

INTERNAL CONTROL SYSTEM IN COMMERCIAL BANKS, ITS CREATION AND EXISTING PROBLEMS

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Abstract: *This article analyzes the importance of the internal control system in commercial banks of the Republic of Uzbekistan. Also, the opinions of world scientists in the field of combating the legalization of criminal income are given. International standards and opinions of foreign scientists about the role of the internal control system in the bank's activities are studied and recommendations are made to eliminate the existing shortcomings.*

Key words: *FATF, money laundering, internal control, internal control system, internal control rules.*

Introduction.

In the countries of the world, at the end of the 20th century, many criminal groups engaged in criminal activities (drug trade, arms trade, etc.) and easily carried out financial transactions related to these activities through commercial banks, and the lack of legal frameworks for managing risks in this field in banks made it necessary to regulate this field. caused. First, the United Nations Convention "Combating Illicit Traffic in Narcotic Drugs and Psychotropic Substances" (Vienna, December 20, 1988) was adopted. "In 1989, the world's seven major countries (Great Britain, Germany, Italy, Canada, France, Japan and the USA) founded the FATF organization (Financial Action Task Force), an international institution engaged in the development and implementation of international standards in the field of AML/CFT. Today, 55 countries are members of this organization. This organization first developed its first 40 recommendations in 1990 as an initiative to protect financial systems from drugs and money laundering.

In October 2001, the FATF expanded its powers to include the financing of terrorist activities and terrorist organizations and adopted 9 specific recommendations to combat the financing of terrorism. The FATF recommendations were revised for the second time in 2003 and, together with the specific recommendations, have been adopted by more than 180 countries and are the international standard of Combating money laundering. The international multi-level system of the FATF consists of FATF, FATF regional groups and countries. The FATF regional groups include the Asia-Pacific Group, East

and Southern Africa Group, South America Group, Eurasian Group, Middle East and North Africa Group, Council of Europe Group, Caribbean Group, West African Intergovernmental Group, Central Africa Group. Uzbekistan is considered a member of the Eurasian Group, and this group was established on October 6, 2004. The head office of this group is located in Moscow, and in addition to Uzbekistan, this group also includes countries such as Belarus, China, Russia, India, Kyrgyzstan, Turkmenistan, Kazakhstan and Tajikistan. On February 28, 2008, the FATF announced its concerns on its official website that a series of decrees of the President of the Republic of Uzbekistan effectively abolished the Combating money laundering regime in the country and led to Legalization of criminal proceeds.

Literature review.

The system of credit control in commercial banks plays a crucial role in managing risks and ensuring financial stability. However, various challenges and problems exist within this system. Issues such as the lack of qualified specialists for implementing effective financial controlling systems (Anna, Maryna., Hanna, Myroshnychenko., Leonid, Katranzhy (2023)), the emergence of non-performing loans leading to systemic crises (Mirzoev, Feruz. (2022).), the importance of methodological integrity in risk management for banks (Ruslana, Kozubekova. (2023)) [3], the necessity of improving internal control systems to prevent risks (Fandi, Li. (2020)), and the constraints on China's commercial banks due to high non-performing assets and inadequate risk management (Chenyu, Liu. (2023)) all contribute to the complexity of credit control in commercial banks. Addressing these challenges through enhanced training, better risk assessment methods, and improved internal control mechanisms is essential for the effective functioning of credit control systems in commercial banks.

studied the effect of internal control systems on the performance of banks and showed that strong internal control systems are important in ensuring the financial stability of banks (Arndorfer & Minto (2015)). And Drogalas & Karagiorgos (2015) emphasize the importance of internal audit in strengthening internal control systems (Drogalas & Karagiorgos (2015)).

It shows that mismanagement of financial risks can have negative effects on the economy (Stulz (2014)). Gatzert & Martin (2015) emphasize that banks' risk management strategies help in effective risk management (Gatzert & Martin (2015)). Hoffmann et al. (2012) emphasizes the importance of technological innovation in improving risk management systems (Hoffmann et al. (2012)).

Barth et al. (2013) show that failure of commercial banks to comply with regulatory requirements can have negative effects on the economy (Barth et al. (2013)). The Basel Committee on Banking Supervision (2011) emphasizes the importance of compliance with governance standards (Basel Committee on Banking Supervision (2011)). COSO (2013) suggests that compliance with regulatory requirements can be ensured by improving the effectiveness of internal control systems (COSO (2013)).

Research methodology.

In this article, the importance of the internal control system in commercial banks of the Republic of Uzbekistan, the opinions of world scientists in the field of combating the legalization of criminal income, international standards on the role of the internal control system in banking activities, the opinions of foreign scientists are studied, scientific abstraction as a research methodology in the comparative analysis of scientific, historical and practical sources. , logical and structural analysis, grouping and segmental analysis methods were used.

Analysis and results.

