



EUROPEAN COMMISSION

Internal Market and Services DG

FREE MOVEMENT OF CAPITAL, COMPANY LAW AND CORPORATE GOVERNANCE

Brussels, 28 April 2008

Summary record

15th meeting of the Committee on the Prevention of Money Laundering and Terrorist Financing

Brussels, 17/18 April 2008

**AML Committee meeting: Seminar on the use of cash in the context of SR IX
17 April 2008**

In his introduction, the Chairman recalled the objective of the seminar: to increase the understanding of the threat of payments in cash and physical transportation of cash from the ML/TF perspective, to discuss best practices regarding control mechanisms applied by public authorities and by the financial institutions, and to explore ways to increase cooperation at European level on this issue.

The ECB informed about the general circulation developments regarding euro banknotes, their migration within the euro area and to countries outside the euro area and the use of high denomination banknotes, respectively.

The Commission representative presented the Treaty provisions on the freedom of movement of capital within the EU as well as its possible limitations according to Article 58 of the TEC. The Commission presented further the purpose; main obligations and practical application of the cash control Regulation (EC) No.1889/2005.

EUROPOL informed on financial crime analysis and investigative techniques to detect and counter ML/TF, i.a. Europol's Analysis Work File AWF SUSTRANS.

Representatives from two national Financial Intelligence Units presented the issue of cash transactions reporting to FIUs. The Bulgarian FIU presented the Bulgarian experience regarding currency thresholds reports. The Belgian FIU differentiates between spontaneous declaration (i.e. disclosure) leading to a simplified analysis and infringements (i.e. urgent disclosure) which is followed by an in-depth analysis. Furthermore, the Commission underlined the importance of tools that were developed at the EU level reinforcing FIU cooperation, namely the FIU.NET.

The Chairman concluded by recalling that it was essential for Member States to have operational systems in place in order to implement SR IX properly. He indicated that the Commission will draft operational conclusions that will be submitted to the Committee for agreement at a subsequent meeting.

1. ADOPTION OF AGENDA AND MINUTES

The agenda and minutes were adopted without changes.

2. MEMBER STATES IMPLEMENTATION OF THE 3RD AML DIRECTIVE – STATE-OF PLAY – SESSION CHAIRED BY PIERRE DELSAUX, DIRECTOR IN DG INTERNAL MARKET AND SERVICES

14 Member States has formally notified their national transposition measures to the 3rd Anti-Money Laundering Directive. Pierre Delsaux underlined that these figures were not satisfactory by any means and underlined in this context that Member States had had nearly 3 years to bring their national legislation in conformity with the global standard set by the FATF and mirrored by the 3rd Anti-Money Laundering Directive. Moreover, the current situation was causing problems for the private sector.

A *tour de table* showed that a majority of the remaining Member States would be transposing in the course of the next 2-4 months. A number of Member States, however, were foreseeing further delays. Pierre Delsaux made it clear that the Commission would pursue with infringement proceedings against those Member States which had not implemented the Directive and issue press releases. It was indicated that in order to provide stakeholders with full transparency and maintain pressure on Member States, the transposition table on the 3rd AML Directive is now part of the FSAP Scoreboard, which is regularly updated.

3. THIRD COUNTRIES EQUIVALENCE UNDER RELEVANT ARTICLES OF THE 3RD AML DIRECTIVE

The Chairman introduced the agenda item by recalling the state of play of the discussions and shortly presented the background for the Member States exchange of views on the issue of third country equivalence under the Anti-Money Laundering Directive. In this context, the Chairman recalled that the Directive does not grant the Commission a mandate to establish a binding (positive) list of equivalent third countries. Member States, however, may on a voluntary basis agree between them a Common Understanding on third countries equivalence under relevant articles of the Anti-Money Laundering Directive. The Common Understanding remains the property of the Member States.

Member States hereafter agreed a Common Understanding on third countries equivalence under relevant articles of the Anti-Money Laundering Directive. Member States also agreed that the Common Understanding should be attached to the minutes of the Committee meeting.

4. REVIEW OF THE E-MONEY DIRECTIVE: POSSIBLE AMENDMENT OF ARTICLE 11(5)(D) OF DIRECTIVE 2005/60/EC

The Commission (DG MARKT) provided a presentation on the proposal for the revision of the E-Money Directive 2000/46/EC, whose adoption by the Commission is scheduled for mid-October 2008. One of the main ideas of the proposal is to align it with the Payment Services Directive (Directive 2007/64/EC). Some Member States (AML experts) expressed concerns about the potential AML/CFT consequence of an increase of the thresholds set under Article 11(5)(d) of the 3rd AML Directive.

