



**ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM
(AML/CFT) NEWSLETTER FOR CENTRAL ASIA**

Issue 41 – September-October 2009
Available online at <http://www.imolin.org>

CALENDAR

1 Regional seminar on FIU tactical analysis

Date: October 13-15, 2009
Organizer: WB/UNODC in cooperation with Egmont Group, FIU Kazakhstan, OSCE and US Embassy in Armenia
Location: Borovoe, Kazakhstan
Contact information: Madina Sarieva
madina.sarieva@unodc.org

2 Workshop on an effective AML/CFT framework and Mutual Evaluation in Uzbekistan

Date: October 27-28, 2009
Organizer: WB/UNODC/IMF in cooperation with the General Prosecutor Office of Uzbekistan
Location: Tashkent, Uzbekistan
Contact information: Giuseppe Lombardo
glombardo@imf.org

3 The AML/CFT workshop for banks of Uzbekistan

Date: October 29, 2009
Organizer: IMF in cooperation with the World Bank, the General Prosecutor Office and the Central Bank of Uzbekistan
Location: Tashkent, Uzbekistan
Contact information: Giuseppe Lombardo
glombardo@imf.org

4 EAG workshop on AML/CFT supervision

Date: November 2-3, 2009
Organizer: EAG
Location: Kishinev, Moldova
Contact information: info@eurasiangroup.org

5 Paris Pact Technical Working Group meeting on the financial flows linked to Afghan opiates in/out Afghanistan

Date: November 2-3, 2009
Organizer: UNODC
Location: Tashkent, Uzbekistan
Contact information: linda.thomas@unodc.org

6 Workshop on the implementation of the universal regime against terrorism [national]

Date: November 4-5, 2009
Organizer: UNODC/OSCE
Location: Bishkek, Kyrgyzstan
Contact information: Aydan Bashlinskaya
aydan.bashlinskaya@unodc.org

7 MONEVAL Annual Typologies Meeting

Date: November 10-12, 2009
Organizers: MONEVAL
Location: Cyprus
Contact information: dghl@moneyval.coe.int

8 11th EAG Plenary Meeting

Date: December 7-9, 2009
Organizer: EAG
Location: Guilin, China
Contact information: info@eurasiangroup.org

9 31st MONEVAL Plenary Meeting

Date: December 7-11, 2009
Organizer: MONEVAL
Location: Strasbourg, France
Contact information: dghl@moneyval.coe.int

10 Counter Terrorist Financing (CTF) seminar

Date: December 15-17, 2009
Organizer: Basel Institute on Governance
Location: Lucerne, Switzerland
Contact information: daniel.thelesklaf@baselgovernance.org

AML/CFT Developments in Central Asia

AFGHANISTAN



Afghanistan enacted an AML/CFT law in 2004. The Financial Intelligence Unit was established in 2005. Afghanistan has commenced application process for Egmont Group Membership in 2007; sponsors are the USA and Malaysia. Afghanistan was scheduled to undergo an APG-IMF Mutual Evaluation 15 November-2nd December 2009. Afghanistan is a member of the Asia Pacific Group (APG) and observer to the EAG.



BELARUS

Belarus became a member of the Egmont Group in 2007. The Mutual Evaluation Report of Belarus was adopted by the EAG in December 2008. Belarus is a member of EAG, and co-chairs the EAG Typologies Working Group. It also holds position of the Deputy Chair of EAG.



CHINA

The AML/CFT law was adopted on 31 October 2006 and came into force on 1 January 2007. The Mutual Evaluation Report of China was adopted by FATF in June 2007 and by EAG in December 2007. China Progress report was adopted by FATF and EAG in July 2008. A follow up report was presented during the EAG Plenary Meeting in Moscow in December 2008. China is a member of EAG and FATF, and serves as co-chair of the EAG Evaluation/Legal Working Group.



KAZAKHSTAN

The AML/CFT law was adopted by the Kazakh Parliament in June 2009 and signed by the President in August 2009. The law will come into force in March 2010. A decision to establish the Financial Monitoring Committee (FIU) within the Ministry of Finance was taken by the Government on 24 April 2008. The head of the Financial Monitoring Committee (Kazakh FIU) was appointed in September 2008. Kazakhstan is scheduled to undergo an EAG mutual evaluation in 1st quarter of 2010. Kazakhstan is a member of EAG, and co-chairs the EAG Technical Assistance Working Group.

KYRGYZSTAN



Kyrgyz Financial Intelligence Service - FIS (Kyrgyz FIU) became a member of the Egmont Group during its plenary meeting in Doha in May 2009. The EAG 1st round Mutual Evaluation Report of Kyrgyzstan was adopted in June 2007. Progress reports were presented during the 7th and 8th EAG Plenary meetings in 2007 and 2008. A follow up report was presented during the EAG Plenary Meeting in December 2008. 24 AML/CFT related laws were adopted after the adoption of the MER and additional amendments to 13 other laws were adopted by the Kyrgyz Parliament and signed by the President in June 2009. Kyrgyzstan is a member of EAG.



RUSSIAN FEDERATION

Joint AML/CFT Mutual Evaluation of Russian Federation was conducted by FATF, Moneyval and EAG in 2007. Joint Evaluation Report was adopted by FATF/Moneyval/EAG in June and July 2008. The first progress report of the Russian Federation was adopted during the 30th Moneyval Plenary Meeting in September 2009. Russian Federation is a member of FATF, Moneyval and EAG; chairs the EAG and co-chairs the EAG Technical Assistance, Typologies and Evaluation/ Legal Working Groups.



TAJIKISTAN

The AML/CFT law was drafted in the Office of the President in 2007 and is currently discussed in the AML/CFT working group. A decision to establish the Financial Monitoring Department under the National Bank of the Republic of Tajikistan was taken by the President on 20 October 2009. Tajikistan is a member of EAG. The World Bank mutual evaluation report was adopted by the EAG during its plenary meeting in Moscow in December 2008. In December 2008 the EAG decided to place Tajikistan under the enhanced follow up procedure and on June 2, 2009 the EAG undertook a high-level mission to Tajikistan. In June 2009 during the EAG plenary meeting in St Petersburg. Tajikistan presented its first progress report. The EAG decided to keep Tajikistan under the enhanced follow up procedure.

TURKMENISTAN



Turkmenistan became an observer member of the EAG in December 2007. On April 28-29, 2009 the EAG undertook a high-level mission to Turkmenistan. The AML/CFT law was adopted by the Parliament of Turkmenistan and signed by the President in May 2009. Turkmenistan is in the process of establishing the FIU. The FATF in its October 2009 public statement welcomes Turkmenistan's progress in adopting AML/CFT legislation and secondary legislation that aims to implement the AML/CFT law. However, deficiencies remain in Turkmenistan's AML/CFT regime, including the absence of a FIU. Consequently, the FATF reiterated its 25 February 2009 statement informing financial institutions that these deficiencies constitute ML/FT vulnerability in the international financial system and that they should take appropriate measures to address this risk. Turkmenistan is urged to continue to take steps to implement an AML/CFT regime that meets international AML/CFT standards.



UZBEKISTAN

Uzbekistan is a member of EAG, and is currently undergoing an AML/CFT Mutual Evaluation by the EAG. The amendments to the AML/CFT Law were adopted by the Parliament and signed by the President in April 2009. On April 22, 2009 the amendments to the AML/CFT Law came into force. Amendments to other 16 laws were adopted by the Parliament in September 2009. In its October 2009 statement the FATF welcomed the significant steps that Uzbekistan has taken to establish the necessary AML/CFT framework and urged Uzbekistan to continue its progress towards implementing effective AML/CFT measures. The FATF welcomed Uzbekistan's upcoming mutual evaluation by the EAG that will be finalized in spring 2010. The FATF will continue to monitor the progress being made in Uzbekistan and will reconsider in February 2010 the measures that are currently in place to protect jurisdictions' financial sectors from ML/FT risks emanating from Uzbekistan.

We welcome contributed articles of up to one page in length!

