



Best practices issued by the  
Middle East and North Africa Financial Action Task Force  
Concerning the

**CASH COURIERS**

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## **Introduction**

Carrying cash across borders emerged initially as a justifiable means to justifiable needs such as travel, tourism, seeking investment opportunities and making profits, searching for better investment environment, and as an attempt to avoid administrative obstacles, bureaucracy and corruption. Moreover, tight regulatory systems and the embargo set on transferring foreign currencies abroad can incite investors to move their funds to foreign banks.

Some people may carry cash for illegal objectives as is the case with smuggling illicit monies generated from various crimes like drug dealing, bribery, undue influence, political and administrative corruption, theft, tax evasion or illegal commissions.

Such money is usually carried abroad to conceal its sources and avoid confiscation, freezing or any similar sanctions. This type of trafficking is certainly the one related to money laundering transactions.

Therefore, regional and international agencies and organizations, as well as all the countries of the world, keen on combating money laundering and terrorist financing considered carrying cash across borders as a matter of utmost importance.

*National, regional and international efforts paid in this regard aimed at:*

- Insuring that criminals or terrorists cannot finance their activities or launder the proceeds of their crimes by carrying the money and the bearer negotiable instruments physically across borders, concealing their source and moving them to be laundered in another country.
- Using information available about money and bearer negotiable instruments carried cross-borders without restricting trade payments between countries for goods and services exchanged or freedom of capital movements in any way.

### **Cash carrying risks**

#### **a. Traveler- specific risks:**

Travelers or money couriers may encounter some risks. These risks vary according to money source (legal or illegal), way of transfer, quantity and the currency in which carried monies are denominated, etc.

Some of these risks are:

- normal risks: loss of the money or potential exposure to supervision laws applied in some countries. In such cases, the traveler may be sanctioned by law and his money confiscated or he may put himself in trouble with the legal authorities.
- Money could be smuggled for particular purposes. The traveler is subject to the sanctions applied by the customs or to other applicable penal laws.
- Money carried across borders may be forged. The traveler can be sanctioned by penal or criminal laws.

- Travelers may face the risks of falling under AML rules and terrorist financing combat, especially when they carry large amounts of money without carrying proof of legality.

**b. Country- specific risks:**

Monies carried into a country for travel and tourism - of whatever nature - or for investment purposes could justifiably lead to an economic recovery by providing a source of national income and this shall have a positive effect on the country's economy and balance of payment. However such effect becomes negative when the money in question is carried for illegal purposes such as smuggling, money laundering or terrorist financing. These criminal activities introduce many risks into the country, some of which cause prejudice to the national economy, negatively affecting the monetary and fiscal policy and the banking system, and leading to inflation and devaluation of the national currency. Other risks have also a negative effect on social factors: they prevent a good distribution of wealth and compromise social concepts such as work, production and investment. On the political level, smuggled money can be used in supporting or financing terrorism and the risks can even compromise the country's international status and position (especially if it becomes liable to being on the NCCT list according to FATF standards).

**Historical background of disclosure systems**

Many years ago, several countries have implemented a disclosure/declaration system for money carried by travelers across their borders, either by land, air, or sea. At a time when money laundering was not that wide-spread, the common factors that led to the implementation of this measure can be summarized as follows:

- 1) Protecting the society and its financial, commercial and economic institutions, as well as individuals from any crimes, since the money brought to a country could proceed from criminal activities and could facilitate the way in for criminals or their accomplices, causing prejudice to society.
- 2) Countries which were or are still imposing monetary restrictions on hard currencies, the trade and holding thereof, or any limitations to the national currency movement, had applied or are still applying such disclosure or declaration measures to travelers to guarantee the implementation of such restrictions.
- 3) Some countries applied such a system and forbade at the same time the acceptance of any deposit of foreign currencies with banks and other financial institutions unless a copy of the customs declaration or disclosure statement is provided, in order to contain the black market of foreign currencies which may have an adverse impact on the national currency value and its purchasing power.
- 4) Some countries implemented the disclosure or declaration system to secure a good flow of foreign currencies through banks and financial institutions, in order to reinforce foreign currencies resources and use the proceeds to pay for commercial transactions with other countries, especially state-directed economies.

## **International directives on cash couriers**

Due to the overturn of some economic systems over the past few years, the adoption of the free economy, the economic openness of some countries towards others regardless of their political trends, the phenomenon of globalization prevailing worldwide, the free trade principles endorsed by the World Trade Organization (WTO), some so far unknown patterns of economic crimes such as money laundering and terrorist financing emerged. The world became aware of the necessity of being united to face these crimes through cooperation and the adoption of new measures and procedures to combat them, especially in light of the threat they represented to their economies and social and political systems.

