CENTRAL BANK OF THE
REPUBLIC OF ARMENIA

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ANNEX

TYPOLOGY 11

MONEY LAUNDERING BY MEANS OF FEINT AND FICTITIOUS TRANSACTIONS (CONTRACTS)

YEREVAN 2012

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CHAPTER 1: Scope of Application

1. Money laundering schemes devised by means of the instruments and transactions/ activities described in this typology may be relevant for the following types of reporting entities:

 1) banks;
 2) notaries
 3) attorneys, sole practitioner lawyers and legal firms;
 4) the state authority in charge of registration of legal persons; and
 5) the authorized body in charge of the integrated state cadastre of real estate.

CHAPTER 2: General Provisions

2. While conducting standard and enhanced due diligence of their costumers in accordance with the requirements of the Republic of Armenia legislation on combating money laundering and terrorist financing, the reporting entities are authorised to request certain information and documents so as to attain a realistic and comprehensive understanding of the customers, the business relationships with and transactions carried out by them.

3. In that relation, in order to demonstrate legitimacy of their (economic) activities and transactions, customers often present contracts on certain transactions to enable relevant analysis of the reporting entity for the purpose of arriving at a conclusion on the presence or absence of the criteria of suspicious conduct as defined under the law, the guidance provided by the authorized body, and the internal compliance rules of the reporting entity.

4. In practice, there have been cases when the contracts presented by the customers in reality have had to do with feint or fictitious transactions[1]. In the meaning of this typology, a feint transaction is understood as a one concluded only for appearance without the intent of giving effect to respective legal consequences, while a fictitious transaction is understood as a one concluded for the purpose of veiling another transaction. The following characteristics may be descriptive for the contracts related to feint and fictitious transactions:

[1] Article 306 of the Civil Code defines that feint and fictitious transactions are void, as follows: "1) a feint transaction, i.e. a transaction concluded only for appearance without the intent of giving effect to respective legal consequences, shall be void; 2) a fictitious transaction, i.e. a transaction concluded for the purpose of veiling another transaction, shall be void. This transaction, while taking into consideration its nature, shall be treated under the rules pertinent to the one that the parties actually had in mind when concluding the fictitious transaction".

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1) **Structural inconsistencies**

a. *Structure of contract* – the contract appears to have a standard structure (relevant sections, articles, parts) usually used in business practice; however, the scarce provisions articulated under this structure are not much informative or significant;

b. *Wording of contract* – the essential conditions of the contract, the rights and responsibilities of the parties, the rules for dispute resolution are defined in very general terms, and the comparison of several contracts (presented by the same customer) often discloses their obvious stylistic similarity;

2) **Substantial inconsistencies**

a. *Subject of contract* – the contract is concluded on the provision of financing, supply of goods, provision of services (e.g. extension of no or low interest loans, supply of technical means, provision of advisory services etc), which are defined in vague and very general terms;

b. *Value of contract* – the contract is concluded for large sums (from several hundred thousand to several million US dollars, euro, or other convertible currencies, often in "round" amounts);

c. *Term of contract* – the term of the contract is rather long (one or several years), without determining reasonable (pre)conditions peculiar to various fields of economic activity and widely used in business practice;

d. *Details of contract* – the contract does not set forth certain details, which are usually given high importance in the business practice, such as the composition, assortment, technical specifications, terms for supply (delivery/ acceptance) etc;

3) **Logical inconsistencies**

a. *Parties of contract* – one (or two) of the contract parties are legal persons incorporated in offshore jurisdictions/ territories, and no reliable information is available on their beneficial owners, business profile, factual economic performance;

b. *Authorized persons* – the same person acts as the authorized official for a number of companies and is empowered to file payment orders, make cash disbursements and take other actions with material consequences;

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c. *Signatures* – signatures on various contracts (presented by the same customer) do not appear to be much different in their structure, handwriting, quality of performance;

d. *Seals* – seals on various contracts (presented by the same customer) do not appear to be much different in their design, color of ink and other characteristics;

e. *Original copy* – the customer presents copies of various (similar) contracts, but experiences difficulties or is not willing to present the originals;

4) **Technical inconsistencies**

a. *Mistakes* – names/ titles of the contract parties, the date of conclusion, the contract amount in figures and letters are filled out with mistakes, in wrong places, with obvious signs of "filling in" a number contracts in the same "template";

b. *Omissions* – in the filled out contract, whether by negligence or by intent, there are omitted sections on essential conditions of the contract, signatures, seals etc;

c. *Shortcomings* – the contracts (in Armenian or in a foreign language, mainly in English) are drafted in poor grammar, with spelling mistakes, shortcomings of the syntax and the meaning.

CHAPTER 3: Description of Potential Money Laundering Schemes

5. Contracts described by (one or several) the characteristics set forth above may be used in various schemes aimed at money laundering, by being presented as a documentary evidence to justify/ verify legitimacy of conducted transactions, for example in the following circumstances:

1) Large outgoing and incoming wire transfers from and to Armenia (often converting the received amount into another currency before the next transfer);

2) Large deposits and withdrawals of cash (often fractioning it into smaller amounts not to exceed a certain threshold);

3) Extension/ repayment of loans to a legal entity by a directly or indirectly affiliated natural person;

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4) Regular transfers of large amounts in between legal entities and natural persons (often by "grouping" these persons to "service" different money laundering schemes).

CHAPTER 4: Conclusions

6. In order to arrive at a conclusion on the existence of potential money laundering schemes, reporting entities should pay attention to the circumstances, which are essential in terms of uncovering such schemes, such as:

1) Structural, substantial, logical, and technical integrity and reliability of the documents (i.e. contracts, agreements etc) substantiating economic rationale of the transactions; their conformity with the business practice of the given type of activity;

2) Conformity of the transactions/ activities with the customer's business profile, its previously declared and factually realized business objectives;

3) Involvement of offshore and other high-risk financial institutions/ companies in the customer's transactions/ activities.