



EUROPEAN COMMISSION  
Regulatory Scrutiny Board

Brussels,  
Ares(2016)

## Opinion

### Title

**DG TAXUD – Revision of Cash Controls Regulation  
1889/2005**

(version of 14 September 2016)\*

### **(A) Context**

Following the terrorist attacks in Paris and the extraordinary Justice and Home Affairs Council meeting of 20 November 2015, the Commission published on 2 February 2016 an Action Plan to step up the fight against the financing of terrorism. One of the elements of this Action Plan is to present – at the latest by Q4 2016 - a legislative proposal to amend the Cash Control Regulation (CCR).

Currently, persons carrying 10,000 EUR or more into or out of the EU must complete a declaration. There are around 100,000 cash control declarations annually, representing a total amount declared of 60-70 billion EUR.

An evaluation of the cash control regulation has identified several areas on which action might be warranted. These include post and freight consignments, trafficking of amounts of cash below the declaration threshold, and expansion of declaration requirements to include other highly liquid stores of value such as precious metals. The evaluation also highlighted a need to take account of the evolution of international norms.

The present initiative aims – in line with the Action Plan – to respond to the findings of the evaluation. It also aims to incorporate into EU cash control regulation several recommendations from the G7 Financial Action Task Force (FATF)<sup>1</sup> to prevent money laundering and combat terrorist financing.

### **(B) Overall opinion: POSITIVE**

**The Board gives a positive opinion on the understanding that the report shall be adjusted in order to integrate the Board's recommendations with respect to the following key aspects:**

- (1) Better present the evidence on the effectiveness of the existing cash control regulation and present more clearly the context into which the regulation is placed.**
- (2) Clarify the trade-offs linked to a possible expansion of the regulation into substitutes for cash. Explain to what extent the proposal can be made future proof by leaving flexibility to include future emerging cash substitutes.**

\* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted.

<sup>1</sup> Information about the FATF, its recommendations and all related documents is available on the public web-pages of the FATF: <http://www.fatf-gafi.org>

**(3) Strengthen the assessment of options. More should be done to explain the types of costs and benefits of each option and of the package of preferred options. Overall consistency should be ensured in the comparison of the different options and the rationale for choosing the preferred package. There is also room to make more use of stakeholders' views. The relevance of including the option to use cash control declarations for fiscal purposes should be clarified. Assess non-regulatory options to harmonise declaration forms.**

**The lead DG shall ensure that the report is adjusted accordingly prior to launching the interservice consultation.**

### **(C) Main recommendations for improvements**

(1) The report should use information (including from the annexes) to speak to the cash control system's usefulness in detecting and preventing criminal activity. It should also better present the context of cash controls regulation and surrounding measures that address illicit trafficking (such as anti-money laundering legislation and customs declarations) by mapping potential avenues of trafficking and the measures in place to address them.

(2) The report should explain why non-cash stores of value were not included in declaration requirements earlier, why this is now being reconsidered and what practical consequences this would have. What are the relevant policy tradeoffs? This should include considerations about the pertinence and the possibility of including other possible future trafficking items (e.g. electronic means of payment), but also other high value suspicious commodities (e.g. raw or cut diamonds), as well as the implications for the future-proofing of the regulation and for the amount of 'double' declarations incurred.

(3) The discussion and assessments of policy options should be further elaborated.

The Cash Control Declarations for fiscal purposes cannot be addressed under the Cash Control Regulation. The report should clarify whether this matter will be addressed under the administrative cooperation between tax authorities. If there is no such commitment, the issue may be acknowledged but should be discarded from the outset and not elaborated in the report. Concerning the declaration form, a non-regulatory option should be assessed given the existing close co-operation with Member States in this area and the fact that 24 Member States require already the use of the EU-Common Declaration Form. The report should better underpin conclusions on costs and benefits by adding further explanations, evidence and stakeholders' views. The report should better explain where the compliance and administrative costs for different actors lie (on declarations, disclosures, controls or exchanges and IT investments and handling) and include (quantified) estimates where possible. The cost implications for postal and parcel handling – and for their operators – should be made clearer. Overall consistency should be ensured in the comparison of the different options and the rationale for selecting the preferred package further elaborated. Summarise the overall impacts of the preferred options in a table that also assesses their envisaged effectiveness in helping to combat criminal activities, including financing of terrorism. Stakeholder views should be presented throughout the report and used more effectively to underpin the assessment of the different options.

*Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated into the final version of the impact assessment report.*

### **(D) Procedure and presentation**

Include the obligatory annexes of procedural information and who is affected and how.

<b>(E) RSB scrutiny process</b>	
Reference number	2016/TAXUD/001
External expertise used	No
Date of RSB meeting	12 October 2016