MONEY LAUNDERING TYPOLOGIES SPECIFIC TO ROMANIA

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Money laundering is a process by which some people render or try to render a legal appearance to some profits obtained illegally by criminals who, without being compromised, will afterwards benefit from the respective incomes.
In this context, the issue of money laundering, comprising a wide spectrum of directions, namely: the main landmarks regarding the appearance of "dirty" money and its laundering; the money laundering mechanism which mainly involves its A) the placement the initial movement of money, in order to change its form or place and to place it outside the authorities' coverage area of applying the law. For the incomes in cash which are permanently cashed, there are valid the first techniques used by the mafia groups in 1920 in the USA. Illegal money is mixed with money legally obtained from businesses which involve cash receipts. B) Stratification (or investment) represents the second stage of money laundering in which the money circulates within different companies, corporations and financial institutions, physically, by deposit or electronic transfer. One aims to physically move the money to other entities in order to separate it from its illegal source in an attempt to disguise its origin. In most of the cases, the first concern after committing the basic infraction is to transfer money abroad. The basic rule is that the person whose funds have to be transferred should not assume this risk. At the international level there are networks of professional couriers who take over the transfer action and provide the delivery of money abroad, at the established place and then its integration, respectively the return of clean money to the offender in order to be used as legally obtained money; regulations regarding money laundering, at international level (Convention from Vienna, Recommendations of the International Financial Group - GAFI 40 + 8 Special Recommendations regarding Terrorism Financing, European Union Directives) as well as at the national level; essential characteristics of the activity to prevent and fight against money laundering in Romania, which is mainly the responsibility of the National Department for Money Laundering Prevention and Control - ONPCSB, as well as the financial analysis of the activity to prevent and combat money laundering in Romania within 1999-2011, identifying the specific typologies of money laundering; the connection between money laundering and terrorism financing.
Key words:fiscal evasion, underground economy, corruption, taxes, fraud
J.E.L.cassification:G0,G15,G33,H26,H3

1.Introduction

Money laundering is a process that gives or tries to give an appearance of legality of profits obtained illegally by criminals without being compromised further receive such income.
Offenders of different categories, either drugs or firearms traffickers, merchandise smugglers or one of the various types of professionals in frauds, have to launder the money which comes from their infractions, for two reasons. The first one is that the track of the money itself can become evidence against the infraction perpetrator; the second reason is that the money itself can be the target of the investigation and confiscation.
Money laundering schemes have a series of **particularities** determined by:
-Jurisdiction in which the money laundering takes place. The offenders act according to certain favourable or restrictive conditions of the legislation and customs of the respective place.
-Illegal funds generating infraction. Sometimes, the generating infraction creates a special "style" of the money laundering, by transferring its own characteristics to the laundering process. An eloquent example is that of laundering the funds from fiscal evasion.

-Transnational character. A series of characteristics are given by the fact that money laundering takes place inside the national borders or the money crosses several jurisdictions. Offenders adapt their operation method in order to be able to successfully slip through the barriers which accompany the external transfers of different amounts of money.
In 2003, in Romania, such a "star" scheme was the laundering of money from substitution of petrol products.