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EUROASIAN GROUP (EAG) update

Schedule of EAG member-states' AML/CFT Mutual Evaluations:

Country	Evaluators	On-Site Evaluation	Plenary Discussion	Mutual Evaluation Reports [MER]
CHINA	FATF, EAG	Completed 2006	Adopted: FATF (June 2007) EAG (Dec 2007)	MER and Summary in English: http://www.fatf-gafi.org/dataoecd/24/45/39148209.pdf EAG First MER, Progress report in English: http://www.eurasiangroup.org/china.htm
BELARUS	EAG	July 27 – Aug 3, 2008	Adopted: EAG (December 2008)	MER and Summary in English and Russian: http://www.eurasiangroup.org/index-7.htm EAG Executive summary on first MER in English: http://www.eurasiangroup.org/belarus.htm EAG Executive summary on first MER in Russian: http://www.eurasiangroup.org/rus/belarus.htm
KAZAKHSTAN	EAG	1st quarter 2010	EAG (June 2010)	-
KYRGYZSTAN	EAG	Feb 2007	Adopted: EAG (June 2007)	MER with Summary and Progress report in English: http://www.eurasiangroup.org/kyrgyz.htm MER with Summary and Progress report in Russian: http://www.eurasiangroup.org/rus/kyrgyz.htm
RUSSIAN FEDERATION	EAG, FATF, MONEYVAL	Sept 24 – Oct 2, Nov 12-23, 2007	Adopted: FATF (June 2008) Moneyval (July 2008) EAG (July 2008)	MER and Summary in English: http://www.fatf-gafi.org/dataoecd/51/27/40945440.pdf
TAJIKISTAN	EAG, World Bank	June 2007	Adopted: EAG (December 2008)	MER and Summary in English: http://www.eurasiangroup.org/tajikistan.pdf
UZBEKISTAN	EAG	November 8-14, 2009	EAG (June 2010)	-

▪ **Inter-sessional meeting of EAG Working Group on Mutual Evaluations and Legal Issues and Ad hoc Working Group, as well as EAG Workshop on typologies was held on October 6-7 in Moscow, Russian Federation.** The meeting was presided over by the EAG Chairman Oleg Markov. Among the participants of the meeting were heads and other representatives of the FIUs, law-enforcement and supervisory authorities of the EAG member states (Belarus, China, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Uzbekistan), as well as representatives of the EAG observer states and organizations including Italy, the USA, Ukraine, the Eurasian Economic Community, Collective Security Treaty Organization and Eurasian Development Bank.

The heads of the EAG member-states delegations acknowledged the EAG role for harmonizing the region's AML/CFT systems and commented on progress in their national regimes which was facilitated by the EAG activities.

The meetings of the EAG Working Group on Mutual Evaluations and Legal Issues and the Ad hoc Working Group were held alongside the Workshop on typologies. The participants of the latter discussed the current research projects on the following topics:

- "Laundering of proceeds from drugs, psychotropic agents and their precursors trafficking";
- "External trade transactions as means of money laundering";
- "Laundering of proceeds from budget funds embezzlement and abuse of power by heads of organizations with state ownership"

The 11th EAG Plenary will be held on December 7-9, 2009 in Guilin (China).

For further information please see EAG website: <http://www.eurasiangroup.org>

Technical Assistance Update & Regional news

- **A joint WB/UNODC/OSCE/ADB/EAG FIU (Financial Intelligence Unit) Workshop took place from 8 to 10 September 2009 in Tashkent, Republic of Uzbekistan.** During the first two days 23 representatives of the Uzbek FIU attended the workshop and during the last day additional 10 representatives from the following state agencies participated in the workshop: Ministry of Interior, Central Bank, State Customs Committee, Ministry of Justice, General Prosecutor's Office and National Security Service. The international AML/CFT experts from World Bank/UNODC, OSCE, EAG and ADB provided exhaustive description of international standards and best practices related to all aspects of the FIU work, including *inter alia*, topics on FIU governance and operational independence, as well as the FIU power to suspend suspicious

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transactions. The topic of the third day was “Domestic Interagency Collaboration”, and the international experts presented different areas and forms of cooperation between the FIU and competent law enforcement authorities, as well as provided details regarding the content of FIU reports to the law enforcement authorities.

- **From 16 to 17 September 2009 a Financial Investigation Training Course was conducted in Osh, Kyrgyzstan** for 34 representatives from Southern branch of Kyrgyz Financial Intelligence Service (FIS), Financial Police Service, State Committee of National Security, Ministry of Interior, General Prosecutor’s Office and Drug Control Agency. The training course was organized and conducted by UNODC Global Programme against Money Laundering (GPML) funded by the Government of the Principality of Liechtenstein and Training Center of RosFinMonitoring (ITMCFM). This training on investigative techniques for financial crimes was provided in order to build basic financial investigative capacity of the law enforcement agencies, as well as to enhance the relevant officials’ understanding of the investigative process and issues related to money laundering investigations or submission of evidence to the Court. Positive feedback was received from both FIS and the law enforcement agencies on the conduct and content of the training.
- **A seminar on Strengthening the Analytical Capacities of FIS (Kyrgyz FIU) was organized in Bishkek, Kyrgyzstan from 22 to 25 September 2009 by Basel Institute on Governance** under the IMF project funded by Swiss Government. 12 specialists of FIS attended the seminar. The objective of the seminar was to provide FIS specialists with analytical skills and assist FIS in implementing analytical software. During the seminar experts discussed the current modus operandi for analysis of suspicious and threshold – based transactions reports and helped FIS to identify possible weaknesses of current analysis procedure. Experts provided training on use of i2 software in analysis of reports and building the money laundering case.
- **A joint World Bank/UNODC/IMF Workshop on an effective AML/CFT framework and Mutual Evaluation in Uzbekistan was organized from 27 to 28 October 2009 in Tashkent, Republic of Uzbekistan.** The two – day workshop was attended by 22 representatives of the following agencies: Prosecutor General’s Office, FIU, Ministry of Finance, Customs, Ministry of Justice, Central Bank of Uzbekistan, Royal Bank of Scotland, National Bank of Uzbekistan and Capital Bank. The workshop discussions were very interactive as the participants came prepared with specific citations and often quoted from the law or regulatory sources. The international experts commented on the specific provisions in relation to the FATF/IMF/WB AML/CFT Methodology for mutual evaluations criteria. The discussion of each FATF recommendation concluded with the appropriate Uzbek official by giving the rating to the country based upon the methodology.
- **On 29 October 2009 the IMF in cooperation with the World Bank/UNODC organized a Workshop for Uzbek banks in Tashkent, Republic of Uzbekistan.** The one-day workshop was attended by 60 participants representing almost all banks in Uzbekistan, and representatives from the Uzbek FIU and the Central Bank. The international experts from WB/UNODC/IMF provided exhaustive description of role of banks in complying with international AML/CFT requirements, customer due diligence, record keeping, suspicious transaction reporting, as well as internal control procedures for combating money laundering and financing of terrorism.
- **On October 5, 2009 the Russian Federation and Uzbekistan signed an agreement on technical assistance cooperation in AML/CFT in Moscow (Russia).** The agreement was signed by the Head of the Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering under the Uzbekistani General Prosecutor’s Office Mr. Zohkhid Dusanov and the General Director of the International Training and Methodology Centre for Financial Monitoring (ITMCFM) Mr. Alexandr Batalov. In the framework of the signed agreement, the ITMCFM will provide the Uzbekistani FIU with technical and advisory assistance for harmonizing the national AML/CFT legislation of Uzbekistan, enhancing the effectiveness of the FIU activities and creating an IT-system for collecting, storing, and processing data. The staff of the Uzbekistani competent authorities will also receive AML/CFT training in the ITMCFM.

MONEYVAL update

- **The 30th MONEYVAL Plenary meeting** was held from 21 to 24 September 2009 in Strasbourg, France. During this meeting the following issues were discussed and adopted:
 - ✓ Mutual AML/CFT assessment report (MER) on Armenia was adopted;
 - ✓ The 1st progress report on FYR of Macedonia, Israel, Romania and Russian Federation and 2nd Progress Reports on Slovakia and Albania were adopted;
 - ✓ MONEYVAL Compliance Enhancing Procedure:
 - San Marino: the Plenary decided to stop the compliance procedure against San Marino due to the progress made.
 - Azerbaijan: the Plenary decided to keep Azerbaijan under the compliance enhancing procedure until the next Plenary meeting in December 2009 and to issue a public statement with acknowledgement of the progress made by Azerbaijan.
 - ✓ The ICRG Europe/Eurasia Regional Review Group met on 17-18 September 2009 in Strasbourg, France and the co-chairmen of this group Mr. Kirov informed the MONEYVAL plenary on the decisions taken regarding several MONEYVAL and FATF member states.
 - ✓ The next 31st MONEYVAL Plenary meeting will be held from 7th to 10th December 2009 in Strasbourg, France.

For further information please see MONEYVAL website: <http://www.coe.int/moneyval>

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Egmont Group update

□ The Egmont Committee and Working Groups meetings took place in Kuala Lumpur, Malaysia from 19 to 21 October 2009.

□ The Egmont Group Annual Report June 2008-July 2009 was published. The main points from the report are:

- Membership of the Egmont Group rose to 116 at the Qatar meeting, with the admission of the FIUs of: Fiji Islands (Fiji-FIU), Republic of Kyrgyzstan (FIS); Macao (SAR), China (GIF), Malawi (FIU-Malawi), Mongolia (FIU-Mongolia), Saudi Arabia (SAFIU), Senegal (CENTIF), Sri Lanka (FIU-Sri Lanka), and St. Lucia (FIA-St. Lucia).
- A record number of more than 50 bilateral cooperation agreements were signed between Egmont members during the 17th Plenary Meeting in Doha, Qatar. This will deliver practical results in expanding and systematizing the exchange of financial intelligence information and will also foster better communications among FIUs.
- Egmont Group Strategic Plan 2009 -2012 was launched to provide a guide to direction and priorities of the organization.
- Egmont Committee Reference Groups were established to cover the main categories of Egmont Committee business – legal, planning and development, finance, communications, information management and external relations.

