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Pravna podrška pregovorima

Implications of further liberalisation of capital movements on the Serbian system for prevention of money laundering and terrorist financing including examples of EU member states' experiences

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- My perspective: accountant/economist
- The AML Draft – in a good state, Serbia has a satisfactory level of alignment with *acquis*. No major issues but implications for:

Company law (6), financial services (9), justice, freedom & security (24), targeted financial sanctions, freezing of terrorist assets (31)

- MONEYVAL
- Arrangement of talk:

Freedom of movement of funds; how AML can be improved; UK, Spain experiences.



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Chapter 4: Free movement of capital

- Capital movements to be liberalised gradually, long term capital transactions significantly liberalised, short term transactions and deposit activities ('STT') partially liberalised.
- Premature liberalisation of STT could expose Serbia to volatile capital movements and undermine the stability of the system.
- Full liberalisation shall be completed by the date of accession.



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Freedom of movement of funds

- Necessary condition for efficient resource allocation, economic efficiency/prosperity
 - unfashionable principle, Trump, NAFTA, Brexit.
 - Violated by money laundering:
 - theft from victim country
 - swamps receiving country
 - e.g. Russia → UK (London)
- 80bn euros per year, 350 000 SARs (UK NCA)



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London

- Transparency International reports
- 2006-15: House prices rose twice rate of increase in disposable income. 3 times in some districts.
- > 44,000 properties owned by overseas companies. 91% through 'secrecy jurisdictions'
- > 50% in Westminster, Kensington, Chelsea



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London – too expensive to live in for an ordinary law abiding citizen?

- London anti-corruption summit, 11 May 2016
 - corruption & terror dual threats to world economy & security
 - 6 countries agreed to publish registers of beneficial ownership
- Cameron resigns 12 September 2016

AML loses real & significant political support



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Register of Beneficial Ownership

‘People with significant control’, ‘PSC register’

- Live from 30 June 2016
- As part of annual Confirmation Statement
- Significant? Avoidance?
- For all companies but not audited so no professional involvement/responsibility



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Company law implications:

- Money laundering offences by officers:
e.g. disqualification of a director for 'unfit conduct'
- Duties of liquidators, receivers, administrators
- Duties of auditor, e.g. register of beneficial ownership
- Types of shares, share options, directors' share options etc.



Can/should AML efforts be improved?

- Economics of sanctions:

Commercial benefits vs. Costs

additional revenue fine X probability

- Unlimited fines? (no maximum)

- Criminal sanctions: fine , jail

- Professional sanctions:

lawyers, accountants, real estate agents,
banks/bankers? Others: architects, surveyors,
liquidators, receivers and administrators



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Can/should AML be improved?

- Costs and benefits
- *Saperstein et al 2015*
- Punishing banks ineffective (too big to fail?)
- Money spent on AML could have been lent; boycotts of corporations/countries may affect poor
- Need to move focus from SARs to a wider understanding, e.g. JMLIT in UK.



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Can/should AML be improved?

- Exchange of information (Egmont group, FIU.net)
- Serbia needs to strengthen its capacity to run complex financial investigations in parallel with criminal investigations (Chap 31), implies specialisation of staff

Operation Lightning('Operacion Relampago')

Mallorca, Spain. Buffet Feliu. ML & lost tax revenue

Began 2005, press reports 2007, sentencing 2016

816 companies, 307m euros



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THE END

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