2.Laundering of funds illegally obtained from substitution of petrol products

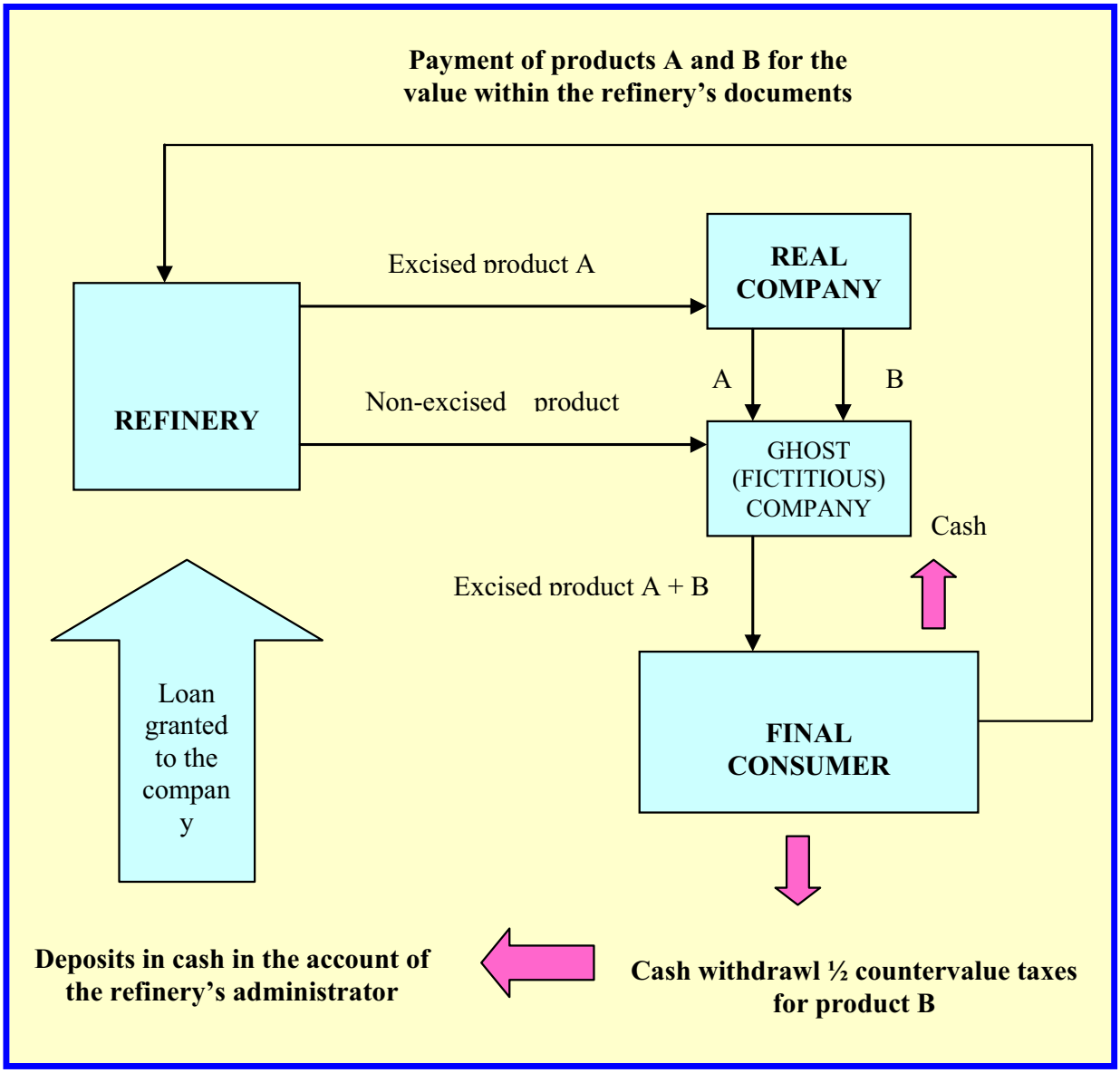
The general scheme of obtaining and then laundering the illegal funds from illegal fuel trade is based on the differentiated overcharge of different petrol products.
A characteristic specific to all the cases regarding laundering of money from substitution of petrol products is the intense use of "ghost (fictitious)" companies, both from the point of view of the number of such companies involved in a scheme, as well as from the point of view of their importance in finalizing the fraud, which takes place as follows:
1. a real company purchases from the refinery two products: product A- excised and product B – non-excised. Generally the proportion is favourable to the inferior fuel: 20% product A and 80% product B. Operation is apparently carried out correctly in that it is registered within the accounting, taxes are paid according to the law etc. Then the real company sells the same quantity of petrol products, in the same structure and quality to a fictitious company which does not pay any taxes to the state and in most of the cases it has a fictitious office;
2. within the fictitious "ghost" company takes place the substitution process, in that product B is added different additives and the whole quantity of fuel (A+B) is delivered to the gas station as superior fuel, with taxes. Then it is sold to the final consumer;
3. after receiving the counter-value of the fuel, the amount of money representing taxes regarding product B (sold as product of A quality) is divided in two between the offenders:

-half of it is withdrawn in cash from the petrol station's accounts and deposited into the personal accounts of the refinery's administrator. This lends his own company (the refinery or another one) and then he can withdraw the laundered amounts, in the form of a reimbursed loan previously granted to this;

-the other half is also withdrawn in cash and split between the people involved from the side of the real company, the "ghost" company and the gas station.

Diagram No. 2.10

Scheme of laundering funds illicitly obtained from substituting petrol products



It is important to mention the fact that the payment of the fuels' counter-value to the refinery is performed for the values written within the accounting documents concluded between this and the real company, but the payment is performed directly from the gas station, without following the track of the merchandise.

3.Laundering of the money from the illicit trade of petrol products and fraud at the expense of the state budget

Within a period of three months, four trading companies (X, Y, Z and T), having as object of the company "(direct) petrol products trade", commercialized products amounting to 330 billion lei, 85 billion lei representing excises.

In order to comply with the legal stipulations with regard to commercialization of petrol products, respectively to prove that the anticipated payment of the excise taxes to the refinery was performed (special deposit), the four companies carried out a series of fictitious operations, which led to a prejudice of approximately 100 billion lei.

Refinery B received 85 billion lei from refinery A, representing the counter-value of the unprocessed oil. These funds were transferred to the companies X, Y, Z and T in the form of "service providing" and "counter-value of the materials". During the same days, these returned the funds in the form of "excise taxes", and in the end, refinery B returned the 85 billion lei to refinery A, as "financing".
Within a few months, the state budget was prejudiced with important amounts, respectively the 100 billion lei:

- 85 billion lei – excise taxes related to petrol products, received but not transferred to the budget;
- 15 billion lei – VAT related to "service providing" and "counter-value of the materials" fictitious invoices

These funds were mainly laundered by the purchase of movable and immovable goods.
By these operations which aimed to point out different fictitious commercial relationships besides the prejudice of approximately 100 billion lei caused to the budget, there were commercialized excised mineral oils, without previously paying the excise taxes for the special deposit.

