

# USE OF CASH PAYMENTS FOR MONEY LAUNDERING PURPOSES

Comparative Study Into the Current Legislative Controls  
on Large-Scale Cash Payments within the Eu Member States  
and an Analysis of the Use of Such Payments  
for Money Laundering Purposes



*With financial support from  
European Commission*

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UNIVERSITÀ DEGLI STUDI  
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# USE OF CASH PAYMENTS FOR MONEY LAUNDERING PURPOSES

*COMPARATIVE STUDY INTO THE CURRENT LEGISLATIVE CONTROLS ON LARGE-SCALE CASH  
PAYMENTS WITHIN THE EU MEMBER STATES AND AN ANALYSIS OF THE USE OF SUCH PAYMENTS FOR  
MONEY LAUNDERING PURPOSES*

## FINAL REPORT

EXECUTED BY

**TRANSCRIME**

IN COOPERATION WITH

EUROPOL

AND

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# 1.

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## 2.

## EXECUTIVE SUMMARY

This Final Report presents the final results of the Study entitled *Use of Cash Payments for Money Laundering Purposes. Comparative Study into the Current Legislative Controls on Large-Scale Cash Payments within the EU Member States and an Analysis of the Use of Such Payments for Money Laundering Purposes*. The Study was awarded to TRANSCRIME – University of Trento by the European Commission, Directorate-General for Justice and Home Affairs (contract no. JAI/B2/2002/01) in December 2002. The Project proposal was prepared in response to tender DG.JAI/B2/2002/01 of 18 November 2002.

The Research covered the use of large-scale cash payments for money laundering purposes within the EU framework. The aim of the Study was to analyse the phenomenon and to compare the effectiveness of national legislative systems set up to control it, the purpose being to identify *what works*, i.e. national best practices, *and what does not*, i.e. current obstacles against the control of the use of cash for money laundering by the mentioned national legislative systems. On this basis, recommendations are addressed to the European Commission in order to orient its action in providing guidance for Member States regarding improvement of their legislative instruments.

The rationale of the Study is that, as anti-money laundering legislation and regulation grow apace, criminals adopt new strategies and either resort to more sophisticated money laundering methods or use instruments that facilitate anonymity. The use of anonymous instruments increasingly involves cash payments and transactions.

Awareness of the importance of an effective control strategy in the fight against money laundering through large-scale cash payments has arisen only very recently at international and EU levels. At the EU level, in particular, it was only in the last decade that the need for a common EU regulation of the use of large-scale cash payments for money laundering purposes was recognized. However, despite the recent adoption of the 2001 EU anti-money laundering Directive,<sup>1</sup> European Union Member States still have heterogeneous provisions with regard to large-scale cash payments, and this may impair the overall European anti-money laundering strategy. The variety and diversity of national legislation and provisions governing large-scale cash payments used for the purposes of money laundering create loopholes that may be exploited by criminals to launder their money by means of large-scale cash transactions.

In order to provide the European Commission with a detailed picture of the phenomenon of the use of large-scale cash payments for money laundering purposes, and with cross comparison of the effectiveness of national legislative systems for controlling it, this Report seeks to answer the following questions:

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<sup>1</sup> Council of the European Union, EU Directive 2001/97/EC of 4 December 2001 amending Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering, in OJ L 344 of 28 December 2001, pp. 76–81.

- *What is the modus operandi of cash launderers? What are the most vulnerable sectors of the economy and to what extent are they exploited by criminals for cash laundering?*
- *What are the main obstacles (what does not work) against controlling the use of large-scale cash payments by EU national legislation and the related best practices (what works)?*
- *What recommendations can be addressed to the European Commission to orient its action in providing guidance to Member States in improving their legislative instruments?*

#### **A) THE ANALYSIS OF THE PHENOMENON OF THE USE OF LARGE-SCALE CASH PAYMENTS FOR MONEY LAUNDERING PURPOSES IN THE EUROPEAN UNION**

The analysis of the phenomenon of the use of large-scale cash payments for the purpose of money laundering within the EU framework was conducted on the basis of a variety of published and unpublished documents produced by relevant international organisations, and on the basis of the replies by experts from the financial intelligence units of the EU Member States to Section 2 of the questionnaire prepared for the development of the Study.

Section 2 of the questionnaire was intended to gather information on the phenomenon of the use of large-scale cash payments (the connections of economic sectors with organised crime and terrorism; new technologies; the volume and size of large-scale cash payments; the geographical scale of the problem; the role of the private sector in identifying money laundering schemes using large-scale cash payments; the cost implications for business, law enforcement and personal privacy). It also sought to determine the extent to which specific sectors of the economy (i.e. financial sector, non financial sector and professionals) are exploited by criminals.

In order to quantify the degree of exploitation of specific activities within each of the three sectors mentioned (financial, non-financial and professionals) for cash laundering purposes, an **Activity Exploitation Index** was first calculated for each Member State. This expresses, on a scale from 0 to 100, the degree of exploitation of the activity for cash laundering purposes in a particular Member State. *The higher this index, the greater the degree of exploitation of the specific activity for cash laundering purposes.*

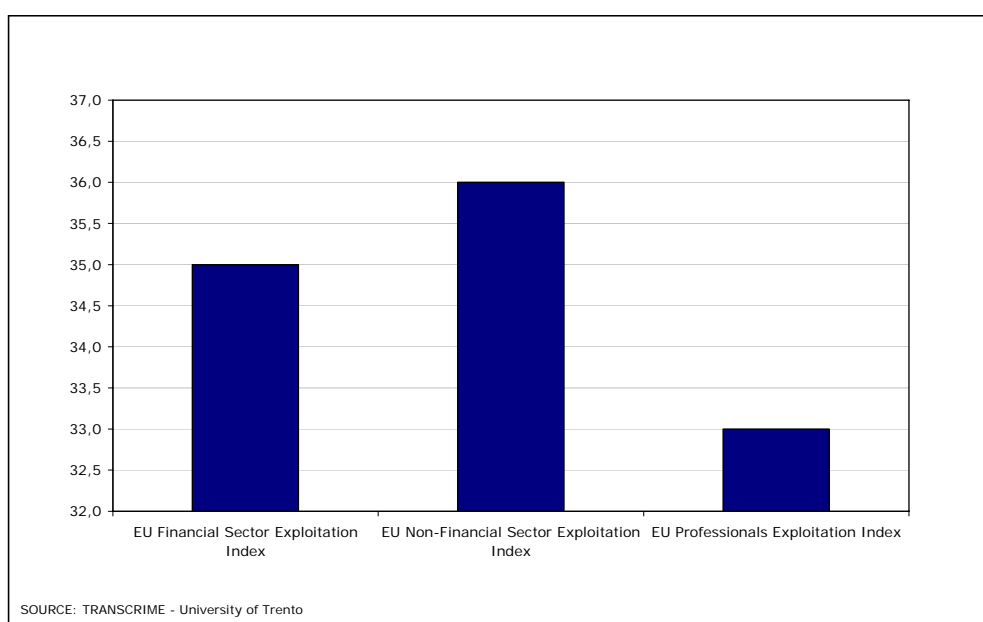
The Activity Exploitation Indexes (one per Member State) were subsequently aggregated into the **EU Activity Exploitation Index**. This was obtained by calculating the average of the national Activity Exploitation Indexes. It expresses, on a scale from 0 to 100, the degree of exploitation of the activity for cash laundering purposes at the EU level. *The higher this index, the greater the degree of exploitation of the specific activity for cash laundering purposes in the European Union.*

The EU Activity Exploitation Indexes (within each specific sector) were subsequently aggregated into the **EU Sector Exploitation Index**. This was obtained by calculating the average of the EU Activity Exploitation Indexes within the given sector. It expresses, on a scale from 0 to 100, the degree of exploitation of the sector for cash laundering purposes at EU level. *The higher this index, the greater the degree of exploitation of the sector for cash laundering purposes in the European Union.* We warn readers that the quality of this index is only as good as our awareness of

the money-laundering phenomenon and that it can (and almost certainly will) change over time, as controls are instituted and as criminals adjust to those controls.

The results of this calculation are given in the Figure below, which shows that exploitation is greater in the non financial sector than in the financial sector and among professionals.

*EU Sector Exploitation Indexes*



Identification of the sectors of the economy most vulnerable to abuse is of utmost importance in the fight against cash laundering, for it indicates where action should begin. Following the recent European legislative restrictions and obligations imposed on credit and financial institutions, to the extent that they are and/or are expected to be effectively applied, money launderers have had to find alternative channels through which to launder their criminal proceeds. This shift has been unanimously confirmed by all experts from EU Member States, who point to the non-financial sector (real estate agents and casinos in particular) as the one most likely to be exploited by cash launderers. This is because non-financial business actors are legally entitled to sell products and services directly for cash, with no controls on their activities.

However, analysis of the connections between criminal and terrorist organisations and the sectors of the economy identified (i.e., financial sector, non-financial sector and professionals) shows that the financial sector is most commonly used by criminals, especially to move cash money. Alternative financial services such as money remittance agencies and exchange offices are exploited because they are not fully regulated. This legislative gap therefore performs a role in the *modus operandi* of money launderers.

Precise quantification of the size and the geographical scale of the phenomenon proves to be difficult, however, although (unless they are just the result of changes

in consciousness and willingness to report) analysis of suspicious transaction reports enables estimation of some trends in large-scale cash payments for money laundering purposes. Large-scale cash transaction reports are on the increase almost everywhere in Europe. Southern Member States seem to be more closely involved, probably because these are more cash-oriented and their inhabitants are still accustomed to using cash.

National cultures and legislation are therefore extremely influential on cash laundering and the criminals engaged in the practice. In fact, legislative differences among Member States, and legislative gaps with regard to certain economic activities, still exist. This heterogeneity undermines protection at EU level and leaves loopholes for criminals to exploit, and it is accordingly the main feature of the *modus operandi* adopted by criminals to infiltrate the legitimate economy for the purpose of laundering cash.

## **B) THE ANALYSIS OF THE EU MEMBER STATES' LEGISLATIVE SYSTEMS FOR CONTROLLING THE USE OF LARGE-SCALE CASH PAYMENTS FOR MONEY LAUNDERING PURPOSES**

In order to compare the effectiveness of national provisions regulating the phenomenon – i.e. their ability to control the use of large-scale cash payments, by exercising both preventive and detection measures – a broad concept of *national legislative system for controlling the use of cash payments for money laundering purposes* was adopted. It covers all national provisions controlling the use of large-scale cash payments for money laundering, both with specific regard to cash and generally considering the latter within the more general framework of money laundering. Furthermore, the concept is used with reference to the entire body of rules intended to govern and control the criminal use of large-scale cash payments.

How could the effectiveness of national legislative systems in having an impact on the criminal phenomenon be measured? An impact evaluation was not feasible. Measurement, in fact, should have been based on comparison between the volumes of laundered cash before and after legislative intervention to discipline the field. This exercise would require each country to collect statistics on these volumes of cash. Given also the recent interest in the use of large-scale cash payments to purchase goods and services that may conceal the conversion of criminal proceeds, these data are not yet collected by any country in the EU. And when such data are produced, they are unreliable.

In order to cope with this lack of direct information, and considering that the aim of the Research was to compare effectiveness across European Union countries, an indirect measurement of the phenomenon was made. This starts from the assumption that *the higher the level of regulation of a national legislative control system, and the greater the extent to which the regulation is implemented, the more effective the system is in governing the use of large-scale cash payments for money laundering purposes*.

On this assumption, the level of effectiveness of a national system results from the existence and implementation of various regulatory features (relating to competent authorities, control measures, persons subject to the control measures, sanctions, reporting system, etc.), the lack and/or the shortage of one or more of which make

the control less effective. *Hence, the larger the number of features regulated under the national legislative control system and the higher the level of their implementation, the greater the effectiveness of the system (unless criminals can simply export the cash to less regulated states).*

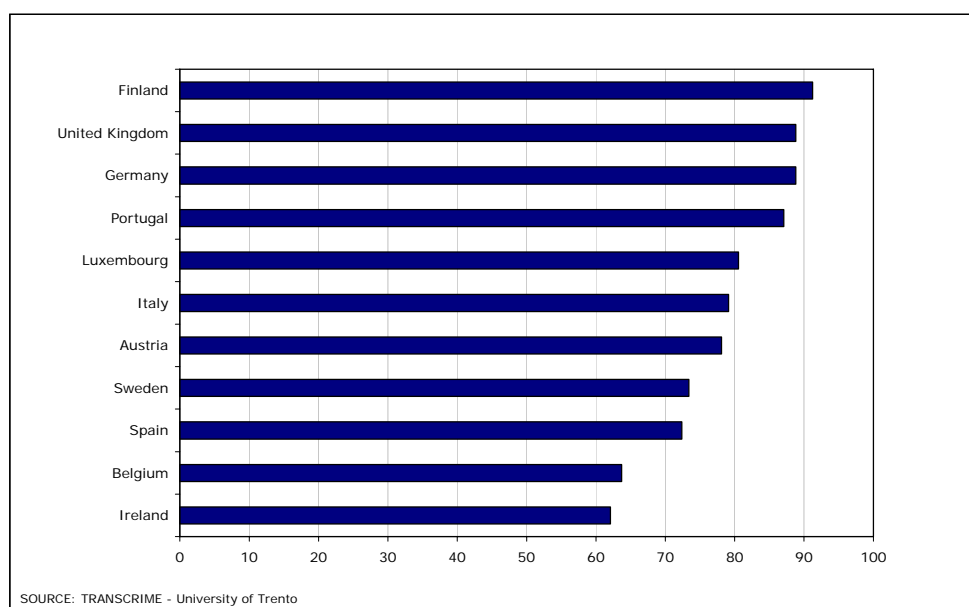
The features of the regulation assumed to influence the effectiveness of the national control system (here called 'effectiveness indicators') were identified on the basis of the existing international and national literature, the purpose being to ensure that our assumption about the contribution of these features to the effectiveness of the national system would be supported both by the international community and by high profile experts in the field, who indeed confirmed the soundness of the effectiveness indicators selected on the occasion of a working seminar held in Brussels on 16 – 17 May 2003. The effectiveness indicators selected were translated into questions and incorporated into a questionnaire sent to one expert per country (a member of the FIU). The replies to the questionnaire were discussed during the working seminar in Brussels attended by the national experts.

Qualitative analysis (country profiles) and quantitative analysis (comparative indexes of effectiveness) were conducted on the basis of the replies given by the experts to Section 1 of the questionnaire, on the basis of the collection and analysis of national legislative provisions on the use of large-scale cash payments for the purchase of goods and services, and on that of the literature on the topic.

The country profiles comprised, for each EU Member State, a description of the legal framework, and discussion of what 'works' and what does not work in this area.

The purpose of the quantitative analysis was to cross compare the effectiveness of national legislative control systems on the use of large-scale cash payments for money laundering purposes. An ***Effectiveness Index*** was first calculated for each effectiveness indicator previously identified. This effectiveness index was calculated on a scale from 0 to 100. It expresses the degree of effectiveness of the national legislative control system with reference to the specific indicator. *The higher this index, the greater the effectiveness of the national legislative controls system, with regard to the indicator considered.* The Effectiveness Indexes were then aggregated into a ***Synthetic Effectiveness Index***, also calculated on a scale from 0 to 100. This quantifies the effectiveness of the entire national legislative controls system governing the use of large-scale cash payments. This index was obtained as the average of the effectiveness indexes. *The higher this index, the greater the effectiveness of the national legislative controls system governing the use of large-scale cash payments in the country.*

The Figure below sets out the *Synthetic Effectiveness Indexes* in order to furnish a comparative overview of the main results of the Research.



The analysis conducted brought to the following conclusions.

#### WHAT WORKS: THE IMPORTANCE OF IMPLEMENTING THE EU DIRECTIVE AND THE NATIONAL LEGISLATION, OF THE KIND OF LEGISLATION AND OF THE REPORTING SYSTEM

Finland, Germany and the UK were the countries with the most effective legislative systems for controlling the use of large-scale cash payments. This was due to the following factors.

First, *complete and rapid implementation of the new EU legislative instrument to tackle money laundering, including cash, seems to be the most important factor*. In particular, and unlike in other countries, the provisions regarding non-financial businesses are already fully operational in Finland, Germany and the UK.

Second, it is of interest to consider the kind of legislation introduced by these countries to control the phenomenon of the large-scale cash payments for money laundering purposes. All of them use general anti-money laundering regulations to govern the use of large-scale cash payments. *This implies that in order to combat this criminal activity, ad hoc provisions do not work better than general provisions: quite the opposite, in fact.*

Third, *the controls included in the national legislation are fully implemented*. This means that all businesses in the financial and non-financial sector, as well as professionals, are fully subject to identification, record keeping and (suspicious) reporting obligations.



The final factor to consider is the reporting system. *The most effective legislative controls foresee a system of reporting which comprises a full set of rules with which to exert close control over all (suspicious) transactions, including cash ones.*

#### WHAT DOES NOT WORK: LACK OF IMPLEMENTATION OF THE EU DIRECTIVE AND THE NATIONAL LEGISLATION; INCOMPLETE SETS OF RULES ON REPORTING SUSPICIOUS TRANSACTIONS

Ireland and Belgium were the countries that scored lowest in the exploratory and tentative evaluation of their legislative effectiveness in controlling large-scale cash payments. This was due to the following factors.

First, *the main shortcoming of these countries is indubitably their failure to implement the 2<sup>nd</sup> EU Directive.* As mentioned, this implies a lack of control and supervision over a number of activities (e.g., those in the business sector, where the use of cash is commonplace). *But also the implementation of national provisions is frequently unsatisfactory.*

Second, *deficiencies are apparent in reporting systems.* In fact, some of the FATF recommendations, such as the use of an information technology system or the centralisation of the database to collect disclosures, have not been adopted.

The following recommendations were drawn up as a result of the above analysis and the findings thereof:

- *Recommendation no. 1:* In terms of two aspects of this project, money laundering and terrorist financing, alternative remittance systems still play a prominent role in effectively moving moneys and further attention should be paid to this matter on a multi-country basis within the EU;
- *Recommendation no. 2:* Given the future implementation of the 2<sup>nd</sup> EU Directive, it is necessary to establish standard legislation relative to cross border controls on cash movements. This would eradicate any anomalies and ambiguities that might arise as a result of the future new Directive;
- *Recommendation no. 3:* Action should be taken to establish a “preferential communication bridge” to foster the exchange of information between public administrations and the sectors of the economy most likely to be exploited by criminals for cash laundering purposes. This instrument should serve to improve cooperation between public administrations and those sectors, the overall aim being to ensure fair (applied) legislation;
- *Recommendation no. 4:* Action might be taken to establish, within the existing structure, a framework in which to convey information and data concerning suspicious large-scale cash payments;
- *Recommendation no. 5:* Action should be taken to explore the feasibility of the adoption of a Third Pillar instrument establishing an obligation to conduct large-scale cash transactions only through authorised intermediaries in order to prevent the use of large-scale cash payments and cash exchanges to conceal the conversion of criminal proceeds. Under this system, the obligation to conduct large-scale cash transactions only through authorised intermediaries should be imposed both on natural and legal persons. A violation of this obligation would entail a (administrative/penal) sanction.

Furthermore, action should be taken with a view to establishing the supervision by a competent national public body of the authorised intermediaries delegated to directly control large-scale cash operations in order to assure that they comply with anti-money laundering legislation when receiving cash payments.

Action should also be taken so that authorised intermediaries delegated to directly control large-scale cash operations play an important role in the enforcement of sanctions to be imposed for the violation of the obligation to conduct large-scale cash transactions only through authorised intermediaries.

## 3.

## INTRODUCTION

This report presents the final results of the Research Study entitled the *Use of Cash Payments for Money Laundering Purposes. Comparative Study into the Current Legislative Controls on Large-Scale Cash Payments within the EU Member States and an Analysis of the Use of Such Payments for Money Laundering Purposes*. The Study was awarded to TRANSCRIME – University of Trento by the European Commission, Directorate-General for Justice and Home Affairs (contract no. JAI/B2/2002/01) in December 2002. The project proposal was prepared in response to tender DG.JAI/B2/2002/01 of 18 November 2002.

The Research Study examines the use of large-scale cash payments for money laundering purposes within the European Union.

It analyses the phenomenon and compares the effectiveness of the national legislative systems set up to control it, the overall purpose being to identify *what 'works'*, i.e. national best practices, *and what does not*, i.e. current obstacles against control over the use of cash for money laundering by the above-mentioned national legislative controls systems. On this basis, recommendations may be made to the European Commission in order to orient its action in providing guidance to Member States in improving their legislative instruments.

This report is organised as follows:

- *Acknowledgements* to those contributing to the Study (Section 1);
- *Executive summary* of the Report (Section 2);
- *Introduction* (Section 3);
- *Rationale* of the Study (Section 4);
- *Aims and objectives* of the Study (Section 5);
- *Operational definitions and main assumption* of the Study (Section 6);
- *Data collection procedures and methodology* (Section 7);
- *The use of cash payments for money laundering purposes in the European Union: the phenomenon* (Section 8) presents the findings of the qualitative analysis of the phenomenon of the use of large-scale cash payments for money laundering purposes within the EU Member States. It also sets out, for each country as well as for the European Union as a whole, the extents to which specific sectors of the economy are exploited;
- *The use of cash payments for money laundering purposes in the European Union: the EU Member States' legislative controls* (Section 9) is divided into two subsections. Subsection 9.1 contains the country profile of each Member State, describing the national legislative system governing the use of large-scale cash payments, as well as detailing what 'works' and what does not in this area. Subsection 9.2 presents the tables comparing the effectiveness of the EU national legislative systems in controlling the use of large-scale cash payments for money laundering purposes;
- *Conclusions* of the analysis conducted (Sections 10);
- *Recommendations to the European Commission* (Section 11) made on the basis of the analytical work conclude the Study.

Three Annexes are attached to this Report:

- Annex 1 explains the methodology employed for the Study in detail;
- Annex 2 reproduces the questionnaire prepared by TRANSCRIME – University of Trento and submitted to the national experts from the FIUs. Modifications to the questionnaire adopted during the working seminar held in Brussels on 16 and 17 June 2002 with the participation of some of the national experts have been incorporated;
- Annex 3 contains the Synoptic Tables constructed on the basis of the replies to the questionnaire given by the national experts. These tables provide a useful comparative overview of the situations in the EU Member States regarding both the use of large-scale cash payments and legislative controls on the phenomenon.

## 4.

### RATIONALE

Profit is the main goal of criminal organisations. It can be used to finance other criminal activities and to infiltrate the legal economy.

As anti-money laundering legislation and regulation are put in place, criminals adopt new strategies and resort either to more sophisticated money laundering methods or to the use of instruments that facilitate anonymity, such as cash, precious metals and other luxury items (jewellery, cars, boats). Non-financial actors and professionals play key roles in money laundering schemes, fulfilling an instrumental role in setting up or facilitating complex money laundering operations. The use of anonymous instruments increasingly involves cash payments and transactions, which tend to take place in vulnerable sectors (e.g., casinos, insurance companies, real estate, and the market for high-value goods) rather than in the traditional and tightly regulated financial sectors.<sup>2</sup>

The financial aspects of crime have long been neglected. The main instrument used against organised crime has been repression. Yet this strategy has proved inadequate, because criminal organisations are easily able to replace those of their members who have been apprehended. Consequently, closer attention is now being paid to preventive measures, such as legislative controls, in that legislation has the dual advantage of both acting as a powerful deterrent and preventing organised crime from infiltrating and corrupting the legitimate economy.

Awareness of the importance of an effective control strategy in the fight against money laundering in general, and money laundering through large-scale cash payments in particular, has developed in recent decades at both international and European level.

The Financial Action Task Force<sup>3</sup> recently reported the growing concern of the international community with regard to the instrumental role played by business and service professionals in setting up or facilitating complex money laundering operations.

As regards the European level, it should be noted that, despite the recent adoption of the 2001 EU anti-money laundering Directive,<sup>4</sup> European Union Member States still have differing provisions with regard to large-scale cash payments, and this may impair the overall European anti-money laundering strategy. Cash transactions

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<sup>2</sup> United States Department of States, *International Narcotics Control Strategy Report March 2002*, Washington D.C., 2002, p. 21; Egmont Group, *FIUs in Action – 100 Cases from Egmont Group*, 2000, available at: [http://www.gfsc.guernseyci.com/documents/fiu\\_in\\_action\\_full.pdf](http://www.gfsc.guernseyci.com/documents/fiu_in_action_full.pdf).

<sup>3</sup> Financial Action Task Force (FATF), *Report on Money Laundering Typologies 2001–2002*, FATF, Paris, February 2002, p. 23.

<sup>4</sup> “Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by the 15 June 2003”, Article 3, EU Directive 2001/97/EC of 4 December 2001 amending Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering, in OJ L 344 of 28 December 2001, pp. 76–81.

may be used in different sectors according to the diverse regulations in force in Member States, and such transactions may then be used to conceal the conversion of the proceeds of crime. Furthermore, the four freedoms of the single European market (free circulation of persons, goods, capital and services) propagate the problem among Member States, with advantage being taken of the legislative loopholes and weaknesses existing between and within each Member State.

For these various reasons, the European Union has devoted increasing attention to the problem; attention which in recent years has changed into a pro-active stance prompted by recognition of an emerging need for a common EU regulation of the use of large-scale cash payments for money laundering purposes. Among the most important documents adopted in this regard are the following:

The *Conclusions of the Tampere European Council* of October 1999, which underline the importance of establishing an area of freedom, security and justice within the European Union. The *Conclusions* pay particular attention to money laundering, describing it as “*at the very heart of organised crime*” and stating that it “*should be rooted out wherever it occurs*”.<sup>5</sup> Any effective prevention and control of organised crime should focus on tracing, freezing, seizing and confiscating all the proceeds of crime.

Among the various methods with which money is laundered, the widespread use of cash payments and cash exchanges by natural and legal persons in order to conceal the conversion of the proceeds from crime into other property<sup>6</sup> has been stressed since the adoption of the *1997 Action Plan to combat organised crime*.

The need for preventive measures to be taken in this regard has been further emphasised by the *EU Millennium Strategy*, where “*The Commission is invited to initiate a study on the possibility of preventing the excessive use of cash payments and cash exchanges by natural and legal persons from serving to cover up the conversion of the proceeds of crime into other property. Consideration should be given to setting up an adequate system of declarations which would enable the competent authorities to carry out the appropriate investigations. In its study, the Commission is invited inter alia to take account of national legislation relating for instance to the role of professionals, casinos and gambling houses*”.<sup>7</sup>

The existence of legal loopholes and differences among Member States and their legislations, as well as the ability of criminals to exploit the flaws in the various systems, call “*[...] for a dynamic and coordinated response by all the Member States, a response that not only takes into account national strategies but also seeks to become an integrated and multidisciplinary European strategy*”.<sup>8</sup>

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<sup>5</sup> European Council, Presidency Conclusions, Conclusion No. 51, Tampere, 15–16 October 1999.