Egmont Group Annual Report is available at <http://www.egmontgroup.org/library/download/10>

“Egmont” Group Case study: USE OF FALSE IDENTITIES, DOCUMENTS, OR STRAW MEN

An American bank noticed that at several of its branches cheques were being cashed in by a group of persons. Within a period of less than two weeks, the group of persons cashed over twenty cheques. The bank connected these transactions because the amounts that were all below the mandatory reporting limit - were about the same, which indicated that the original amounts were, most likely, in a different currency - exchange rate fluctuations caused the small changes. The cheques originated from a money transmitter. But not only the amounts seemed odd to the bank. The group also behaved questionably. Some of the people involved arrived at the same time, but went to different tellers of a branch rather than queuing together. The bank detected that different individuals were also using the same car to actually get to the bank. The bank decided to inform the national FIU about the cheque cashing and gave the brand and registration number of the car as well as the financial details of the cheque cashing.

The FIU initiated an investigation into what appeared to be a large smurfing operation. Some of the individuals in the group were relatives. Their name corresponded with the last name of Jack and Martin - two persons that had been reported to the FIU before by two other banks. The FIU had forwarded the transactions of Jack to the police. After questioning Martin's bank, the FIU received more information about him. Martin seemed to be dealing as a one-man company, but according to the records of the Chamber of Commerce the company had ceased to exist. It was appearing increasingly likely that the 'company' was being used for some illegal purpose. The FIU received further information from the public prosecutor, and it now appeared that another person, who had been disclosed upon separately before, could be brought in connection with this case. The FIU composed a report with all its findings and informed the police.

The whole group was accused of drugs trafficking and money laundering. Arrests by the police rapidly followed, and the investigation team uncovered damning evidence. Whilst in jail, the prisoners approached a guard to help them contact their accomplices who were still free. But the guard was himself caught and was now sentenced to twelve months in prison because he supplied letters and a cellular phone to the prisoners. Furthermore, as a result of tapping phone conversations through the cellular phone ten more people were arrested for their involvement.

Six months before the group was arrested, there had also been an investigation in a Western European country into a drug trafficking ring. Two members of the group were subjects of that investigation because they had been involved in drugs trafficking to both Europe and America. At time of writing, these individuals were also facing extradition and prosecution for a number of offences.

Indicators:

- Multiple transactions below threshold
- Defensive stance to questioning
- Illogical business activity - why send multiple cheques for cashing at a higher charge
- Multiple use of money transmission services

«Egmont» group 100 Sanitized cases are available at: http://www.egmontgroup.org/files/library_sanitized_cases/100casesqb.pdf

FATF update

The FATF Plenary Meeting took place in Paris, France from 14 to 16 October 2009. During the meeting the following decisions were taken by the FATF:

- Republic of Korea became a full member of the FATF;
- FATF responded to the call by the G20 Leaders to identify high risk jurisdictions by February 2010;
- A statement was issued reaffirming FATF call on members and others jurisdictions for effective counter-measures concerning the risks to the integrity of the international financial system emanating from Iran. The FATF remains

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concerned about the money laundering and terrorist financing risks emanating from Uzbekistan, Turkmenistan, Pakistan and São Tomé and Príncipe;

- The AML/CFT mutual evaluation reports on Aruba, Kingdom of the Netherlands and New Zealand were adopted;
- A detailed examination of the risks of money laundering and terrorist financing in the securities sector was published;
- A new guidance for the life insurance sector on applying a risk-based approach to combating money laundering and terrorist financing was published.

Media review

Regional news

DOWJONES

CE expecting Azerbaijan to launch anti-money laundering agency

26 September 2009
Azerbaijan, Baku

The Moneyval Expert Group of the Council of Europe (CE) expects that Azerbaijan will launch an agency of Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT), the CE official website reported.

"The new preventive agency - AML/CFT is not yet functioning, but it is expected to be launched by December 2009," the message said.

At this stage, the CE experts are concerned about shortcomings in the implementation of these measures, the report said.

Council of Europe expects that in two months, Azerbaijan will report on the work done as part of Moneyval at the 31st plenary meeting of the group. Azerbaijan was the first country to be assessed at the late 2003 in line with the provisions of Moneyval. These provisions envisage a complex of separate assessments in line with the every FATF standard and principle of "40+ 8" (40 standards to fight money laundry and 8 - financing terrorism). Each of the standards has several paragraphs with a total number of 180 subparagraphs.

BBC

Uzbekistan enacts law on fighting terror funding, money laundering

24 September 2009
BBC Monitoring Central Asia

The Uzbek Narodnoye Slovo newspaper on 23 September published the text of a new law on fighting terrorism funding and laundering criminal incomes, which was signed by President Islam Karimov on 22 September. The law "On introducing amendments and addenda to some legislative acts of Uzbekistan with the aim of developing the legislation on countering the legalization of incomes obtained from criminal activities and financing terrorism" was adopted by the

Uzbek Parliament's lower house on 24 August 2009. The upper house approved it on 28 August 2009.

The law, in particular, said that in line with an amendment introduced to the

Uzbek Criminal Code's Article 234, punishment for legalizing incomes received from criminal activities is from five up to 10 years of imprisonment. The law will come into effect as of the day of official publication, the final article of the law said.

Eurasian Group session in Moscow Moscow, October 07, 2009 (Khabar)

The Eurasian group on counteraction against the financing of terrorism and money laundering of criminally acquired incomes has summed up the results of 5-years of work in Moscow. This is one of the largest regional structures involved in the fight against economic crimes and terrorist threats to date. Such countries as Kazakhstan, Russia, Belarus, China, Kyrgyzstan, Tajikistan and Uzbekistan are known to be the group's member-states. The key directions of the Eurasian group's work in the context of the global recession were also discussed at the meeting. According to the Financial Monitoring Committee of the Finance Ministry of Kazakhstan Musiraly Utebayev, preparations and training sessions for specialists in the area of financial analytics and expert examinations are being conducted in Kazakhstan in an active fashion.

Musiraly Utebayev, chairman of Financial Monitoring Committee, Ministry of Financial of Kazakhstan: - A law on income legalization has been enacted in Kazakhstan. It's a framework law which has 26 amendments and additions to it. We believe that it's a great step for Kazakhstan and we are determined to intensify these efforts. We are training specialists in the area of information systems for financial monitoring. We are gaining experience today and the members of the Eurasian group are helping us actively in this sense. At present, the member-states of the Eurasian group are working on approving a document which confirms the structure's international status.



Russia, other EAG countries try hard not to be put on FATF list.

6 October 2009
ITAR-TASS World Service
MOSCOW, Russia

Russia and the other member-countries

of the Eurasian group of resistance to the laundering of criminal incomes and to the financing of terrorism have been doing their utmost not to be put on a new black list of the Financial Action Task Force, EAG Executive Secretary Igor Nebyvayev told the inter-session meeting of the group. About the question of another black list he recalled that the G20 summit in Pittsburgh issued a call addressed to the FATF for drafting by February 2010 new lists of countries whose financial systems are most vulnerable to the money laundering risks. "The FATF has been working actively along these lines. It has formed working subgroups that have begun to study countries. When it is through with this work, the most risk-prone states will be named," Nebyvayev said. He added that in fact the point at issue was a second version of the black list Russia had been on a while ago.

In that connection, the executive secretary said, the EAG countries have been taking measures to ensure they should not get into that list, because the efforts they have exerted to create systems for resistance to the financing of terrorism and to money laundering deserve recognition.

In the meantime, there are reasons for concern. For instance, said Nebyvayev, the FATF has issued a statement addressed to Uzbekistan to urge financial institutions to pay close attention to transactions with counter-agents in those countries. A similar warning was addressed to Turkmenistan. "These statements have not been revoked so far, but we hope that will be done in October," the EAG official said.

Also, he recalled that a far harsher statement was made towards Iran. It mentioned some specific measures financial institutions are to make, Nebyvayev said.

"There is an effective warning regarding Pakistan," he added.

The EAG executive secretary said there existed a certain group of countries that might get into the new black list.

"Some countries have been filtered out, because they succeeded in proving the effectiveness of their systems of resisting the financing of terrorism and money laundering. The others will be named in

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February 2010. After that they will have to take measures to clear themselves of suspicions. Otherwise, countermeasures will be taken against them," the EAG secretary explained.