Recognizing the necessity to implement measures to combat money laundering and terrorist financing, the FATF issued its Special Recommendation IX, in addition to the eight previous. These recommendations combined with the FATF Forty Recommendations on money laundering set out the basic framework to detect, prevent and suppress money laundering and terrorism financing acts.

### **Special Recommendation (9): Cash Couriers**

On October 22, 2004, the FATF issued the Special Recommendation IX concerning cash couriers. The text is as follows:

- *"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"*

## **Types of systems that may be implemented to address the issue of cash courier**

Countries may meet their obligations under Special Recommendation IX by implementing one of the following types of systems:

### ***a. Declaration system:***

According to this system, all persons making a physical cross-border transportation of currency or bearer negotiable instruments, which are of a value exceeding a pre-set threshold, are required to submit a truthful declaration to the designated competent authorities. If it appears that the transported amounts are not in conformity with the value declared, these persons shall be liable to legal proceedings.

- All travelers should absolutely present such a declaration.
- 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:***

According to this system, 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**.

Disclosure application form will be demanded on:

- a random basis.
- a targeted basis, based on intelligence or suspicion information.

**Suggested implementation mechanism**

***a. Under the declaration system:***

***The mechanism should include the following aspects:***

1/1 Utilizing a legislative tool embodied in the issue of a special law or introducing a new paragraph to a promulgated law.

The importance of such legal text governing and organizing cash carrying across borders lies in the presence of a legal framework for procedures taken in this regard and in the attempt to achieve the following objectives:

- Allowing countries to monitor carrying of actual cash and bearer negotiable instruments.
- Producing a legal text confirming the legal rights of the concerned authorities in stopping or confiscating these monies and tools suspected of being related to money laundering and terrorism financing.
- Imposing preventive and effective sanctions on money laundering or terrorist financing criminals upon any connection between these monies and instruments on the one hand and those criminal activities on the other. The imposed sanctions will allow the concerned authorities to confiscate these monies if needed.
- Collecting information and data about individuals or institutions involved in money or bearer negotiable instruments in order to use it in case concerned law-enforcers received information about any illegal source of money.

1/2 Entrusting a specific government agency with the task of issuing an administrative order on the implementation mechanism in all its aspects including the following:

1- For natural persons:

- Setting the limit of cash amounts (of currencies and bearer negotiable instruments) allowed to be carried across borders with no need for declaration thereon.

- Promulgating a legal text compelling all couriers of cash amounts exceeding the predefined limit to declare them by filling in the related form.
- The form must include the following basic data:
  - Date.
  - Traveler's name.
  - Passport number/Identity card number.
  - Nationality.
  - Date of voyage, destination and country of departure.
  - Carried cash amount quoted in local or foreign currencies (in case of diversity).
  - Purpose of cash carrying.
  - Address in country of residence.
  - Address in destination country.
  - Signature.
  - Endorsement of customs official.

The predefined limit and declaration form are applicable to natural persons (individuals) in these two cases:

- Carrying cash or bearer negotiable instruments by the traveler.
- Carrying cash or bearer negotiable instruments on behalf of natural persons by way of cargo, postal parcels or transportation firms packages.

## 2- Banks, money exchange agencies or other financial institutions

Regardless of the amount of cash and bearer negotiable instruments carried on behalf of banks, exchange firms or other financial institutions/companies by way of cargo, postal parcels or transportation firms packages, they should be asked to fill in a special form including basic data such as:

- Date.
- Importing firm's name.
- Address in residence country.
- Permitted business activity.
- Declared cash amount denominated in local currency (particulars of currencies are outlined in case of variety in an additional statement).
- Name and address of the cargo firm.
- Signature of the deputy receiver for confirming cash receipt.

### **1/3 Obligations of customs' inspectors and officials:**

According to the system of declaration mentioned above, customs' inspectors and officials at airports, sea ports and land border points are obliged to comply with the following:

- Asking travelers carrying cash or bearer negotiable instruments exceeding in amount the predefined limit to fill in the related form, and collecting the filled forms.
- Making sure at all times that all regulations and procedures mentioned in the declaration system are abided by.
- Keeping sufficient quantities of such declaration forms at their disposal at all times to provide travelers or senders of cargo or postal parcels therewith.