5. SURVEY ON COMPLIANCE AT GROUP LEVEL

The Commission recalled that the Commission services intend to undertake a survey on "compliance at a group level" with the anti-money laundering rules. This survey aims at identifying the barriers created by national law or national supervision practices for the compliance by financial institutions with the AML requirements at group level in a EU cross-border context. These barriers may lead to operational problems as well as to increased cost.

6. REGULATION 1781/2006 ON FUNDS TRANSFERS

- (1) Consultation of the 3L3 Anti-Money Laundering Task Force "Common Understanding" on the application of Article 9(2) of Regulation 1781/2006

CEBS informed that the consultation on the Common Understanding would be open until 26 June 2008.

- (2) Basel Committee discussion on cover payments

The Commission recalled the problem related to cover payments and indicated that the Basel Committee was about to finalise a report that will constitute a basis for further discussions at the FATF.

- (3) Article 17 of Regulation 1781/2006

The Chairman informed that to date the Commission has received three applications for derogations under Article 17:

- One application from the United Kingdom with regard to transfers of funds between **Jersey** and the UK, **Guernsey** and the UK, and the **Isle of Man** and the UK.
- Another from Denmark concerning transfers of funds between **Greenland** and Denmark as well as those between the **Faroe Islands** and Denmark.
- The last one from France which concerns transfers of funds between **Monaco** and France, as well as those between the **French overseas territories (Saint-Pierre-et-Miquelon, Mayotte, Polynésie française, Nouvelle Calédonie et Wallis et Futuna)** and France

The Chairman hereafter informed that the information received from the UK leads the Commission services to consider that the UK Crown Dependencies comply with the requirements set under Regulation 1781/2006 and that a decision will be taken in accordance with the comitology procedure foreseen under Regulation 1781/2006.

(4) Article 15

The Chairman recalled the obligations under Article 15 of the Regulation 1781/2006 (sanctions to be adopted by Member States in case of non application of Regulation 1781/2006 by payment services providers).

7. FATF ONGOING WORK

(1) Trade Based Money Laundering (TBML)

The Commission recalled the scope and background for the ongoing FATF exercise on Trade Based Money Laundering.

(2) WGTF – Global Threat Assessment

The Commission services introduced the discussion paper on the strategic surveillance initiative launched by the FATF.

(3) Effectiveness project

The Commission services and the NL delegation presented the Dutch project to undertake a cost-benefit analysis within the FATF.

8. DEBRIEFINGS/ ONGOING ACTIVITIES

(1) EU-FIU Platform

The Commission gave a short debriefing on ongoing activities of the platform.

(2) FATF

- Position on membership

The Chairman informed delegations about the revised mandate 2008 – 2012 of the FATF which was agreed at the February 2008 Plenary meeting.

- FATF Ministerial

The UK delegation – which also ensures the FATF Presidency – provided a short debriefing of the FATF Ministerial which took place on 12 April 2008.

(3) Meeting with the NPOs

The Commission informed that an ad hoc meeting was scheduled to take place on 25 April 2008 where the consultant would be presenting the outcome of a study of the ML/TF vulnerabilities of NPOs and possible remedying actions.

COMMON UNDERSTANDING BETWEEN MEMBER STATES

on third country equivalence¹

under the Anti-Money Laundering Directive (Directive 2005/60/EC)

Brussels, 18 April 2008

These third countries are currently considered as having equivalent AML/CFT systems to the EU. The list may be reviewed, in particular in the light of public evaluation reports adopted by the FATF, FSRBs, the IMF or the World Bank according to the revised 2003 FATF Recommendations and Methodology.

Argentina

Australia

Brazil

Canada

Hongkong

Japan

Mexico

New Zealand

The Russian Federation

Singapore

Switzerland

South Africa

The United States

¹ The list does not apply to Member States of the EU/EEA which benefit *de jure* from mutual recognition through the implementation of the 3rd AML Directive. The list also includes the French overseas territories (Mayotte, New Caledonia, French Polynesia, Saint Pierre and Miquelon and Wallis and Futuna) and the Dutch overseas territories (Netherlands Antilles and Aruba). Those overseas territories are not member of the EU/EEA but are part of the membership of France and the Kingdom of the Netherlands of the FATF. The UK Crown Dependencies (Jersey, Guernsey, Isle of Man) may also be considered as equivalent by Member States.