The EAG unites Russia, Belarus, China, Kazakhstan, Kyrgyzstan, Uzbekistan and Tajikistan.

The FATF in 1990 formulated several dozen recommendations as to how to struggle with money laundering. The recommendations were eventually reconsidered in line with the new laundering techniques. Also, it drew up special recommendations as to how to resist the financing of terrorism. The documents have been recognized as official international standards for counteraction to money laundering and the financing of terrorism. In 2000 the FATF put Russia on its black list and removed it in 2002.

INT'L BANKING CONFERENCE TO FOCUS ON CENTRAL ASIA POTENTIAL

21 September 2009
Asia Pulse
BISHKEK, Kyrgyzstan

The annual VI Bishkek International Banking Conference (BIBC) Central Asian Dialogue will commence in the Kyrgyz capital next Wednesday, September 23.

A group of visionary leaders from banks, investment companies and international organisations, as well as influential politicians and economists will assemble to share their insight into how to embrace change in the world of financial services, and identify new ways to approach business.

Private and institutional investors, securities market specialists, renowned experts on risk management and compliance, business people, as well as analysts and journalists from the CIS, Europe, the US and other countries are expected to participate.

The Conference, to be held from September 23-25, is designed as a unique platform for exchange of expertise and information on potential of Central Asian countries, which could attract foreign and local investments.

The lead sponsor of the event is the Bishkek-based AsiaUniversalBank, co-supported by Euromoney, Global Finance and The Banker magazine. The main organizer of the conference is the Union of Kyrgyz Banks. Other organizers include the Banking Association for Central and Eastern Europe, the Moscow International Currency Association, and The Asian Banker publication.

Panel discussions, formal presentations and interactive audience participation will give valuable insights into such issues as the global financial crisis and its impact on Central Asia, the current situation and

future perspectives of the Kyrgyz economy, the development of banking and financial services, risk management, anti-money laundering and compliance, and possibilities for new banking products (remittances, trade finance, mobile banking, micro-financing).

MONEYVAL Committee approves Armenia's report on evaluation of anti money laundering and terrorism financing measures

23 September 2009
ARMINFO News (Armenia)

The CE MONEYVAL Committee has approved Armenia's report on evaluation of the third round of its anti money laundering and terrorism financing measures, reports the press service of the Central Bank of Armenia.

The report confirms progress in preventing money laundering and terrorism financing in the financial sector and the law enforcement and legal systems, higher efficiency in combating these practices and active work in introducing relevant international standards in Armenia.

PRIME-TASS economic news agency

CBR extends regulation easing money laundering controls

3 November 2009
Prime-TASS News (Russia)
The Central Bank of Russia (CBR) said Tuesday it had extended a regulation easing some money laundering controls until December 31, 2009.

Under the regulation, the CBR's regional branches can only issue warnings to banks for some violations of money laundering laws and can't impose any penalties.

Initially, this regulation was scheduled to expire on November 1, 2009. "How much of this money has been used on his horses, we don't know but if the horse wins, the money will be the personal property of Ramzan Kadyrov.

"In that case it will become quite questionable whether the Melbourne Cup is participating in an international **money laundering** scheme."

Brown said he is aware of the controversy surrounding Kadyrov, whom he has only met once and communicates with through a government interpreter.

"I'm obviously aware of what people talk about," he said.

"I'm not really sure I'm the man to really talk about it. I'm just concentrating on the race.

"I don't know this (allegations against

Kadyrov) for a fact. Maybe after the Cup, I'll investigate it."

British racing authorities are investigating Kadyrov and will rule in February whether to ban his horses from competing in the country.

If a British ban is enforced, he is likely to be shunned globally.

"Clearly we have to abide by the laws of whatever country we race in," Brown said.

Brown said it was his idea to bring Mourilyan - which races in the red, white and green colours of the Chechen flag - to the Melbourne Cup and he has very little direct contact with Kadyrov who will watch the race in Grozny.

"He's easy to deal with," Brown said.

"I've met him once in Dubai last December and he was very pleasant to me.

"As an owner and a business relationship, the guy's great.

Armenian high-ranking officials are not suspected of money laundering

4 November 2009
ARMINFO News (Armenia)
The Financial Monitoring Center of the Central Bank of Armenia (CBA) has denied the publication in mass media that high-ranking officials are suspected of money laundering in Armenia, the CBA press-service told ArmInfo.

According to the source, being a member of international structures for financial intelligence and having a database about high-ranking officials of different countries and whether they are involved in financial crimes, the CBA Financial Monitoring Center is thoroughly monitoring the data about the high-ranking officials of Armenia. No information about money laundering by Armenian officials has been received from these international organizations either, the CBA press-release says.

The source says that the EU MANIVAL Committee is a specialized structure called up to assess the systems combating money laundering and terrorism financing. Armenia has been a member of the Committee since 2006. EU MANIVAL Committee has recently approved Armenia's report on assessment of the third stage of measures for combating money laundering and terrorism financing. The report confirms considerable progress in this respect.

Armenia is one of the last ones on the number of money laundering facts
16 October 2009
ARMINFO News (Armenia)

As analysis of activity of more than one

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thousand local structures shows, Armenian companies are working fairly and practically do not deal with money laundering, the head of the Centre for Financial Monitoring of Armenian Central Bank, Daniel Azatyan, said at today's press-conference. He also added that on the number of the money laundering facts Armenia occupies one of the last places.

Azatyan also said that 6 cases of money laundering have been disclosed in Armenia over 9 months of 2009. <The Centre for Financial Monitoring analyses reports of 417 financial enterprises and 639 non-financial. The reports that contain the information about the deals which exceed 20 mln drams, should be checked. The number of such deals was more than 698 thsd as of 1 October 2009>, - he said. Azatyan said that the main part of machinations is connected with plastic cards and getting cash by Armenian citizens. As a result of disclosing of crimes, 40 mln drams were confiscated and transferred to the state budget.

To note, Centre for Financial Monitoring has been functioning in Armenia since 2005.

ARMENIAN COURTS PASS 7 MONEY LAUNDERING SENTENCES

16 October 2009
ARKA - News (Armenia)

Daniel Azatian, head of the Financial Monitoring Commission (FMC) of the Central Bank of Armenia, said 7 sentences were passed by Armenian courts in the last 4 years relating to money laundering. One was handed down in 2006 and the rest in 2009.

He said the majority of cases involved plastic card frauds, committed by foreigners in Armenia. According to him, as a result over 40 million Drams (about \$104,000) were recovered and part of the money was returned to the 'victims'.

Citing some statistical data about the performance of the Financial Monitoring Commission, he said it received 39 reports about suspicious transaction in the last several years, three of which in 2009. He said part of these reports are under examination.

He also said the FMC has received 294,308 reports about transactions exceeding 20 million Drams (\$52,000), of which 69,813 have been received in 2009.

He said the FMC is cooperating with foreign financial intelligent units and has so far received 60 inquiries from foreign partners and has responded to all in due manner.

The Financial monitoring Center was founded in 2006 to fight money laundering and financing of terrorism. As of October 1, 2009 427 financial

organizations and 639 non-financial organizations were registered with it. (\$1 - 385.75 Drams).

Pakistan: Terrorism has direct links with drug trafficking, money laundering: Rehman Malik 14 October 2009

Federal Minister for Interior, Senator A. Rehman Malik said that terrorism had direct relationship with drug trafficking, money laundering engineered through cyber crime and all possible efforts were underway to curb these evils.

The Minister who is currently in Singapore on a short visit to attend the 78th Interpol Ministerial Meeting being held in Singapore called on Singapore's Minister for Home Affairs, Mr. K.

Shanmugan and said this while talking to him.

Pakistan needs the support of the world community to work out a strategy to handle these crimes which in turn can combat terrorism, according to a press release issued by the Ministry here on Monday, he said.

On the situation in Pakistan, the Minister explained that "the border between Afghanistan and Pakistan is very porous and very difficult to control drug and human smuggling".

Some 40,000 to 50,000 people cross border and drugs worth US\$ 5 billion pass annually into Pakistan from Afghanistan, Rehman Malik said. In addition to these Pakistan's military operations in the tribal areas are leading to reactions both from Al-Qaeda and Taliban which he said are a bi-project of the jihad of 1980s against Soviet Union. The Minister said that the Taliban and Al-Qaeda operators were using sophisticated arms in different incidence in Pakistan.

Drug money is being used to buy sophisticated arms which again are coming from across the border from Afghanistan, he added.

The Minister also met members of Pakistan community in Singapore and addressed their apprehensions regarding matters of Pakistan's internal security.

The Minister gave an in-depth appreciation of the situation and urged the community to come forward and take part in the development efforts in Pakistan in terms of investment or assistance.

The Minister also announced to provide Machine Readable Passports in Singapore, Malaysia and Indonesia to facilitate the community, in the near future.