<sup>6</sup> Council of the European Union, Action Plan to Combat Organised Crime, Recommendation No. 26(g), 28 April 1997.

<sup>7</sup> Council of the European Union, “The Prevention and Control of Organised Crime: a European Union Strategy for the New Millennium”, p. 22, in *OJ C* 124 of May 3, 2000, pp. 1–33.

<sup>8</sup> Council of the European Union, “The Prevention and Control of Organised Crime: a European Union Strategy for the New Millennium”, op. cit., p. 3.

The *Commission's Legislative and Work Programme for 2003* expresses the intent to reinforce application of the Directives on anti-money laundering, to implement the measures on payment systems, and to enhance co-operation among Finance Intelligence Units. This should be accomplished by means of “*Evaluation of the existing Third Pillar measures in the fight against financial crime, and the examination of the need for an instrument to create an EU-wide system to combat money laundering involving large-scale cash payments*”.<sup>9</sup>

The variety and diversity of national legislation and provisions governing and controlling large-scale cash payments used for the purposes of money laundering create loopholes that are exploited by criminals to launder their money by means of large-scale cash transactions. The crux of the problem is therefore identification, definition and evaluation of the risks connected with the existence of these loopholes.

Knowledge of the phenomenon, on the one hand, and of existing legislative controls, with their positive and negative aspects, on the other, may enable definition of what does and does not ‘work’ in current legislative control systems and the singling out of the best features to be inserted into a European-wide control system. Hence, with the purpose of assisting the Commission in the fulfilment of the duties assigned to it by the Council in this particular area, Transcrime proposed the following scheme for a Study.

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<sup>9</sup> Commission of the European Communities, Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions The Commission's Legislative and Work Programme for 2003, COM(2002) 590 final, 30 October 2002, p. 10.





## 5.

### AIMS AND OBJECTIVES

The aims of the Study are:

1. to analyse the phenomenon of the use of large-scale cash payments for the purpose of money laundering within the EU framework;
2. to compare the effectiveness of national legislative systems set up within the EU framework for controlling the use of large-scale cash payments for the purpose of money laundering. This in order to identify *what 'works'* (i.e. national best practices) and *what does not* (i.e. current obstacles against the control of the use of cash for money laundering by the above-mentioned national legislative systems) and accordingly to formulate recommendations that may orient the European Commission in its guidance to Member States in improving their legislative instruments.

These aims are developed in the following objectives:

With reference to aim 1:

- 1A. to define the *modus operandi* of money launderers using large-scale cash payments and transactions, with particular regard to the following issues: the degree of exploitation of specific sectors of the economy (financial sector, non financial sector and professionals); the connections of these sectors with organised crime and terrorism; new technologies; volume and size of large-scale cash payments; the geographical scale of the problem; the role of the private sector in identifying money laundering schemes using large-scale cash payments; the cost implications for business, law enforcement and personal privacy.

With reference to aim 2:

- 2A. to review the legislation governing the use of large-scale cash payments for the purchase of goods and services in each Member State;
- 2B. to identify, on the basis of indications from the international community and specialists, appropriate effectiveness indicators for the national legislative systems intended to combat the use of large-scale cash payments for the purpose of money laundering;
- 2C. to compare, on the basis of the effectiveness indicators selected, the effectiveness of national legislative control systems on large-scale cash payments, identifying what 'works' and what does not in each EU Member State;
- 2D. to develop and finalise recommendations for legislative and policy action to prevent the exploitation of large-scale cash payment schemes as a means to launder criminal proceeds, with regard to both the EU and the Member State level.



## 6.

## OPERATIONAL DEFINITIONS AND MAIN ASSUMPTION

Some terms used in the development of this Study require operational definition.

*A) Large-scale cash payments*

This concept comprises cash transactions of €15,000 or more (or the equivalent in other currencies). This amount is consistent with that envisaged by the EU 2001 money laundering Directive. However, Member States may specify smaller sums when implementing the money laundering Directives.

*B) Cash*

The term 'cash' refers to notes, coins or other instruments which can be used as cash.

*C) Credit institutions, financial institutions and non-financial businesses or professions*

These terms are defined in *EU Directive 2001/97/EC of 4 December 2001 amending Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering*. In particular:

*A Financial institution is:*

1. an undertaking other than a credit institution whose principal activity is to carry out one or more of the operations included in numbers 2 to 12 and number 14 of the list set out in Annex I to Directive 2000/12/EC (2. Lending, 3. Financial leasing; 4. Money transmission services; 5. Issuing and administering means of payment (e.g. credit cards, travellers' cheques and bankers' drafts); 6. Guarantees and commitments; 7. Trading for own account or for account of customers in (a) money market instruments (cheques, bills, CDs, etc.), (b) foreign exchange, (c) financial futures and options, (d) exchange and interest rate instruments, (e) transferable securities; 8. Participation in share issues and the provision of services related to such issues; 9. Advice to undertakings on capital structure, industrial strategy and related questions and advice and services relating to mergers and the purchase of undertakings; 10. Money broking; 11. Portfolio management and advice; 12. Safekeeping and administration of securities; [...]; 14. Safe custody services); these include the activities of currency exchange offices (*bureaux de change*) and of money transmission/remittance offices;
2. an insurance company;
3. an investment firm;
4. a collective investment undertaking marketing its units or shares.

*Non-financial businesses or professions.*

The following legal or natural persons, acting in the exercise of their professional activities, can be included in the category:

- auditors, external accountants and tax advisors;
- real estate agents;
- notaries and other independent legal professionals, whether:
  - a) by assisting in the planning or execution of transactions for their client concerning the
    - (i) buying and selling of real property or business entities;
    - (ii) managing of client money, securities or other assets;
    - (iii) opening or managing bank, savings or securities accounts;
    - (iv) organisation of contributions necessary for the creation, operation or management of companies;
    - (v) creation, operation or management of trusts, companies or similar structures;
  - b) or by acting on behalf of and for their client in any financial or real estate transaction.
- dealers in high-value goods, such as precious stones or metals, or works of art, auctioneers, whether payment is made in cash, and in an amount of €15,000.00 or more;
- casinos.

For the purpose of this Study, we have chosen to separate the *non-financial businesses and professions* category into two distinct groups. The first includes business or commercial activities, while the second comprises the activities or services conducted by qualified persons, i.e. professionals in different disciplines.

*D) National legislative system for controlling the use of cash payments for money laundering purposes*

This concept refers to national legislative controls enacted to govern the use of large-scale cash payments for money laundering purposes. In this context, the exact meaning of the concept can be specified on the basis of the following two considerations.

First, the concept covers *all national provisions controlling the use of large-scale cash payments for money laundering, both those specifically addressed to cash and those which consider it in the more general framework of traditional money laundering.*

Second, the concept is used with reference to *national provisions regarding the entire body of rules intended to govern and control the criminal use of large-scale cash payments.* Consequently, it includes the entire set of rules referring to:

- A competent authority which monitors large-scale cash payments on a regular/systematic basis;
- Measures to control the use of large-scale cash payments;
- The legal and natural persons subject to these measures;
- The sanctions applicable;

- The reporting system applicable to large-scale cash payments.

*E) Effectiveness of the national legislative system for controlling the use of cash payments for money laundering purposes*

The effectiveness of a system, of whatever kind it may be, consists in its capacity to achieve its specific objectives. Our research considers EU Member State legislative systems for controlling the use of cash payments for money laundering purposes, as operationalised above. The effectiveness of these national legislative controls in having an impact on the criminal phenomenon is considered to reside in the ability of the legislative system to control the use of large-scale cash payments by exercising both preventive and detection measures against large-scale cash operations (payments or transactions).

*F) Effectiveness indicators relative to the national legislative system for controlling the use of cash payments for money laundering purposes*

Effectiveness indicators have been drawn up in order to assess the effectiveness of national legislative systems for controlling the use of cash payments for money laundering purposes in the European Union.

Effectiveness indicators are defined here as those features of the system (in terms of procedures to be followed, people/institutions subject to them, sanctions, etc.) that influence its effectiveness in having an impact on the criminal phenomenon, i.e., its ability to prevent and detect money laundering operations taking the form of large-scale cash payments.

How, though, can the effectiveness of national legislative systems for controlling the use of cash payments for money laundering purposes be measured? An impact evaluation is not feasible. Rather, evaluation should be based on comparison between the volumes of laundered cash before and after legislative intervention to discipline the phenomenon; an exercise which would require each country to collect statistics on the mentioned volumes of cash and to be aware of how much criminal use was made of cash remittance systems. Given also the recent interest in the use of large-scale cash payments for the purchase of goods and services that may conceal the conversion of criminal proceeds, no statistics of this kind are collected within the EU framework. And even when such data are produced (as in Belgium), they are quite often unreliable.

In order to deal with this lack of direct information, and considering that the aim of the Research Study was to compare effectiveness across European Union countries, an indirect method of measurement was used. This started from the assumption that *the higher the level of regulation of a national legislative control system and the level of implementation of the regulation, the more effective the system in governing the use of large-scale cash payments.*

According to this model, the level of effectiveness of a national system is the result of the existence and implementation of several regulatory features (such as those related to competent authorities, control measures, persons subject to the control measures, sanctions, reporting system, etc.), the lack and/or the inefficacy of one or more of which makes the control less effective. *Hence, the larger the number of*

*features regulated under the national legislative control system, and the higher the level of their implementation, the more effective is the system.* The features of the regulation assumed to influence the effectiveness of the national control system have been identified on the basis of the existing international and national literature, the purpose being to ensure that our assumption concerning the contribution of these features to the effectiveness of the national system would be supported by both the international community and high profile experts in the field, who indeed confirmed the soundness of the effectiveness indicators selected on the occasion of the working seminar held in Brussels on 16 – 17 May 2003.

The methodology just described has enabled us to produce a *tentative and exploratory* comparative study of the effectiveness of national systems for controlling the use of cash payments for money laundering purposes.

The model measures the effectiveness of national legislative controls by means of the following mathematical function:

$$ENLCS = f(LR)(LI)$$

where

ENLCS= Effectiveness of national legislative control system on the use of large-scale cash payments for money laundering purposes

LR= Level of regulation of the national legislative control system on the use of large-scale cash payments for money laundering purposes

LI= Level of implementation of the above mentioned regulation

*G) Exploitation of activities within specific sectors of the economy by criminals for cash laundering purposes in the European Union framework*

This concept concerns exploitation targeted on *specific sectors of the economy, i.e. financial, non-financial and professionals*, in order to launder money in the form of cash. In particular, the term ‘exploitation’ denotes the *specific activities within each specific sector infiltrated by criminals* with a view to concealing their illegal profits.

Measuring the degree of exploitation by criminals of specific activities within each of the three sectors mentioned (financial, non-financial and professionals) first requires the calculation for each Member State of an **Activity Exploitation Index**. This expresses, on a scale from 0 to 100, the degree of exploitation of the activity for cash laundering purposes in each Member State. *The higher this index, the greater the degree of exploitation of the specific activity for cash laundering purposes.*

The Activity Exploitation Indexes (one per Member State) are subsequently aggregated into a **EU Activity Exploitation Index** obtained by calculating the average of the national Activity Exploitation Indexes. This expresses, on a scale from 0 to 100, the degree of exploitation of the activity for cash laundering purposes at EU level. *The higher this index, the greater the degree of exploitation of the specific activity for cash laundering purposes in the European Union.*

The EU Activity Exploitation Indexes (within each specific sector) are subsequently aggregated into the ***EU Sector Exploitation Index***. This is obtained by calculating the average of the EU Activity Exploitation Indexes within the given sector, and it expresses, on a scale from 0 to 100, the degree of exploitation of the sector for cash laundering purposes at EU level. *The higher this index, the greater the degree of exploitation of the sector for cash laundering purposes in the European Union.*





## 7.

## DATA COLLECTION PROCEDURES AND METHODOLOGY

Primary and secondary sources were used for the development of the Study.

With particular reference to the analysis of the phenomenon of the use of large-scale cash payments for the purpose of money laundering within the EU framework (aim 1), the following sources were utilised:

- the *primary sources* were the replies to Section 2 of the questionnaire by experts from the financial intelligence units of the EU Member States. The purpose of this Section was to gather information on the use of large-scale cash payments and to determine, in particular, the extent to which specific sectors of the economy (i.e. financial sector, non financial sector and professionals) are exploited by criminals;
- the *secondary sources* consisted of a variety of documents produced by relevant international organisations, both published and unpublished.<sup>10</sup>

The following sources were used for comparison of the effectiveness of national legislative systems set up within the EU framework to control the use of large-scale cash payments for the purpose of money laundering (aim 2):

- the *primary sources* were the replies to Section 1 of the questionnaire by experts from the financial intelligence units of the EU Member States. This Section was designed to gather information on the legislative controls in force in EU Member States to govern large-scale cash payments;
- the *secondary sources* consisted of national pieces of legislation governing the use of large-scale cash payments at national level.<sup>11</sup> European<sup>12</sup> and

<sup>10</sup> Most important among those consulted, and which are mentioned throughout this report when relevant, were the following: Commissione Studi del Consiglio Nazionale del Notariato, *Provvedimenti urgenti per limitare l'uso del denaro contante*, Studio n. 519, 20 aprile 1993, available at: <http://www.notarlex.it/studi/settore/519.htm>; US Department of the Treasury, Internal Revenue Service, *Reporting Cash Payments of Over \$10,000 (Received in a Trade or Business)*, Publication 1544, Rev. February 2002; FATF, *Report on Money Laundering Typologies 2002–2003*, FATF, Paris, 14 February 2003; FATF, *Report on Money Laundering Typologies 2001–2002*, op. cit.; FATF, *Report on Money Laundering Typologies 2000–2001*, FATF, Paris, 1 February 2001; FATF, *Report on Money Laundering Typologies 1999–2000*, FATF, Paris, 3 February 2000; FATF, *Report on Money Laundering Typologies 1997–1998*, FATF, Paris, 12 February 1998; FATF, *Review of FATF Anti-Money Laundering Systems and Mutual Evaluation Procedures 1992–1999*, FATF, Paris, 16 February 2001; Egmont Group, *FIU's in Action – 100 cases from the Egmont Group*, op. cit..

<sup>11</sup> Complete information and references about national legislation governing the use of large-scale cash payments are provided, for each EU Member State participating in the Research, by the country profiles in Subsection 9.1.

<sup>12</sup> Essential documents are the two EU Directives on anti-money laundering: Council of the European Union, Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering, in OJ L 166 of 28 June 1991; Council of the European Union, Directive 2001/97/EC amending Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering, in OJ L 344 of 28 December 2001. Moreover, see European Commission, 'Money Laundering. How to improve EU rules for prevention', in *Single Market News*, Special Feature No. 14, October 1998, available at:

international political and legislative initiatives addressing this issue were also taken in consideration. All these sources were used to draw up the effectiveness indicators employed in the subsequent analysis.

The Research proceeded through the following steps:

STEP 1: Definition of the *modus operandi* of money launderers using large-scale cash payments and transactions;

STEP 2: Collection of the national legislative provisions governing the use of large-scale cash payments for the purchase of goods and services in each Member State;

STEP 3: Identification of appropriate variables that may enhance the effectiveness of national legislative controls;

STEP 4: Preparation and sending of a questionnaire;

STEP 5: Qualitative analysis of the national legislative control systems on the use of large-scale cash payments for money laundering purposes;

STEP 6: Quantitative analysis (cross comparison) of the national legislative control systems on the use of large-scale cash payments for money laundering purposes.

*STEP 1: Definition of the modus operandi of money launderers using large-scale cash payments and transactions*

The first step was to define the *modus operandi* of money launderers who use large-scale cash payments and transactions, with particular regard to the following issues: the degree of exploitation of specific sectors of the economy (financial sector, non financial sector and professionals); the connections of these sectors with organised crime and terrorism; new technologies; volume and size of large-scale cash payments; the geographical scale of the problem; the role of the private sector in identifying money laundering schemes using large-scale cash payments; the cost implications for business, law enforcement and personal privacy.

This was achieved through:

1. the collection of documentation (i.e. literature on the topic, notably recent reports issued by international, European and EU national institutions such as FATF, Council of Europe, European Commission, Council of the European Union, etc.).
2. replies by EU financial intelligence units to section 2 of the questionnaire.

To be noted is that this step involved calculation of the extent to which specific activities within specific sectors of the economy (i.e. financial sector, non-financial sector and professionals) are exploited for the laundering of money in the form of cash.

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[http://europa.eu.int/comm/internal\\_market/en/smn/smn14/s14mn20.htm](http://europa.eu.int/comm/internal_market/en/smn/smn14/s14mn20.htm); Graham, T. (ed), *Butterworths International Guide to Money Laundering Law and Practice*, 2nd ed., Butterworth LexisNexis, London, 2003.

Measuring the overall degree of exploitation of specific activities within each of the three sectors mentioned (financial, non-financial and professionals) by criminals first required the calculation for each Member State of an **Activity Exploitation Index**. This expresses, on a scale from 0 to 100, the degree of exploitation of the activity for cash laundering purposes in each Member State. *The higher this index, the greater the degree of exploitation of the specific activity for cash laundering purposes.*

The Activity Exploitation Indexes (one per Member State) were subsequently aggregated into an **EU Activity Exploitation Index**. Obtained by calculating the average of the national Activity Exploitation Indexes, this Index expresses, on a scale from 0 to 100, the degree of exploitation of the activity for cash laundering purposes at EU level. *The higher this index, the greater the degree of exploitation of the specific activity for cash laundering purposes in the European Union.*

The EU Activity Exploitation Indexes (within each specific sector) were subsequently aggregated into the **EU Sector Exploitation Index**. This was obtained by calculating the average of the EU Activity Exploitation Indexes within the given sector, and it expresses, on a scale from 0 to 100, the degree of exploitation of the sector for cash laundering purposes at EU level. *The higher this index, the greater the degree of exploitation of the sector for cash laundering purposes in the European Union.*

For further details on the values used to calculate the above indexes, see Annex 1.

*STEP 2: Collection of the national legislative provisions governing the use of large-scale cash payments for the purchase of goods and services in each Member State*

The second step consisted in analysis of the national legislative provisions governing the use of large-scale cash payments for the purchase of goods and services in each Member State. This analysis was performed by collecting national legislative provisions governing the use of large-scale cash payments in each Member State.

*STEP 3: Identification of appropriate variables that may enhance the effectiveness of national legislative controls*

The third step consisted of identification of appropriate variables that may increase the effectiveness of national legislative controls. The purpose was to compare the effectiveness of national legislative systems for controlling the use of cash payments for money laundering purposes across EU Member States. In fact, owing to the lack of statistics, effectiveness can be measured only indirectly and to the limited extent of its comparison across European Union countries. It was assumed that *the higher the level of regulation of a national legislative control system, and the higher the level of implementation of the regulation, the more effective the system will be in governing the use of large-scale cash payments.* According to this model, the level of effectiveness of a national system results from the existence and implementation of various regulatory features (such as those related to competent authorities, control measures, persons subject to the control measures, sanctions, reporting system, etc.), the lack and/or inefficacy of one or more of which makes the control less effective. *Hence, the greater the number of features regulated*

*under the national legislative control system and the higher the level of their implementation, the higher the level of effectiveness of the system.*

The features of the regulation assumed to influence the effectiveness of the national control system were identified on the basis of the existing international and national literature, the purpose being to ensure that our assumption concerning the contribution of these features to the effectiveness of the national system would be supported by both the international community and high profile experts in the field, who indeed confirmed their soundness on the occasion of the working seminar held in Brussels on 16 – 17 May 2003.

#### *STEP 4: Preparation and sending of a questionnaire*

Step 4 involved the preparation and sending of a questionnaire. The variables that contribute to the effectiveness of national legislative controls identified in step 3 were used to draw up effectiveness indicators: viz., those features of the system, in terms of competent authorities, control measures, persons subject to the control measures, sanctions, reporting system, etc., that influence its effectiveness (i.e. its ability to control money laundering operations through large-scale cash payments). These effectiveness indicators were then translated into questions and included in Section 1 of the questionnaire sent to one expert per country (a member of the FIU). The replies to the questionnaire were discussed during a working seminar held in Brussels on 16–17 May 2003 and attended by the national experts selected.

#### *STEP 5: Qualitative analysis of the national legislative control systems on the use of large-scale cash payments for money laundering purposes*

Step 5 consisted of qualitative analysis of the national legislative control systems on the use of large-scale cash payments for money laundering purposes. For each Member State, this analysis comprised a description of the legal framework and of what ‘works’ and what does not in this area. This Step was undertaken on the basis of:

- the findings of Step 2 (Collection of the national legislative provisions governing the use of large-scale cash payments for the purchase of goods and services in each Member State);
- the replies by national experts to Section 1 of the questionnaire;
- the literature produced on the topic at the international and national levels.

#### *STEP 6: Quantitative analysis (cross comparison) of the national legislative control systems on the use of large-scale cash payments for money laundering purposes*

This Step served to quantify for the purpose of cross comparison the effectiveness of national legislative controls on large-scale cash payments in the EU Member States.

An **Effectiveness Index** was first calculated for each effectiveness indicator previously identified. This effectiveness index was calculated on a scale from 0 to 100. It expresses the degree of effectiveness of the national legislative control system with reference to the specific indicator. *The higher this index, the greater the effectiveness of the national legislative controls system, with regard to the indicator considered.*

The Effectiveness Indexes were then aggregated into a ***Synthetic Effectiveness Index***, also calculated on a scale from 0 to 100. It quantifies the effectiveness of the entire national legislative controls system governing the use of large-scale cash payments. This index was obtained as the average of the effectiveness indexes. *The higher this index, the greater the effectiveness of the national legislative controls system governing the use of large-scale cash payments in the country.*

For further details on the values used to calculate the effectiveness indexes, see Annex 1.



## 8.

### THE USE OF CASH PAYMENTS FOR MONEY LAUNDERING PURPOSES IN THE EUROPEAN UNION: THE PHENOMENON

The use of large-scale cash payments for money laundering purposes is a relatively long-standing phenomenon, but only recently has it attracted attention. International organisations concerned with the more general issue of money laundering first realized the importance of cash in money laundering schemes in the second half of the 1990s, when common cash smuggling appeared to be on the increase. The first signal of the phenomenon took the form of appreciable amounts of cash moving covertly across borders.<sup>13</sup> Moreover, it was discovered that cash was also being delivered via the postal service or alternative financial channels like *hawala* and *hundi*.<sup>14</sup> As a consequence, attention increasingly focused on the phenomenon in order to gain better understanding of it and to devise adequate counter-measures.

The European Commission, for its part, assumed a proactive role. From September 1999 to February 2000, *Operation MoneyPenny 1 and 2*<sup>15</sup> saw EU Customs authorities cooperating to determine cross-border cash movements involving sums greater than €10,000. This exercise found that considerable amounts of cash, as well as other assets like cheques, securities, gems and precious metals, were moving in and out of the EU (out of a total of €1.6 billion, €1.35 billion consisted of cash). Studies promoted by the European Commission emphasised the lack of legislation on large-scale cash payments in the EU Member States, half of which had no legal basis for controls on anonymous forms of payments. In those Member States that did so, national rules varied greatly and failed to distinguish between intra-EU capital movements and those from non-EU countries.

Before we enter into details on national legislative systems of controls on cash transactions (Section 9), this Section describes the characteristics of the phenomenon of the use of large-scale cash payments for money laundering purposes, the *modus operandi* used by criminals to infiltrate the legitimate economy with cash to be laundered, and recent trends in the European Union. Attention will focus on the following issues in particular:

- the extent to which specific activities within specific sectors of the economy (i.e. financial sector, non-financial sector and professionals) are exploited to launder money in the form of cash (subsection 8.1);
- the connections between the sectors of the economy identified and organised crime and terrorism (subsection 8.2);

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<sup>13</sup> FATF, *FATF-VII Report on Money Laundering Typologies*, FATF, Paris, 28 June 1996, p. 5.

<sup>14</sup> FATF, *1997-1998 Report on Money Laundering Typologies*, op. cit., p. 4; FATF, *1996-1997 Report on Money Laundering Typologies*, FATF, Paris, February 1997, p. 7.

<sup>15</sup> European Commission, *Report from the European Commission to the Council on controls on cross-border cash movements*, and *Proposal for a Regulation of the European Parliament and the Council on the prevention of money laundering by means of customs co-operation*, Brussels, COM(2002) 328 final of 25 June 2002.

- new technologies (subsection 8.3);
- the volume and size of large-scale cash payments, and the geographical scale of the problem (subsection 8.4);
- the role of the private sector in identifying money laundering schemes using large-scale cash payments (subsection 8.5);
- the cost implications for business, law enforcement and personal privacy (subsection 8.6).

The sources of information for this section are the literature produced on the topic by international, European and EU national institutions and the replies given by the national experts to Section 2 of the questionnaire, as integrated and further discussed during the working seminar held in Brussels on 16 – 17 May 2003. To be noted is that the description of the general features of the phenomenon considers the social and economic context of each Member State, so that adequate account can be taken of their individual *cash cultures*.

