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ISSUES OF CRIMINAL LEGAL COMBATING CRIMES IN THE MARKET OF NON-BANKING FINANCIAL SERVICES IN UKRAINE

With the rapid development of the financial infrastructure and the emergence of new financial market institutions the issues of criminal legal combating crime in the non-banking financial services market in Ukraine require special attention.

Today criminals are using sophisticated methods of manipulation and structured technology and committing various crimes hiding behind activities of non-banking financial institutions - insurance fraud, money laundering, tax evasion etc. Herewith, it concerns wide deceit of clients, using false attributes of worldwide famous companies and telecommunication systems, impact of corrupt officials and much more. There are many cases when crimes in this sphere are committed by organized groups and criminal organizations. The most affected areas include insurance, activities of credit unions, investment activity, non-government pension funds. All these find so much resonance in the society, cause enormous material and moral losses to dozens thousands victims, undermines citizens' confidence in the ability of state represented by law enforcement agencies to protect the financial interests of individuals and legal entities.

It should be noted that the countries with developed market relations also provide reports on the scale of criminality in the market of non-banking financial services. According to Interpol, losses from organized crime in drawing investment area in Europe rank second only to drug trafficking. Hence, national law enforcement agencies (in particular, the National Police of Ukraine, which bears the main burden of fighting crime) are facing new challenges of legislative, regulatory, organizational and applied nature which require effective decisions.

Moreover, criminal legal science should assist in solving the aforesaid problems. In particular, in the process of our research of

materials of criminal cases (proceedings) there were singled out main groups of crimes committed in the market of non-banking financial services. These include appropriation of another's property (Articles 190-191 of the Criminal Code of Ukraine (the CCU)), preparation to commit, commitment and concealment of appropriation of another's property (Articles 205, 209, 358, 361-362 of the CCU), as well as related abuse of managers and employees of business entities (Articles 364 and 366 of the CCU). The analysis of practical materials indicate that «economic» forms of fraud in the activity of non-banking financial institutions differ from «traditional» in a number of features, including the characteristics of offender and victim, ways of committing a crime, the size of damage.

Basing on the experience of other countries, we offer to complement Paragraph 3 of Article 209 of the CCU («Legalization (Laundering) of the Proceeds of Crime») by a qualifying sign - actions envisaged in Paragraphs one and two of this Article committed by an official using his official position. It is advisable to enshrine legislatively conditions for special exemption from prosecution for person who committed the legalization (laundering) of proceeds from crime if this person voluntarily reported about the crime committed by him before the beginning of criminal proceedings and contributed to its disclosure and voluntarily returned the proceeds of crime. In order to improve measures to combat money laundering it is viewed necessary to provide legislative framework for the possibility to transfer part of seized or confiscated by law enforcement agencies funds to a special state fund.

We support the position of scientists regarding the necessity of withdrawal of crimes that can not be predicate on to the legalization (laundering) of proceeds from crime, a crime under Article 212 of the CCU. There should also be formulated reasons for the prosecution for the legalization (laundering) of proceeds from crime and for criminalization of organization of financial pyramids. In parallel, there should be made appropriate changes to non-criminal law as well.

We hope that the suggested proposals to enhance the effectiveness of criminal legal combating crime in the market of nonbanking financial services in Ukraine will be realized and implemented by national legislator.