Kazakh Prosecutor General visits Czech Republic and Slovakia

29 October 2009
Organization of Asia-Pacific News Agencies

Bratislava, October 28, 2009 (Khabar) - Kazakhstan's Prosecutor-General's Office is expanding international cooperation with European countries in the legal area. Prague and Bratislava are also striving for joint work in crime prevention. The prosecutor general of the Slovak Republic Dobroslav Trnka noted the importance of cooperation of the offices of the two countries during the meeting with his Kazakh colleague Kairat Mami. They signed an agreement on cooperation, according to which, they will be rendering mutual legal assistance in the area of organized crime prevention and legalization of income derived from criminal activity.

Dobroslav Trnka, Slovak Republic Prosecutor General: - We are cooperating with both Western and Eastern countries. Kazakhstan is a priority country for us. We will be rendering legal assistance to each other as much as possible. We are aware of and support the future presidency of your country in the OSCE and believe that our relations will expand far beyond the strict limits of international cooperation.

The signing of a memorandum with the General Prosecutor's Office of Slovakia provides for the organization of educational in-depth training courses for specialists as well as the exchange of work and information experience on national legislation, acting justice and advanced methods of investigation.

Kairat Mami, Kazakhstan Prosecutor General: - One of the mechanisms for the fight against criminality is the prevention of trans-national crimes as well as the settlement of issues of money laundering. Today's agreement is directed at solving these problems in particular. I don't think that citizens of the Czech Republic or Slovakia will be brought to trial for pilfering in Kazakhstan. The specific feature of our cooperation lies in the fact that we can resort to aid and advice in legal matters, in particular, the extradition of criminals who committed more serious crimes in Kazakhstan if they are hiding in the European territory and in these states in particular.

The general prosecutor of Kazakhstan Kairat Mami met his Czech colleague Renata Vesecka in Prague the day before. She was elected as the chairman of the EU General Prosecutors' Union last year. They signed a memorandum on cooperation between the General Prosecutor's Office of the Republic of Kazakhstan and the Supreme State Office of Public Prosecutor of the Czech Republic.

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Deripaska denies involvement in money laundering in Spain

19 October 2009

Prime-TASS News (Russia)

Russian billionaire businessman Oleg Deripaska does not have any connection with companies accused of money laundering in Spain, a spokesperson for the Russian businessman said in a statement Monday.

Deripaska has not received any requests to testify in a money laundering case against several Russian and Spanish companies, the spokesperson said.

The statement was in response to a report in the Spanish daily El Mundo that authorities in Spain suspect Deripaska of involvement in the laundering of 4 million euros between 2001 and 2004 by companies with links to the Russian mafia. Spanish judge Baltazar Garçon is expected to visit Moscow in December to question Deripaska.

"We consider the conclusions made by Spanish authorities to be false and are hoping that this confusion will be corrected very soon," the spokesperson said in the statement.

The spokesman also said that Deripaska was willing to answer any questions concerning the matter.

Deripaska owns Basic Element holding and is the controlling shareholder of Russian aluminum giant RUSAL.

ARMENIAN PRIME MINISTER URGES OFFICIALS TO GIVE PUBLIC EXPLANATIONS FOR MONEY LAUNDERING ACCUSATIONS

29 October 2009

ARKA - News (Armenia)

Armenian Prime Minister Tigran Sarkisian said today government officials, accused by a parliament member of money laundering, must give public explanations. According to the prime minister, in an interview to an Armenian newspaper, '168 Zham' (168 Hours), a non-partisan parliament member Viktor Dalakian said he knows that some government officials are engaged in money-laundering operations.

"This is a signal to prosecutors and the Central Bank to give public explanations to Viktor Dalakian's statement," Tigran Sarkisian said today while opening the recurrent government session.

The head of the government said Dalakian's statement is 'a serious signal for the government to step up its efforts for revealing money-laundering

instances.

Armenia's prosecutor general Aghvan Hovsepian said during a recent meeting of the board of the Office of Prosecutor General, attended also by officials from the Central Bank and journalists, the focus was on the joint efforts of the law-enforcement bodies and Central Bank to fight money laundering.

He also recalled that the Council of Europe's Moneyval Committee said in a latest report that Armenia has made substantial progress in the implementation of recommendations of International Financial Action Task Force on Money laundering. The Committee of Experts Moneyval of the Council of Europe monitors and assesses the measures adopted by member states in the field of prevention and fighting against money laundering and financing of terrorism in line with recommendations drawn up by Financial Action Task Force on Money Laundering.

Moneyval at its 30th plenary meeting in late September adopted the mutual evaluation report of Armenia. In its assessment of Step 3 of fighting money laundering and financing of terrorism Armenia is in the 10th position among 25 member countries.

The "Russian mafia" prevails in Prague and Karlovy Vary

Nikolay Parminsky

29 October 2009

Russian Press Digest - Russica Izvestia
The Czech intelligence service is raising the alarm: the number of Russian mafia members, including immigrants from Russia and other CIS countries, is growing at an alarming rate - and they are the "elite" of the criminal world.

Thieves in law - cardinals of the criminal sphere - often come to the Czech Republic in the hopes of finding a new home under the guise of business representatives. They tend to buy luxurious villas and apartments, and not just anywhere, but in the "golden" Prague or the trendy Karlovy Vary. Neither do they skimp on luxurious cars.

Law enforcement agencies from many countries have a special interest in these people. Most of them have been living with forged documents for a long time. These "Russian guests" surround themselves with local criminals while providing them with new names, supplying them with false identities, and assigning them new roles. The most important task of the mafia bosses is money laundering, for which many fake companies are used.

A great amount of state funds is used to fight organized crime, but this does not concern the public much. People are terrified of the "Russian mafia," members

of which are considered by the Czechs to be representatives from all the former Soviet republics.

Czech Security Information Service (BIS) (similar to the Russian FSB), has much unsettled business with the mafia. Caucasus natives are considered to be the most dangerous.

"We regard some members of the Chechen and Armenian communities as potential terrorists who are prone to armed violence," BIS representatives told journalists.

"Russian mafia" bosses have connections in government agencies, intelligence agencies and even courts. Another problem is the intensified fighting between criminal gangs, which prevails among the Chechen and Armenian communities. Czech newspapers often recall the 2007 incident when a driver of one of the "lottery kings" was shot and killed.

According to police, the killer was commissioned. He was Chechen and a participant in the Caucasus hostilities.

Ordinary Czechs are so concerned with the mafia that even the academic community has begun researching the subject. For example, one expert at the well-known Masaryk University, Tomas Smid, presented an entire opus on the subject. "The Russian phrase 'thief in law' implies the highest authority in the criminal sphere," he wrote.

According to Smid's theory, only a thief in law is capable of "regulating conflicts" between gangs. The expert believes that the tradition of such "titles" dates back to the 1930s.

"Then, a certain caste of people existed," Smid said. "They were basically crowned during meetings with the leaders. The thief in law was to adhere to special rules, which, for example, forbade him to work and raise a family. His main task was to maintain peace between the rivaling gangs and negotiate common rules of the game so that traitors could be punished equally."

According to the expert, there are about 700 thieves in law on the territory of the former Soviet Union.

Could all these mafia scandals cast a shadow over Russian-Czech relations? Izvestia posed this question to Oleg Alborov, the editor-in-chief of the Russian newspaper in the Czech Republic, Inform Praha.

"The Czech society does not share a uniform opinion of Russia," he said. "Some support the development of bilateral relations, others oppose it. The same is true among politicians, and is often displayed through scandals - the goal of which is to attract the political elite as well as the electorate. The

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current administration does not have anti-Russian sentiments. On the contrary, bilateral relations will continue to develop. This is evidenced by the recent meeting of the Intergovernmental Commission in Prague and was stated by President Vaclav Klaus during his recent visit to Moscow. By the way, the opposition calls the Czech president a Russian spy."



Appointments continue taking place in Financial Monitoring Service under Central Bank of Azerbaijan

9 October 2009
ABC.AZ Daily News

President of Azerbaijan Ilham Aliyev formed leadership of the Financial Monitoring Service (FMS) under the Central Bank of Azerbaijan (CBA).

CBA informed that Director of cash department Adishirin Gasimov was appointed the Director of FMS by Azerbaijani President Ilham Aliyev's decree №517 from 7 October 2009 and Chief of branch of control department over credit institutions Anar Salmanov - his deputy.

Earlier, CEO of CBA Elman Rustamov informed that the bank had drawn technical assistance to formation and institutionalization of the service. The projects of structure and staff schedule of the service have been drawn up and place of its location defined.

The Service's residence will be located at the address: 40, Byul-Byul Avenue, Baku.

The Azerbaijani Mortgage Fund (AMF) at CBA and the Azerbaijan Deposit Insurance Fund (ADIF) are located in the building.

