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MONEYVAL publishes its 3rd Round Evaluation Report on Poland

Strasbourg, 15.01.2008 - The Council of Europe's MONEYVAL Committee (Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism) has published today the Third Round Evaluation report on Poland. This report analyses the implementation of international and European standards to combat money laundering and terrorist financing, assesses levels of compliance with the FATF 40+9 Recommendations and includes a recommended action plan to improve the Polish anti-money laundering (AML) and combating the financing of terrorism (CFT) system.

The main findings of the evaluation report are:

- At the time of the last on site visit (April 2002), the Polish authorities could report only one money laundering conviction. Due to amendments to the money laundering offence the number of money laundering prosecutions and convictions has increased considerably (76 convictions under Art 299 para 1 Penal Code from 2003 to 2005). Criminal liability has been extended to legal persons and several types of sanction can be applied but so far there is no experience with this new provision.
- The Polish legal system does not provide for an autonomous crime of "terrorist financing"; such behaviour could only be addressed on the basis of aiding and abetting an "act of terrorism". Poland has recently initiated a legislative procedure aimed at introducing a separate financing of terrorism offence into the Penal Code.
- The legal framework covering provisional measures and confiscation has much improved since the last evaluation. Confiscation provisions now provide for reversing the burden of proof in certain cases and in ensuring that title can revert to the Polish authorities in the event of a transaction intended to defeat confiscation.
- The Polish Financial Intelligence Unit (General Inspector of Financial Information – GIF) is the central body in the Polish AML/CFT regime; it processes a large amount of (suspicious and above threshold) transaction reports. As banks remain by far the largest reporting obliged entities, further outreach to some parts of the financial sector (particularly exchange houses) and the designated non-financial businesses and professions - DNFBP (particularly casinos) is necessary to explain to these entities the concept of suspicion in more detail.
- In practice the identification of customers is generally in line with international standards but the major difficulty is that several key elements of the customer due diligence (CDD) process as set out in the FATF Recommendations are insufficiently embedded in Law or Regulation. There are also no legal requirements to take reasonable measures to determine the natural person who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted ("beneficial owner").
- Though there are procedures in place to ensure some financial transparency, it appears there has been no special analysis of the risks in the NPO sector in respect of possible abuse for financing of terrorism purposes.

Poland was the 13th country evaluated under the 3rd evaluation round. The report was adopted at MONEYVAL's 23rd Plenary meeting (Strasbourg, 5-7 June 2007). MONEYVAL will follow-up implementation of the recommendations through its progress report procedure, under which all MONEYVAL countries are required to update the Committee on action taken on the mutual evaluation report one year after its adoption.

This report is available at <http://www.coe.int/moneyval>