#### **8.1 DEGREE OF EXPLOITATION OF SPECIFIC ACTIVITIES WITHIN SPECIFIC SECTORS OF THE ECONOMY (FINANCIAL SECTOR, NON-FINANCIAL SECTOR AND PROFESSIONALS) TO LAUNDER MONEY IN FORM OF CASH**

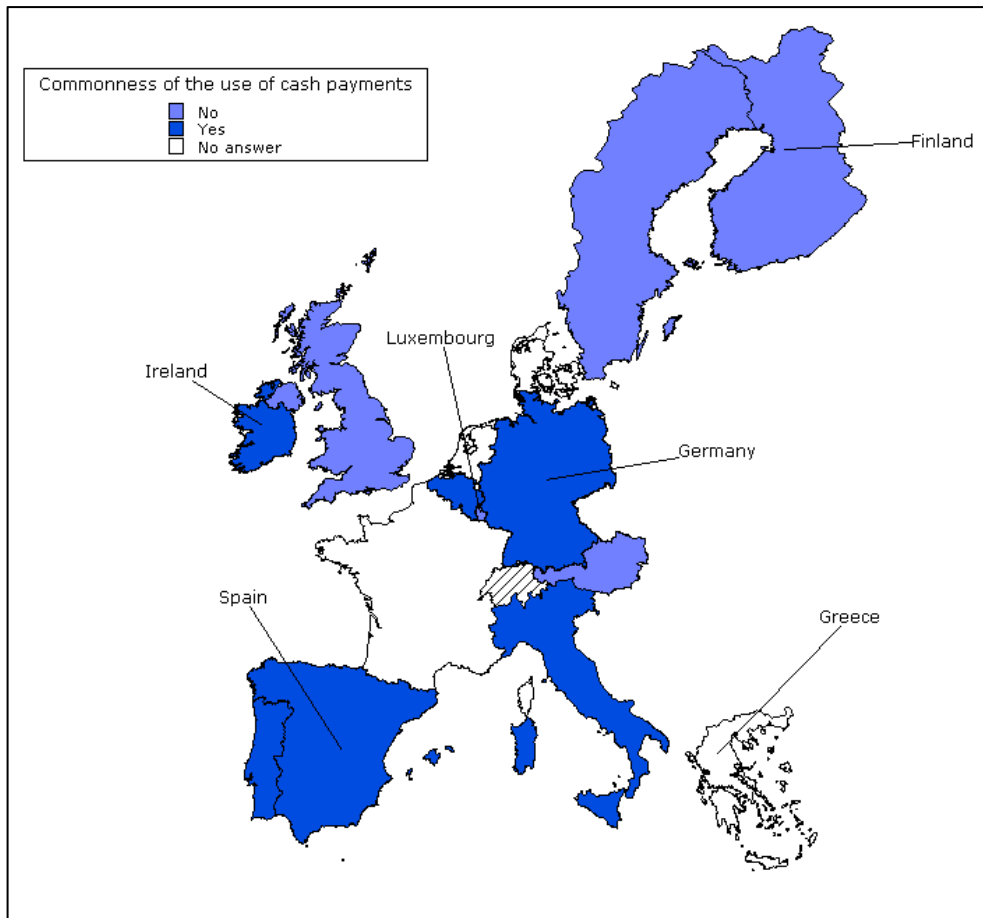
The extent to which cash is used in a country is the first aspect to consider. The frequency of cash payments in everyday activities displays a first geographical distinction: northern countries use cash to a lesser extent than southern ones.<sup>16</sup> However, in general, the European economy as a whole seems not to be cash-oriented.

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<sup>16</sup> Finland is plastic- rather than cash-oriented, having the lowest rate of cash payments in Europe. For further discussion and statistics on the use of cash in the other EU countries, see Bank of Finland, *Annual Report 2002*, Bank of Finland, Helsinki, 2003, pp. 26–33; European Central Bank, *Annual Report 2002*, European Central Bank, Frankfurt am Main, 2003, pp. 140–147.



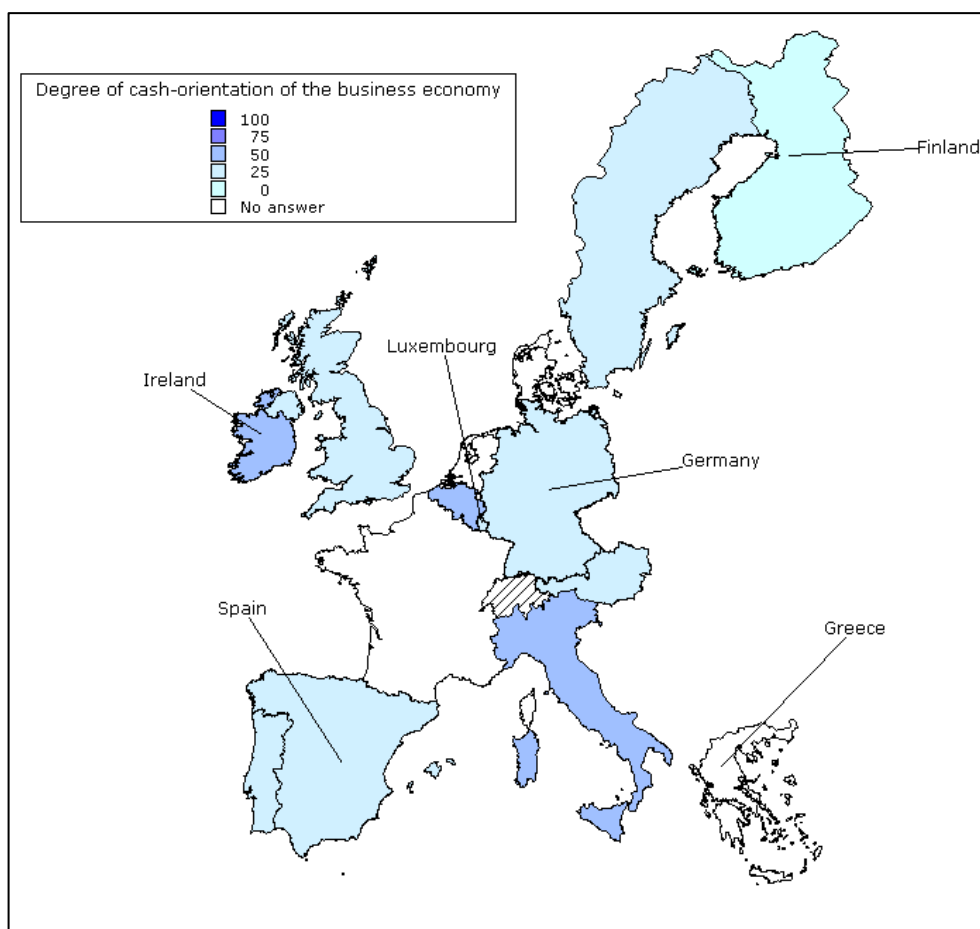
Figure 8.1: Commonness of the use of large-scale cash payments<sup>17</sup>



Source: TRANSCRIME – University of Trento.

<sup>17</sup> The figures and tables in this report refer to 11 of the 15 EU Member States. This is because Denmark, France, Greece, and the Netherlands did not complete the questionnaire prepared by TRANSCRIME – University of Trento in order to collect information on the use of large-scale cash payments.

Figure 8.2: Degree of cash orientation of national business economies



Source: TRANSCRIME – University of Trento.

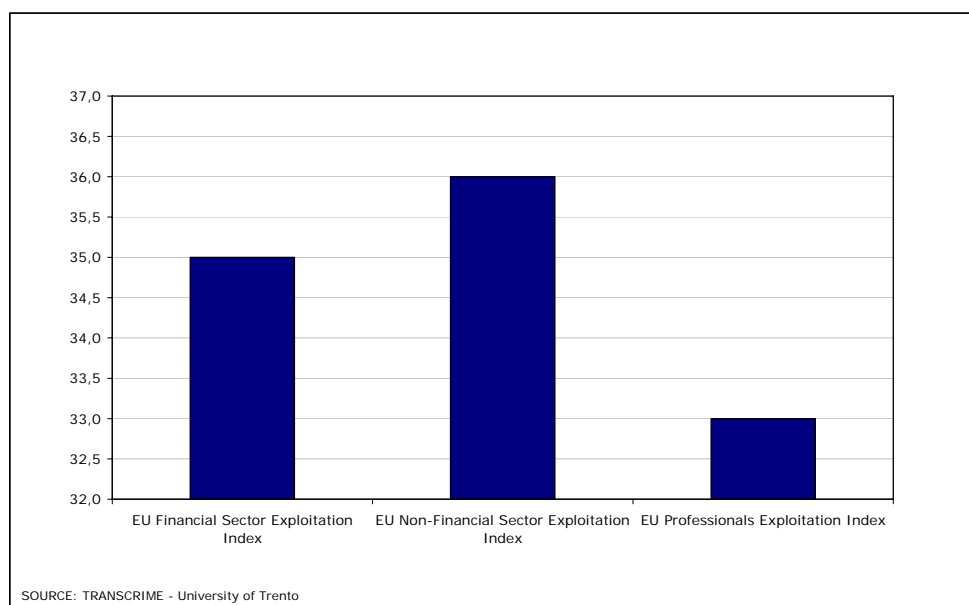
Although cash payments are very rare in the larger economies (e.g., the City of London), they are reasonably common in the case of fraud/tax fraud.<sup>18</sup> In some countries, for instance Luxembourg and the United Kingdom, there is a large amount of tax evasion, and cash movements are mainly related to this phenomenon. Quite often, national suspicious transaction reports are linked to tax evasion.

The situation as regards cash deriving from illegal or criminal activities is different, however. Following recent European legislative restrictions and the obligations imposed on credit and financial institutions, one may assume that money launderers have had to find alternative channels through which to launder their criminal proceeds. This shift has been unanimously confirmed by all countries, which single out the non-financial sector as the one most likely to be subject to exploitation when laundering takes place through cash. This is possible because

<sup>18</sup> The close relationship between cash payments and tax evasion is indirectly confirmed by the US experience. In the US all cash payments over \$10,000 must be reported to both the Internal Revenue Service and FinCEN.

launderers are legally entitled to sell products and services directly for cash, with no control over their activities.

Figure 8.3: EU Sector Exploitation Indexes



Regulation notwithstanding, the financial sector in Luxembourg and the United Kingdom<sup>19</sup> seems to play a role in money laundering via cash payments. This is because of the central importance of the sector in these two countries, the most important financial centres in Europe.

On looking more closely at the specific sectors of the economy (i.e. financial sector, non financial sector and professionals<sup>20</sup>) in order to determine those most vulnerable to abuse,<sup>21</sup> it was difficult to identify Europe-wide features among Member States. National cultural and legislative differences proved to be still

<sup>19</sup> In the UK, money laundering seems to be undertaken mainly through financial institutions, bureaux de change in particular (which launder drug trafficking proceeds especially). National Criminal Intelligence Service, *UK Threat Assessment of Serious and Organised Crime 2002*, NCIS, 2003, available at: <http://www.ncis.co.uk/ukta/threat6.asp>.

<sup>20</sup> Assuming that the credit sector was fully regulated under the 1991 EU Directive on anti-money laundering, and that the Directive has been fully implemented by all Member States, we decided not to consider the role of banks and credit institutions in money laundering through cash. This assumption has been validated with the national experts participating in the Study.

<sup>21</sup> In order to gather information on this aspect, the word "involvement" was used in the questionnaire. However, the term proved to be unclear because it could be interpreted as: 1) abused and in compliance with his/her professional obligations; 2) abused and NOT in compliance with his/her professional obligations (this probably being the reason why it was abused, although there was no collusion as yet); 3) actively colluded. The meaning of "involvement" was then specified as "used by" or "exploited by" launderers, with no reference being made to collusion (although in some cases there might be active or passive collusion).

decisive in all sectors, influencing the decision to use one particular institution or instrument rather than others to move cash money. These discrepancies are further accentuated by national legislation, for differences still persist among Member State with regard to sectors that are regulated and unregulated. This undermines protection at EU level and leaves open loopholes for criminals to exploit.<sup>22</sup>

This applies in particular to the non financial sector and to professionals. Regulation of the matter is provided within the framework of the EU Directive adopted on 4 December 2001 and to be implemented by 15 June 2003.

We now turn to identification of the specific activities – in the financial sector, the non financial sector and among professionals – most susceptible to exploitation for cash laundering purposes.

With regard to the non-financial sector, most vulnerable to exploitation for large-scale cash laundering are real estate agents<sup>23</sup>, followed by luxury motor vehicle dealers, and, to some extent, casinos. The role of real estate agents increased in importance at the time of the Euro changeover. Criminals found themselves in possession of large amounts of cash money which they would normally have either kept or dispersed, but with the introduction of the Euro would become worthless. For which reason numerous criminals invested their cash in real estate.

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<sup>22</sup> Passas, N., "Globalisation, Criminogenic Asymmetries and Economic Crime", in *European Journal of Law Reform*, Vol. 1, no. 4, 1999, pp. 399–423.

<sup>23</sup> Real estate agents in the UK do not have much to do with movements of cash because it is lawyers that deal in cash. However, British criminals invest cash in Spanish real estate (for example in the Canary Islands), so that the real estate agent is Spanish, not British. That is why this practice is considered a major problem in Spain, and less so in the UK. See the forthcoming FALCONE Research Study by the Interuniversitarian Andalusian Institute of Criminology, Division of Malaga, Department of Criminal Law, *Illicit Practices in the Construction Industry: Vulnerability to Organised Crime and Corrupting Agents in Urban Planning and the Building Industry* for more details on this issue.

Figure 8.4: EU Activity Exploitation Indexes – Non Financial Sector



Regional variations should be mentioned in this regard. Italy reported the marked vulnerability of insurance companies, especially those dealing in life insurance, and gambling houses like Bingo halls. The UK also pointed out the potentially high degree of exploitation by criminals of gambling houses, which in Britain are often managed by ethnic communities. Moreover, the main problem in the UK concerns the importing of high value cars from the Continent. Motor vehicles are much more expensive in the UK than in the rest of Europe. The UK resells the vehicles through both legitimate and illegitimate trade and retains a lot more of the value of the vehicle that it would do otherwise. VAT fraud is committed in combination with motor vehicle importation.<sup>24</sup>

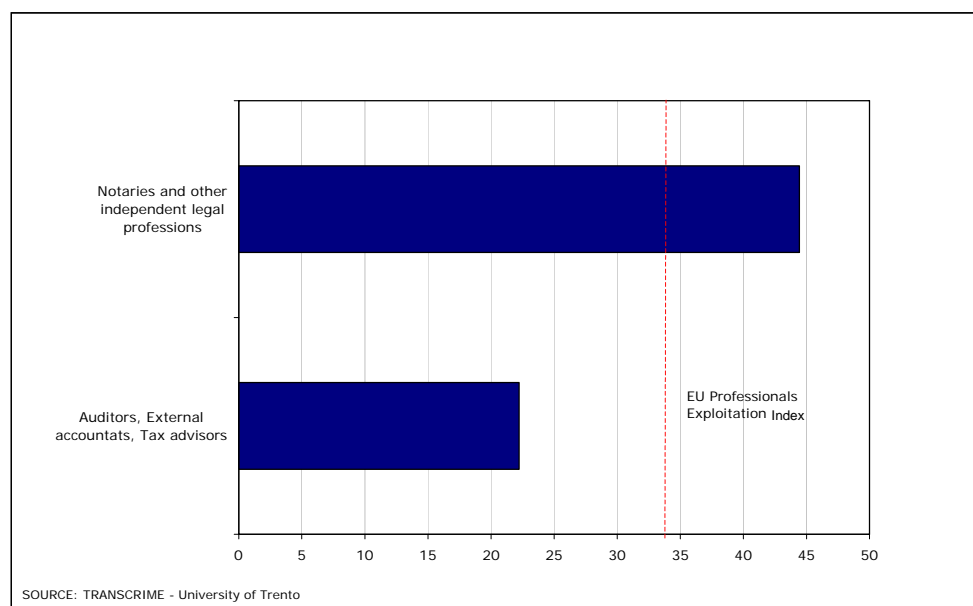
Turning to professionals, these warrant especial attention, both those directly linked to the financial sector<sup>25</sup> and those that are not. According to the national FIU experts, professionals are undoubtedly involved in money laundering. The laundering they assist tends not to be in cash form but, for example, in the form of VAT fraud, in which case no cash is involved. It has proved extremely difficult in all countries for the law enforcement agencies to detect the illegal or collusive activities of professionals.<sup>26</sup> Nevertheless, notaries and other independent legal professions are unanimously considered to be those most exploited among the professional categories. This trend seems unlikely to change in the future, although it is extremely difficult to foresee the impact that the new Directive will have.

<sup>24</sup> Luxury motor vehicles have been always a way to launder money in the UK. The least reputable motor dealers are actually owned by organised crime. This situation has been maintained from the past and will continue in the future.

<sup>25</sup> Like the professionnels du secteur financier in Luxembourg.

<sup>26</sup> See further the FALCONE Report by Vrije Universiteit Amsterdam, Section Criminal Law and Criminology, *Dilemmas Facing the Legal Professions and Notaries in their Professional Relationships with Criminal Clients* (forthcoming 2003).

Figure 8.5: EU Activity Exploitation Indexes – Professionals

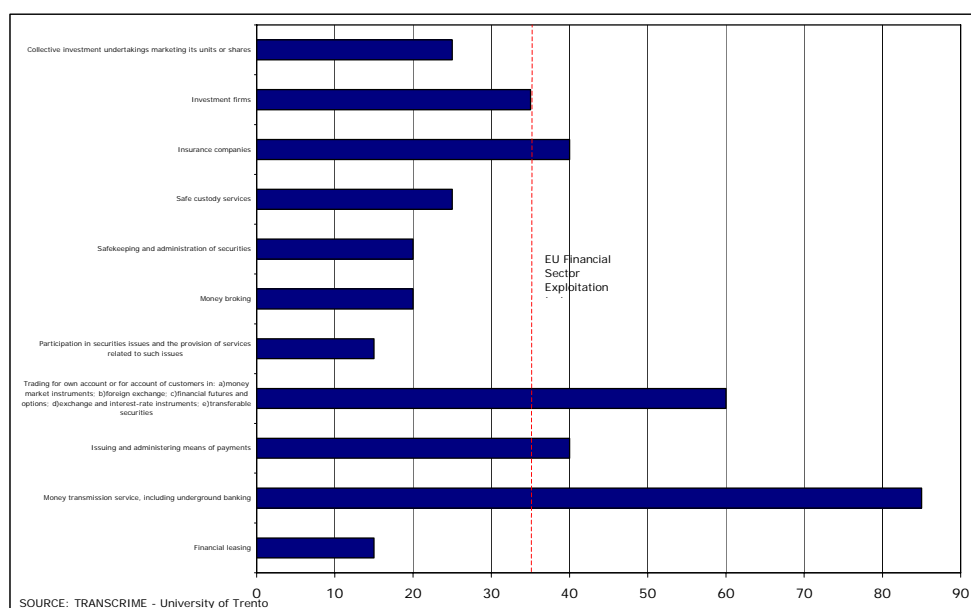


As regards the financial sector, despite a high level of regulation there still seems to be room for criminal exploitation. A problem shared by all Member States is posed by money remittance services, including the underground banking system,<sup>27</sup> and foreign exchange offices.<sup>28</sup> These were, are, and probably will continue to be, exploited for the purpose of money laundering and terrorist finance through cash, because it is simply too difficult to build up a pattern of suspicion in relation to people who are not regular customers.

<sup>27</sup> In the UK, ethnic forms of banking such as hawala and hundi are significant financial institutions. Although there is no effective movement of cash, the involvement of these institutions in money laundering is huge. Nevertheless, investigations into a hawala system are extremely difficult to conduct. In Italy there are numerous small ethnic organisations that send money abroad through unofficial services. The network operates as an unofficial compensation system. On this topic, see also: Carroll, L. C., *Alternative remittance systems distinguishing sub-systems of ethnic money laundering in Interpol member countries on the Asian continent*, Interpol, Lyon, 1999, available at: <http://www.interpol.int/Public/FinancialCrime/MoneyLaundering/EthnicMoney/default.asp#3>; Jost, P.M., Sandhu, H.S., *Hawala. The Hawala alternative remittance system and its role in money laundering*, Interpol General Secretariat, Lyon, January 2000.

<sup>28</sup> Europol, 'Financial Crime is a Key Area of Organised Crime Involvement', in *EU Organised Crime Situational Report 2000*, Europol, The Hague, 2001, available at: <http://www.europol.eu.int/index.asp?page=EUOrganisedCrimeSitRep2000#FINANCIAL>.

Figure 8.6: EU Activity Exploitation Indexes – Financial sector



Money remittance services are not fully and appropriately regulated and controlled. The agencies of international corporations like Western Union and Money Gram are covered by anti-money laundering law in many countries. However, the sub-agents and agents of Western Union which operate through 'kiosks' are not subject to anti-money laundering regulations. These front offices or 'kiosks' are often managed by ethnic communities which have developed a parallel underground banking system to which money transaction rules do not apply.<sup>29</sup> The importance of alternative remittance systems, including underground banking, has increased with migration into Europe. People from other countries and continents are generally unfamiliar with the European financial system, and they prefer to send their cash money home through services and people that they know and trust.<sup>30</sup>

Foreign exchange offices, by contrast, have lost some of their importance for cash money laundering since the introduction of the Euro. They still maintain a dominant position in the United Kingdom, where the single currency has not been adopted, but their future role in that country depends on whether or not the UK joins the Euro. If it does, cash money to be laundered will look for other and safer financial or non-financial channels.

In the case of both money remittance services and foreign exchange offices, the main issue is the lack of regulation and control. Although few changes have occurred, and even fewer are expected in the future, the factors responsible for the shift in trends have essentially been the introduction of stricter regulation and increased controls in sectors suspected of involvement in large-scale cash money laundering schemes.

<sup>29</sup> FATF, *1997–1998 Report on Money Laundering Typologies*, op. cit., p. 5.

<sup>30</sup> National Criminal Intelligence Service, *UK Threat Assessment of Serious and Organised Crime 2002*, op. cit..

Another factor to have changed the attitude of criminals towards money laundering by means of large-scale cash payments in Europe has been the introduction of the single European currency (EURO). A study by the FATF on the money laundering implications of the introduction of the euro during its 1998–1999 exercise concluded that any potential money laundering risks would likely be tied to the introduction of the new currency in physical form and the subsequent phasing out of the national currencies.<sup>31</sup> Both the FATF and the European Central Bank acknowledged that particularly vulnerable were transactions involving cash in Eurozone legacy currencies exchanged for the new physical euros, operations involving occasional customers, and structured transactions.

According to Europol, at EU level the introduction of the Euro generally encouraged cash money laundering, but not to the astronomical extent expected. Member States<sup>32</sup> have confirmed this conclusion, underlining in particular the role played by high denomination banknotes,<sup>33</sup> which are important to launderers because they reduce the bulkiness of physical cash movements.<sup>34</sup>

The risks associated with the euro have not subsided. In the future, the problem will arise once again with the acceding and candidate States.<sup>35</sup> The Central and Eastern European countries are very cash-oriented, even in their legitimate economies. Cash transactions take place in large numbers, and it is difficult to reduce the use of cash only by introducing new regulations. The appropriate strategy seems instead to be that of helping these countries develop alternative means of payment, and only then issue new regulations or revise the existing ones. Cultural traditions are impossible to remove. For this reason, ‘top down’ regulation issued without prior study of the context in which it is to be applied, may not achieve the result expected. Consequently, the transition period assigned to Eastern countries to comply with the *acquis communautaire*, including the introduction of the euro, should be closely monitored in order to prevent potential misuse and even exploitation by criminals.

## 8.2 CONNECTIONS BETWEEN SPECIFIC SECTORS OF THE ECONOMY AND ORGANISED CRIME AND TERRORISM

The criminal networks that most frequently launder cash money are traffickers and white-collar criminals, with fraud, drug trafficking and human trafficking being the activities most closely involved. In fact, trafficking activities and financial crimes

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<sup>31</sup> FATF, *1998–1999 Report on Money Laundering Typologies*, FATF, Paris, 10 February 1999, p. 4–5.

<sup>32</sup> Portugal did not agree with this line is because it refused to issue the highest denomination Euro bills.

<sup>33</sup> Europol, *Counter-Money Laundering: a European Perspective*, Europol, The Hague, 2002, available at: [http://www.europol.eu.int/index.asp?page=publ\\_moneylaundering](http://www.europol.eu.int/index.asp?page=publ_moneylaundering).

<sup>34</sup> FATF, *Report on Money Laundering Typologies 2001–2002*, op. cit., p. 16.

<sup>35</sup> Europol, *An Overview on Forgery of Money*, Europol, The Hague, available at: [http://www.europol.eu.int/index.asp?page=publ\\_forgeryofmoney](http://www.europol.eu.int/index.asp?page=publ_forgeryofmoney)



generate much more cash than other crimes do. Trafficking in drugs (involving all EU countries) and in human beings<sup>36</sup> are indubitably highly cash remunerative activities. Given the close controls on these activities, the large criminal networks involved, and the low level of trust surrounding them, the product must be paid for immediately and in cash in order to avoid detection and double-crossing. The urgent need to hide the profits explains why they are so closely linked to this form of money laundering.

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<sup>36</sup> For estimates of the proceeds from trafficking in human beings in the European Union, see TRANSCRIME – University of Trento, *MON-EU-TRAF. A Pilot Study on Three European Union Immigration Points for Monitoring the International Trafficking of Human Beings for the Purpose of Sexual Exploitation across the European Union*, Final Report, Trento, Italy, 2002, pp. 50–55.

