HELLENIC CAPITAL MARKET COMMISSION

WORKSHOP

FOR THE PREVENTION

OF MONEY LAUNDERING

9-11-2010

PROBLEMS AND COMMON WEAKNESSES OF COMPANIES

ADVICE OF THE HELLENIC CAPITAL MARKET COMMISSION

FOR THE CORRECT APPLICATION OF APPROPRIATE PROCEDURES FOR THE PREVENTION OF MONEY LAUNDERING

A. CONCERNS OF COMPANIES

REGARDING:

1. THE EXTENT OF THE OBLIGATIONS OF SUPERVISED COMPANIES (HEREINAFTER REFERRED TO AS COMPANIES) TO PREVENT THE

LEGALIZATION OF REVENUE FROM CRIMINAL ACTIVITIES (HEREINAFTER REFERRED TO AS LAUNDERING).

Some Intermediation Investment Firms that we are reviewing for the first time, still have the following concerns: Given that the company does not take cash and customers are first checked by banks or brokerage firms, must we have procedures for dealing with laundering?

The Law 3691 / 2008, which took into account the 3rd EU Directive and the 49 recommendations of the FATF, is clear. The liable persons have independent responsibility for the application of the law in each case.

The role of the Hellenic Capital Market Commission is to ensure that the law is properly enforced by all companies it supervises. That is why we organize workshops like this one today, to discuss your concerns and to highlight some of the weaknesses we have identified during our audits.

Almost all companies have been audited by the HCMC to date and corrective measures or even sanctions have been implemented, wherever shortcomings were identified.

You should therefore keep in mind that in the re-audits that will be carried out, if infringements are detected, the penalties will be severe.

Moreover, the time that has elapsed since the previous HCMC Decision no. 23/404/22.11.2006, was long enough for companies to gradually adapt to the regulatory framework for dealing with laundering.

2. THE UNIFORM APPLICATION OF PROCEDURES BY ALL COMPANIES FOR THE PREVENTION OF MONEY LAUNDERING.

We have found that some companies are reluctant to ask their customers for all the necessary data, because they are afraid that customers will leave and will go to other companies that may not request this information.

It is clear that a chain has as much strength as its weakest link. For this reason, it is very important for the Hellenic Capital Market Commission, as well as for the Bank of Greece and for other competent authorities, for the laundering to be dealt with by all supervised companies without exception.

Based on the tests carried out by the Special Unit of the Capital Market Commission for the Prevention of Money Laundering, from February 2006, when it was created, up to now, I can assure you that most, if not all companies, are now more aware and have made considerable progress with the processes they implement. Any weaknesses that still exist will be highlighted during our constant audits. The sanctions will be severe, especially in cases where we identify shortcomings similar to those identified and noted during the previous audit cycle.

As a result, clients of companies will soon realize that all companies apply the same due diligence measures and that changing company makes no sense.

On the uniform application of the procedures, I believe that banks are in a very good level of preventing laundering, but you can be informed best by the representative of the Bank of Greece, Mr. Vlysidis.

3. WRITTEN RECORDS OF THE IMPLEMENTATION OF ADEQUATE PROCEDURES FROM COMPANIES TO PREVENT MONEY LAUNDERING.

Is the Hellenic Capital Market Commission able to consider not implementing adequate procedures to deal with laundering, although our company is familiar with its customers?

This issue had been highlighted in the past and you should pay special attention, because it is important.

In order for an external or internal auditor to determine whether a Company implements a process, this implementation should be imprinted on a document.

Subsequently, the fact that some transactions are being investigated should be seen on prints along with the relevant notes of the responsible official.

For example, the fact that the origin of a client's funds was not considered suspicious and that there was no need to refer to the Anti-Money Laundering Authority, should be reflected in the relevant reports and investigation notes.

Any knowledge about the client or control of their transactions should be imprinted so that the internal auditor can verify that the written procedures established by the Company have been adhered to and can regularly inform the management of any deviations.

We have seen companies that have gathered all credentials for all their customers, but there is no indication that the documents have been processed by a competent employee.