By decree from 16 July of the year President Ilham Aliyev endorsed the

Regulation on the Financial Monitoring Service that is the main point in realization of the Law on Counteraction to Laundering of Received by Criminal Way Money and Terrorist Financing.

In this connection CBA was charged with approving Agency's structure and staff over 15 days and solving issues following the decree. The Cabinet was given a month to make the proposals for bringing the appropriate legislative acts in compliance with the decree, along with other bodies of executive power the make relevant amendments to the standard and legal acts and solve the issue of material and technical maintenance of the service.

Earlier Rufat Aslanli, the chairperson of the State Securities Committee and the head of the law-maker group, said that after adoption and commencement of the Draft Law, Moneyval (the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures) published a statement which covered positive results and achievements of Azerbaijan.

A plenary session of Moneyval's also made a decision to empower its office with the right to halt monitoring of Azerbaijan in case of the latter implements all decisions covered by presidential decree on law application. Among these decisions are approval of the Charter of Financial Monitoring Body under CBA, adoption of relevant amendments to the Administrative and Criminal Codes.

In early 2009, Moneyval called upon to be very careful in deals with persons and financial organizations residing or located in Azerbaijan. Moneyval's next session will be held at the end of 2009 and Azerbaijan will have a chance for full removal of monitoring on simplified system.

On 24 February 2009, President of Azerbaijan Ilham Aliyev signed the Draft Law on counteraction to legalization of the money and property received by criminal way and terrorism financing

adopted by the Parliament on February 10. The decree says of establishment of Financial Monitoring Service under CBA and gives a month to CBA to develop and submit the Regulation on the Service.

Earlier, Financial Action Task Force (FATF) called upon the member states and other countries to be extremely careful in deals with persons and financial organizations residing or located in Azerbaijan.

In its public statement passed on 12 December 2008 FATF appealed financial institutions of other countries to be extremely careful in deals with Azerbaijan and carry out due check of clients to remove risk of money laundering/terrorism financing. It was indicated to the Expert Group appeal to re-consider the Bill on Counteraction to ML/TF passed in the second reading in Azerbaijan as it fails to conform to key international standards to the large extent and adopt immediately complex legislation complying with the requirements.

Rosfinmonitoring's notification can aggravate realization of financial operations between Russia and Azerbaijan.

In its evaluation Moneval also pointed out that the country fails to fulfill structural, legislative and institutional requirements when certain type of institute is lacking in the country.

Out of the 40 FATF standards there were recognized Azerbaijan's non-conformity in fight against breaches on money laundering, audit of clients, politically persecuted persons, new technologies and face-to-face business, non-standard deals, reporting on suspicious deals, internal control, audit, sanctions, foreign branches and subsidiaries, management and relations with clients, lack of a body on FIU, on statistics, freezing and confiscation of terrorist funds and non-profit organizations.

International news

First decision is given in the Parmalat affair Milan, Italy

Parmalat stands at the centre of one of the biggest ever fraud scandals and has triggered numerous criminal cases in Italy. The companies involved, Parmalat SpA, Parmalat Finanziaria SpA and their affiliates were a conglomerate of dairy companies based in Italy. Some bad business decisions and the diversion of funds by the company CEO and his family resulted in a black hole in

Parmalat's balance sheet, fraudulently covered up by false transactions. By the time this was discovered, Parmalat had understated its debt by nearly \$10bn and overstated its net assets by \$16.4bn. A US judge recently described the company as having morphed into "something akin to a Ponzi scheme". The Court of Milan, which has jurisdiction over financial markets offences, has now given judgment in one of these cases (cases involving insolvency related offences, over which the Court of Parma has jurisdiction, are still ongoing).

On 18 December 2008, the First Criminal Section of the Court of Milan handed down its decision on charges against company officers, including Calisto Tanzi (former Chief executive officer (CEO) of Parmalat Finanziaria SpA, the Parmalat group's listed company, and the dominus, or guiding mind, of the entire Parmalat empire). Mr Tanzi and three non executive directors were accused of market manipulation through the dissemination of false information; obstructing the exercise of the functions of the regulatory authority (Consob); and

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fraud concerning the auditors' reports and communications. Mr Tanzi and three senior managers at Bank of America were also charged with a separate act of market manipulation. The court sentenced Mr Tanzi to ten years' imprisonment, but cleared all the other defendants. As is usual in Italy, the court's opinion explaining why it came to its conclusions was published some time after the verdict itself and was filed on 05 May 2009. The decision is very complex, but it merits attention for a number of reasons.

The Court of Milan focused on the Parmalat group's situation in 2003 and the reasons for its collapse. According to the court, the Parmalat group had been in trouble since the listing of Parmalat Finanziaria SpA in 1990. Following this, Mr Tanzi had misled shareholders and stakeholders on its performance by falsifying the Parmalat group's financial accounts, using false information regarding the EBIT (Earnings Before Interest and Tax) and EBITDA (Earnings Before Interest, Taxes, Depreciations and Amortization), the true debt situation with banks and bondholders and the existence of certain assets and credits. Mr Tanzi also misappropriated funds which he used to benefit of his family and family controlled companies. Curiously, Mr Tanzi did not deny these material facts.

The court then took into consideration the announcement Parmalat Finanziaria SpA made to the financial markets in 2003 and evaluated whether the false accounting was an element of market abuse. The court ruled that in 2003 alone there were at least 15 acts of market manipulation through the dissemination of false information: that information was the same false information set out in the company's accounts. The 15 acts included the issue of Parmalat bonds which was arranged by Nextra, UBS and Deutsche Bank in 2003. In respect of these charges a separate trial is still pending against managers of the arrangers and the banks themselves.

The counts of obstructing the exercise of the functions of Consob and fraud on the audit reports of Deloitte & Touche and Grant Thornton, were considered as contributing to the commission of market manipulation offences.

However, contrary to the charges laid by the Public Prosecutor's Office, the court ruled that those crimes were committed only by Calisto Tanzi and by those closest to him (who had already successfully plea bargained). The charges against the non executive directors were not upheld as they had had no knowledge of the false accounting and false information provided to the market and had no reason to suspect any such wrongdoing.

The alleged market manipulation involving the Bank of America was examined separately. This charge stemmed from six structured finance transactions in which Bank of America acted as arranger, agent and/or lender. According to the Public Prosecutor's Office, all six transactions constituted market manipulation through the dissemination of false information, as they were not properly disclosed to the financial market. The court, however, ruled that for this offence, a material announcement to the market must be made: an omission is insufficient. Since no announcement regarding these transactions was made to the market and moreover no announcement should have been made, the alleged offence could not be established. The court added that, in any case, a bank acting as arranger/agent/lender in a transaction is not in a "guarantee position" with the market and the investors (under Italian law, an individual in a "guarantee position" has a duty to guarantee that there is no infringement of the rules). The bank must fulfil its confidentiality obligations to its client (ie the issuer of financial instruments) but does not have a duty to inform the market about inside information. Only the issuer is obliged to do this.

It may come as a surprise to those outside Italy that Mr Tanzi is currently at home, not in jail. He has the right to appeal the court's verdict to the Court of Appeal and subsequently to the Supreme Court. Only then will any decision be final. It will be several years before we see the conclusion of this matter.

SFC Powers: It's getting cold out there

In the past the Securities and Futures Commission of Hong Kong (SFC) has been criticised because its policing of the Hong Kong markets has been seen to lack teeth. However, as with investments, past performance is no indication of future performance and the SFC has spent much of 2009 burnishing its credentials as an enforcement agency to be reckoned with. July 2008 saw the first criminal prosecution for insider dealing and there have been ten convictions since. In September 2009 Hong Kong saw the conviction of a former managing director of an US investment bank of nine counts of insider dealing where the profit made was worth HK\$87m (US\$11m). The convicted will be sentenced later this month and faces up to a maximum of seven years imprisonment and a fine of HK\$10m (US\$1.3m).

2009 has also seen the SFC take an interventionist approach in regulating the Hong Kong financial markets. In February 2009, it challenged and was able effectively to block the privatisation of a high profile company listed on The Hong Kong Stock Exchange (HKEx)

based on allegations of vote rigging (where individuals were given shares on the "understanding" that the new owners would vote in favour of the privatisation).

More recently, the SFC has successfully obtained injunctions to freeze assets of individuals suspected of market misconduct. Previously the SFC has been conservative in its application to the courts to freeze assets of individuals or companies. Typically this has only happened in circumstances clearly involving dishonesty. Now the injunction is being used to preserve assets to ensure that a person under suspicion of wrongdoing is in a position to meet claims for compensation or penalties.