4. Laundering of money from illegal VAT reimbursement following different overvalued exports

Based on a Report of suspicious transactions received by the Department from a reporting bank, it was established that an exporter received USD 800,000 from abroad. The same day the amount was exchanged into lei and transferred into the account of Company X as "counter-value of the merchandise" (a total of 18 billion lei).
Based on the export documents it was established that the exporter delivered used machines abroad for a price of USD 1000 per kg (the equivalent of 2.5 mil. lei/kg).
Analysing the commercial flow it was found that the exporter purchased the used machines for the price of 2,500,000 lei, from a "ghost" (fictitious) company X, which does not operate within the declared registered office, and did not fill in the declarations regarding the payment obligations to the state budget and the accounting balance sheets, associate of the company is an Arab citizen B who has never come to Romania.
On behalf of the fictitious company X acted as empowered person the administrator of the exporter – natural person A. In its turn, the fictitious company X purchased the used machines from a producer, for a price of 250,000 lei per kg. Therefore, the first step of the fraud was the overestimation of the price by the fictitious company X from 250,000 lei/kg to 2,500,000 lei/kg.
Based on the further analysis it was pointed out that the payment for the merchandise to the producer for the price of 250,000 lei/kg, 2 billion lei in total, was performed by the exporter, not by means of bank instruments but in cash. The amount received from the exporter by the fictitious company X was transferred based on fictitious invoices to another fictitious company Y, which does not operate within the declared registered office and did not fill in the declarations regarding the payment obligations to the state budget.
In its turn, the fictitious company Y transferred the money abroad in the form of advance payment for different products which were never imported and the advanced payment was never repatriated. It is worth mentioning the fact that the empowered person on behalf of the fictitious company Y is the exporter's administrator, also empowered on behalf of the fictitious company X.
Based on the described operations, the exporter benefited from 3.8 billion lei representing the VAT reimbursement related to the exports performed; the money was transferred to the fictitious company X, as "counter-value merchandise".
Based on different fictitious loan contracts, the fictitious company X transferred the 3.8 billion lei into the personal account of personal of the company's associate, the Arab citizen B (fictitious person), with the justification "loan reimbursement to the associate"; then the

money was withdrawn in cash by the exporter's administrator – natural person A, empowered for the fictitious citizen B's account.
While the fictitious company X did not pay the collected VAT and the income tax related to profit obtained from selling merchandises for an overvalued price, the exporter benefited from the 3.8 billion lei representing the VAT reimbursement related to the exports, amount which, by the operations previously mentioned, was laundered, appearing to be amounts from legal sources (loan reimbursement).

5.Concluzions

A key element in the fight against money laundering and terrorist financing is the need for monitoring and assessing countries on international standards. Mutual evaluations by FATF, IMF and World Bank is a vital mechanism for ensuring that the FATF Recommendations are effectively implemented by all states.At the EU level have been taken several actions and documents were developed significance in money laundering. Of these, two documents have a special place:(C) November 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, called Strasbourg Convention, supplemented by Council Decision of 26 December 2001 on money laundering, the identification, tracing, stop, seizure and confiscation assets and earnings of offenses

(D) Council Directive. 308 of June 1991 on prevention of the use of the financial system for money laundering, amended by Council Directive. 97 of December 2001.Financial institution privacy laws should be designed to not hinder the fight against money laundering. Institutions, directors and employees must inform the authorities responsible for combating money laundering on its own initiative or when observing actions that indicate money launderingFrom this point of view, money is more than just smuggling money or the simple act of hiding dirty funds. In this context a distinction is made between technical - which are the individual proceedings - and the scheme - which involves a series of interrelated procedures to an end.Techniques and schemes can be grafted on the mechanisms of the institutions, usually banks or other financial-type (national lotteries, gambling, slot machines, casinos, horse racing etc..).It is also highlighted difficulty in identifying money laundering and distinction, in practice, the existence and disguise hiding / concealing the nature of money. Thus, if the money resulting from a criminal law and hindered by their owner spends his or her moderation and anonymous transfer to a country where the jurisdiction does not apply sanctions against the illegal origin of money, these funds can hardly be described as clean money. In this case, is actually talking to the authorities of hiding money in the country where the basic offense and where such actions are sanctioned by law. If this money but are given a legitimate origin, even in the country where the offense and which by law are established sanctions against their origin (dirty), then talk about money really wash - that nature was disguised.
While carrying out the activity to prevent and combat money laundering, it was found out that in certain periods there are certain "star" schemes, in that they are frequently used within a certain period of time, and then the offenders stop using them and come up with new ones.

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