As a result, we have seen clients with funds that are not justified by their financial profile, that have different professions, different ID numbers, different addresses, and there is not even a draft note that gives any explanation.

For example, where there is no written record of these investigations because companies claim that they have been made through oral agreements with their executives, the Hellenic Capital Market Commission will consider that these investigations have not been carried out and that the internal procedures of Companies provided for in Article 41 of Law 3691/2008 are inadequate. The lack of the ability to determine whether or not the written procedures of a Company are in place means that its organization is seriously problematic.

4. THE CLEARANCE NOTE FROM THE TAX AUTHORITY.

For the certification of the Tax Identification Number, the customer must provide the full Clearance Note (including the amounts). For the purposes of VAT identification, any relevant Tax Office document is sufficient.

For the creation of the Economic profile, documents on the origin of the client's funds are required. The fact that "you know the customer" means mainly this. That is why the Clearance Note from the Tax Office and anything else that is relevant can be used**.**

It should be noted here that the most important control of the Company for each of its customers is the correlation between the value of transactions and the financial profile.

5. THE IMPLEMENTATION OF MEASURES OF DUE DILIGENCE IN RELATION TO THE CLASS OF THE RISK OF EACH BUSINESS RELATIONSHIP AND TRANSACTION (RISK BASED APPROACH).

Law 3691 with paragraph 10 of Article 13 enables companies to make savings in their resources for the effective implementation of anti-laundering procedures. Thus, in combination with paragraphs 4 to 7 of Article 2 of the Decision no. 1/506/8.4.2009 of the Hellenic Capital Market Commission, the companies may apply due diligence measures according to the degree of risk inherent in any business relationship and transaction, resulting in a reasonable time being consumed on few high-risk clients and a very short time being consumed on all middle or low-risk customers. However, this system cannot perform when the Company classifies all customers in the same risk category, in order to avoid evaluating each client or group of clients with similar characteristics.

6. ABOUT THE FINALIZATION OF PREVIOUS TAXABLE PERIODS.

For suspicious cases where the value of transactions is not justified by the client's financial position, the Company should refer to the Anti-Fraud Committee regardless of whether it has been finalized. Finalizing it for a year does not mean that any amounts are being legitimized by any activity. This matter can only be investigated by the Anti-Fraud Committee.

COMMON MISCONDUCT OF THE COMPANIES

A. **Briefing and training of staff.**

B. **Written procedures.**

C. **Computer support.**

D. **Due diligence measures.**

E. **Suspicious transaction reports.**

F. **Internal control.**

G. **Risk assessment**

A. Briefing and Training of the Staff.

The methods of keeping the staff informed of the procedures they have established and for training them on legal and regulatory developments and typology (for money laundering methods) are usually inadequate.

Common indications of insufficient briefing and training are the lack of staff reports to the Compliance Officer as well as the non-imprint of investigations, when they are conducted.

B. The Firm's Written Procedures for the Prevention of Money Laundering.

1. **The written procedures are not applied correctly or do not adjust to the size and nature of business of each company.**

We have noticed that some companies adopt the procedures of other companies so that these procedures either make for excessive work and cost to the company or they are inadequate. Note that if a company has extensive procedures which, however, it does not implement, this constitutes a violation and will be punished.

2. **The extent of the due diligence measures in each category is not proportionate to their risk.**

The lack of differentiation in the extent of due diligence measures makes it pointless to categorize.

3. **The procedures do not provide for the periodicity of the update of customer data, and as a result, they are not updated.**

That is clearly defined that, for example, it will be every 1 year for high-risk, every 5 years for usual-risk and every 10 years for low-risk.

4. **There are procedures to identify and investigate all suspicious movements.**

This is one of the most interesting points of our audit.

We investigate whether the company applies processes for the identification of various suspicious transactions such as customer transactions intended to gather funds to a bank account. For instance, when the customers deposit funds from various bank accounts to the company, but they ask for the money to be returned to a specific bank account. The deposit and withdrawal of a certain amount of money does not always mean that it is the same capital available for investment.

C. Computer support.

In companies that have a large number of active customers, a variety of services provided and a large number of transactions, there are no suitable systems to identify the movements to be investigated and to implement the due diligence measures.