There is no doubt that lately, in its role as the local regulator, the SFC is seen to be stepping up efforts to protect the status of Hong Kong as a free market. Coverage since Summer 2009 of the SFC's activities (such as blocking the listed company's attempts to privatise due to allegations of vote rigging, and securing a succession of convictions in insider dealing prosecutions) has dominated local news. The latest to hit newspapers is confirmation of the SFC's power to apply for freezing type injunctions under section 213(2)(c) of the Securities and Futures Ordinance (SFO) and the subsequent deployment of such power against companies and individuals in alleged market misconduct and securities fraud/deception cases.

Power to apply for freezing type injunction

It is clear that the SFC has been provided with a very powerful weapon in the form of section 213(2)(c) to apply for freezing type injunctions (otherwise still known as *Mareva* injunctions in Hong Kong). Whilst it has the effect of a *Mareva* type injunction, section 213(2)(c) does not appear to be hindered by the checks and balances developed by the courts in relation to *Mareva* injunctions (such as the consideration of any real risk of dissipation and third party rights).

The power granted by section 213(2)(c) was never really in doubt and the SFC has in the past used this power to apply for injunctions as such.¹ The first case in which defendants - alleged of insider dealing - challenged the SFC's power to do so was recently heard by the Court of Appeal,² which unequivocally upheld the SFC's position.

It was argued on behalf of the defendants on appeal that, as a matter of statutory construction, the court did not have the power to make *Mareva* type orders. The barrister for the defendants argued that the phrase used in the legislation³ ("dealing in") was different to the usual form of words used in *Mareva* injunctions⁴ ("disposing of or dealing

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with"), and that "dealing in" is not synonymous with "dealing with". Drawing support from a criminal ordinance and cases decided on that ordinance, it was further argued that "dealing in" necessarily involves some kind of commercial transaction.

The Court of Appeal agreed with the SFC that, with support from the consultation document which accompanied the White Bill (which became the SFO), the legislative intent was to expand rather than to cut down the powers of the SFC and this was applicable for construing section 213(2)(c). The Court of Appeal rejected the defendants' argument that there was a distinction in the words used in the SFO with the usual form of words used in *Mareva* injunctions. Adopting a purposive approach, the court held that the power under section 213(2)(c) is sufficiently wide to encompass the grant of a *Mareva* type injunction.

An application for appeal to the Court of Final Appeal has been rejected by the Court of Appeal. It would be interesting if an application for leave to appeal is made to the Court of Final Appeal, and if so, the outcome of the leave application and any appeal. We would be very surprised if the Court of Final Appeal did not uphold the SFC's position.

With vigour, the SFC has made a spate of freezing type injunction applications since August 2009. There are two notable cases.

Former chairman of GOME

The first case is the High Court grant of an interim injunction to freeze HK\$1,655,167,000 (US\$212m) worth of assets belonging to the former chairman of the locally listed company, GOME Electrical Appliances Holdings Limited, his wife, and two other companies.⁵ Whilst the exact details are unknown, the SFC has revealed on its website⁶ the following:

- the couple are alleged to have organised a share repurchase by GOME in 2008 in order to use GOME's company funds to buy shares originally held by the former chairman to enable him to use the proceeds of that share sale to repay a HK\$2.4bn (US\$308m) personal loan to a financial institution
- the transaction was a fraud or deception involving securities and caused a loss of about HK\$1.6bn (US\$205m) to GOME and its shareholders, and
- the SFC is seeking orders to restore parties to any transaction, in particular GOME, to the position they were in before the transaction was entered into, and/or for damages to GOME.

The amount frozen is the largest amount known since the inception of the SFO. It would be interesting to see what

charges, if any, the SFC would press under the SFO. It is not inconceivable that the SFC might invite the Commercial Crime Bureau of the Hong Kong police to investigate further into this matter; this could lead to charges in addition to those available under the Securities and Futures Ordinance.
Tiger Asia Management LLC

In the second case, the SFC successfully applied to the High Court to freeze HK\$29.9m (US\$3.8m) worth of assets held by the New York based hedge fund Tiger Asia Management LLC and three other defendants who are associated with the fund.

This case is understood to be the first in which the SFC has obtained a freezing injunction against an overseas hedge fund, without a presence in Hong Kong.

The action is concerned with the notional profit of HK\$29.9m alleged to have been made by Tiger Asia in relation to dealings in the shares of China Construction Bank in January 2009 as a result of market misconduct. The SFC has revealed on its website⁷ details of Asia Tiger's alleged misconduct including its senior officers being in possession of price sensitive information in relation to a proposed placement by the China Construction Bank, and short selling 93 million China Construction Bank shares ahead of the placement announcement - participating in the share placement at a discount to the prevailing market price, which covered the short sales, and making a notional profit of HK\$29.9m.

Perhaps a worthy note is that the High Court in this action will not be responsible for making a finding of market misconduct - that task falls within the jurisdiction of the Market Misconduct Tribunal which acts on the request of the Financial Secretary (upon a recommendation from the SFC). If appropriate, the SFC might instead press for criminal charges, which are available under Hong Kong's dual regime, and which are determined by the criminal courts.

Purpose of seeking freezing type injunctions

Any funds frozen by an injunction are intended to be used eventually to compensate victims of the market misconduct engaged, or fraud/deception perpetrated, by the defendants. In the case of Tiger Asia, the SFC has made clear that it will seek orders to unwind the relevant transactions and to restore affected counterparties to their pre transaction positions, if the court finds that there has been a contravention of the provisions of the SFO. Similarly in relation to the GOME chairman case.

In this regard, the above cases are but an example of the seriousness with which the SFC regards its role as the public protector of those who invest in the Hong Kong free market. This attitude must undoubtedly be welcomed by all.

¹ Indeed, we have experience in assisting the SFC to successfully apply for such injunctions.

² *Securities and Futures Commission v "C", "D", "E", "F"* (HCMP 727 of 2008).

³ The relevant wording of section 213(2)(c) is: "The orders [that the court can make] are: ...an order restraining or prohibiting a person from acquiring, disposing of, or otherwise dealing in, any property specified in the order."

⁴ The usual form of wording is: "The Defendant must not in any way dispose of or deal with or diminish the value of any of his assets..."

⁵ There will be a hearing on 8 September 2009 to determine whether to extend or discharge the injunction.

BAE Systems faces bribery charges UK defence giant BAE Systems faces corruption charges after the Serious Fraud Office said it would ask the Attorney General to prosecute the firm.

The SFO has been in negotiations with BAE but the sides could not agree what the firm would admit or the fine due.

The case refers to allegations BAE paid bribes to win contracts from several nations in Africa and Eastern Europe. BAE said it was still trying to resolve the case, but would deal with matters in court "if necessary".

"BAE Systems has at all times acted responsibly in its dealings with the SFO, taking into account the interests of its shareholders and employees and the legal advice it has received," the firm said.

However it admitted last year - after an independent investigation - it had not always met the highest ethical standards. A separate investigation into BAE by the SFO was dropped in 2007 after it was decided that national security was at risk. In that case, the SFO ended its investigation into a giant 1980s arms deal BAE secured from Saudi Arabia.

G20 takes welcome step to stop banks fuelling corruption Summit communiqué calls for stronger anti-money laundering standards to help curb illicit flows of looted state funds from developing countries 28 September 2009

The G20 has urged an international watchdog on anti-money laundering laws to prioritise the fight against corrupt funds, a move warmly welcomed by anti-corruption group Global Witness today.

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Anti-money laundering laws, which should prevent banks accepting illegally-earned funds, are the key defence against the movement of state funds that have been looted by corrupt government officials. So they are vital in tackling poverty in developing countries.

The inter-governmental body that sets the standard for anti-money laundering laws, and evaluates each country to check if its laws are up to scratch, is the Financial Action Task Force (FATF). Since 2001 it has been heavily focused on using the anti-money laundering laws as a bulwark against the movement of terrorist finance. This has largely been effective: banks are now checking to ensure their customers are not on terrorist watch lists. But until now there has been little comparable political will to ensure that banks avoid the proceeds of corruption.

"The G20's call for a focus on corruption provides some of the necessary political will that has been lacking. Our investigations have shown that banks do not always take this seriously enough, and one reason is that they are not hearing a strong message from governments that they must do so. The taskforce meets in Paris next month; that meeting will be a decisive next step in this process, as it will now have to decide how to make the anti-money laundering laws more effective," said Anthea Lawson, a campaigner for Global Witness.

"State looting has a devastating effect on developing countries. Efforts to lift people out of poverty and lessen dependence on aid are undermined by banks' keenness to do business with corrupt officials. Let's be clear: corruption could not occur without the help of the international financial system - the amounts being stolen are too big to keep under the mattress," Lawson added.