FATF called on Uzbekistan to restore the AML/CFT regime and to create a AML/CFT regime that meets international standards in cooperation with the Eurasian group. At the same time, FATF urged its members to take into account the risks arising from the weaknesses of the Combating money laundering regime in Uzbekistan. During this period, the Law No. 660-II "On Combating the Legalization of Proceeds from Criminal Activities, Financing of Terrorism, and Financing of the Distribution of Weapons of Mass Destruction" adopted on August 24, 2004 in the Republic of Uzbekistan was in effect (ORQ-660-II. (2004)). Based on Article 6 of this Law, the "Rules of internal control on combating the legalization of proceeds from criminal activities and the financing of terrorism in commercial banks" was developed by the Central Bank of the Republic of Uzbekistan together with a specially authorized state body and was registered in the Ministry of Justice on October 23, 2009 with the number 2023 .

Based on the requirements of these Rules, commercial banks have started to establish their internal control services. On June 15, 2010, the Euro-Asian Group published on its website detailed information on the evaluation of measures implemented in Uzbekistan in the field of Combating money laundering, and acknowledged that Uzbekistan has achieved positive results in these evaluations. Pursuant to Article 15 of the Law of the Republic of Uzbekistan No. 660-II "On Combating Legalization of Proceeds from Criminal Activities, Financing of Terrorism, and Financing of Proliferation of Weapons of Mass Destruction", organizations that carry out operations related to funds or other property, including banks, are required to provide their internal the obligation to organize and introduce control systems was imposed.

The establishment of an internal control system in commercial banks and the conduct of banking activities in accordance with the requirements of the legislation in this field, the involvement of the bank, bank employees and customers in cases related to the legalization of proceeds from criminal activities and the financing of terrorism, fines and sanctions against the bank by the Central Bank and authorized bodies in this field prevents the application and penetration of criminal persons into the management of the bank .

Currently, the requirements for the organizational structure of commercial banks of the Republic of Uzbekistan can be divided into two. It is known that in the country, banks with more than 50 percent

of the state's share in the authorized capital of the bank are considered as state banks, and other banks are considered as private banks. According to the Decree of the President of the Republic of Uzbekistan "On approval of the strategy for the development of the national system of combating the legalization of proceeds from criminal activities, the financing of terrorism and the financing of the proliferation of weapons of mass destruction" of the Republic of Uzbekistan is carried out in agreement with According to the Rules of Internal Control of Commercial Banks, the head of the internal control structure is accountable to the Chairman of the Bank's Management Board. Currently, commercial banks operating in our country have different internal control structures based on the number of branches, volume of work and number of clients. For example, in some large banks, the "Internal Control Service" for combating money laundering and the "Compliance Control Service" operating in the field of combating corruption and managing conflicts of interest have been separately established.

Table 1

Documents related to combating money laundering and terrorist financing	
Criminal income to legalization against to fight	Terrorism to financing against to fight
↓	↓
United Nations of the organization against the illegal circulation of narcotics and psychotropic substances fighting convention (1988)	UN terrorism to financing against to fight about Convention (1999)
Transnational organized to crime UN Convention against (year 2000)	UN Security Council resolutions 1267, 1269, 1373, 1390, 1452, 1455, 1526, 1566
Of the UN To corruption against Convention (2003)	Terrorism, rebellion and to extremism against Shanghai Convention (2001)
Europe Council From crime received income wash, search make, take to put and confiscation to do about convention (1990)	Independent States to the Commonwealth member countries in the middle to terrorism against in the struggle cooperation about Agreement (1999)

Source: Compiled by the author.

Also, in some banks, based on the written order of the Central Bank of the Republic of Uzbekistan in June 2022, a separate "Sanctions Compliance" service has been established, which operates in the field of sanctions compliance. In this case, the internal control service is subject to the Bank's Management in accordance with the requirements of the Internal Control Rules. According to the requirements of the Basel Committee on Banking Supervision, the "Compliance Supervision Service" is subordinated to the Supervisory Board of the bank. Also, we can see that the "Stock compliance" departments are subordinated to the bank's Supervisory Board based on the request of the Central Bank. In most of the remaining commercial banks, we can see that the "Compliance Control Service" subordinated to the Supervisory Board of the bank covering these three areas has been established.

According to the 10th amendment to the Rules of internal control of commercial banks introduced on April 4, 2023, one of the members of the bank's management should be appointed to the position of head of the internal control service. That is, through this request, the Central Bank is making a request to include the heads of internal control in the composition of the bank's management. It is known that

a bank is a commercial organization and its main activity is focused on earning income. But in some cases, the management of commercial banks make important decisions without taking into account the challenges in the field of combating the legalization of criminal income. This situation may cause banks to get involved in illegal activities such as money laundering or terrorist financing. In order to prevent these situations, the Central Bank aims to increase the importance of this system and reduce the risks in this area by including the heads of internal control in the bank management.

Table 2

International standards of international financial organizations to combat money laundering

World Bank and International Monetary Fund	Basel Committee on Banking Supervision	International Association of Insurance Supervisors	International Organization of Securities Commissions
Financial sector and offshore financial center assessment programs	Basel Principles Standards for Customer Identification	Anti-Money Laundering Guidelines for Insurance Regulators and Insurers	Industry Guidelines and Decisions

Source: Compiled by the author.