In such cases, it is humanly impossible for employees to make correlations of the numerous and varied data and to calculate deviations for investigation.

D. Due Diligence Measures.

1. **The documents listed in Annex I of Decision 1/506/8.4.2009 for verification of customer identity, especially for customers prior to 1/3/2007 (23/404 / 22-11-2006), are not collected.**

Many companies believe some documents to be unnecessary and omit them completely from their collection (e.g. certification of the customer's profession).

2. **The necessary comparisons and correlations between the documents of the same customer (e.g. different addresses, contact telephones, VAT numbers or ID numbers) are not being performed.**

3. **Even in cases where the Company has collected all the documents for the certification and verification of customer data, these are not properly utilized either at the beginning of the business relationship or later in the exercise of the planned continuous supervision, e.g. the client's financial profile is not created and is not related to their transactions (money deposits or portfolio value).**

Very often, it is difficult to determine the customer's financial profile, but it is necessary to do that, because the check of the deviation with the level of customer transactions is one of the main audits that an anti - money laundering authority has to carry out (Paragraph 1 (f) Art 13, n. 3691).

4. **The list of suspects is not kept by the companies on the basis of relevant statements with names issued by international organizations or on the basis of relevant publications and as a result, there is no correlation of customers with such a list. When there is such a list, it does not appear anywhere whether the customers have been associated with this list, or who they are.**

(Article 2 par.2 of the Decision 1/506/8.4.2009)

5. **There are no records and worksheets kept in order to imprint employee investigations and to document the implementation of procedures.**

No statements are kept with the movements found for investigation and with notes with the relevant actions next to each amount. The officials claim that they "know" the client and have "discussed" their case with each other, something that is not documented.

6. **Indicative typology of money laundering practices is not taken into account.**

Where there are transactions and incidents similar to those listed in Circular 41/8-4-2009 of the HCMC, the Company should have imprinted the relevant investigation of the responsible employee.

E. Claims to the Compliance Officer and to the Anti - Money Laundering Committee.

1. **There are no reports of suspicious transactions neither to the Anti-Fraud Committee nor to the Compliance Officer for investigation, even by companies with a very large number of active customers.**

Written reports must be submitted to the Compliance Officer, who must record in writing in each of his inquiries whether or not to report to the Anti-Fraud Committee.

2. **On the other hand, some companies submit too many reports to the Anti-Fraud Committee for cases that typically do not involve a substantial risk of money laundering.**

For example, some companies systematically submit numerous reports exclusively to customers who have decided to transfer their portfolio to another company.

F. Internal Control

1. **The Internal Auditor does not prepare reports to the company's management regarding the confirmation of the implementation of the company's procedures for money laundering.**

As we mentioned, this indicates a lack of organization in the Company.

2. **In several companies, the Internal Auditors do not implement a specific audit plan and do not complete relevant worksheets that will lead to the conclusions of the report for the management of the company.**

The existence and implementation of internal procedures for internal control, continuous assessment of level of compliance, internal communication, reporting of suspicious transactions, due diligence etc is required by Article 41 of Law 3691.

G. The Annual Risk Assessment (Article 8 (2d) HCMC Decision 1/506/8.4.2009)

The Compliance Officer does not perform an assessment of the risks from existing and new customers, new products or services, on an annual basis.

Risk assessment on an annual basis is made by simply listing and describing the cases of money laundering that may arise in the Company from its clients, taking into account:

- ✓ its organization (e.g. relying on third parties for due diligence measures, whether it has or does not have an AML computerized program, etc.)
- ✓ the type, number and financial size of its customers (foreign or Greek institutional, retired retail investors, foreigners, non-residents, nightclubs, non-profit organizations, offshore companies, etc.)
- ✓ the type of existing and new products it offers (e.g. online transactions).

The Company then decides on the cases of which the risk is willing to accept, also identifying the due diligence measures to address them. E.g. Greek immigrants from Colombia that intend to buy high-value m/f shares or non-residents that want to make transactions via internet.

If nothing changes the following year, then the Compliance Officer simply states that their report is valid for the following year as well.