Figure 8.7: Criminal organisations/networks most devoted to cash laundering

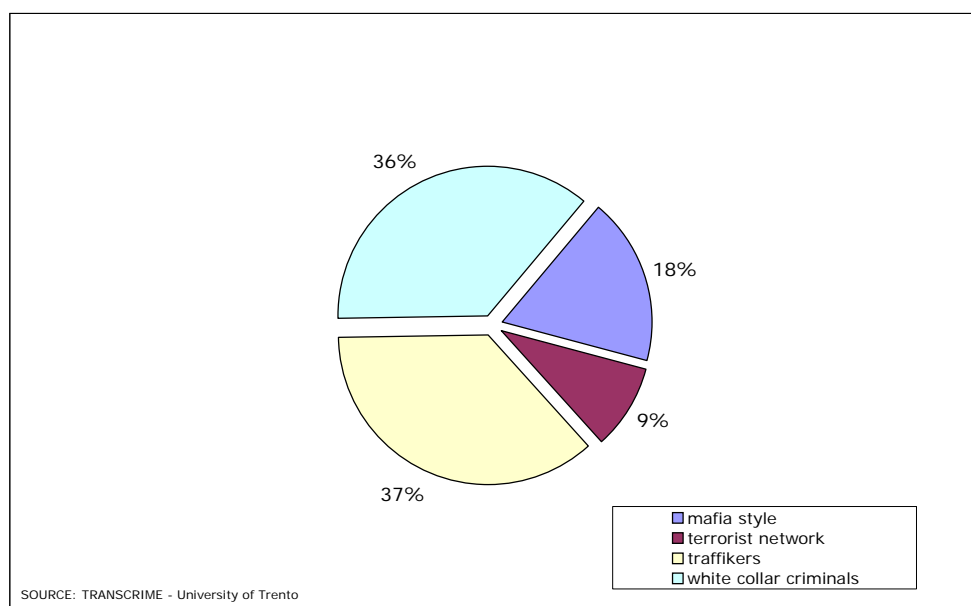
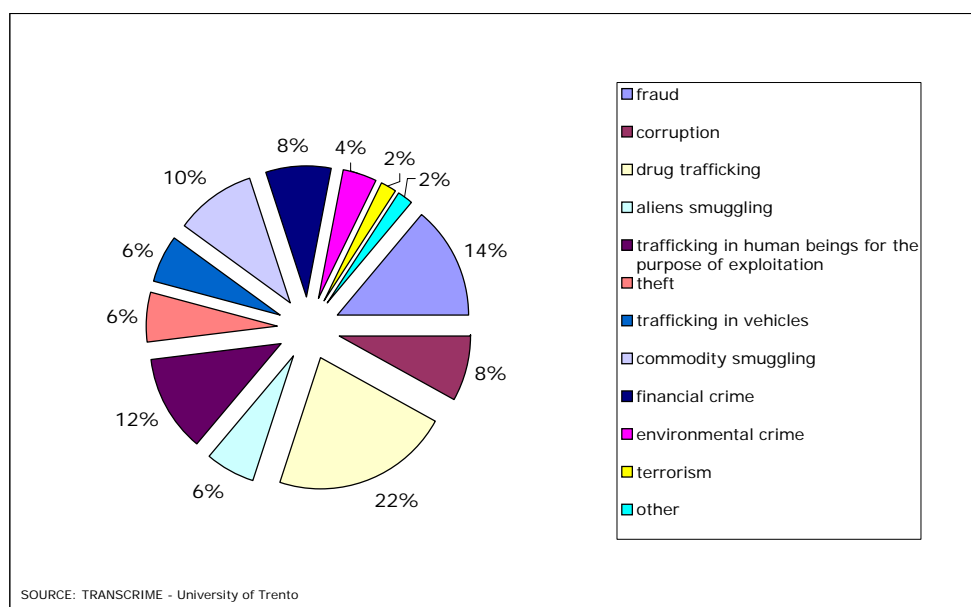


Figure 8.8: Criminal activities producing large volume of cash



The financial sector proves to be still closely and primarily concerned when criminal organisations seek to move money. Money remittance services and foreign exchange offices are at the top of the list of potential activities involved, often because of the foreign nationality of most of the organised groups engaged in such

cash generating activities in Europe.<sup>37</sup> This finding confirms again the high risk connected with this kind of financial institution.

As for terrorism, its importance increased dramatically after 11 September 2001. It is often difficult to draw a clear distinction between terrorist financing and money laundering, given that many of the tools devised to address the problem of money laundering in its traditional sense are also useful in following the money trails of terrorism.<sup>38</sup> The general movements of money are the same, and so too are some of the *modi operandi*, notably what is termed “reverse money laundering”<sup>39</sup>. In the latter case, the methods with which money is moved are the same as those used by money launderers, but the money flow is in the reverse direction. In other words, whilst money laundering involves ‘black or dirty’ money to be cleaned and transformed into ‘white or clean’ money, terrorist financing deals with both legal and illegal money for criminal purposes, i.e., the commission of terrorist attacks. Given the fact that the international financial system has been heavily regulated and controls have been reinforced, especially since September 11, terrorists are now seeking alternative ways to move their money.<sup>40</sup>

The role played by non-profit organisations, i.e. charity foundations throughout the world, in collecting funds for terrorist purposes is generally considered to be of great significance.<sup>41</sup> Investigations by forces other than FIUs confirm that non-profit organisations are among the main sources of financing for terrorists.<sup>42</sup>

Within the European Union, only Belgium, Germany, Ireland, Italy and the United Kingdom have obtained evidence on the involvement of non-profit organisations in terrorist financing through cash. This information reflects the geographical

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<sup>37</sup> For further information on criminal organisations engaged in drug trafficking, as well as their internal structures and the relationships among members, see: Zaitch, D., *Trafficking Cocaine: Colombian drug entrepreneurs in the Netherlands*, Kluwer Law International, The Hague, 2002; and, for trafficking in human beings, see: Europol, *Crime Assessment – Trafficking of Human Beings into the European Union*, Europol, The Hague, 2000, available at: [http://www.europol.eu.int/index.asp?page=publ\\_crimeassessmentTHB](http://www.europol.eu.int/index.asp?page=publ_crimeassessmentTHB); Europol, *Organised Illegal Immigration Into the European Union*, Europol, The Hague, 2002, available at: [http://www.europol.eu.int/index.asp?page=publ\\_illegalimmigration](http://www.europol.eu.int/index.asp?page=publ_illegalimmigration).

<sup>38</sup> S. E. Morris, ‘Following the money trail: where corruption meets terrorism’, in *Transparency International’s Quarterly Newsletter*, September 2002, p. 1.

<sup>39</sup> Cassella, S. D., Reverse Money Laundering, paper presented at the *XX Cambridge International Symposium on Economic Crime*, Jesus College, Cambridge, 10 September 2002.

<sup>40</sup> The financial investigations conducted by the US authorities in the aftermath of September 11 on terrorists’ bank accounts demonstrated that money for the terrorist attacks came from Arab countries. See: FBI, *Financial profile of Hijackers*, presented by Financial Review Group, Flight Team Analysis, 2001 (confidential source); FBI, *Testimony to the US Congress*, available at: <http://www.fbi.gov/congress/congress02/1orme1021202.htm>; US Treasury financial Crimes Enforcement Network (FinCEN), *Suspicious Activity Report Review*, Issue No. 4, August 2002, available at: <http://www.fincen.gov>. However, alternative financial channels and fund raising systems are also available. For further details, see: Y. Shahar, *Tracing bin Laden’s Money: Easier said than done*, Institute for Counter Terrorism, Israel, 21 September 2001, available at: <http://www.ict.org.il/articles/articleDet.cfm?articleId=387>

<sup>41</sup> FATF, *Combating the abuse of non-profit organisations. International best practices*, FATF, Paris, 11 October 2002; and FATF, *Report on Money Laundering Typologies 2002–2003*, op. cit., p. 4–6.

<sup>42</sup> Information provided by the Irish delegate, Mr Gerard Giblin, at the *Cash Payments for Money Laundering working seminar* in Brussels, 16 May 2003.

distribution of terrorist cells (*al-Qaeda* cells), the most important of which are located in Germany, Italy, Spain and the UK.<sup>43</sup> These Member States confirm the existence of significant amounts of terrorist financing in their countries, as well as its connection with cash movements. Money remittance services and the underground banking system are once again unanimously<sup>44</sup> recognised to be the preferred means for moving money around the world.

Finally, especial mention should be made of fraud as a highly significant cash generating crime. It appears, indeed, that the use of large-scale cash payments is principally linked to fraud and tax evasion, rather than to crime as such. This information has been reported by almost all Member States, which seem more concerned with tax evasion than with money laundering.<sup>45</sup>

### 8.3 NEW TECHNOLOGIES

Among the means available to money launderers are the so-called 'new technologies'. In its 1998 and 1999 reports on money laundering typologies,<sup>46</sup> the FATF highlighted the potential criminal use of new technology systems for money laundering. For this reason, and given the relatively newness of the money laundering schemes treated in the Report, it is important to determine whether these instruments play a role in cash payments as well. With the exception of some countries, however, the new technologies are not particularly relevant to the phenomenon, nor do they pose a potential threat.

Only Austria, Finland and Italy have detected cases of cash money laundering involving new technologies. The payment systems used were smart cards or electronic purses, Internet/network based systems (i.e., e-cash) as well as hybrid ones. Operations were conducted mostly in the e-commerce and on-line banking contexts, which are also those considered to be potentially the most vulnerable to abuse.

An interesting matter for analysis is the feature(s) of e-payment systems that affect or might potentially affect the extent of their use in large-scale operations. All the national experts were asked to comment on this aspect, independently of cases detected, their overall conclusion being that the main advantage of new

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<sup>43</sup> U. Gauthier, V. Jauvert, "DOSSIER. À l'intérieur d'Al-Qaïda", in *Le Nouvel Observateur*, 29 novembre – 5 décembre 2001, pp. 14–30.

<sup>44</sup> The only exception is Portugal, which is not affected by the terrorist problem, either domestically or internationally.

<sup>45</sup> P. Alldridge, 'Are Tax Evasion Offences Predicate Offences for Money Laundering Offences?', in the *Centre for Financial Regulation*, Cass Business School (ed), *Putting the Crooks out of Business! The Financial War on Organised Crime and Terror. Documentation, The XX Cambridge Symposium on Economic Crime*, Jesus College, Cambridge, 8–15 September 2002, pp. 577–586.

<sup>46</sup> FATF, 1997–1998 Report on Money Laundering Typologies, op. cit., pp. 2–3; and, FATF, 1998–1999 Report on Money Laundering Typologies, op. cit., pp. 7–9.

technologies for money launderers is the rapidity with which operations can be completed, closely followed by anonymity and the low traceability of operations. Of significance is the fact that the magnitude of value moveable through the e-payment system is irrelevant, as well as the possibility of transferring value between individuals rather than just to/from merchants.

To sum up, the threat currently posed by new payment technologies is medium or non-existent. Nevertheless, there is a common concern among Member States on the possible future developments of new technologies as tools for cash money laundering. This is also confirmed by the FATF<sup>47</sup>, which stresses potential risks linked to:

- the impossibility of identifying and authenticating the parties that use the new technologies;
- the level of transparency of transactions;
- the lack or inadequacy of audit trails, record keeping or suspicious transaction reporting by the technology provider;
- the use of high-level encryption (blocking law enforcement access);
- transactions that fall outside current legislative or regulatory definitions.

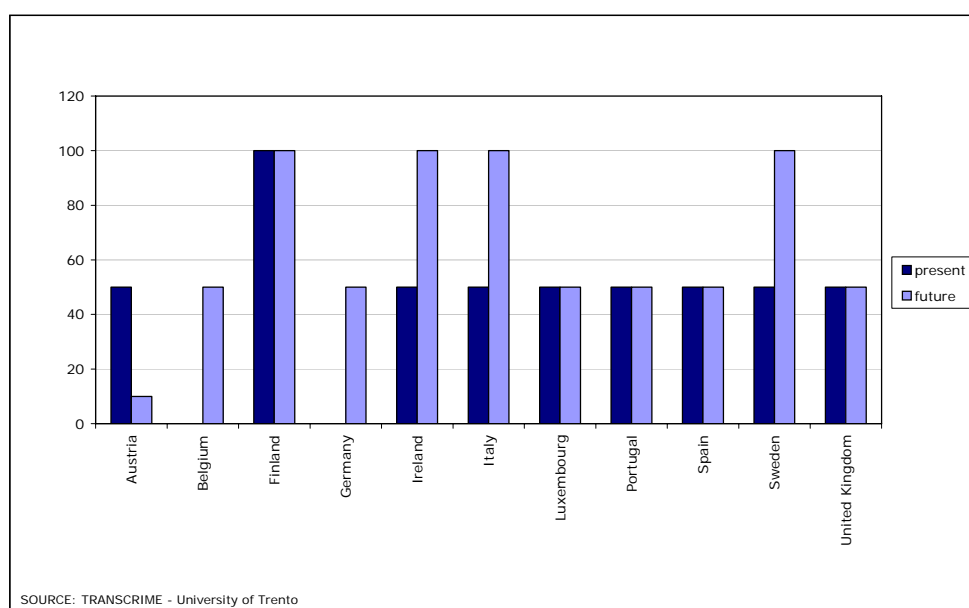
According to Europol, this threat is in its early stages at present, but complacency must be avoided.<sup>48</sup>

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<sup>47</sup> FATF, 1998–1999 Report on Money Laundering Typologies, op. cit., p. 7.

<sup>48</sup> Europol, Counter-Money Laundering: a European Union Perspective, op. cit., p. 2.

Figure 8.9: Present and future threat in the use of new technologies for cash laundering



#### 8.4 VOLUME AND SIZE OF LARGE-SCALE CASH PAYMENTS AND THE GEOGRAPHICAL SCALE OF THE PROBLEM

Despite the origin of the phenomenon and the instruments employed, the use of large-scale cash payments for money laundering is currently increasing in importance and size. This applies to both the legal and illegal economies. Examination of the volume of large-scale cash payments moved for the purpose of money laundering and the geographical scale of the problem in Europe is essential for understanding the phenomenon and for planning future action to prevent it from spreading further.

Data are of the utmost importance for measurement of the volume and size of large-scale cash payments in the legal and illegal markets. Given the difficulty of obtaining updated information on this topic, national experts from European FIUs were asked to provide data on non suspicious and suspicious operations conducted in cash. It was impossible to gather any information on that. The problem is that there is no systematic collection of data on cash transactions by FIUs. Cash is by definition a highly volatile financial instrument, and no system to monitor and control it is currently in force in any European country.

However, analysis of suspicious transaction reports makes it possible to define a number of trends in large-scale cash payments for money laundering purposes. Some countries take note of suspicious cash transactions. The percentage of suspicious cash payments reported differs greatly from country to country. Southern Member States seem to have higher percentages than the northern ones, which may be due to the fact that southern countries (and sometimes their

economies) are more cash-oriented and residents of those countries are still accustomed to using cash. Of course, this habit influences the number of overall cash transactions, thereby raising also the percentage of those reported.

Moreover, the percentage may be increased in those countries which use a recognition and reporting system based on the size of the transaction, and not just on suspicion. Size-based legal systems involve automatic reporting of financial operations over a pre-set monetary threshold, whether or not the operation is deemed suspicious. These systems are therefore unfocused, and it is often costly to comply with them. Indeed, they may give rise to an information reporting overload. Countries which use this system accumulate an enormous amount of reports, most of them with no connection to money laundering. By contrast, under suspicion-based systems, the staff of financial institutions must identify and report only 'suspicious' operations, so that the competent authority only receives reports on transactions effectively considered suspicious, which considerably reduces the amount.<sup>49</sup>

In general, reports of large-scale cash transaction are increasing almost everywhere in Europe. This is in line with the general trend in suspicious transaction reporting, which too is on the increase. In Belgium the growth in reporting is very large, and in the UK it has reached even exponential proportions. In Ireland the increase concerns both the number of transactions reported and the value thereof.

While the use of cash payments is quite frequent when operations are conducted in the legal market but with the purpose of laundering money, it is even more frequent when transactions pass through the illegal market. At the moment, it is impossible to distinguish cash transactions occurring in the licit market from those conducted in the illicit one. Almost all illegal market payments are made in cash, while in the legal market the figure is impossible to determine.

#### **8.5 ROLE OF THE PRIVATE SECTOR IN IDENTIFYING MONEY LAUNDERING SCHEMES USING LARGE-SCALE CASH PAYMENTS**

In order to ensure closer control on the financial system and to prevent its misuse by criminals, recent legislation tends to attribute greater responsibility to the private sector. Financial institutions have already been given a supervisory role by the first EU anti-money laundering Directive. Non financial businesses and professionals will be charged with this responsibility as soon as the new EU Directive is implemented. The aim of their control function will be twofold: on the one hand to prevent the exploitation of their services for cash laundering purposes; on the other to orient and support its detection by law enforcement agencies. To this end, the following operations should be performed by these institutions: customer identification, record keeping, and reporting.

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<sup>49</sup> Graham, T. (ed.), *Butterworths International Guide to Money Laundering Law and Practice*, op. cit., pp. 64-65.

The experience with the financial sector has proved to be very effective. The positive role played by the financial sector has been fully confirmed by all Member States, which underline its endeavour to facilitate both the prevention and detection of money laundering through cash. As for the non financial sector and professionals, there is no evidence to confirm or deny their role *vis-à-vis* money laundering, in that these categories will become subject to the obligations by the middle of this year. It is therefore possible only to assess their potential capacity to prevent the exploitation of their services for cash laundering purposes, and to orient and support its detection by law enforcement agencies. This may explain why Member States were not of the same opinion in their regard. In general, non financial institutions are considered to be rather ambiguous in their behaviour. In the view of most countries, in fact, they may be taking positive action in preventing cash laundering, but not in assisting its detection. In other words, they are believed to act as obstacles against cash money laundering before the transaction takes place, i.e. they facilitate the prevention of the commission of cash payments for the purpose of money laundering; but once the operation has been concluded, they are not thought to make detection easier – that is, they may tend to obstruct detection procedures.

The situation is considered even worse as regards professionals. As a result of the increased complexity of money laundering schemes, those individuals desiring to launder criminal proceeds must draw on the expertise of legal professionals, accountants, financial consultants, and other professionals to assist them in the movement of those proceeds. This assistance implies that some of these functions are the gateway through which the launderers must pass to achieve their goals. Given the fact that professionals are involved in assisting their clients with domestic and international financial transactions and business dealings, FATF has launched the ‘Gatekeeper Initiative’, which calls upon countries to consider adopting FATF recommendations and enlist these professionals as *gatekeepers*<sup>50</sup> to the domestic and international financial and business markets, acting to prevent money laundering and terrorist financing.<sup>51</sup>

Under this definition of ‘gatekeeper’, professionals are currently considered to be an obstacle against the disclosure of suspicious transactions, both in their prevention and detection.

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<sup>50</sup> A definition of ‘gatekeeper’ is provided in: FATF, Report on Money Laundering Typologies 2000–2001, op. cit., pp. 12–13, which states: “If one looks at the types of assistance that these professions may provide, it is apparent that some of these functions are the gate way through which the launderer must pass to achieve his goals. Thus the legal and accounting professions serve as a sort of “gatekeeper” since they have the ability to furnish access (knowingly or unwittingly) to the various functions that might help the criminal with funds to move or conceal. Not of all these functions have the same utility to a potential laundering operation. The functions that the are most useful to the potential launderer include:

- Creation or corporate vehicles or other complex legal arrangements (trusts, for example). [...].
- Buying or selling property. [...].
- Performing financial transactions. [...].
- Financial and tax advice. [...].
- Gaining introductions to financial institutions. [...].”

<sup>51</sup> FATF, *Review of the FATF Forty Recommendations*, Consultation Paper, FATF, Paris, 30 May 2002, available at: [http://www1.oecd.org/fatf/40Recsreview\\_en.htm](http://www1.oecd.org/fatf/40Recsreview_en.htm).



Thorough evaluation of the extent to which the private sector cooperates in controlling the use of large-scale cash payments and transactions should take account of the following aspects:

- the private sector's ability to identify money laundering schemes using large-scale cash payments;
- its attitude to reporting; and
- its level of cooperation with financial investigators.

The financial sector, including credit institutions, is (once again) fully in compliance with its obligations and entirely cooperative with the financial authorities. According to this Study, activities in the financial sector are those best able to identify money laundering using large-scale cash payments, and they are also those that report most frequently. This is probably due to the fact that, by contrast, numerous non-financial and professional categories are not yet subject to a reporting obligation, and consequently do not report large cash payments merely because they are not obliged to do so. The adverse behaviour of non financial businesses and professionals is confirmed by their scant degree of cooperation with financial investigations, as well as by their performance in identifying large-scale cash laundering schemes.

In short, the main reason why the non-financial sector and the professionals' category still offer opportunities to criminals and criminal organisations to launder their money, particularly in the form of cash, is that they are not obliged to report. Matters will presumably change after implementation of the new EU Directive on anti-money laundering of December 2001.

#### **8.6 COST IMPLICATIONS FOR BUSINESS, LAW ENFORCEMENT AND PERSONAL PRIVACY**

It has long been acknowledged that obligations of identification, record keeping and disclosure should apply not only to the credit and financial sectors but to non financial businesses and professionals as well. The European Commission recognised the potential risks associated with these non-regulated sectors at the end of the 1990s,<sup>52</sup> when it proposed an amendment to the first EU anti-money laundering Directive that would include those vulnerable categories. However, it was only after the events of September 11 that it became clear that enhancement and strengthening of national legislations, as well as their harmonisation, was of utmost importance in preventing the repetition of such criminal acts, and the misuse of the financial system for such purposes.

Now that the second EU Directive has been adopted, the European Commission is already looking at its loopholes. One of the main concerns is cash, and its uncontrolled use by criminals who take advantage of its high level of anonymity and

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<sup>52</sup> European Commission, 'Money Laundering. How to improve EU rules for prevention', op. cit..

lack of controls. For this reason, the idea has been mooted of creating a European-wide system for the declaration of large-scale cash transactions above a threshold of €15,000.

Why a declaration system? And why a limit of €15,000? The principle is the same as that which induced the changes introduced by the anti-money laundering regulation. The system may not stop all cash money launderers, but it would make their activities much more difficult by creating a very clear and uniform approach to cash movements throughout the European Union. At present, general anti-money laundering controls exist in some countries, but they do not specifically address the use of cash.

Moreover, the limit of €15,000 corresponds to the threshold above which controls are applied on transactions via financial institutions. This limit is considered to be high enough to ensure that people and travellers carrying small quantities of cash are not unduly inconvenienced.

Nevertheless, Member States seem not to agree on the proposal, considering cash to be sufficiently covered by traditional anti-money laundering controls. Moreover, large-scale cash transactions are so uncommon that they immediately attract the attention of professionals and law enforcement agents.

The prohibition on conducting operations in cash above a given threshold, as proposed, would also render detection much more difficult. Money laundering operations that now take place in cash would shift to other channels, making law enforcement even harder.

Independently of prohibition, the crucial point seems to reside in the costs implications of a cash declaration system of this kind. It would impose an additional burden on law enforcement agencies as regards the number of employees needed to implement this new procedure and their training. To a lesser extent, expenditure on IT might increase costs, which at the moment seem excessive. As regards the business categories, the main cost implication would be a reduction of business itself. For professionals in particular, this would create potential conflict with their duty of confidentiality<sup>53</sup> and place them in an awkward position regarding their customers. The extension of the anti-money laundering obligations to professionals introduces a profound change since it requires the balancing of two opposing interests: confidentiality on the one hand, and the control of financial transactions on the other. Yet the problem does not exist in actual fact because the main function of the Directive is to prevent and neutralize behaviour by professionals that might involuntarily favour criminal operations.<sup>54</sup>

In order to strike a balance between the requirements of professionals and the need to regulate, the EU Directive allows professionals to report suspicious transactions to their professional bodies instead of to the competent authority. According to

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<sup>53</sup> TRANSCRIME – University of Trento, “Dilemmas facing the legal professions and notaries in their professional relationship with criminal clients. Italian Report”, in *Vrije Universiteit Amsterdam, Section Criminal Law and Criminology, Dilemmas facing the legal professions and notaries in their professional relationship with criminal clients*, forthcoming.

<sup>54</sup> Laurini, G., ‘La proposta di direttiva 99/352 e l’impegno del notariato europeo nella lotta al riciclaggio’, in *Rivista del Notariato, Rassegna di diritto e pratica notarile*, Vol. 55, no. 3, May-June 2001.

Member States this is not a good compromise, and it may indeed be unworkable, because one single professional body does not exist in many countries: in the UK, for example, real estate agents are covered by six different bodies and accountants also are regulated by a multiplicity of bodies. At the same time, not all sectors are covered by a professional body.

The same argument can be applied to any personal privacy limitation imposed by a system of cash payments declaration. This issue has provoked practically no discussion whatsoever in political or criminological circles. According to the national expert, in the UK the Proceeds of Crime Act 2002, which is the main item of legislation on the matter, is not the cause of any significant civil liberties concern, even though it is a rather extensive piece of legislation.<sup>55</sup> Likewise, the recent Directive gave rise to little discussion on the violation of civil liberties. It certainly did it in the European Bar Association.

Even in those countries stating that a personal privacy limitation exists, the trade-off is considered positive. Which means that the balance between limitations on personal privacy and protection against money laundering activities tips in favour of the latter.

## 8.7 CONCLUSION

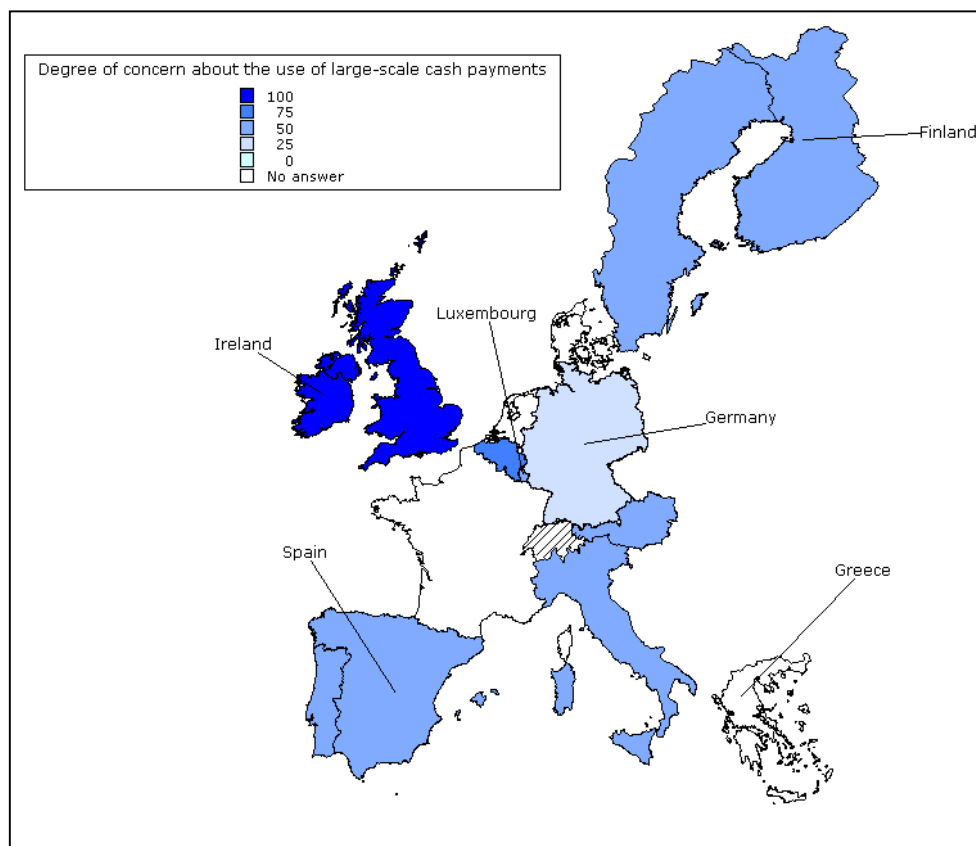
The issue of the role of cash *versus* other payment methods in money laundering schemes was addressed by the FATF in its money laundering typologies exercise of 2000–2001. In this Report the current and future importance given to cash *vis-à-vis* other means of payments appeared appropriate. In particular, the Report stressed the need for the recording and reporting of large cash transactions.

