

## FINANCIAL ACTION TASK FORCE (FATF)

October 22, 2004

### **SPECIAL RECOMMENDATION IX: CASH COURIERS**

Countries should have measures in place to detect the physical cross-border transportation of currency and bearer negotiable instruments, including a declaration system or other disclosure obligation.

Countries should ensure that their competent authorities have the legal authority to stop or restrain currency or bearer negotiable instruments that are suspected to be related to terrorist financing or money laundering, or that are falsely declared or disclosed.

Countries should ensure that effective, proportionate and dissuasive sanctions are available to deal with persons who make false declaration(s) or disclosure(s). In cases where the currency or bearer negotiable instruments are related to terrorist financing or money laundering, countries should also adopt measures, including legislative ones consistent with Recommendation 3 and Special Recommendation III, which would enable the confiscation of such currency or instruments.

#### **Interpretative Note to Special Recommendation IX: Cash Couriers**

##### **Objectives**

1. FATF Special Recommendation IX was developed with the objective of ensuring that terrorists and other criminals cannot finance their activities or launder the proceeds of their crimes through the physical cross-border transportation of currency and bearer negotiable instruments. Specifically, it aims to ensure that countries have measures 1) to detect the physical cross-border transportation of currency and bearer negotiable instruments, 2) to stop or restrain currency and bearer negotiable instruments that are suspected to be related to terrorist financing or money laundering, 3) to stop or restrain currency or bearer negotiable instruments that are falsely declared or disclosed, 4) to apply appropriate sanctions for making a false declaration or disclosure, and 5) to enable confiscation of currency or bearer negotiable instruments that are related to terrorist financing or money laundering.

Countries should implement Special Recommendation IX subject to strict safeguards to ensure proper use of information and without restricting either: (i) trade payments between countries for goods and services; or (ii) the freedom of capital movements in any way.

##### **Definitions**

2. For the purposes of Special Recommendation IX and this Interpretative Note, the following definitions apply.

3. The term *bearer negotiable instruments* includes monetary instruments in bearer form such as: travellers cheques; negotiable instruments (including cheques, promissory notes and money orders)

that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery; incomplete instruments (including cheques, promissory notes and money orders) signed, but with the payee's name omitted.<sup>1</sup>

4. The term *currency* refers to banknotes and coins that are in circulation as a medium of exchange.

5. The term *physical cross-border transportation* refers to any in-bound or out-bound physical transportation of currency or bearer negotiable instruments from one country to another country. The term includes the following modes of transportation: (1) physical transportation by a natural person, or in that person's accompanying luggage or vehicle; (2) shipment of currency through containerized cargo or (3) the mailing of currency or bearer negotiable instruments by a natural or legal person.

6. The term *false declaration* refers to a misrepresentation of the value of currency or bearer negotiable instruments being transported, or a misrepresentation of other relevant data which is asked for in the declaration or otherwise requested by the authorities. This includes failing to make a declaration as required.

7. The term *false disclosure* refers to a misrepresentation of the value of currency or bearer negotiable instruments being transported, or a misrepresentation of other relevant data which is asked for in the disclosure or otherwise requested by the authorities. This includes failing to make a disclosure as required.

8. When the term *related to terrorist financing or money laundering* is used to describe currency or bearer negotiable instruments, it refers to currency or bearer negotiable instruments that are: (i) the proceeds of, or used in, or intended or allocated for use in, the financing of terrorism, terrorist acts or terrorist organisations; or (ii) laundered, proceeds from money laundering or predicate offences, or instrumentalities used in or intended for use in the commission of these offences.

### **The types of systems that may be implemented to address the issue of cash couriers**

9. Countries may meet their obligations under Special Recommendation IX and this Interpretative Note by implementing one of the following types of systems; however, countries do not have to use the same type of system for incoming and outgoing cross-border transportation of currency or bearer negotiable instruments:

a. ***Declaration system:*** The key characteristics of a declaration system are as follows. All persons making a physical cross-border transportation of currency or bearer negotiable instruments, which are

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<sup>1</sup> For the purposes of this Interpretative Note, gold, precious metals and precious stones are not included despite their high liquidity and use in certain situations as a means of exchange or transmitting value. These items may be otherwise covered under customs laws and regulations. If a country discovers an unusual cross-border movement of gold, precious metals or precious stones, it should consider notifying, as appropriate, the Customs Service or other competent authorities of the countries from which these items originated and/or to which they are destined, and should co-operate with a view toward establishing the source, destination, and purpose of the movement of such items and toward the taking of appropriate action.

of a value exceeding a pre-set, maximum threshold of EUR/USD 15,000, are required to submit a truthful declaration to the designated competent authorities. Countries that implement a declaration system should ensure that the pre-set threshold is sufficiently low to meet the objectives of Special Recommendation IX.

b. **Disclosure system:** The key characteristics of a disclosure system are as follows. All persons making a physical cross-border transportation of currency or bearer negotiable instruments are required to make a truthful disclosure to the designated competent authorities upon request. Countries that implement a disclosure system should ensure that the designated competent authorities can make their inquiries on a targeted basis, based on intelligence or suspicion, or on a random basis.

### **Additional elements applicable to both systems**

10. Whichever system is implemented, countries should ensure that their system incorporates the following elements:

a. The declaration/disclosure system should apply to both incoming and outgoing transportation of currency and bearer negotiable instruments.

b. Upon discovery of a false declaration/disclosure of currency or bearer negotiable instruments or a failure to declare/disclose them, designated competent authorities should have the authority to request and obtain further information from the carrier with regard to the origin of the currency or bearer negotiable instruments and their intended use.

c. Information obtained through the declaration/disclosure process should be available to the financial intelligence unit (FIU) either through a system whereby the FIU is notified about suspicious cross-border transportation incidents or by making the declaration/disclosure information directly available to the FIU in some other way.

d. At the domestic level, countries should ensure that there is adequate co-ordination among customs, immigration and other related authorities on issues related to the implementation of Special Recommendation IX.

e. In the following two cases, competent authorities should be able to stop or restrain cash or bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of money laundering or terrorist financing may be found: (i) where there is a suspicion of money laundering or terrorist financing; or (ii) where there is a false declaration or false disclosure.

f. The declaration/disclosure system should allow for the greatest possible measure of international co-operation and assistance in accordance with Special Recommendation V and Recommendations 35 to 40. To facilitate such co-operation, in instances when: (i) a declaration or disclosure which exceeds the maximum threshold of EUR/USD 15,000 is made, or (ii) where there is a false declaration or false disclosure, or (iii) where there is a suspicion of money laundering or terrorist financing, this

information shall be retained for use by the appropriate authorities. At a minimum, this information will cover: (i) the amount of currency or bearer negotiable instruments declared / disclosed or otherwise detected; and (ii) the identification data of the bearer(s).

## **Sanctions**

11. Persons who make a false declaration or disclosure should be subject to effective, proportionate and dissuasive sanctions, whether criminal civil or administrative. Persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instruments that are related to terrorist financing or money laundering should also be subject to effective, proportionate and dissuasive sanctions, whether criminal, civil or administrative, and should be subject to measures, including legislative ones consistent with Recommendation 3 and Special Recommendation III, which would enable the confiscation of such currency or bearer negotiable instruments.