Also, in order to reduce the influence of the bank's management on the internal control services of the Central Bank, the fact that this structure is independent from other structural structures, that the hiring and dismissal of managers and employees of these structural structures is carried out only based on the decision of the Supervisory Board of the bank, as well as the monthly salary of these employees and their equivalent Requirements are set for fees to be determined only by the bank's Supervisory Board. In addition, the requirements for employees of the internal control department include the fact that the head of the department must have a higher economic or legal education and at least two years of managerial experience, or at least one year of work experience in the Internal Control Service, the head of the department or an employee (including employees of the internal control service at bank branches) it is established that the following persons cannot be appointed to the post:

- persons who, in their activities and personal behavior, have shown that they mismanaged the entrusted department or did not conduct the work in good faith;
- persons who were previously held criminally liable by the court for crimes in the field of economy.

Currently, when analyzing the activities of internal control services of commercial banks, it can be seen that there are the following problems in the legislation regulating the field of internal control, as well as in practice:

- Absence of a clear requirement for the correct entry of the purpose of payment by customers in the payment documents;
- Failure to save information on the previous founders/beneficiaries/leaders when the information on the founders/beneficiaries/managers of clients is changed in the automated systems (data base) of some banks;

- The sale of cash foreign currency in the amount of more than 500 times Base calculation amount (BHM) by an individual within a period not exceeding 1 month and the occurrence of problems in reporting such transactions to a specially authorized state body;
- A legal entity is an attempt to hand over to the bank, based on the power of attorney issued by the enterprise, the documents provided to the employees of its clients for opening bank cards based on the salary project;
- Existence of probability of execution of bank operations in favor of the persons on the list when operations are performed through the authorized representatives of the persons on the list.

Conclusions and suggestions.

In conclusion, it should be noted that it is very important to comply with legal documents in the field of combating the legalization of criminal income and the financing of terrorism in commercial banks. Compliance with the legal requirements in this area prevents the involvement of the bank, its employees, managers and customers in activities such as money laundering and terrorist financing, as well as the entry of criminal persons into the management of the bank. When studying the work of internal control staff of commercial banks in this field, it is possible to understand that there are the following problems in legislation and practice today and to solve these problems:

- Incorrectly entering the code of the purpose of payment in the payment documents by the employees of the internal control service of commercial banks during the analysis of the activities of the customers causes difficulties in studying the compatibility of the contents of the funds received and transferred to their accounts. Bank employees should constantly provide explanations to customers regarding the correct entry of the code of the purpose of payment into the payment documents.
- In some banks, when the information about the founders/beneficiaries/managers of customers is changed in the automated system of the bank, the failure to save the previous information leads to the fact that the persons specified in the requests of the specially authorized state bodies are not identified. As a solution to this problem, in the Internal Control Rules of the Central Bank, the legal entity should establish specific requirements for permanent storage of information about the previous founders/beneficiaries/leaders of the client in the client's questionnaire.
- In the case of sale of foreign currency in cash less than 500 times Base calculation amount (BHM) by an individual, the bank does not properly check the client. However, if such operations are carried out several times during a month and the total amount of operations is more than 500 times the Base calculation amount (BHM), these operations are considered suspicious operations and must be reported to a specially authorized state body. Inadequate verification of the client and lack of information about him will cause the notification of the suspicious operation to be not submitted to the specially authorized state body. In order to solve this problem, the Central Bank is recommended to reduce this limit to 500 Base calculation amount (BHM).

- In the process of opening bank cards for the employees of legal entities - clients based on the salary project, the representative of the enterprise tries to submit to the bank the documents provided for opening an account to the employees of this enterprise based on the power of attorney issued by the enterprise. In this case, there is a risk of opening bank cards to the company's employees without their knowledge and participation. It is known that, according to the Civil Code, a power of attorney can be issued on behalf of a legal entity only for concluding transactions that do not conflict with the goals of activity specified in the charter (statute) of the legal entity. However, a power of attorney issued by one person to represent another person before third parties must be in writing and signed by the person giving the power of attorney. In such cases, banks should demand that the power of attorney presented by the representatives of the legal entity clients contain the signatures of the employees of the trusting enterprise.
- Availability of bank transactions in favor of Listed persons when transactions are performed through authorized representatives of Listed persons. It is known that according to Clause 22 of Internal Control Rules 2886, when one-time operations are carried out by customers, for example, when funds are transferred for goods and services without opening a bank account (using the bank's transit account number), the person who applied to the bank - the customer or his authorized representative - must (MB, IJQKD (2017)). In such cases, there is a possibility that persons involved in terrorist acts or included in the list of persons suspected of carrying out bank transactions through other persons. In order to eliminate this risk, the Central Bank should include in the Internal Control Rules specific requirements that banks should properly check the person who participated as a party to this contract, in addition to properly checking the authorized representative of the natural person, in the transfer of funds for goods and services based on the contract.

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