All the EU Member States are concerned about large-scale cash payments as a means to launder money. Their degree of preoccupation is moderate, however. Only the UK and Ireland are greatly concerned about the phenomenon. According to the British experience, speaking in purely law enforcement terms, cash is what matters: for delineated crime, there is no point in committing it unless it yields cash.

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<sup>55</sup> However, some literature on the topic underlines the contrary. See Alldridge, P., *Money Laundering Law: Forfeiture, Confiscation, Civil Recovery, Criminal Laundering and Taxation of the Proceeds of Crime*, Hart, Oxford and Portland OR, 2003.

Figure 8.10: Degree of concern about the use of large-scale cash payments in Europe



Source: TRANSCRIME – University of Trento.

That is particularly true at the beginning of the laundering process, i.e., the placement stage, where most of cash proceeds are usually found. But some schemes in which proceeds are later converted back to cash in order to break the paper trail have also been observed. Tried and tested methods are used to place cash money in the financial system: direct deposits in bank accounts, the purchase of assets such as real property, vehicles, high value goods (jewellery, furniture, collectibles), the mingling of legal and illegal cash proceeds (which are then deposited in bank accounts as legitimate cash proceeds).

Despite the continuing need to focus on the cash proceeds in money laundering operations, other forms of payments often play the most important role at later stages of the process. Which is possibly why less attention has been devoted to this issue to date.

Discussion now moves to the national legislative controls systems adopted to tackle the problem in the European Union.

## 9.

### THE USE OF CASH PAYMENTS FOR MONEY LAUNDERING PURPOSES IN THE EUROPEAN UNION: THE EU MEMBER STATES' LEGISLATIVE CONTROLS

This Section conducts qualitative (subsection 9.1) and quantitative (subsection 9.2) analysis of the national legislative controls system existing in each EU Member State with regard to the use of large-scale cash payments.

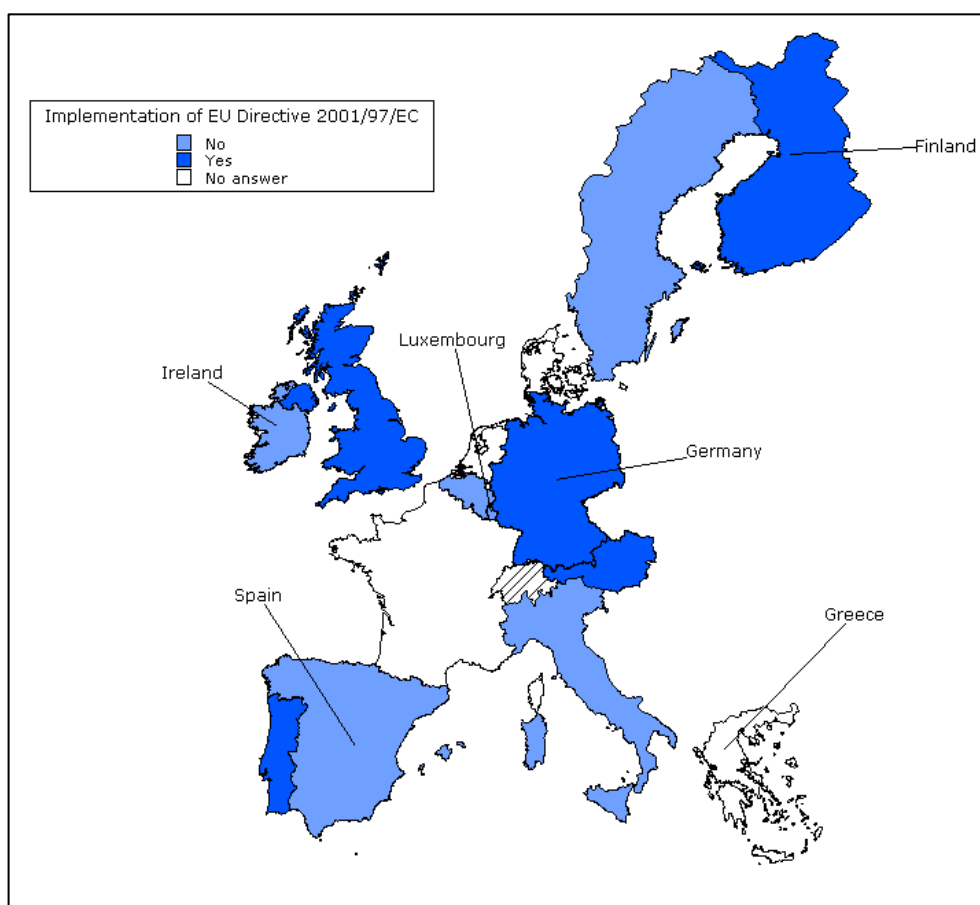
Subsection 9.1 contains the country profiles of each Member State, describing the national legislative system governing the use of large-scale cash payments, as well as what 'works' and what does not in this area.

Subsection 9.2 sets out the quantitative analysis (cross comparison) of the national legislative control systems on the use of large-scale cash payments. It presents the tables comparing the effectiveness of the 15 EU national legislative systems in controlling the use of large-scale cash payments for money laundering purposes.

The sources of information for this section are the national legislative provisions governing the use of large-scale cash payments for the purchase of goods and services in each Member State; the replies by the national experts to Section 1 of the questionnaire, as integrated and further discussed during the working seminar held in Brussels on 16 – 17 May 2003; and literature produced on the topic at the international and national levels.

Before examining the legislative framework in each Member State, brief discussion is required on an element of importance for proper understanding and assessment of national control systems on large-scale cash payments: the implementation of the 2<sup>nd</sup> EU Directive on money laundering. This Directive makes the significant difference in the overall effectiveness of the system because it comprises most of the provisions with which to tackle money laundering through cash. It is therefore essential to bear this Directive in mind when looking at the existing provisions.

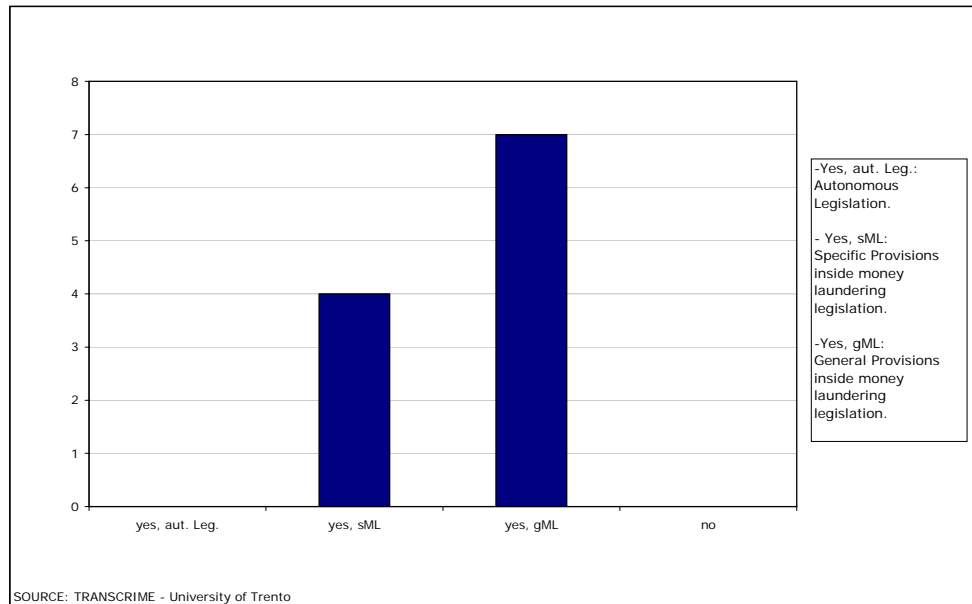
Figure 9.1: Implementation of the EU Directive 2001/97/EC



Source: TRANSCRIME - University of Trento.

Inspection of the legislative provisions enacted in the EU Member States to control the use of large-scale cash payments shows that the phenomenon is regulated in anti-money laundering legislation by means of either specific or general provisions.

*Figure 9.2: Types of National Legislation Governing the Use of Large-Scale cash payments*



A thorough examination of national provisions now follows.

## 9.1 COUNTRY PROFILES

This subsection conducts qualitative analysis of the national legislative control systems on the use of large-scale cash payments for money laundering purposes. For each Member State, it comprises a description of the legal framework (letter A) and of what 'works' and what does not in this area (letter B).

The analysis reflects the structure of the questionnaire and the second day of the working seminar (i.e. the 17 of May 2003) held in Brussels.

### 9.1.1 Austria

#### A) THE LEGAL FRAMEWORK

Austria does not have specific legislative measures to control large-scale cash payments. Such payments are included among the other financial tools that may be exploited for money laundering, and which are therefore covered by *general* provisions of the country's anti-money laundering legislation.

The Austrian anti-money laundering law consists of various pieces of legislation, each addressing a specific economic area. For example, the *Banking Act (BWG)* lays down rules for banks to tackle money laundering and terrorist financing; the *Insurance Supervision Act (VAG)* regulates insurance companies; the *Games of Chance Act (GlücksspielG)* concerns gambling houses. Additional measures on terrorist financing prevention have been recently added.<sup>56</sup>

A series of Acts or amendments have been adopted by the Austrian Parliament during the past year. Some of these provisions, however, will not enter into force before June 15, 2003. Amongst others, amendments to the Industrial Code (*Gewerbeordnung*)<sup>57</sup> were published on 23 July 2002 to include car dealers, real estate agents, auctioneers and external accountants as subjects falling under the identification, record keeping and reporting obligations.

Rules for professionals are planned or in progress, and some of them have already entered into force. A law regulating the activities of lawyers and notaries has not yet been adopted. A draft has been prepared, however, but its adoption by 15 June of this year is not certain.

Therefore, with reference to legal and natural persons, acting in the exercise of their activities, subject to national anti-money laundering when dealing with cash payments, only professionals at present fall outside the existing controls. All the

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<sup>56</sup> Graham, T. (ed.), *Butterworths International Guide to Money Laundering Law and Practice*, op. cit., pp. 177-192.

<sup>57</sup> Ordinance No. DL 2/91, published in *Amtsblatt zur Wiener Zeitung* No 222 of 24 September 1991, in the version of Announcement DL 1/- of 17 December 1998, published in *Amtsblatt zur Wiener Zeitung* No 286 of 21 December 1998.



others are subject to customer identification, record keeping and reporting obligations when they encounter a suspicious transaction, independently of the amount, and always in the case of operations equal to or exceeding the threshold of €15,000.

An interesting provision which indirectly concerns cash transaction is contained in the Banking Act. Under this provision, credit institutions and certain financial institutions may be required to examine with especial attention those transactions which they regard as particularly likely, by their nature, to be related to money laundering. The provision also applies to insurance companies and investment firms, and specifically to dealers in high value goods, such as precious stones and metals or works of art, real estate agents and external accountants. Moreover, auctioneers are also included whenever payment is made in cash and to an amount of €15,000 or more when they conduct operations in cash.

The measures currently used to prevent and detect large-scale cash payments for money laundering purposes are regulatory provisions and law enforcement. These are considered to be partially effective as regards prevention; but on the detection side, only regulatory measures are considered to be partially effective, while law enforcement activity is deemed ineffective at the moment. Besides these instruments, a further useful means for the purpose of both prevention and detection would be self-regulation (but this is currently not in force in Austria).

According to the national anti-money laundering legislation, administrative and penal sanctions are provided for subjects using large-scale cash payments for money laundering. Those who do not comply with identification, record keeping or suspicious transaction reporting obligations will be administratively sanctioned, while in the case they violate the law by establishing or actively supporting a money laundering scheme the sanction will be penal.

As regards the reporting system in Austria, the general reporting procedure also applies to large-scale cash payments. There is no specific authority or unit dealing with suspicious cash transactions: reports are checked by the Austrian FIU. The reporting system is fully comprehensive. It is based on a database, and data are collected by means of information technology tools. Records must be kept for five years, although there is no specific provision requiring their updating.

## **B) WHAT WORKS, WHAT DOES NOT**

In Austria, legislation governing the use of large-scale cash payments is to be found inside the anti-money laundering legislation. The law implementing the EU Directive 2001/97/EC has been passed but will not enter into force until June 15 (as required by the Directive itself). For this reason, the legislation is considered to have been implemented, but not extensively. The same can be said for sanctions.

At the moment, the main flaw in the Austrian legislation is that professionals are not involved in the process of disclosing suspicious transactions, either traditional or in cash. A draft bill to include professionals under the provisions of the EU Directive has been prepared, but it must still go through the legislative process before it is approved and comes into force. This aspect is a loophole in the EU

context, and it penalises Austria in the overall tentative effectiveness evaluation of its legislative controls on the use of cash.

The Austrian FIU (*Geldwäschemeldestelle*) is responsible for controls on money laundering activities, among them cash payments. It reports that the main advantage offered by the system is prevention. Close monitoring of the financial and business system and investigations of its activities are useful instruments with which to stop money laundering before it takes place.

By contrast, the most significant shortcoming consists of the system of formal checks, which criminals and their advisers are very closely acquainted and now able to circumvent.

As in all the other countries, there are no reliable data on implementation of the Austrian anti-cash laundering system as a whole. This is because Austria has no specific regulations on the matter, so that data are not collected. Nevertheless, considering the various aspects included in the tentative effectiveness assessment conducted by this Study, the Austrian legislative controls system as a whole can be judged as partially effective.

### 9.1.2 Belgium

#### A) THE LEGAL FRAMEWORK

The use of large-scale cash payments is regulated by all the *general* provisions on anti-money laundering. Belgian anti-money laundering legislation consists of Law of 11 January 1993 on preventing the use of the financial system for the purposes of money laundering, as amended by the Royal Decrees of 22 April 1994 and 24 March 1995, and by the Laws of 11 July 1994, 7 April 1995, the two Laws of 10 August 1998, and the Laws of 22 April 1999 and 4 May 1999.

As for the existing situation, some of the obligations envisaged by the Directive are already in force in Belgium. The list of institutions and individuals subject to the Law is quite comprehensive, in that it includes both financial and non-financial institutions, as well as some categories of professionals. Article 2 refers to the financial institutions, among which specific mention is made of: *4° insurance companies, 5° the Postal Service, 10° all individuals or legal entities which engage professionally in transactions involving the outright purchase or sale of foreign currency in the form of cash or cheques denominated in foreign currency or through the use of a credit or debit card, 17° real estate agents [...] protecting the professional title and exercise of the profession of real estate agent [...]*. Article 2bis further extends the scope of the Law to the following persons: *1° notaries; 2° bailiffs; 3° individuals or legal entities that are members of the Institute of Company Auditors [...]; 4° individuals or legal entities registered on the list of external certified accountants and on the list of external tax advisors [...], as well as the individuals or legal entities registered on the roll of approved accountants and on the roll of approved tax specialist-accountants [...]; 5° individuals or legal entities who operate one or several class I games [...]*.

The individuals and entities identified in Articles 2 and 2*bis* are subject to a client identification obligation. The identification procedure is required whenever a transaction is deemed suspicious, regardless of the amount of money involved, and in any case when the operation involves a sum equal to or higher than €10,000, regardless of whether the operation consists of one single transaction or several related ones.

A *specific* provision indirectly addressing cash is contained in the Law of 11 January 1993 (Article 10*bis*). This concerns notaries and prohibits the use of cash payments for purchases or sales, imposing the use of bank transfers or cheques. Under this provision, *when a notarised deed records a transaction whose amount is equal to or greater than €25,000, the payment must be made by means of a bank transfer or cheque. The notary must specify on the deed the number of the financial account to which the sum was or will be debited and transferred.*

Administrative sanctions are provided for those individuals or entities who do not comply with their legislative obligations, notwithstanding their duty of professional secrecy, where it exists. Penal sanctions are however provided for those subjects convicted of a money laundering offence, if they directly commit the offence or support those committing it.

EU Directive 97/2001/EC of 4 December 2001 has not yet been implemented, but will be within a few months. The draft legislation implementing the new EU Directive also covers high value goods dealers and it will also have an impact on lawyers, whose activity is currently not regulated.

Moreover, according to Article 10*ter* of the draft Law amending Law 11 January 1993, an obligation to declare any purchase and sale of goods equal to €15,000 will be introduced. Above this amount cash transactions will be forbidden.

## **B) WHAT WORKS, WHAT DOES NOT**

The use of cash does not receive specific attention within Belgian anti-money laundering legislation, which considers it on a par with the other kinds of financial crimes linked to money laundering.

However, and unlike most of the other EU Member States, Belgium has a special provision regarding notaries and their obligations when dealing with cash. Its use is prohibited when the sum exceeds a given threshold, namely €25,000. Payments in excess of this sum must be made through the financial system and using financial instruments such as bank transfers or cheques. This obligation must be viewed as one of the most innovative provisions on the use of cash that exist in Europe.

The whole body of legislation is implemented, as well as its sanctions, although only to a partial extent.

The non-implementation of the 2<sup>nd</sup> EU Directive also creates problems. In fact, apart from the professionals included under the national legislation before this requirement was introduced by the EU, most non-financial businesses are not regulated at all: among them, dealers in high-value goods, motor vehicles and

works of art, auctioneers, and gambling houses. This opens a gateway for criminal organisations to enter and exploit the system.

All Belgian financial institutions are on the contrary subject to identification, record keeping and suspicious transaction reporting obligations. The onus is on them to ensure that an anti-money laundering reporting system is in place. This is obviously of great benefit to law enforcement, for which reason it represents the main advantage of the Belgian legislative control system.

This is in line with the evaluation made by the Belgian FIU of its reporting system, which can be considered the instrument for control on money laundering independently of the form taken by the criminal scheme in Belgium. The national suspicious transaction reporting system also covers cash transactions. However, some significant flaws have been detected, also with respect to recommendations by the FATF. The system is not based on a centralised system, nor does it use an information technology system for data collection.

For these various reasons, the system of legislative controls on large-scale cash payments in Belgium is one of the least effective in tackling money laundering in form of cash. However, it is worth mentioning that an innovative and interesting provision is going to be introduced with the implementation of the 2<sup>nd</sup> EU Directive on anti-money laundering regarding the prohibition of the use of large-scale cash payments above €15,000.

### 9.1.3 Finland

#### A) THE LEGAL FRAMEWORK

The use of large-scale cash payments is governed neither by specific legislation nor by specific provisions contained in the Money Laundering Act. The national anti-money laundering legislation covers cash payments under its *general* provisions.

The *Act on Preventing and Clearing Money Laundering* constitutes the current Finnish regulation on anti-money laundering. It entered into force on 1 March 1998, with provisions contained in various Acts being consolidated into a single Act.

The scope of the Act was extended to encompass practically the entire finance, investment and insurance sector. Real estate agents and firms providing betting services or operating casinos were also included. All supervised entities and other firms that engage in corresponding operations on a professional basis as their main line of business (e.g., currency exchange, money transmission, investment advice, lending and other services) are obliged to report. Among them are also those entities whose business does not require authorisation by the Ministry of Finance.

Suspicious transactions, or those involving sums equal to or exceeding the amount of €15,000, require the identification of customers. For real estate transactions, the threshold is €150,000, with exemption for cases where the amount is paid from a customer's account with a credit institution or other financial institution authorised in the European Union.

The parties under obligation to report have a discretionary power to select an option for action in suspicious cases. They must decide on a case-by-case basis whether a transaction is suspicious in the light of their general experience. Any suspicious transaction, regardless of its amount, must be reported immediately. A threshold of €15,000 exists for identification.

This threshold applies to all kinds of transactions, including cash movements. However, a specific threshold prohibiting the use of cash does not exist. Although uncommon, large-scale cash payments can be used.<sup>58</sup> The Money Laundering Act lays down penalties for failure to fulfil the obligation to identify, retain identification documentation, or for 'tipping-off' the customer. Failure to report is punishable in accordance with the provisions of the Penal Code (Chapter 32, Section 1, Paragraph 2).

A comprehensive set of regulatory, administrative and law enforcement measures concern the prevention and detection of suspicious operations. Regulatory and law enforcement instruments are the most effective.

Finland has transposed the EU Directive of 4 December 2001. Amendments made to the law in order to comply with the EU Directive were approved by the Finnish Parliament in December 2002 but will come into force as soon as the President signs them (by June 2003). New provisions have been introduced on attempted money laundering, conspiracy to commit aggregated money laundering, negligent money laundering, all of which are now punishable by law. The obligation to report has been extended to non-financial businesses and to professionals like attorneys, auditors, car dealers, and high-value goods dealers.<sup>59</sup>

## **B) WHAT WORKS, WHAT DOES NOT**

The national legislative controls on cash payments are set out in the general provisions on anti-money laundering legislation, which have been fully implemented.

From the strictly legislative point of view, Finland has also already implemented the 2<sup>nd</sup> EU Directive. Apart from financial institutions, all non-financial businesses and professionals are included under the reporting procedure for suspicious operations. Given that a larger number of (financial and non-financial) actors are now obliged to report, the volume of suspicious transaction reports is very large. But according to the national FIU this is an advantage, because it allows for closer control.

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<sup>58</sup> Finland is a very low cash-oriented country. Nevertheless, cash has a very particular role in the business economy. For example, it is customary to pay cash when buying a car (and all cars in Finland are luxury items because they are so expensive). Cash enables the customer to negotiate the price more easily, being a method to reduce the price, because for the dealer it means that the customer really wants to buy the car. Which explains why Finland indicated car dealers as the non-financial businesses most vulnerable to abuse.

<sup>59</sup> According to the Finnish delegation, the new Finnish Law on anti-money laundering will go beyond what is strictly required by the second EU Directive.

The system of legislative controls on large-scale cash payments as a whole is considered to be only partially effective, however. This is due on the one hand to a lack of controls on cross-border transactions, and, on the other, to the unreliability of certain actors subject to the reporting obligation. In certain types of money laundering schemes, the FIU has noted that only one of the parties involved in the scheme reports, but not the other. This seems to be problem shared by other countries as well.

This problem becomes evident when the information passes through the suspicious transaction reporting system. Although a centralised database is used, no information technology is employed for data collection.

Overall, the Finnish system of legislative controls on the use of large-scale cash payments is the most effective among the EU Member States.

#### 9.1.4 Germany

##### A) THE LEGAL FRAMEWORK

Given its insufficient controls on capital market transactions, Germany has been considered one of the major international money laundering centres. Since 1992, Germany has adopted a series of legislative acts to change the legal environment with a view to combating money laundering. Over the last few years, the 1993 Money Laundering Act has been changed several times. In 2002 the Parliament adopted the *Money Laundering and the Prevention of Terrorism Act*, which was passed by the Federal Parliament on 8 August 2002 and came into force on 15 August 2002.<sup>60</sup> This Act implements the most recent EU Directive and reflects the standards set out by FATF.<sup>61</sup>

Credit and financial institutions, services and enterprises were already included within the 1993 Money Laundering Act. Other enterprises and persons were also covered by the Act, which applies to any business person or company pursuing a business and any other person administering properties of others, including lawyers, trustees, accountants and tax and other consultants.

The obligation of identification was extended, under the 2002 Act, to include: lawyers, legal advisers, patent lawyers and notaries; qualified auditors, certified accountants, tax consultants and agents in tax matters; real estate brokers; and gambling casinos.

A very interesting provision is contained in Section 14, which states that internal safeguards must be put in place by enterprises and persons against their misuse for the purpose of money laundering, and which cites, amongst others, auctioneers, bullion dealers, gambling casinos and enterprises and professionals.

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<sup>60</sup> Federal Law Gazette I of 14 August 2002, p. 3105 ff).

<sup>61</sup> For comprehensive treatment of the German legislation against money laundering, see: Graham, T. (ed.), *Butterworths International Guide to Money Laundering Law and Practices*, op. cit., pp. 262–281.

Although there is no specific legislation in Germany on large-scale cash payments, this Money Laundering Act devotes special attention to cash. In fact, under Section 2 *General obligation for institutions to identify customers*, paragraph (2) states that *Before accepting or issuing cash, securities [...] or precious metals worth €15,000 or more, an institution shall identify the person presenting himself/herself to the institution.* Some exceptions are foreseen in paragraph (5). The same focus is trained on cash by Section 3 *General obligation of identification for other enterprises and persons*, where it is stated that *Other business persons, in so far as they act in carrying out their trade or business and are not subject to the obligation of identification pursuant to Section 2 [General obligation for institutions to identify customer], as well as persons who administer another person's assets [...], and that are not subject to the obligation of identification [...], before accepting cash worth €15,000 or more shall identify the person intending to pay such amount.* Under the general obligation to identify customers, cash must therefore be treated with due attention.

Regulatory and law enforcement measures are currently in force both to prevent and to detect money laundering, which includes cash laundering as well.

Apart from customer identification, the German parties covered by this Law are subject to an obligation of recording and retention. Specified rules exist on how to record data. In general, the records must be retained for six years, but they may also be kept for 1 to 10 years, depending on the crime (e.g., organised crime: 10 years; theft: 7 years) and depending on the Federal State involved.

Administrative and penal sanctions are foreseen for breaches of the Money Laundering Act and for those using large-scale cash payments for money laundering purposes.

## **B) WHAT WORKS, WHAT DOES NOT**

Germany has already implemented the most recent EU Directive on anti-money laundering, thereby fulfilling all the requirements set by the European Commission.

Although no autonomous legislation exists to govern large-scale cash payments, Germany is mindful of the potential risk of money laundering linked to cash payments. This is evident from the focus addressed to cash payments in both financial and business transactions by some provisions of the Law (both the 1993 and 2002 Money Laundering Acts).

This legislation has been fully implemented and it is considered fully effective by those who work with it. Existing sanctions, both administrative and penal, are completely implemented as well.

Overall, the German system of controls on cash money laundering has been evaluated as fully effective. Its main advantage is that the suspicious transaction reporting system does not depend on the amount of the cash or securities transferred, but on indicators. Mindful of the fact that money launderers do not

only launder cash,<sup>62</sup> the German approach focuses not only on cash-oriented means of payments but also targets book money transactions and electronic transfers.

Apart from legislative measures, a variety of effective means have been implemented in Germany to counteract new money laundering risks and techniques, and to fight international terrorism. Germany has one of the most effective systems of legislative controls on the use of large-scale cash payments, ranking second together with the UK among the 11 countries considered by the Study.

#### 9.1.5 Ireland

##### A) THE LEGAL FRAMEWORK

With regard to specific legislation on large-scale cash payments, Ireland does not have specific legislation which deals with large-scale cash payments; and its anti-money laundering legislation does not specifically concern itself with large-scale cash payments. Any transaction, in cash or otherwise, that may be suspicious is covered by this legislation and its *general* provisions.

