be disclosed as compared with the previous report, and any argument should be substantiated by attaching specific laws or legal acts, or relevant excerpts thereof.

The meeting established November 10 as the deadline for preparing the Progress Report, assuming that at least two other meetings would be called before summarizing and approving it.

Opinions on bilateral agreements between the Central Bank and the Committee member agencies involved in AML/CFT were also discussed at the meeting. It was stated that the agreements should incorporate the best international experience on domestic cooperation, as well as take into consideration peculiarities of each involved agency.

- e) The Committee meeting of October 24, 2005 considered the drafts of the Progress Report to MONEYVAL and of the annual report to the Republic of Armenia President. It was agreed that documents should be edited before endorsement at the next meeting of the Committee.

The agenda of the meeting also included consideration of the structure of bilateral agreements. It was decided that the Central Bank would prepare the first drafts, submit them to the respective agencies' approval and provide for summarizing relevant comments and recommendations at the next meeting of the Committee.

Almost all meetings of the Committee considered reports of the Financial Monitoring Center of the Central Bank on implemented works, as well as on current and potential technical assistance projects in the field of fighting ML/FT.

The Committee has also regularly considered the reports of the Armenian delegation to MONEYVAL reflecting on the mechanisms of combating ML/FT in member countries and on the issues to be dealt with in that field.

## **On Introduction of Action Plan and on Interim Progress Report to MONEYVAL**

The Committee meeting of October 22, 2004 approved the Action Plan aiming at the implementation of the recommendations of the first round assessment by MONEYVAL. Successful implementation of these recommendations is important in terms of preparing the interim Progress Report to MONEYVAL.

***Note:** Upon its accession of the Council of Europe, the Republic of Armenia committed to implement the requirements of MONEYVAL on combating money laundering and terrorist financing based on the FATF 40+9 recommendations, as well as on respective directives of the European Union. Compliance of MONEYVAL member countries with these recommendations is assessed by means of round-specific and interim reports. At that, expectations in terms of implementing specific requirements become stricter with every next round of assessments.*

On July 9, 2004 MONEYVAL made its first round report on Armenia reflecting on the compliance with the standards for combating money laundering and terrorist financing. A part of the recommendations presented in the report was subject to mandatory implementation, whereas the others were articulated as a consultation to Armenian authorities. At that, the report established that the recommendations should be implemented by 2007, at the expected deadline for the third round assessment of Armenia.

The Action Plan defined the following measures to be taken:

- Criminalization of money laundering and terrorist financing in accordance with the UN standards;
- Improvement of preventive measures and confiscation mechanisms for the money laundering and terrorist financing crime;
- Formation of bodies in charge of combating money laundering and terrorist financing;
- Establishment of legislative framework for operational and search measures in investigation of money laundering and terrorist financing cases;
- Establishment of internal control mechanisms for financial institutions and DNFBPs to prevent money laundering and terrorist financing.

Implementation of the measures assuming legislative changes is expected to pursue the following procedure: organizing detailed discussions on the required measures, working out expert opinions, preparing a set of draft acts on legislative and normative regulation to be submitted for endorsement and implementation.

The first round assessment questionnaire of MONEYVAL comprised issues for which Armenia has not made any progress after the assessment. In order to deal with these issues, two approaches have been considered:

- 1) The recommendations are in principle unacceptable for Armenia, and respective arguments would be provided substantiating such approach;
- 2) The issues touched by the recommendations are new legal concepts, which would be discussed until the Armenian authorities arrive at a clearly defined opinion before the next assessment.

The discussions of the meeting issued in the conclusion that the second approach is the one to be adhered to. In addition, the questionnaire for the interim Progress Report to MONEYVAL covered the progress that Armenia had made in the following areas:

- Reforms in the field of fighting ML/FT and supervisory policy;
- Efficiency of measures aimed at fighting ML/FT;
- Amendment of the definitions of ML/FT offences;
- Efficiency of internal control mechanisms for financial institutions and DNFBPs;
- Introduction of suspicious transaction reporting framework;
- Works in the field of international cooperation;
- Statistics on preventive and confiscation measures applied on basis of requests from foreign countries;
- Other provisions.

While filling in the questionnaire, both the AML/CFT legislative improvements and statistics and institutional reforms since the last assessment were presented in detail. Particularly, the Central Bank had been designated as the authorized body to combat ML/FT through its dedicated structural division – the Financial Monitoring Center. The structure, the grounds for organizational and financial independence, as well as the vision for proposed activities of the Center were set forth therein. It was also stressed that separate divisions had been assigned within law enforcement and supervisory bodies to deal with AML/CFT related issues.

### **Tactical Arrangements and Directions for Further Committee Works**

Armenia's commitment to the international efforts in fighting money laundering and terrorist financing pursues a tactics assuming a variety of new areas of activities for involved ministries and agencies. From the standpoint of Committee involvement, the following actions can be defined:

1. Preparation for the third round assessment of Armenia in 2007 with regard to its compliance with the Council of Europe's MONEYVAL Committee recommendations. At

that, it is expected that stricter and qualitative requirements would be presented to the country at that round of assessment. Whereas the first round provided for a general requirement to have AML/CFT legislation and mechanisms in place, the third round would examine efficiency of implementing the legislation and respective mechanisms (for example, the number of STRs filed with the authorized body, the number of ML/FT investigations and prosecutions, the amount of confiscated or forfeited funds, the fact whether court sentences have been passed in respect of criminals only or of their accomplices as well). Therefore, in order to provide for duly preparation of the report, the Committee would first define the domestic requirements to the third round assessment and then, in accordance with the Action Plan, take relevant measures. It is no less important to organize and coordinate the visit of MONEYVAL assessment team to Armenia, in relation to which the Committee will have to adopt another action plan.

2. Establishment of a bilateral cooperation mechanism between Committee member agencies, including development of effective domestic cooperation in the field of combating money laundering and terrorist financing. To that end, opinions on the AML/CFT cooperation agreements between the Central Bank and other involved agencies are currently being considered.
3. Development of information database and capacities for maintaining statistics at all agencies involved in the fight against money laundering and terrorist financing, since the lack of such capacities may result in problems with the third round assessment by MONEYVAL.
4. Overcoming the obstacles to efficient international cooperation of the Republic of Armenia. Particularly, issues related to the coordination of the exchange of ML/FT-related information by various domestic agencies under international treaties of Armenia, joint investigation activities, legal and investigatory assistance, potential new accessions to international structures should be considered. To deal with this issue, it is important that all international treaties related to the fight against ML/FT are examined for consistency with the relevant capacities of the country.
5. Provide for joint action to attain the objectives defined by the FMC triennial strategy as a prerequisite for successfully passing the next rounds of assessment. Concept papers and action plans developed by the FMC will be regularly submitted to the Committee's consideration and approval. Joint elaboration of training and professional development programs for the relevant staff of Committee member agencies, as well as subsequent realization of such programs is a point of special importance.

6. In addition to the joint action plan, it is necessary that each agency works out its own program for combating ML/FT and regularly submits it for the Committee's consideration. This is important insofar as the joint Action Plan cannot contain all technical and institutional details. This also assumes more active works of the working group adjacent to the Committee and establishment of task forces specialized in fighting ML/FT.