Notes to editors:

1. The G20's communiqué from its Pittsburgh summit on Friday said: "*We ask the FATF to help detect and deter the proceeds of corruption by prioritizing work to strengthen standards on customer due diligence, beneficial ownership and transparency.*" (Paragraph 42 of main text)

2. 'Customer due diligence' is the process that banks must undertake to identify who they are dealing with and the source of their funds. 'Beneficial ownership' refers to the need for banks to identify the ultimate owner of the funds, as opposed to the shell companies and/or trusts which may be used to obscure the owner's identity. 'Transparency' refers to the need for more information to be made available about the beneficial ownership of such corporate vehicles, which are used to hide all forms of illicit money, whether they be corrupt, evading tax, or the

proceeds of other forms of criminal activity.

3. Earlier this year a Global Witness report, *Undue Diligence: How banks do business with corrupt regimes*, detailed how major banks including Barclays, HSBC, Deutsche Bank and Citibank were facilitating corruption through doing business with dubious customers in corrupt, natural resource-rich states. It showed how the current laws are ambiguous about how far banks must go to identify the real person behind a series of front companies and trusts; fail to be explicit about how banks should handle natural resource revenues when they may be fuelling corruption; and may permit a bank to fulfill the letter of its legal obligations, yet still do business with dubious customers.

Secretary Napolitano and World Customs Organization Secretary General Kunio Mikuriya Announce Preliminary Results of Largest Global Cash Smuggling Operation November 6, 2009

Brussels—Department of Homeland Security (DHS) Secretary Janet Napolitano and World Customs Organization (WCO) Secretary General Kunio Mikuriya today announced the preliminary results of Operation ATLAS—the largest multilateral operation in history targeting cash smugglers which took place from Oct. 26-30.

More than 80 countries participated in Operation ATLAS (an acronym for Assess, Target, Link, Analyze and Share)—leading to more than \$3.5 million in cash seized and the identification of \$24 million in undeclared currency that may have otherwise gone undetected at ports of entry around the world during the five-day period.

"In our increasingly networked world, multinational cooperation is critical to combating transnational criminal activity," said Secretary Napolitano. "Today's announcement reflects an unprecedented model of international collaboration that we will continue to build upon in the future."

"Operation ATLAS provided the perfect platform to promote the implementation of international anti-money laundering standards and recommendations, to improve national control techniques, and to enhance cooperation among all parties involved in fighting money laundering and terrorist financing," said Secretary General Mikuriya. "The operation's successful outcomes also demonstrate the benefits that accrue from coordinated and focused inter-agency cooperation at the national level."

DHS' U.S. Immigration and Customs Enforcement (ICE) led Operation ATLAS in close collaboration with fellow DHS component U.S. Customs and Border Protection (CBP), with the assistance of

the WCO using CENcomm, a secure communication tool developed by the WCO. The operation was supported by Interpol and Europol.

Participating countries used real-time information sharing and coordination of cash declaration data to disrupt and dismantle criminal organizations that smuggle illicit cash around the world—employing several different methods to detect cash carried in baggage, on travelers and in shipments aboard commercial flights at designated airports.

Operation ATLAS reflects the commitment shared by Secretary Napolitano, Secretary General Mikuriya and WCO members to continue the expansion of cooperative efforts to deter transnational smuggling organizations around the world—bolstering global security and enhancing mutual efforts to deter terrorists and other criminals.

The announcement came during a press conference at WCO Headquarters in Brussels—part of Secretary Napolitano's week-long trip to Europe and the Middle East to meet with her international counterparts to discuss information sharing and privacy protection; collaborative efforts to secure cyber networks worldwide; the international response to the H1N1 global pandemic; and coordination to combat transnational criminal activity and the global threat of terrorism.

Secretary Napolitano's trip follows Secretary General Mikuriya's recent visit to the United States where he discussed trade security and facilitation as well as customs capacity building with top government and business leaders.

Dodging the graft

With financial sector losses being counted in the trillions, it is easy to lose sight of the mere hundreds of billions slushing down the drain of corruption every year. So negotiators meeting in Doha to discuss the six-year-old United Nations Convention against Corruption must make sure the momentum gained by the anti-corruption fight over the past two decades does not become a casualty of the crisis.

There is no doubt that graft afflicts the developing world heavily: officials defraud developing nations of up to \$40bn yearly, says Ngozi Okonjo-Iweala, World Bank managing director and a former Nigerian finance minister. Yet it is a dangerous illusion to see graft mainly as a poor country problem.

Corruption is a symbiotic affair. Not only recipients of bribes benefit from bribery; so too do bribe payers – often rich-country companies. Despite a recent crackdown on tax havens, ill-gotten gains still get a warm welcome in global financial centres. The World Bank cites estimates putting illicit financial flows – including bribes, profits from criminal activities and tax evasion – at a

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staggering \$1,000bn a year, half of which comes from low- and middle-income countries.

This is shocking but unsurprising. Rich-world companies working in corrupt environments can face a Hobson's choice between doing business with dirty hands or not at all. States gain advantages from keeping standards lax or unenforced; some base their entire economy largely on skimming the cream of illicit flows. And not a few elected leaders have found in foreign bribery a convenient source of party financing.

Still, binding agreements to contain graft and theft of public assets are in everyone's interest. Businesses gain from being spared bribery arms races. Countries are better off with private sectors competing on productivity exclusively.

The UN Convention, joined by 140 nations (including the large emerging countries), has broader reach than the OECD's convention, and greater legal force than voluntary initiatives such as the Extractive Industry Transparency

Initiative. It holds the rich world to account by explicitly requiring parties to help each other recover stolen assets and prevent money laundering. All this makes it the most suitable instrument for the next phase of fighting corruption.

What it still lacks are teeth. On the Doha agenda is a mechanism to verify that countries fulfil the obligations they have signed up to. An agreement on this has so far proved elusive. Negotiators must not leave without one this time.

Publications and Websites of Interest

http://www.unodc.org	Official website of the UNODC. (In English, Russian, Spanish)
http://www.amlcft.org	World Bank's AML/CFT website. (In English)
http://www.worldbank.org/StAR	World Bank and UNODC's Stolen Assets Recovery Initiative (StAR) website
http://www.imolin.org	International Money Laundering Information Network administered by UNODC Global Program against Money Laundering (GPML) on behalf of a partnership of eleven international organizations and offering model laws, legal library, calendar of key events and other AML/CFT related information. (In English, with some Russian)
http://www.euroasiangroup.org	The EurAsian Group is the FATF-Style Regional Body serving Central Asia. (In English and Russian)
http://www.imolin.org/pdf/imolin/MLawRussian_IMoLIN.pdf	UNODC Model Law in Russian
http://www.fatf-gafi.org/dataoecd/43/46/38960576.pdf	The Guidance on the Risk-Based Approach to combating Money Laundering and Terrorist Financing adopted by the FATF. It outlines the high-level principles involved in applying the risk-based approach, and indicates good public and private sector practice in the design and implementation of an effective risk-based approach.
http://www.fatf-gafi.org/dataoecd/61/28/40248726.pdf	Guidance on Capacity Building for Mutual Evaluations and Implementation of the FATF Standards Within Low Capacity Countries - is primarily intended to support low capacity countries (LCCs) in implementing the FATF standards in a manner reflecting their national institutional systems, is consistent with the ML/FT risks they face, and takes account of their limited resources
http://www.fatf-gafi.org/dataoecd/28/43/40285899.pdf	The study identifies four strategies which could help in further strengthening counter-terrorist financing efforts: (a) Action to address jurisdictional issues, including safe havens and failed states; (b) Outreach to the private sector to ensure access to the information necessary to detect terrorist financing; (c) Building a better understanding of terrorist financing across the public and private sectors; and (d) Using financial investigation, enhanced by financial intelligence.
http://www.eurasiangroup.org/rus/index-5.htm	Russian version of 40 FATF Recommendations [AML] Russian version of 9 FATF Special Recommendations [CFT] with Interpretive Notes
http://www.fatf-gafi.org/dataoecd/45/31/40705101.pdf	FATF's first in-depth study, which examines its vulnerabilities to misuse for money laundering and terrorist financing in real estate sector.

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http://www.unodc.org/documents/wdr/WDR_2008/WDR_2008_eng_web.pdf	<i>The World Drug Report 2008</i> provides in depth trend analysis of the four main drug markets in its first section. It also contains an in-depth look at the development of the international drug control system and a small statistical annex which provides a detailed look at production, prices and consumption.
http://www.assetrecovery.org	Asset Recovery Knowledge Center of the International Centre for Asset Recovery (ICAR)
www.egmontgroup.org	The Egmont Group of Financial Intelligence Groups
http://www.coe.int/t/dghl/monitoring/moneyval/	MONEYVAL - Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
http://www.caricc.org	CARICC - Central Asian Regional Information and Coordination Centre for combating the illicit trafficking of narcotic drugs, psychotropic substances and their precursors, established within the Memorandum of Understanding on sub-regional drug control cooperation dated May 4 1996 (Tashkent, Uzbekistan) between the Republic of Azerbaijan, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan, Turkmenistan, the Republic of Uzbekistan and UN Office on Drugs and Crime (UNODC).

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