Money laundering legislation was introduced in November 1994 and amended on August 2002. The distinction between drug trafficking and other criminal activities for money laundering was deleted. Irish legislation now speaks in terms of criminal conduct on all front of crime.

Interestingly, the Irish 1994 Criminal Justice Act defines money laundering more widely than does the 1991 EU Directive. The Irish law applies to banks, building societies, the Post Office, stockbrokers, credit unions, *bureaux de change*, life assurance companies, insurance brokers and includes provisions (still to be implemented) to extend its coverage to accountants, lawyers and estate agents.

There is a clear legal duty on the institutions to obtain and hold evidence of customer identity, to establish proper internal controls, to train staff, and to report suspicious transactions.

The measures used to prevent the use of cash payments are essentially regulatory ones and law enforcement, whilst detection relies on regulatory, administrative and law enforcement policies. For the purposes of prevention, both types of measure are considered to be effective; but also administrative instruments are deemed efficacious in preventing the phenomenon. On the detection side, all three types of measure employed are considered effective. In cases of control, however, self-regulatory policies have proved entirely ineffectual.

Ireland has not yet enacted legislation to implement the 2<sup>nd</sup> EU Directive, but it is working towards implementing legislation well aware of the June 15 deadline.

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<sup>62</sup> Most of the cases investigated confirm that book money is preferred to cash and more widely used.



Changes are imminent in Irish money laundering regulations. In order to comply with FATF further requirements and the new EU Directive, changes will be made to extend the definition of money laundering to include fraud and the activities of criminal organisations – which are already included in existing Irish law.

The coverage of the regulation will be extended to accountants, tax advisers, lawyers (when providing specified services), real estate agents, dealers in high value goods and casinos. Non face-to-face customer dealings – e.g., on the Internet – will impose additional duties on financial institutions.

The reporting system performs some role in monitoring suspicious transaction reports by the Irish FIU, *An Garda Síochána*, but no specific authority or unit is devoted solely to the investigation of suspicious cash payments. These transactions are covered by the main reporting system, which is centralised in a database based on IT for data collection. Records must be kept for 5 years, although updating is not required.

#### **B) WHAT WORKS, WHAT DOES NOT**

The tentative effectiveness evaluation of the legislative controls applied to large-scale cash payments shows that Ireland has the least effective system. Its main flaw is indubitably the lack of implementation of the 2<sup>nd</sup> EU Directive on money laundering. Although major changes will be made as soon as the new Irish Law has been enacted, at the moment there are no anti-money laundering provisions concerning business and professional activities, so that these are entirely unregulated.

With reference to the existing situation, the main advantage of the legislative control system, and which has proved particularly effective in combating the use of cash as a means to launder money, resides in the people charged with fulfilling obligations. That the staffs of financial institutions are aware of their obligations has been confirmed by the Money Laundering Steering Committee, which oversees the implementation of the anti-money laundering legislation.

By contrast, there are certain bodies dealing with financial matters that still fall outside the scope of the legislation. This problem, however, will be dealt with after implementation of the 2<sup>nd</sup> EU Directive.

The level of implementation of the existing legislation is therefore only partial, and so too is the effectiveness of the system in combating the phenomenon of money laundering in the form of cash.

Penal sanctions are provided for subjects exercising traditional forms of money laundering, and also for those using large-scale cash payments for money laundering purposes. These sanctions are fully implemented.

The shortcomings of provisions to be applied to the non-financial sector and professional activities foreseen in the EU Directive are the main obstacles against the Irish system achieving a good level of effectiveness.

### 9.1.6 Italy

#### A) THE LEGAL FRAMEWORK

Italy initially regulated money laundering under *specific* legislation on cash payments. Law Decree 3 May 1991, No. 143 (then converted into Law 197/91), Article 1 limits cash transactions where it states: *1. Transfers of cash or bearer instruments in liras or foreign currency, conducted for whatsoever reason between different parties, shall be prohibited when the total amount of the value to be transferred is higher than LIT20 millions (now €12,500). Nevertheless, such transfers may be carried out by means of the authorised intermediaries referred to in Article 4; for cash, the procedures indicated in Paragraphs 1-bis and 1-ter shall apply. [...]* Transactions of amounts above this threshold can be conducted through a list of authorised intermediaries such as the banking system or by means of cheques. This threshold also applies to other bearable instruments, such as passbooks, saving accounts, etc.

These provisions are now contained in Article 1 of the Law 197/91 (as modified by the Legislative Decree 26 May 1997, no. 153), the Italian anti-money laundering Law. The current legislative controls on cash payments are thus included in the money laundering legislation as *special* provisions.

The same threshold of €12,500 is used for Customs declarations of cash when the national border is crossed (in and/or out). Administrative sanctions apply to breaches of these provisions, apart from more serious cases in which penal sanctions are applied.

The extension of anti-money laundering obligations to non financial activities considered vulnerable to money laundering has been introduced by Legislative Decree 374/99 of 25 September 1999. Mentioned *inter alia* in Article 1, 1 are: real estate agents, dealers in antiquities, auctioneers and dealers in work of arts, dealers in gold, dealers in precious stones, casinos and gambling houses, industries of high-value goods. The obligations of these individuals and enterprises are set out in Article 4.

Natural and legal persons who conduct cash operations involving sums in excess of €12,500 are administratively sanctioned (with a fine).<sup>63</sup>

Given the above-mentioned aspects, the 1997 legislation is *per sé* almost complete (even with regard to the requirements imposed by the 2001 EU Directive). Nevertheless, application of this piece of Law has not yet begun because the requisite Ministerial Regulation (*Circolare ministeriale*) has not been issued.

At the moment Italy is not going to comply with the 15 June 2003 deadline for implementing the second EU Directive on anti-money laundering. By that date Italy

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<sup>63</sup> According to the Ufficio Italiano dei Cambi, what really matters for the activity of the FIU are people seeking to place cash money received in the financial system (especially banks). Banks are obliged to record all operations above the €12,500 threshold. It is for this reason that there are so many STR's concerning large-scale cash transactions in Italy.

will have only a legislative framework (Legislative Decree 374/99), but not its application. The *Ufficio Italiano dei Cambi* (Italian FIU) hopes that this will come into force within six months.

#### **B) WHAT WORKS, WHAT DOES NOT**

Italy has not yet implemented the 2001 EU Directive. Nevertheless, it has already enacted a Law, included in the national anti-money laundering legislation, which *specifically* regulates the use of cash. This is a salient case among the Member States, very few of which have legislation of this kind. According to this law, all cash transfers in excess of €12,500 are forbidden. Operations requiring the transfer of such an amount must be conducted through authorised credit or financial intermediaries.

This set of provisions has led to a substantial reduction in the number of cash transactions, of course, but suspicious transaction reports concerning large-scale cash payments have increased. Although this may signal an increase in money laundering activities using cash, it is more probably due to the fact that in Italy transactions must be recorded and submitted to the national FIU when they are equal to or above the threshold established (i.e., €12,500). Authorised intermediaries for cash transactions now record and submit to the FIU all transactions made through their facilities.

As regards entities subject to the anti-money laundering obligation, an update of the list adopted in 1993 has been included in a more recent Law which comprises all the categories cited in the 2<sup>nd</sup> EU Directive. However, this piece of legislation, dated 1997, has not yet been implemented. At the moment, this lack of implementation with regard to non-financial businesses and professionals is the main (and very important) weakness in the Italian legislative controls framework.

#### *9.1.7 Luxembourg*

##### **A) THE LEGAL FRAMEWORK**

Cash payments are not given autonomous treatment by special legislation; rather, they are covered by the *general* rules applying to traditional suspicious money laundering transactions. For example, if a non-customer uses a Luxembourg bank to make a cash transaction (as often happens) above the threshold of €10,000, the bank must identify that non-customer. Thus, the general rule also applies indirectly to cash transactions. Moreover, Article 39.7 on the customer identification obligation states that particular attention must be paid to operations which, by their nature, are more favourable to money laundering, which includes cash payments. In view of these various aspects, together with the fact that cash payments/transactions in Luxembourg do not (or no longer) have the same role as they do in other countries, cash cannot be considered a problem in Luxembourg, at least at present.

Luxembourg has had anti-money laundering legislation since 1989. The implementation of the 1<sup>st</sup> EU Directive came in 1993 with the Law of 5 April 1993. The law of 11 August 1998 introduced further major changes by extending the duty of co-operation and reporting to non-bank actors like insurance companies, the stock exchange, collective investment funds, as well as to professionals not linked to the financial sector (e.g., auditors, accountants, notaries). The scope of predicate offences was also greatly extended.<sup>64</sup> Therefore, to some extent, Luxembourg anticipated the 2<sup>nd</sup> EU Directive.

After adoption of these last provisions, there was little left to be done. However, Luxembourg decided to take advantage of the 2<sup>nd</sup> EU Directive in order to introduce further changes and to make improvements in areas in which deficiencies had been discovered in the past. As a consequence, Luxembourg accumulated delay in the implementation process. The Group charged with writing the text of the new legislation completed its work in April 2003. The proposal was submitted to the Minister, who sent his response to the Group in mid-May. Once the Bill has been adopted by the Council of Ministries, it will go before Parliament for its final approval and adoption as law. It will be certainly not be enacted before the summer, but hopefully in the autumn.

Luxembourg's general anti-money laundering legislation has been partially implemented. The set of measures used to control transactions is complete: regulatory, administrative and law enforcement instruments are utilised. The first two categories are partially achieving their control aims, while law enforcement action makes the difference in both prevention and detection. Self-regulation policies are also partially effective.

The fight against money laundering in Luxembourg has also been helped by the fact that a complete range of sanctions is in place: these comprise administrative, civil and penal penalties.

As for the changes about to be introduced by the new legislation implementing the EU Directive, a significant provision will apply to merchants. According to this draft Article, any merchant, not only those mentioned in the 2<sup>nd</sup> Directive, will be subject to identification, record keeping and suspicious transaction reporting obligations when they conduct cash transactions amounting to more than €10,000.

This provision is innovative, considering that Luxembourg anti-money laundering legislation uses a suspicion-based reporting system.

## **B) WHAT WORKS, WHAT DOES NOT**

Luxembourg's legislation on money laundering attaches prime importance to protecting the financial sector by means of the effective prevention of money

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<sup>64</sup> For complete treatment of Luxembourg's legislation on money laundering and its most recent updates, see: Graham, T. (ed.), *Butterworths International Guide to Money Laundering Law and Practice*, op. cit., pp. 454–467.

laundering. This is very evident when one verifies the sectors of the economy subject to anti-money laundering reporting. The financial sector in its entirety is fully regulated, although the non-financial sector and professionals are only partially covered by the legislation.

A full set of measures for both the prevention and detection of money laundering has been adopted. Luxembourg is the only country in Europe besides Finland to have regulatory, administrative and law enforcement measures in force. Self-regulatory instruments of control are also foreseen.

As regards shortcomings, the provisions of law are not fully implemented; a shortcoming which concerns both the legislation as a whole and sanctions.

Although not updated to comply with the more recent requirements of the EU, the national legislative system of controls seems to work well, as evidenced when one looks at how it functions in practice. Even though the system is based on suspicion, all banks have their own internal control schemes which begin with the screening all cash payments. Checks and controls are particularly valuable as regards cash because its use is relatively infrequent. Most of the Luxembourg banks scrutinise all cash transactions, which makes the system relatively effective.

#### 9.1.8 Portugal

##### A) THE LEGAL FRAMEWORK

The main item of legislation on money laundering in Portugal is *Decree Law No. 313/93* adopted on 15 September 1993 to implement the 1991 EU Directive on anti-money laundering.

In 1995 Portugal decided to introduce a further piece of legislation which extended the criminalisation of money laundering beyond drug-related offences (*Decree Law No. 325/95* of 2 December 1995). In particular, other activities and professions besides financial ones were included, given that these were assumed to be conduits through which money and goods circulated. Activities linked to gaming (e.g., casinos but also lotteries) and trade in high value goods were identified as particularly susceptible to use for laundering purposes. Article 4 of the Law deals with casinos, Articles 5 and 6 with real estate agents and entities purchasing real estate with a view to its re-sale, Article 7 with bearer coupons and securities, Article 8 with goods of high individual value, including all entities trading in precious stones and metals, antiques, objects of art, aircraft, boats and automobiles.

Apart from traditional customer identification, record keeping and suspicious transaction reporting rules, non-financial institutions in Portugal must scrutinise operations with unusual or suspicious features. Among these features, the Law refers to *the means of payment used*. Casinos must always ask their customers to provide proof of identity when they acquire tokens or similar items used to play games against cash (Article 4).

The identification procedure is compulsory when the transaction involves a sum equalling or exceeding a given threshold. Different thresholds are established for

each category, from a minimum of PTE500,000 for casinos and high value goods dealers to a maximum of PTE25 billion for real estate agents. There is no general prohibition on the use of cash, however.

This legislation has fully anticipated the provisions of the 2<sup>nd</sup> EU Directive. For which reason, Portugal has implemented the Directive.

From the above description, it goes without saying that Portuguese legislation comprises *special* provisions on cash, but no autonomous regulation on the matter.

The current legislation focuses on the preventive side of control, and here there are regulatory, administrative and law enforcement measures in place. All of them are considered to be effective, but law enforcement is so to a greater extent. On the detection side, the instruments in place are administrative and law enforcement. Both types are partially effective. The regulatory measures are thought not be effective in detecting the illegal use of large-scale cash payments. Self-regulatory measures may on the contrary be effective solutions for both prevention and detection.

#### **B) WHAT WORKS, WHAT DOES NOT**

The introduction of a national legislative control measure imposing the obligations to identify, keep records and report suspicious transactions in Portugal means that EU Member States have long been aware of the risks associated with non-financial actors and professionals.

This legislation has been implemented, and so have sanctions. However, with regard to the shortcomings of the system, the Portuguese FIU (*SCIB, Polícia Judiciária*) has emphasised that non-implementation of the provisions and a lack of sanctions are two of the main deficiencies in the Portuguese system.

Moreover, the fact that information collected by the FIU centralised system is not shared is another weakness. The reporting system is centralised on a database managed by FIU, which obtains information from the general prosecutor, the competent authority to receive disclosures, for the purposes of investigations. The usefulness of this centralised and IT reporting system is reduced if such information and data cannot be shared with other authorities investigating money laundering cases.

Those negative aspects, however, do not significantly influence the overall effectiveness of legislative controls on the use of large-scale cash payments in Portugal. The Portuguese system, indeed, ranks among those best able to exercise control over large-scale cash payments.

### 9.1.9 Spain

#### A) THE LEGAL FRAMEWORK

Spain enacted the 1<sup>st</sup> EU anti-money laundering Directive in 1993 through Law 19/1993 entitled *Law concerning specific measures for preventing the laundering of capital*. Royal Decree No. 925 of 9 June 1995 further developed the provisions contained therein.

The 2<sup>nd</sup> EU Directive has not yet been implemented. However, it is now before Parliament and will be enacted before June of this year (2003).<sup>65</sup> There is also a draft Royal Decree ready to be signed after adoption of the Law by the Parliament.

Notwithstanding this absence of implementation, most of the provisions considered in the Directive are already in force in Spain. To a certain extent also cash payments are treated by *specific* provisions in the existing anti-money laundering legislation.

Apart from financial institutions, entities subject to the Law and its obligations against money laundering are non-financial businesses such as those mentioned in Article 2, 2 of the Royal Decree No. 925/95, viz.: casinos, real estate agents, dealers in precious stones and metals, dealers in works of art and antiquities, and auctioneers. Dealers in motor vehicles, gambling houses and professionals are excluded.

Financial institutions are obliged to ask customers wishing to perform transactions amounting to more than €15,000 for proof of identity, or in the case of suspicious operations (Article 4, 2. a), Royal Decree No. 925/95). Non-financial institutions must do likewise, but above the threshold of €6,000 (Article 16, a), Royal Decree No. 925/95).

Legal and natural persons, acting in the exercise of their professional activities, subject to the anti-money laundering law are obliged immediately to report any operation/transaction involving a sum of more than €30,000 to the competent authority. A report must always be submitted in the case of suspicion, regardless of the amount of the transaction, and *always* for cash operations conducted via financial institutions and exceeding the above-mentioned amount of €30,000 (Article 7, 2. a), Royal Decree No. 925/95). Operations subject to this reporting system concern both withdrawals and deposits.

The measures used to prevent and detect money laundering, including laundering by means of cash, are of an administrative nature. They are considered to be highly effective in the prevention of laundering, and partially effective in its detection.

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<sup>65</sup> «Proyecto de Ley 621/000122 Sobre regimen juridico de los movimientos de capitals y de las transacciones economicas con el exterior y sobre determinadas medidas de prevencion del blanqueo de capitales», in *Boletín Oficial de las Cortes Generales*, Senado VII legislatura, n. 122 (d) del 28 de mayo de 2003.

The sanctions applicable for non-compliance with the rules are administrative. However, subjects using cash payments for money laundering purposes and found guilty of a money laundering offence are subject to criminal penalties.

Very interesting changes are about to be introduced by amendments to the money laundering law. Among the most significant of those that directly or indirectly concern cash payments is the one which extends the obligations of the Law to notaries, lawyers and other professionals. A second amendment applies to persons who, acting on their own account or that of others, move cash money (or similar means of payment):

- in and/or out of Spain to an amount of €6,000 or more;
- within the country to an amount of €80,500 or more.

These persons will be subject to the customer identification, record keeping and suspicious transaction reporting rules.

#### **B) WHAT WORKS, WHAT DOES NOT**

The fact that Spain has not yet implemented the 2<sup>nd</sup> EU Directive penalises the country in the final evaluation of the effectiveness of national legislative control systems, given that many of the questions in the questionnaire related to the existence and implementation of provisions contained in the EU Directive.

However, with regard only to the existing legislation, this is extensively implemented, and so too are sanctions.

The main advantage of the system is its rapidity in applying controls, even if the lack of shared information among the various national authorities obstructs the achievement of full effectiveness.

The sharing of information is not completely absent, but it is not as rapid as it should be and consequently causes delays in investigations.

#### *9.1.10 Sweden*

##### **A) THE LEGAL FRAMEWORK**

The general provisions contained in the national anti-money laundering legislation also apply to cash payments when used for money laundering. This law is the *Act on Measures against Money Laundering* of 1993, which came into force in 1999.

The sectors included under the scope of this law are those covered by the 1<sup>st</sup> EU anti-money laundering Directive. In fact, Sweden has not yet implemented the 2<sup>nd</sup> EU Directive. They are therefore subject to customer identification, record keeping, and suspicious transaction report obligations. Non-financial businesses are covered by the national anti-money laundering law, but they are obliged to comply only



with the customer identification and record keeping rules. Professionals are still entirely unregulated.

Administrative and law enforcement instruments are employed both to prevent and to detect money laundering, also by means of cash transactions. They have proved largely effective as regards prevention, but not detection. In this case only law enforcement is efficacious, while administrative measures are entirely ineffectual.

The sanctions foreseen for subjects using large-scale cash payments for money laundering purposes are both administrative and penal. The latter can be inflicted when the money laundering offence is proved.

#### **B) WHAT WORKS, WHAT DOES NOT**

Sweden has still to implement the 2<sup>nd</sup> EU Directive, and this has a significant bearing on the effectiveness of the country's legislation governing the use of large-scale cash payments. Most of the provisions included in the Directive are in fact, although not directly, targeted on the actors most exploited by money laundering schemes involving cash.

The existing legislation has been implemented in its entirety.

According to the Swedish FIU (the *National Criminal Investigation Department, National Financial Intelligence Service*), the main shortcomings of the legislative system regulating this matter are a lack of specific legislation and sanctions directly related to large-scale cash payments.

A further weakness to be emphasised concerns the reporting system. All the features suggested by the FATF and required by the EU Directives are in force, except one: reporting is not based on a centralised system for data collection; data are instead gathered at the peripheral level.

#### *9.1.11 The United Kingdom*

##### **A) THE LEGAL FRAMEWORK**

On 30 December 2002 a new law was enacted in the UK which consolidated the twelve previous pieces of legislation covering money laundering. The definition of money laundering now extends beyond just drugs and particular crimes. Although the legislation exists, it will not be fully operational until June (and is hence almost fully in operation). The 2001 EU Directive is, however, considered to be implemented.

The legislation is not cash specific, although the *general* provisions contained in it cover cash.

The legislation itself covers all financial and non-financial institutions, and all professionals, who engage in money transactions.

The British legislation does not foresee any threshold for transactions, but only the presence of suspicion: any amount may be suspicious, whereas large amounts of cash may also be deemed not to be suspicious. The new legislation is intended to deal with this anomaly by bringing in and defining the offence of “not disclosing”, whereby if a person not only knew that the transaction was suspicious but should have known that it was suspicious as a reasonable person would have known that the transaction was suspicious, that is now also an offence. This also applies to large-scale cash payments.

The sanctions foreseen are civil and penal.

As regards standard money laundering investigations, there is now no obligation on the investigative offices to demonstrate the instrumental nexus. Specifically, the National Criminal Intelligence Service (NCIS) may investigate solely on the fact that is money laundering as a separate offence. Moreover, on a civil level there is a different burden of proof than at the criminal level. In the latter case the burden of proof is beyond any reasonable doubt, while at the civil level there is the possibility to preventively seize cash. At the country's borders, customs have been active in seizing cash amounts of money and not proceeding criminally but only civilly.

The new legislation includes a provision that specifically addresses (only) cash movements through ports and airports. This is the only specific mention made of cash, and this is so because the UK does not believe there is a need to (further) specify cash.

#### **B) WHAT WORKS, WHAT DOES NOT**

One of the major indicators of money laundering is constituted by cash transactions. Nevertheless, the UK is still convinced that no further and specific regulation of the use of cash payments is required. According to an internal assessment, in fact, the existing legislative controls are effective.

This is also confirmed by the tentative evaluation conducted by this Study, which found that the British system is one of the most effective, after Finland's.

The EU Directive is implemented, as well as all national legislative provisions and sanctions.

Controls and monitoring activities on disclosures/suspicious transaction reports are mainly conducted by NCIS, which also has extensive powers in inland seizure and the seizure of large amounts of cash at ports and airports. Although the system is not cash specific, it is directly related to cash.

The legislation has rapidly increased the amount of suspicious transaction reports transmitted to the NCIS, and it has extended the types of investigations that can be undertaken. This is certainly a good result, but additional costs are incurred by enforcement agencies in terms of both personnel and its training.

By contrast, the main advantage of the British legislation is represented by the onus of proof, which is placed on the financial institutions with anti-money laundering reporting systems and mechanisms in place. This provision is obviously of great

benefit to law enforcement, but the drawback is that it creates a huge mass of information.

As regards law enforcement, this excessive amount of information combined with inadequate human and technical resources results in a lack of law enforcement action.

## 9.2 EFFECTIVENESS INDEXES

This subsection conducts quantitative analysis (cross comparison) of the national legislative control systems on the use of large-scale cash payments for money laundering purposes.

A set of effectiveness indicators were selected in order to assess the effectiveness of national legislative systems for controlling the use of cash payments for money laundering purposes in the European Union. Effectiveness indicators are defined as those features of the system (in terms of procedures to be followed, people/institutions subject to it, sanctions, etc.) that influence its effectiveness, i.e., its ability to prevent and detect money laundering operations based on large-scale cash payments.

An **Effectiveness Index** was first calculated for each effectiveness indicator previously identified. This effectiveness index was calculated on a scale from 0 to 100. It expresses the degree of effectiveness of the national legislative control system with reference to the specific indicator. *The higher this index, the greater the effectiveness of the national legislative controls system, with regard to the indicator considered.* For further details on the values used to calculate the effectiveness indexes, see Annex 1.

The Effectiveness Indexes were then aggregated into a **Synthetic Effectiveness Index**, also calculated on a scale from 0 to 100. It quantifies the effectiveness of the entire national legislative controls system governing the use of large-scale cash payments. This index was obtained as the average of the effectiveness indexes. *The higher this index, the greater the effectiveness of the national legislative controls system governing the use of large-scale cash payments in the country.* For further details on the values used to calculate the effectiveness indexes, see Annex 1.

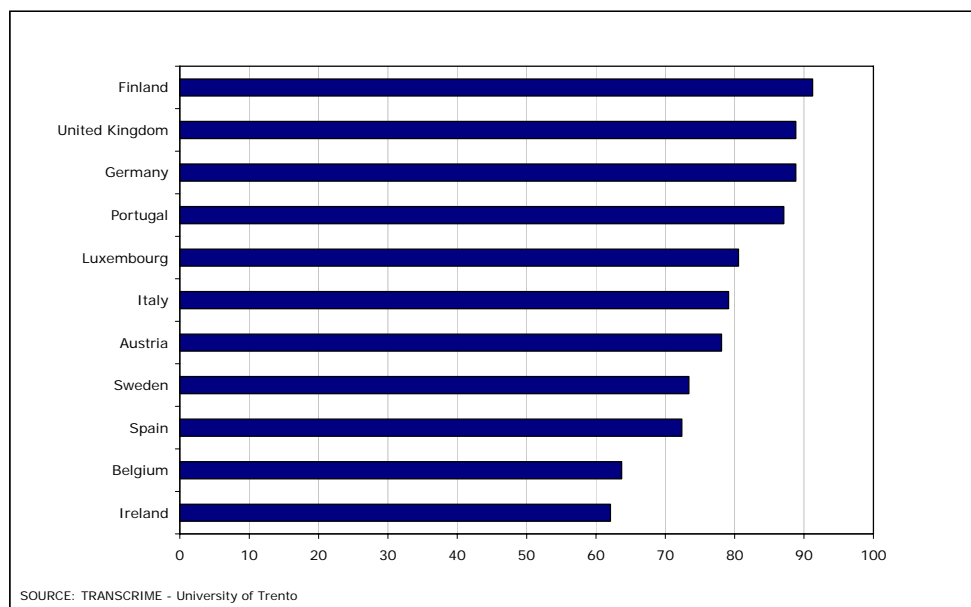
Table 9.3 below shows the calculations of the Synthetic Effectiveness Indexes on the basis of the Effectiveness Indexes. Figure 9.4 presents the Synthetic Effectiveness Indexes of the 15 European Union Member States, from the most effective to the least effective, thereby enabling immediate comparison.