- In case of default or untrue declaration, and if there are non declared cash amounts or bearer negotiable instruments exceeding in value the set limit, customs' officials have to investigate reasons. In case they are not sufficiently convinced or have suspicions that inspected monies come from illegal sources or are connected to money laundering and terrorism financing, they must confiscate the money and inform the financial intelligent unit in order for it to take the adequate legal action. This procedure shall not prevent the application of the customs' law if the act involved a smuggling crime or customs violation.

**1/4 Objectives of the declaration system of cash amounts carried across the country's borders:**

- There is no restriction on in-bound or out-bound transportation of large amounts of cash money.
- The declaration system aims at examining particulars of cash and bearer negotiable instruments couriers to make use thereof later when some new information emerge indicating illegality or relatedness of such money to money laundering or terrorist financing.
- Making use of information available on cash money brought into the country in statistics about the financial and economic sectors.

**1/5 Customs inspection methods:**

a- Travelers:

- Random inspection.
- Voluntary declaration by the cash bearer.
- Inspecting some specific travelers in case of availability of security intelligence about their dubious involvement.

b- Luggage:

- Luggage is inspected at customs points at airports through sophisticated electronic detectors to reveal contents.

c- Postal parcels and transportation firms packages:

- Random inspection.
- Infra red inspection of postal packages to detect money and verify cash amounts before entering the country.

**1/6 Sanctions or penalties are imposed on violators of the aforementioned Resolution.**

***b. Under the disclosure system:***

The mechanism shall follow the same aspects outlined in the declaration system, taking into account the following discrepancies:

- Using the term “disclosure” term instead of “declaration” throughout the executive administrative resolution.
- Not specifying a predefined limit on cash money and bearer negotiable instruments allowed to be carried without declaration.
- Prescribing obligation on all travelers to disclose all cash money and bearer negotiable instruments in their possession regardless of their amount, when asked by a customs official.



- **Responsibilities of customs officials:**

They should ask travelers to disclose cash money or bearer negotiable instruments in their possession through filling in the related form.

**The committee reminds of what has been reported in the interpretative note<sup>1</sup> to Special Recommendation IX for Additional elements applicable to both systems, declaration or disclosure, regardless of the applied system.**

**These aspects are summarized hereinafter:**

1. Apply procedures to in-bound and out-bound transportation of currency and bearer negotiable instruments.
2. Upon discovery of a false declaration/disclosure of currency or bearer negotiable instruments or default in declaring/disclosing such, customs authorities should have the authority to request and obtain further information from the carrier with regard to the origin and the purpose of the currency or bearer negotiable instruments.
3. At the domestic level, countries should ensure that there is adequate co-ordination among customs, immigration and other competent authorities.
4. In the following two cases, customs 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:
  - where there is a suspicion of money laundering or terrorist financing;
  - where there is a false declaration or false disclosure.
5. The declaration/disclosure system should allow for the greatest possible extent of international co-operation and assistance in accordance with Special Recommendation 5 and Recommendation 35.

### **Recommendations**

- 1- The cash couriers committee submits the “working paper” and suggests deliberation on the possibility of implementation by MENAFATF member countries. However, the committee stresses on the fact that any system considered for application should accommodate three precepts in particular:
  - Objective of the system is to detect the physical transportation of currency to pinpoint economic impacts and insure that the country is away from risks of physical transfer of illegal money or the risks of illegal employment of money.
  - Assurance of competent authorities' possession of sufficient legal power to take all administrative and legal measures against dubious money.
  - Possession of judicial or administrative instruments to define involved parties, measures to be taken for implementation, responsibilities and authorities, and

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1- <http://www.fatf-gafi.org/dataoecd/5/48/34291218.pdf>

sanctions applicable upon law violation, especially in relation to money laundering and terrorist financing.

- 3- The committee highlights the right of every member country to choose its own system (declaration or disclosure).
- 4- As for member countries willing to implement the declaration system, the committee considers giving freedom to each country to define the limit of disclosure of travelers' surplus cash money in accordance with its economic situation and administrative and legislative systems. The minimum limit of US/Euro15000 applied by FATF can be utilized as benchmark. As for the disclosure system, customs' officials should have enough experience in and acquaintance with the applied standards and measures to handle cash money suspected in relation with money laundering and terrorist financing.
- 5- The committee assures the need for inserting in the declaration and disclosure forms the text obligating travelers to disclose or declare, so that travelers can take knowledge of applied measures.
- 6- As for golden bullions, precious metals and gems in possession of travelers, the committee recommends that member countries put similar instructions organizing such materials movement across borders, lest they are used in money laundering or terrorist financing activities.

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