*Table 9.3 – Synthetic Effectiveness Indexes of the National Legislative Control Systems*

	Austria	Belgium	Finland	Germany	Ireland	Italy	Luxembourg	Portugal	Spain	Sweden	United Kingdom
Implementation of EU Directive 2001/97/EC	100	0	100	100	0	0	0	100	0	0	100
Existence of national legislation governing the use of large-scale cash payments	33	33	33	33	33	33	33	33	33	33	33
Level of implementation of national legislation controlling the use of large-scale cash payments	17	17	33	33	17	33	17	17	33	33	33
Degree of effectiveness of national system of legislative controls	17	33	17	33	17	33	33	17	17	17	17
Role of the FIU in regularly/ systematically monitoring large-scale cash payments (according to your national legislation)	100	100	100	100	100	100	100	100	100	100	100
Categories of policies/measures in force to <u>prevent</u> the use of large-scale cash payments	67	33	100	67	67	33	100	100	33	67	67
Categories of policies/measures in force to <u>detect</u> the use of large-scale cash payments	67	33	100	67	100	67	100	67	33	67	100
Existence of legislative controls on FINANCIAL legal and natural persons, acting in the exercise of their activities, when dealing with large-scale cash payments	50	50	50	50	50	50	50	50	50	50	50
Typologies of control measures/instruments that FINANCIAL legal and natural persons, acting in the exercise of their activities, are obliged to use when dealing with large-scale cash payments	50	50	50	50	50	45	50	50	50	50	50
Existence of legislative controls on NON-FINANCIAL legal and natural persons, acting in the exercise of their activities, when dealing with large-scale cash payments	50	21	50	50	0	50	14	50	36	50	50
Typologies of control measures/instruments that NON-FINANCIAL legal and natural persons, acting in the exercise of their activities, are obliged to use when dealing with large-scale cash payments	50	14	50	50	0	0	10	50	36	36	50
Existence of legislative controls on PROFESSIONAL legal and natural persons, acting in the exercise of their activities, when dealing with large-scale cash payments	0	50	50	50	0	50	0	50	50	0	50
Typologies of control measures/instruments that PROFESSIONAL legal and natural persons, acting in the exercise of their activities, are obliged to use when dealing with large-scale cash payments	0	50	50	50	0	0	0	50	17	0	50

Existence of sanctions for subjects using large-scale cash payments for money laundering purposes	33	33	33	33	33	33	33	33	33	33	33
Typologies of sanctions for subjects using large-scale cash payments for money laundering purposes	22	22	11	22	11	22	33	11	22	22	22
Degree of implementation of sanctions for subjects using large-scale cash payments for money laundering purposes	17	17	33	33	17	17	17	17	17	17	17
Existence of a comprehensive reporting system (i.e., "identification", "record keeping" and "declaration/report") including suspicious large-scale cash payments/transactions	100	100	100	100	100	100	100	100	100	100	100
Role of the FIU in regularly/ systematically monitoring reports on large-scale cash payments (according to your national legislation)	100	100	100	100	100	100	100	100	100	100	100
Existence of a centralised system of data collection (database) including large-scale cash payments	100	100	100	100	100	100	100	100	100	0	100
Existence of an information technology system for data collection	100	0	0	100	100	100	100	100	100	100	100
Existence of a defined period by which data collected must be sent to central authority			100	100	0	100	100	100	100	100	100
Existence of an obligation to keep records on customers and operations for a given period of time	100	100	100	100	100	100	100	100	100	100	100
Existence of an obligation to update records	0	0	100	0	0	100	100	0	0	100	0
Synthetic Effectiveness Index	78	64	91	89	62	79	81	87	72	73	89

*Figure 9.4 – Synthetic Effectiveness Indexes of the National Legislative Control Systems*



## 10.

## CONCLUSIONS

This Section summarises the main findings of the Study, with reference to its analysis of the phenomenon of the use of large-scale cash payments for money laundering purposes, to the legislative controls in force to govern large-scale cash payments, and to their degrees of effectiveness.

Since most serious and organised crimes are driven, both directly and indirectly, by an endeavour to make money, the laundering of criminal profits is a fundamental component of criminal activity. Money laundering, in fact, serves to conceal the illegitimate origin of the proceeds from crime, legitimising those proceeds and making them available for further use in the legitimate economy.

Whilst some criminals use non-cash payments and money transfer methods, cash is particularly important to the workings of the most serious and organised criminal ventures, such as trafficking and white-collar crime. In fact, trafficking activities (in drugs and in human beings) and financial crimes generate much more cash than do other crimes. Given the close controls on those activities, the large criminal networks involved in them, and the low level of trust that surrounds them, the product must be paid for immediately and in cash in order to avoid detection and double-crossing. The urgent need to hide profits explains why they are so closely linked to this form of money laundering.

Cash has the obvious advantage that it leaves no audit trails, and is therefore more secure from surveillance by the authorities, though it may thereby become more vulnerable to thefts by other criminals. This is because cash is in general likely to be seen as the most reliable means of payment, and as the most flexible one as well.

Although cash may be the preferred form of payment in most criminal deals, the recipients of large sums of cash are faced with the problem of how to dispose of it. Organised crime groups often arrange for large sums of cash to be transported out of the country. However, large-scale cash amounts tend to be laundered either by being introduced into the legitimate financial sector, i.e., by being used to buy valuable assets, or simply by being spent.

The use of the credit and financial sector to launder money carries a high risk of detection for crime groups. Banks and other financial institutions are today closely regulated: financial transactions, including cash payments, are subject to a reporting system when a given threshold is exceeded, or to a disclosure regime if there are grounds for suspicion.<sup>66</sup> The general trend in Europe is a constant and marked increase in the overall number of suspicious transaction reports, which discourages the use of the financial system to launder or move criminal money.

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<sup>66</sup> Irrespectively of the system, each suspicious transaction passing through the financial system must be reported to the competent authority. In countries applying the report system based on a threshold, all transactions exceeding the given amount of money indicated by the threshold must be reported, regardless of whether or not it is suspicious.

This situation has induced criminals to consider alternative financial systems. Criminal networks make frequent use of money transmission agents and *bureaux de change* to convert and transfer their money. These are sometimes affiliated to or owned by members of the criminal group, which makes their exploitation easier. As regards exchange offices, their business consists in the conversion of low denomination banknotes into larger denomination ones, generally in a different currency, in order to facilitate the movement of funds both around and out of the Union.

There exist, moreover, a number of methods to move money around the world without using the regulated financial sector. The reference here is to underground banking systems. Some of these are centuries old: an example being *hawala*, which operates on a trust basis and keeps few, if any, records. After paying money to an underground *hawala* banker, the customer trusts the latter, for a commission, to arrange with another underground banker that the intended recipient will receive the agreed sum, usually in the local currency. Recently, and especially since September 11, financial disclosures regarding the underground banking system have increased apace. This is probably due to the close vigilance exerted over suspected terrorist funding. Yet it is also indicative of the methods now used by criminals to launder money through cash. Organised crime is seeking to *place* illicit cash through underground banks and then to *integrate* the funds back into the mainstream economy, so that they can use the money personally or pay those of their associates unwilling to accept *hawala* credits. This means that they must find ways of *layering* the cash-remitted funds in such a way that this integration process is convincing.

Apart from underground banking, all money remittance services and *bureaux de change* fall within the framework of the 1991 EU Directive on anti-money laundering. Since all Member States have already implemented this Directive, these activities are currently regulated. However, malfunctions are apparent, gaps still exist, and criminals take advantage of them. The crux of the problem seems to lie in the authorisation procedure. Not all EU Member States currently require preliminary authorisation for these entities to set up in business. This enables them to enter the business where it is more convenient and less burdensome, and then operate throughout Europe. The same problem also applies to their affiliates, i.e., shops acting as front-offices, which in most cases do not require previous authorisation even in those countries which have registers.

Given the close regulation of the credit and financial systems, and the stricter controls on them, it is logical to assume that there will be a shift towards other non financial businesses for the purpose of laundering money. Indeed, buying assets or conducting a lavish lifestyle are the simplest ways to launder criminal cash. The purchase of luxury goods, such as jewellery, artwork and antiques, high performance cars and boats, is just one example. Investment in property is also very common, especially in tourist areas like the *Costa del Sol* in Spain or the *Algarve* in Portugal.

The same applies to the professional specialists in various disciplines who assist criminals in the laundering of their money, either by providing expertise or by giving credibility to financial agencies. Lawyers, independent financial and tax advisors and accountants are targeted by money launderers seeking professional support. But others may also be drawn into the process: for example, real estate agents who accept large sums of cash for a property purchase. However,



professionals still account for only a tiny percentage of suspicious financial transaction reports, which suggests either that the actual use of such people to launder money is less frequent than imagined, or that there is a lack of awareness or curiosity amongst professionals possibly being used to launder money, or that there is a degree of collusion. In the last instance, the professional may not be an entirely willing accomplice.

However, the main problem concerning non-financial businesses, and to a certain extent professionals as well, is that they are not (yet) appropriately regulated in all the Member States. The 2001 EU Directive provided a useful legislative framework to this end, but most countries have not yet implemented it.

Turning to national legislation to control the use of large-scale cash payments for money laundering purposes and to the degree of effectiveness thereof, at present there are still wide differences among EU Member States legislative controls on the use of large-scale cash payments. The results from the analysis of the national systems bring out this feature very clearly. The deadline for implementation of the EU Directive is June 15. Consequently, during the development of this Study (December 2001 – June 2002), it was still permissible for countries not to have enacted measures in this area, although all countries reported that they were in the process of implementing the EU legislative instrument in the short term.

It may be of interest to consider the kind of legislation that obtained the highest scores, the purpose being to identify *what works* in this area. The findings of the Study indicate that Finland, Germany and the UK are the countries with the most effective legislative systems to control the use of large-scale cash payments. This was due to the following factors.

First, *these countries have implemented the 2<sup>nd</sup> Directive*. In particular, and unlike other countries, they have already transposed the Directive's provisions regarding non-financial businesses. Consequently, the complete and rapid implementation of the new EU legislative instrument to tackle money laundering, including cash, seems to be what really matters. Once this step has been completed, attention should turn to closely controlled compliance with the regulations.

Second, another feature is that *these countries all use general anti-money laundering regulation* to govern the use of large-scale cash payments, doing so because, as far as money laundering is concerned, they consider cash transactions to be less dangerous than other forms of payment. Cash payments enable the laundering of small amounts of money compared to those that can be laundered by other means, e.g., financial ones. Cash does not figure to any great extent in money laundering: it seems now to be more closely linked to tax evasion and tax fraud schemes. However, general provisions on money laundering apply to cash as well.

Third, the *legislative controls included in the legislation are fully implemented*. Which means that all businesses operating in the financial and non-financial sectors, as well as professionals, are fully subject to identification, record keeping and (suspicious) reporting obligations.

A final element to consider is the *reporting system*. The most effective legislative frameworks comprise a system of reporting based on a complete set of rules with which to exert close control over all (suspicious) transactions, including cash ones.

Portugal (the fourth most effective legislative control system on cash payments) is distinctive in that its legislation contains *specific* provisions on the matter; a characteristic also to be found in Spain, Italy and Belgium. The main difference displayed by the legislative structures of these countries is the importance attributed to cash. It is no coincidence that all these countries, except for Belgium, are located in Southern Europe, where the use of cash is very common, and whose economies are more cash-oriented than those of other countries.

Italy ranks midway on the exploratory scale of legislative controls effectiveness. Prior to adoption of the 2001 Directive, its anti-money laundering regulations already anticipated its provisions. Specific articles take account of the problem of cash movements, both across borders and within the country, as well as of the economic categories particularly vulnerable to abuse. The main problem associated with this regulation is its lack of implementation. Not only has Italy not implemented the 2<sup>nd</sup> EU Directive but its national law still lacks a regulation for such implementation.

A last consideration concerns *what does not work*, i.e., those countries that did not obtain good results in the exploratory and tentative evaluation of their legislative effectiveness in controlling large-scale cash payments (Ireland and Belgium). This was due to the following factors.

First, the main criticism to be brought against these countries is certainly their *failure to implement the 2<sup>nd</sup> EU Directive*. As already mentioned, this implies the absence of control over and supervision of a number of activities (e.g., those belonging to the business sector, where cash transactions are commonplace). But also the implementation of national provisions is frequently unsatisfactory.

Second, *deficiencies* are also apparent *in reporting systems*. In fact, some of the measures recommended by FATF, such as the use of an information technology system or the centralisation of databases to collect disclosures, have not been adopted.

Overall, the existence of legislation governing the phenomenon is certainly very important, especially in respect to harmonisation at the EU level. The usefulness of harmonisation among European Union legislative instruments to prevent and control money laundering in general, and cash in particular, is confirmed by practitioners with regard to cross-border controls on large-scale cash payments. Current national legislation, where it exists, is too heterogeneous, leaving loopholes that can be easily exploited by criminals. Although not directly falling within the scope of this Study, the need for a common EU-wide regulation of cross border controls on cash movements was highlighted by participants. The absence of such regulation perfectly suits the needs of organised crime groups endeavouring to repatriate cash money illegally acquired in Europe. In the absence of any other unregulated and trustable system, criminals prefer physically to transport money back to their home countries.

By contrast, there is no consensus on the idea of creating a separate system for the declaration for large-scale cash payments. No need has been expressed for a system of this kind because cash is not considered to be of great significance in money laundering; nor is it believed that cash should receive more attention than it does at present. Large-scale cash payments are thought to be subjected to sufficient control by the existing<sup>67</sup> legislative and reporting system.

Nevertheless, closer co-operation among Member States, in particular among the FIUs, would be useful. In this regard, the exchange of sensitive information should be fostered for current procedures for obtaining information, especially in evidential form, are very complex. Their simplification would yield better results at the investigative and, above all, judicial levels, enabling the authorities to conduct proper investigations.

*FIUnet* is considered to have a significant role to play in this regard. Its online database enables the rapid sharing of information, and it could also appropriately comprise data on large-scale suspicious cash transactions. This would prevent the duplication of instruments and would not burden FIUs with additional costs, either in terms of human resources and their training or in terms of IT.

Finally, due to the commonness of the phenomenon of the use of large-scale cash payments for money laundering purposes and the concern it generates in EU Member States, it is important to improve the harmonisation of the legal framework of Member States on large-scale cash payments. In this context, it seems feasible to consider the opportunity of introducing a legislative instrument establishing an obligation to conduct large-scale cash transactions only through authorised intermediaries in order to prevent the use of large-scale cash payments and cash exchanges to conceal the conversion of criminal proceeds. Under this system, a violation of this obligation would entail a (administrative/ penal) sanction. The experiences of Italy and Belgium proved to be positive and should be taken into consideration as best practices.

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<sup>67</sup> Including the EU Directive 2001/97/EC.



## 11.

## RECOMMENDATIONS TO THE EUROPEAN COMMISSION

This Section contains recommendations to the European Commission formulated in order to improve the national legislative control systems of cash laundering in the EU framework. These recommendations have been drawn up on the basis of the findings of the qualitative and quantitative analyses of the EU national legislative systems for the control of large-scale cash payments for money laundering purposes, and they were widely discussed by the national experts who attended the working seminar held in Brussels on 16 – 17 June 2003.

Firstly, the following two general considerations emerged from the Brussels seminar:

First General Launch Statement:

*Cash-based transactions and movements for criminal purposes on an international and European scale remain of particular concern for most sectors of the economy and should not be underestimated.*

Second General Launch Statement:

*It is to be noted that this project had as its collection of data and its collation a combination of available statistical data and considered expert opinion from national experts and practitioners. This proved an effective combination, enhancing quantitative and statistical information with corroborating law enforcement expertise and experience.*

Secondly, with particular regard to terrorist financing, the following statement was agreed upon, and may serve to orient future legislative reforms in the EU framework:

***SPECIAL REFERENCE TO TERRORIST FINANCING***

Given the significance of terrorism financing in all schemes involving large-scale cash transactions, it is suggested that the phrase “*and potential terrorist financing*” be added to all references to money laundering.

Thirdly, particular attention was paid to implementation of the EU Directive 97/2001/EC, and the following statement with reference to it was agreed upon:

***SPECIAL REFERENCE TO THE IMPLEMENTATION OF THE EU DIRECTIVE 97/2001/EC***

Many problems and deficiencies still exist in putting into practice a complete system of legislative controls on large-scale cash payments. The crux of the problem seems to lie in those categories of economic actors not yet regulated or appropriately regulated, and in the diverse provisions currently applying to them. However, the basis for solving and compensating these deficiencies has been already established.

It seems of utmost importance that the 2<sup>nd</sup> EU Directive on anti-money laundering 97/2001/EC of 4 December 2001 be implemented by Member States as soon as possible.

The European Commission should monitor the Directive implementation process, taking all measures to ensure and promote its rapid application. Meanwhile, there is no need for further improvement to this legislative instrument with updates or amendments of it, since there is no feedback on its results. At the moment the main concern is to determine how it works after its full implementation by all Member States, planning only thereafter follow-ups for improvements.

Finally, the following recommendations to the European Commission were developed as follows:

**RECOMMENDATION NO. 1:**

**FINANCIAL SECTOR**

*Background:*

Money transmission services may not constitute traditional money laundering – not least because it does not by itself produce the legitimisation of the sources of the funds available –, but the scope of money laundering is widening and the repatriation of funds, particularly to certain crux sources countries, is an important component of phenomena currently being investigated. There is no European crux source country, although a large amount of money is repatriated to the Netherlands and Spain from the UK. All proceeds of crime are repatriated outside the EU. For this reason it is deemed important to examine the *repatriation* of all forms of criminal proceeds.

*Recommendation:*

*In terms of two aspects of this project, money laundering and terrorist financing, alternative remittance systems still play a prominent role in effectively moving moneys and further attention should be paid to this matter on a multi-country basis within the EU.*

*Implementation of the recommendation:*

The European Commission should assess the possibility of fully and commonly regulating and controlling money remittance services, and their closely allied commercial entities, by establishing a register of firms.

The opportuneness of issuing guidelines for operators could also be considered.

This procedure/recommendation could be extended and applied on a country-by-country basis to other unregistered financial institutions of particular interest to the individual Member State.

**RECOMMENDATION NO. 2:**

**CROSS-BORDER CASH MOVEMENTS**

*Background:*

The issue of large-scale cash payments has aroused concern at the European political level, with initial regard to cash movements across European borders. The latter are crucial for money laundering, given that most of the criminal organisations operating within the European Union include foreign groups which endeavour to repatriate their money. In this context, and among the financial institutions, alternative remittance services are of the utmost importance. But money is also and above all physically transported, a feature confirmed by customs controls (see e.g. the *MoneyPenny* exercise).

The 2001 EU Directive on anti-money laundering regulates the movement of money, including large amounts of cash, *within* the EU. However, it contains no provisions on money entering and leaving the Union, which is still covered by national regulations, where they exist. Yet there are marked differences among national bodies of legislation governing controls over cash movements across national borders, including Community ones. This creates loopholes which are easily exploited by criminals.

*Recommendation:*

*Given the future implementation of the 2<sup>nd</sup> EU Directive, it is necessary to establish standard legislation relative to cross border controls on cash movements. This would eradicate any anomalies and ambiguities that might arise as a result of the future new Directive.*

*Implementation of the recommendation:*

Since the Directive constitutes *per se* a good standard, the European Commission should consider the possibility of extending the provisions of the EU 2001 Directive currently applicable to transactions within the European Union so that they encompass cross-border transactions as well, requiring the declaration / identification of cash cross border movements above the threshold of €15,000, without prejudice to existing reporting systems.



**RECOMMENDATION NO. 3:*****EXCHANGE OF INFORMATION BETWEEN THE PUBLIC ADMINISTRATION AND THE SECTORS OF THE ECONOMY MOST LIKELY TO BE EXPLOITED BY CRIMINALS FOR CASH LAUNDERING PURPOSES****Background:*

The top-down approach that often characterises the adoption of legislation is not always the best means to achieve its full implementation. In particular, those called upon to apply the regulations may encounter difficulties in complying with them. For this reason, establishing and maintaining an open forum for discussion and dialogue might foster the success of the legislation itself and the achievement of its objectives (i.e., its effectiveness).

*Recommendation:*

*Action should be taken to establish a “preferential communication bridge” to foster the exchange of information between public administrations and the sectors of the economy most likely to be exploited by criminals for cash laundering purposes. This instrument should serve to improve cooperation between public administrations and those sectors, the overall aim being to ensure fair (applied) legislation.*

*Implementation of the recommendation:*

The European Commission may wish to assess the feasibility of adopting a *Memorandum of Understanding* between the public administration and sectors of the economy most likely to be exploited by criminals for cash laundering purposes.

This *Memorandum of Understanding* might prove a much more flexible instrument than the Directive, including all matters not treated in the Directive itself for political reasons. For example, particular attention might be devoted to finding ways to improve the legislation, to enhance controls, and to focus the control.

In creating this instrument (i.e., in writing the *Memorandum of Understanding*), particular care should be taken to ensure that it is as complete as possible, for otherwise it may become an instrument/argument against a public prosecutor.

A *Memorandum of Understanding* of this kind might also constitute an example of *best practice* for other countries, e.g., candidate countries.

**RECOMMENDATION NO. 4:**

***DATABASE FOR THE COLLECTION OF DATA ON LARGE-SCALE CASH PAYMENTS AND THE SHARING OF SUCH DATA***

*Background:*

Large-scale cash payments and data related to such transactions are not subject to specific treatment in existing reporting systems. Suspicious cash transactions are considered on a par with all other forms of money laundering. A separate process for such transactions has never been considered because the purpose of large-scale cash transactions, when suspicious, is the same as that of other kinds of money laundering schemes. Large-scale cash payments for money laundering are not the most dangerous form of money laundering, given that the amounts of money involved are small, nor are they the most common.

The creation of an authority which deals specifically with the control or monitoring of cash payments, or alternatively a unit within the existing FIU, would serve no purpose. This function can be fully assumed by the existing FIUs and their traditional role in combating money laundering.

*Recommendation:*

*Action might be taken to establish, within the existing structure, a framework in which to convey information and data concerning suspicious large-scale cash payments.*

*Implementation of the recommendation:*

The *FIUnet* might be the appropriate means towards this end. The organisational structure of this database already exists. and its further enhancement has been recently decided. The tool would prevent useless and costly duplication, while ensuring the rapid and functional sharing and exchange of information.

The *FIUnet* would also foster cooperation among European FIUs by allowing access to information (made available on the net) without it being necessary to ask for prior authorisation from the FIU where the information is located.

**RECOMMENDATION NO. 5<sup>68</sup>:*****ADOPTION OF A THIRD PILLAR INSTRUMENT ESTABLISHING AN OBLIGATION TO CONDUCT LARGE-SCALE CASH TRANSACTIONS ONLY THROUGH AUTHORISED INTERMEDIARIES IN ORDER TO PREVENT THE USE OF LARGE-SCALE CASH PAYMENTS AND CASH EXCHANGES TO CONCEAL THE CONVERSION OF CRIMINAL PROCEEDS******Background:***

Due to the strengthening of anti-money laundering legislation and regulation, criminals are increasingly using large-scale cash payments to guarantee anonymity while laundering money.

At the moment no legislation exists in EU Member States governing large-scale cash payments, although Member States do control the use of large-scale cash payments through their national anti-money laundering legislation.

Under this legislation, when a cash-payment is above a threshold of €15,000, legal and natural persons operating in the financial and non-financial sectors are subject to identification and record keeping obligations. If the transaction is considered suspicious, there is also a reporting obligation.

In the Member States analysed in this Report, there are only two countries where large-scale cash payments and exchanges by natural and legal persons are prohibited over a certain threshold. They are the following:

***Belgium***

When a notarised deed records a transaction, the amount of which is equal to or greater than €25,000, the payment must be made by means of a bank transfer or cheque. The notary must specify on the deed the number of the financial account to which the sum was or will be debited and the one to which it will be transferred.

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<sup>68</sup> The working seminar held in Brussels discussed a recommendation related to the introduction of a legal instrument prohibiting the use of cash for transactions under a given threshold, whatever its amount. This would entail a total block of the use of large-scale cash payments (although well above the current threshold of €15,000) in any case and in any place. However this recommendation was not agreed upon, for the following reasons. It would constitute a fundamental infringement of civil liberties, and it would clash with the very core of the European Union, i.e., the four fundamental freedoms, in primis the free movement of capital. Moreover, prohibiting cash transfers implies that all transfers would always pass via financial institutions. It would therefore prove more difficult to filter suspicious transactions: in fact, a transfer arouses less suspicion than cash does. Without the possibility of paying in cash, it would not be possible to individuate this kind (in cash) of suspicious transaction.

However, in consideration of the fact that not all the Member States were participating in the working seminar and having noted the positiveness of the Italian experience with reference to the legislative control of the use of large-scale cash payments, the authors of this Report decided to make this Recommendation to the European Commission. It states that it could be feasible to explore the possibility of establishing an obligation to conduct large-scale cash transactions only through authorised intermediaries in order to prevent the use of large-scale cash payments and cash exchanges to conceal the conversion of criminal proceeds. A violation of this obligation would entail a (administrative/penal) sanction. Action in this direction would also reduce the percentage of the black economy, by making it easier to discover tax evaded funds.

This enables the authorities to check all large-scale cash payments, at least as regards those operations that require the specialist services of a notary.

Belgium is also considering the introduction of a prohibition of the use of cash above a threshold of €15,000. This new provision will be inserted as an amendment to national anti-money laundering legislation.

#### *Italy*

The Italian provision states that the use of cash payments or bearer instruments is prohibited above a threshold of €12,500 for transactions and payments between legal and natural persons, whether acting in the exercise of their professional activities or not. Nevertheless, these operations can be conducted through the authorised intermediaries listed in the legislation. The violation of this provision is punished with an administrative fine of 40% of the amount transferred. Both parties involved in the transaction are punished.

The effectiveness of these provisions on the use of large-scale cash payments seems to rest on the supervision of the entities delegated to directly control operations. For this reason it is of the utmost importance to assure that all measures to comply with the legislation are adopted. This would entail greater and closer supervisory control on these entities.

Due to commonness of the phenomenon and the concern it generates in EU Member States, it is important to improve the harmonization of the legal framework of Member States on controlling and monitoring the use of large-scale payments and transactions.

#### *Recommendation:*

*Action should be taken to explore the feasibility of the adoption of a third pillar instrument establishing an obligation to conduct large-scale cash transactions only through authorised intermediaries in order to prevent the use of large-scale cash payments and cash exchanges to conceal the conversion of criminal proceeds. Under this system, the obligation to conduct large-scale cash transactions only through authorised intermediaries should be imposed both on natural and legal persons. A violation of this obligation would entail a (administrative/penal) sanction.*

*Furthermore, action should be taken with a view to establishing the supervision by a competent national public body of the authorised intermediaries delegated to directly control large-scale cash operations in order to assure that they comply with anti-money laundering legislation when receiving cash payments.*

*Action should also be taken so that authorised intermediaries delegated to directly control large-scale cash operations play an important role in the enforcement of sanctions to be imposed for the violation of the obligation to conduct large-scale cash transactions only through authorised intermediaries.*

#### *Implementation of the recommendation:*

The European Commission should assess the possibility of adopting a proposal for a Framework Decision as the legal instrument to be introduced.

This instrument should provide for the obligation to conduct large-scale cash transactions only through authorised intermediaries for payments and/or transactions above a given threshold (possibly the same used for other forms of payments, i.e., €15,000).

Failing to follow this procedure should constitute an offence, which should be punished with an effective, proportionate and dissuasive (administrative/penal) sanction.

Natural and legal persons, whether acting in the exercise of their professional activities or not, should be subject to this provision. Both parties involved in a large-scale cash transaction violating this rule should be punishable.

Consideration should be given to the possibility of differentiating penalties for natural and legal persons.

Member States should indicate a statutory body to supervise the intermediaries authorised to accept large-scale cash payments in order to ensure that they comply with the legislation. This should not require the creation of a European *ad hoc* agency, but could instead be achieved by delegating Member States to determine the competent already existing authority (statutory body) for that purpose at a national level. In this framework, national FIUs could play a prominent role, by also paying particular attention to ensuring that administrative and police forces coordinate and cooperate more closely between each other.

A system should be established so that authorised intermediaries can start a procedure to inform the competent authorities, entitled to impose the sanction, once they become aware that a large-scale cash transaction has been carried out without resorting to them.



## ANNEX 1

### METHODOLOGY

The Research proceeded through the following steps:

STEP 1: definition of the *modus operandi* of money launderers who use large-scale cash payments and transactions;

STEP 2: collection of the national legislative provisions governing the use of large-scale cash payments for the purchase of goods and services in each Member State;

STEP 3: identification of appropriate variables that could contribute to the effectiveness of national legislative controls;

STEP 4: preparation and sending of a questionnaire;

STEP 5: qualitative analysis of the national legislative control systems on the use of large-scale cash payments for money laundering purposes;

STEP 6: quantitative analysis (cross comparison) of the national legislative control systems on the use of large-scale cash payments for money laundering purposes.

This Annex explains the methodology used in steps 1, 3 and 6.

*STEP 1: Definition of the modus operandi of money launderers who use large-scale cash payments and transactions.*

The first step was to define the *modus operandi* of money launderers who use large-scale cash payments and transactions, with particular reference to the following issues: the extent to which specific sectors of the economy (financial sector, non financial sector and professionals) are exploited; the connections of these sectors with organised crime and terrorism; new technologies; the volume and size of large-scale cash payments; the geographical scale of the problem; the role of the private sector in identifying money laundering schemes using large-scale cash payments; the cost implications for business, law enforcement and personal privacy.

This analysis was conducted by examining the literature on the topic and the replies by EU financial intelligence units to Section 2 of the questionnaire. This Section was organised into sub-sections, each shedding light on a specific aspect of the phenomenon. Listed below are the indicators selected for analysis of the use of large-scale cash payments for the purposes of money laundering. The reason(s) why each indicator was assumed to be relevant to the description of the phenomenon is explained. Its modalities are also specified.

## AREAS OF RISK

### *1. Commonness of the use of cash payments.*

The use of cash is not common in all countries, either for legal activities or illegal ones. For this reason, it was assumed that the more common the use of cash in a given country, the higher the risk of that country's involvement in money laundering schemes using cash.

MODALITIES OF THE INDICATOR: YES/NO, where YES=common, NO=uncommon.

### *2. Degree of cash-orientation of the business economy.*

Regardless of the commonness of the use of cash, it is necessary to assess the extent to which large-scale cash payments are used in the business economy. In this case too, it was assumed that the greater the use of large-scale cash payments in conducting business, the higher the risk that these businesses may be infiltrated by money launderers exploiting large-scale cash payments.

MODALITIES OF THE INDICATOR: a range from 1 to 5, where 1=none, to 5=all.

## *Sectors of the Economy More Vulnerable to Abuse*

### *3. Sector most likely to be subject to exploitation through the use of large-scale cash payments for money laundering purposes.*

MODALITIES OF THE INDICATOR: Credit institutions, Financial sector, Non-financial sector, Other, where credit institutions=A, financial sector=B, non-financial sector=C, other=D.

### *4. Level of regulation of financial sector, non-financial sector, professional sector with respect to the credit sector (assumed to be extensively regulated=3).*

Following the obligations established by the first EU Directive on anti-money laundering, credit institutions represent the most closely regulated sector of the economy. Large-scale cash payments, in fact, constitute a method of money laundering that does not pass through credit institutions. Starting from this consideration, we checked the extent to which other sectors are regulated in comparison to the credit sector. It was assumed that the closer the regulation of sectors other than credit, the lower the possibility (and probability) of criminals resorting to this method of money laundering.

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=not regulated, 2=regulated, 3=extensively regulated.



#### a) Financial Sector

Subsumed under this heading were the following financial activities: financial leasing; money transmission services; issuing and administering means of payments; trading on one's own account or on the account of customers in money market instruments, foreign exchange, financial futures and options, exchange and interest-rate instruments, transferable securities; participation in securities issues and the provision of services related to such issues; money broking; safekeeping and administration of securities; safe custody services; insurance companies; investment firms; collective investment undertakings marketing its units or shares.

#### *5. Degree of exploitation of financial activities in the use of large-scale cash payments for money laundering purposes, when conducting their business – Results from suspicious (or unusual) transaction reports.*

On the basis of suspicious (or unusual) transaction reports, respondents were asked to assess the degree of exploitation of the above-mentioned financial activities in the use of large-scale cash payments for money laundering purposes. This information provided a primary indicator of the financial activities most often exploited by criminals.

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=not exploited, 2=exploited, 3=extensively exploited.

#### *6. Degree of potential exploitation of financial activities in the use of large-scale cash payments for money laundering purposes, when conducting their business – Answers requested only for those sectors not involved in suspicious (or unusual) transaction reports.*

In the case of those financial activities not reported as having been exploited in large-scale cash payments for the purposes of money laundering, we gathered the opinions of professionals (FIU officials) concerning their potential for exploitation.

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=not potentially exploited, 2=potentially exploited, 3=potentially extensively exploited.

#### b) Non-Financial Sector

Subsumed under this heading are the following non-financial businesses: real estate agents; dealers in high value metals and precious stones; (luxury) motor vehicle dealers; dealers in works of art; auctioneers; casinos; gambling houses.

#### *7. Degree of exploitation of non-financial businesses/commercial activities in the use of large-scale cash payments for money laundering purposes, when conducting their business – Results from suspicious (or unusual) transaction reports.*

On the basis of suspicious (or unusual) transaction reports, respondents were asked to assess the degree of exploitation of the above-mentioned non-financial businesses in the use of large-scale cash payments for money laundering purposes. The information provided a primary indicator of the non-financial businesses most exploited by criminals.

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=not exploited, 2=exploited, 3=extensively exploited.

8. *Degree of potential exploitation of non-financial businesses/commercial activities in the use of large-scale cash payments for money laundering purposes, when conducting their business – Answers requested only for those sectors not exploited in suspicious (or unusual) transaction reports.*

In the case of those non-financial businesses not reported as exploited in large-scale cash payments for the purposes of money laundering, we gathered the opinions of professionals (FIU officials) concerning their potential for exploitation.

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=not potentially exploited, 2=potentially exploited, 3=potentially extensively exploited.

#### c) Professionals

Subsumed under this heading are the following professional categories: auditors, external accountants, tax advisers; notaries and other independent legal professionals.

9. *Degree of exploitation of professional categories in the use of large-scale cash payments for money laundering purposes, when conducting their business – Results from suspicious (or unusual) transaction reports.*

On the basis of suspicious (or unusual) transaction reports, respondents were asked to assess the degree of exploitation of the above-mentioned professionals in the use of large-scale cash payments for money laundering purposes. This information provided a primary indicator of the professional categories most exploited by criminals.

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=not exploited, 2=exploited, 3=extensively exploited.

10. *Degree of potential exploitation of professional categories in the use of large-scale cash payments for money laundering purposes, when conducting their business – Answers requested only for those sectors not exploited in suspicious (or unusual) transaction reports.*

In the case of those professional categories not reported as having been exploited, either directly or, above all, indirectly, in large-scale cash payments for the purposes of money laundering, we gathered the opinions of professionals (FIU officials) concerning the potential of those professional categories for exploitation by criminals.

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=not potentially exploited, 2=potentially exploited, 3=potentially extensively exploited.

The degree of exploitation of specific activities within specific sectors (i.e. financial sector, non-financial sector and professionals) of the economy by criminals for cash laundering purposes in the European Union framework was calculated as follows.

An **Activity Exploitation Index** was first calculated in order to measure the extent to which specific activities within each of the three sectors mentioned (financial, non-

financial and professionals) were exploited by criminals, in each Member State. This Index expresses, on a scale from 0 to 100, the degree of exploitation of the activity for cash laundering purposes in each Member State. *The higher this index, the greater the degree of exploitation of the specific activity for cash laundering purposes.*

The following values were assigned to the indicators selected when calculating the Activity Exploitation Index.

- INDICATORS 5: *Degree of exploitation of the financial sector by criminal organisations using large-scale cash payments fro money laundering*

1	0
2	50
3	100

- INDICATORS 7: *Degree of exploitation of the non-financial sector by criminal organisations using large-scale cash payments fro money laundering*

1	0
2	50
3	100

- INDICATORS 9: *Degree of exploitation of professionals by criminal organisations using large-scale cash payments fro money laundering*

1	0
2	50
3	100

In the cases of both non-reply and the indicator's non-applicability, the indicator was not taken into account in the calculation.

The Activity Exploitation Indexes (one per Member State) were subsequently aggregated into the ***EU Activity Exploitation Index***. Obtained by calculating the average of the national Activity Exploitation Indexes, this Index expresses, on a scale from 0 to 100, the degree of exploitation of the activity for cash laundering purposes at EU level. *The higher this index, the greater the degree of exploitation of the specific activity for cash laundering purposes in the European Union.*

The EU Activity Exploitation Indexes (within each specific sector) were subsequently aggregated into the ***EU Sector Exploitation Index***. This was obtained by calculating the average of the EU Activity Exploitation Indexes within the given sector. It expresses, on a scale from 0 to 100, the degree of exploitation of the sector for cash laundering purposes at EU level. *The higher this index, the greater the degree of exploitation of the sector for cash laundering purposes in the European Union.*

*Trend: Development of the Phenomenon of the Use of Large-Scale Cash Payments for Money Laundering Purposes over the Last Ten (10) Years and Possible Future Trends*

The constant change in money laundering, as regards both the methods and sectors involved, and the need for a perspective prediction on future developments, require historical analysis of the trend in the use of large-scale cash payments for money laundering. The following indicators delineate this trend (past, present, future) for, respectively, financial institutions, non-financial businesses and professionals.

*11. Involvement trend (past, present, future) of financial activities in money laundering schemes exploiting large-scale cash payments.*

MODALITIES OF THE INDICATOR: graduation scale from 1 to 11, where 1=most involved, 11=least involved.

*12. Involvement trend (past, present, future) of non-financial businesses in money laundering schemes exploiting large-scale cash payments.*

MODALITIES OF THE INDICATOR: graduation scale from 1 to 7, where 1=most involved, 7=least involved.

*13. Involvement trend (past, present, future) of non-financial businesses in money laundering schemes exploiting large-scale cash payments.*

MODALITIES OF THE INDICATOR: graduation scale from 1 to 2, where 1=most involved, 2=least involved.

*14. Main reasons for changes (if any) in past attitudes to present ones.*

*15. Main reasons that might affect changes (if any) in future attitudes in respect to current ones.*

MODALITIES OF THE INDICATOR: Introduction of stricter regulation=A, Closer controls (i.e., stricter law enforcement)=B, Increased sanctions=C, Relative newness of the system (i.e., lack of familiarity with obligations)=D, Other=E.

*Role of the Euro*

The introduction of the Euro has brought about change in European society. One particular aspect to consider is the criminal opportunities offered by the transition period and by the adaptation period that followed. The purpose of the following indicators was to determine whether the introduction of the European single currency can be considered an element that has influenced (and especially facilitated) the use of large-scale cash payments for money laundering.

*16. Role of the conversion from national European currencies to EURO in facilitating money laundering in cash.*

MODALITIES OF THE INDICATOR: YES/NO, where YES=positive role, NO=negative role.

*17. Role of high denomination Euro banknotes in fostering the use of (large-scale) cash payments for money laundering.*

MODALITIES OF THE INDICATOR: YES/NO, where YES= positive role, NO=negative role.

CONNECTIONS BETWEEN IDENTIFIED SECTORS OF THE ECONOMY (I.E., FINANCIAL SECTOR, NON-FINANCIAL SECTOR AND PROFESSIONALS) AND ORGANISED CRIME/TERRORISM IN THE USE OF LARGE-SCALE CASH PAYMENTS FOR MONEY LAUNDERING PURPOSES

This set of indicators was intended to furnish a qualitative picture of the connections between the main economic categories (financial institutions, non-financial businesses, professionals) and organised crime and terrorism. Given the recent importance assumed by terrorism, especial emphasis was given to this criminal activity.

*18. Degree of involvement of organised crime in identified sectors of the economy (financial institutions, non-financial businesses, professionals) when using large-scale cash payments for money laundering purposes.*

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=not involved, 2=involved, 3=extensively involved.

*19. Criminal organisations/networks most devoted to money laundering through large-scale cash payments.*

MODALITIES OF THE INDICATOR: a range including *Mafia* style organisations=A, Terrorist networks=B, Traffickers=C, White collar criminals=D, Small non-organised criminality=E, Other=F.

*20. Existence of significant dimensions regarding terrorist financing.*

MODALITIES OF THE INDICATOR: YES/NO, where YES=existence of significant dimensions, NO=non-existence of significant dimensions.

*21. Evidence of terrorist organisations using non-profit organisations (NPOs).*

According to recent findings by terrorist financing investigations, money laundering consists not only in the process of converting 'dirty' or illegal money into 'clean' or legal money but also in the reverse process of using legal (or illegal) money for criminal purposes, as in the case of terrorism. It has been shown that some NPOs (e.g., charities) collect cash from their associates for reasons other than that stated as their main objective. The exploitation of NPOs by criminals signifies that the latter need to use anonymous instruments to collect cash money to spend on the organisation of their activities. It was therefore assumed that the greater the evidence that terrorist organisations use NPOs, the higher the degree of involvement of terrorist organisations in large-scale cash operations.

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=no evidence, 2=evidence, 3=extensive evidence.

22. a) *Financial sectors more likely to have links to **organised crime** to move money.*
- b) *Financial sectors more likely to have links to **terrorism** to move money.*

Among the financial sectors proven to be preferred by criminals to move money around the world, we sought to identify those most likely to be used by organised crime and terrorism.

MODALITIES OF THE INDICATOR: Banks=A, Money remittance services=B, *Bureaux de change*=C, Postal service=D, Other=E.

#### VOLUME AND SIZE OF LARGE-SCALE CASH PAYMENTS IN BOTH LEGAL AND ILLEGAL MARKETS

After examining the qualitative aspects of the use of large-scale cash payments for money laundering purposes, we sought to quantify the phenomenon. Given the recent growth of this form of money laundering and the highly anonymous nature of cash, gathering quantitative information is not always easy. This applies to both the legal and illegal markets, where large-scale cash payments can be conducted. The difference between the two markets induced us to separate them, focusing on the volume of large-scale cash payments conducted in the legal market, and on the size of the illegal one.

#### *Volume of Large-Scale Cash Payments in Legal Sectors of the Economy*

23. *Number of large-scale cash operations conducted per year and average price per operation (suspicious and non-suspicious operations).*

FIUs were asked to quantify, in terms of both the number of operations per year and the average price per operation, non-suspicious operations, on the one hand, and suspicious transactions on the other. These two indicators (number of operations per year and average price per operation) served to quantify the volume of payments/transactions conducted, as well as the amount of money moved through/with these payments/transactions in each identified sector and overall.

24. *Average percentage of large-scale cash payments/transactions reported in comparison to the total of reports.*

Focusing on suspicious transaction reports alone, it was possible to single out those operations conducted in the form of large-scale cash payments. This enabled us to determine the incidence of this phenomenon in money laundering as a whole.

25. *Present trend in large-scale cash payments reporting.*

Large-scale cash payments for money laundering purposes have been only recently been considered a crime-generating phenomenon. In order to acquire

a comprehensive view of the relationship between large-scale cash payment reports and suspicious transaction reports, especially in a quantitative perspective, it is important to determine the present trend in its development. This trend provides an idea of the significance that this form of money laundering will assume in the future.

MODALITIES OF THE INDICATOR: Increasing, Constant, Decreasing, where Increasing=↑, Constant=–, Decreasing =↓.

*a) Present trend in suspicious or unusual transactions reporting.*

However, a complete overview can only be acquired if information is also available on the general trend in suspicious (or unusual) transaction reports. For this reason, a further question was added to the original questionnaire during the working seminar in Brussels (for those participating) and phone conferences (for those not participating).

MODALITIES OF THE INDICATOR: Increasing, Constant, Decreasing, where Increasing=↑, Constant=–, Decreasing =↓.

*26. Other information.*

*Size of Illicit Market for Goods and Services Involving Large-Scale Cash Payments*

Besides the legal market, cash operations can be also conducted in the illegal market. The highly anonymous nature of cash makes it one of the preferred means of payments for persons seeking to conceal their illegal proceeds. In order to quantify the phenomenon, it is useful to assess the extent to which this form of payment is used. Moreover, of the overall amount of large-cash payments occurring in a country, we wanted to define the proportion used to purchase goods and services in the illicit market. This would indirectly indicate the importance of the black economy in fostering this form of money laundering. The assumption was that the higher these indicators, the larger the size of the illicit market for goods and services involving large-scale cash payments.

*27. Degree of use of large-scale cash payments for illicit market transactions.*

MODALITIES OF THE INDICATOR: a range from 1 to 5, where 1=no use, 5=extensive use.

*28. Percentage of large-scale cash payments/transactions occurring in the illicit market for given sectors.*

Given that non-financial businesses are the economic activities most involved in the illicit markets for goods and services, we considered the following: real estate agents, dealers in high value metals and precious stones, (luxury) motor vehicle dealers, dealers in works of art, auctioneers, casinos and gambling houses.

Modalities of the indicator: %.

CURRENT CRIME TRENDS IN MONEY LAUNDERING SCHEMES USING LARGE-SCALE CASH PAYMENTS

### *Types of Crimes that Generate Large Volumes of Cash*

#### *29. Current criminal activities producing large volume of cash.*

This question concerned crimes that generate large volumes of cash. Given these large volumes, the criminal organisations involved endeavour to conceal their illicit cash profits through money laundering schemes involving large-scale cash payments.

MODALITIES OF THE INDICATOR: A=Fraud, B=Corruption, C=Drug Trafficking, D=Aliens smuggling, E=Trafficking in human beings for the purpose of exploitation, F=Theft, G=Trafficking in vehicles, H=Commodity smuggling, I=Child pornography, L=Financial crime, M=Environmental crime, N=Trafficking in cultural property, O=High technology crime, P=Terrorism, Q=Other.

### *Use of New Technology Systems*

When investigating crime trends in money laundering through large-scale cash payments, it is important also to determine the role played by new technologies. These, in fact, are instruments that offer a higher level of anonymity, dematerialisation, depersonification, speed, etc., all of which are aspects that attract criminals because they reduce the probability of being caught by the police. Information was consequently gathered on the characteristics assumed by these instruments when large-scale cash payments are made.

#### *30. Detection of cases of schemes of money laundering using large-scale cash payments involving new technologies.*

MODALITIES OF THE INDICATOR: YES/NO, where YES=detection, NO=no detection.

#### *30.(1)<sup>69</sup>. Existence of a potential threat for new technologies to be used to set up a money laundering scheme involving large-scale cash payments.*

MODALITIES OF THE INDICATOR: YES/NO, where YES=existence of potential threat, NO=non-existence of potential threat.

#### *31. New technology payment system most used in large-scale cash payments for money laundering purposes.*

MODALITIES OF THE INDICATOR: Smart cards or electronic purses, Internet/network based systems (i.e., e-cash), Hybrid systems, Other, where A=smart cards or electronic purses, B=Internet/network based systems, C=Hybrid systems, D=Other.

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<sup>69</sup> This indicator was used only where cases of money laundering schemes using large-scale cash payments involving new technologies were not detected.



32. *Electronic contexts where new technology payment systems are used.*

MODALITIES OF THE INDICATOR: E-commerce, On-line banking, Financial institution services on the Internet, Casinos and non-casino types of gambling on the Internet, Other, where A=e-commerce, B=on-line banking, C=financial institution services on the Internet, D=casinos and non-casino types of gambling on the Internet, E=other.

33. *Features of e-payment systems that may affect the extent of their degree of use in large-scale cash payments for money laundering purposes.*

MODALITIES OF THE INDICATOR: Rapidity of execution=A, Magnitude of volume=B, Territorial extension=C, Dematerialisation of operations=D, Anonymity=E, Low traceability of operations=F, 'Depersonification' of operations=G, Value transferability between individuals rather than just to/from merchants=H, interoperability between different e-payment systems=I.

34. a) *Level of present threat posed by new payment technologies in the field of large-scale cash payments for money laundering purposes.*

b) *Level of future threat posed by new payment technologies in the field of large-scale cash payments for money laundering purposes.*

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=no threat, 2=medium threat, 3=high threat.

ROLE OF THE PRIVATE SECTOR IN IDENTIFYING MONEY LAUNDERING USING LARGE-SCALE CASH PAYMENTS

Apart from law enforcement authorities, private sector actors may perform a role in controlling (preventing and detecting) money laundering using large-scale cash payments. These (financial, non-financial and professional) actors are in fact more likely to handle large-scale cash payments and transactions. Their role is assumed to be crucial for combating this financial crime at a peripheral level, especially with a view to establishing a common European model. It is of utmost importance to identify the current positions and roles of the various private sector categories and to assess their ability and willingness to cooperate with public authorities.

35. *Existence of an obligation to use the services of a qualified person in setting up a large-scale cash payment/transaction*

The existence of an obligation to use the services of a qualified person when undertaking large-scale cash payments/transaction is indicative of the role currently attributed to the private sector in the control of money laundering through large-scale cash payments in each country.

MODALITIES OF THE INDICATOR: YES/NO, where YES=existence of obligation, NO=no obligation exists.

36. a) *Role played by the private sector (financial institutions, non-financial businesses, professionals) in preventing money laundering through large-scale cash payments.*

b) *Role played by the private sector (financial institutions, non-financial businesses, professionals) in detecting money laundering through large-scale cash payments.*

As previously stated, the control phase consists of both prevention and detection. Considering these two activities separately, we sought to assess the possible positions taken by the private sector when dealing with large-scale cash payments, in that they might 1) facilitate the execution of a money laundering operation performed through the use of large-scale cash payments or 2) obstruct it. This indicator gave an idea of the kind of role currently played by the private sector.

MODALITIES: Facilitator / Obstacle.

In order to quantify the current level of cooperation of the private sector with the control authorities, information was gathered on various aspects of their role. The main indicators considered were the following:

37. *Degree of ability for identified business activities and professionals, in the exercise of their professional activities, to identify money laundering schemes using large-scale cash payments.*

This gives an indication of the ability of the private sector to identify money laundering activities using large-scale cash payments.

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=no ability, 2=medium ability, 3=high ability.

38. *Percentage of suspicious/unusual large-scale cash payments/transactions reported by the private sector (over the last 12 months) for identified sectors (credit institutions, financial institutions, non-financial businesses, professionals).*

This indicator indicates the attitude of the private sector towards the reporting of suspicious (or unusual) large-scale cash payments.

MODALITIES OF THE INDICATOR: % of the total.

39. *Degree of cooperation of the private sector in developing financial investigations.*

The degree of cooperation of the private sector with financial investigations into the use of large-scale cash payments is another indicator of the current extent of general cooperation by the private sector in controlling the use of large-scale cash payments.

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=no cooperation, 2=medium cooperation, 3=high cooperation.

## COST IMPLICATIONS FOR BUSINESS, LAW ENFORCEMENT AND PERSONAL PRIVACY

The creation of a system for the compulsory declaration of large-scale cash payments results in a series of costs for those actors that must comply with this system. The aim of this part of the questionnaire was to identify the kinds of costs (primarily economic ones, but also additional non-economic costs for certain categories) generated by the system. However, the most important trade-off would be between money laundering reduction (or elimination) and personal privacy limitation.

40. *Costs imposed by a compulsory declaration system of large-scale cash payments on entities dealing with such forms of payments (law enforcement, business sector, professional).*

MODALITIES: Training of employees, Number of employees, Reduction of business volume, Expenses for IT, Other, where A=training of employees, B=number of employees, C=reduction of business volume, D=expenses for IT, E=other.

41. *Existence of breaches of confidentiality and professional relationship with their customers for professionals having to comply with a compulsory system of large-scale cash payments/transactions declaration.*

MODALITIES OF THE INDICATOR: YES/NO, where YES=existence, NO=inexistence.

42. a) *Existence of limitations on personal privacy brought about by a compulsory system of large-scale cash payments/transactions declaration*  
 b) *Kind of trade-off between personal privacy limitation and money laundering reduction/elimination.*

MODALITIES: Positive / Negative.

## CONCERNS

43. *Degree of concern about the use of large-scale cash payments.*

This last indicator was intended to determine how the problem of the use of large-scale cash payments for the purposes of money laundering is considered and perceived in each country. The degree of concern expressed gives an indirect indication of the national need for a solution (in terms of both better EU common regulation and effective control) to this problem.

MODALITIES OF THE INDICATOR: a range from 1 to 5, where 1=no concern, 5=high concern.

*STEP 3: Identification of appropriate variables that could contribute to the effectiveness of national legislative controls.*

The third step was identification of appropriate variables that might enhance the effectiveness of national legislative controls. This aspect was examined in order to compare the effectiveness of national legislative systems for controlling the use of cash payments for money laundering purposes across EU Member States. In fact, owing to the lack of statistics, effectiveness can only be measured indirectly, and to the limited extent of its comparison across European Union countries. It was assumed that *the higher the level of regulation of a national legislative control system and the level of implementation of the regulation, the more effective the system in governing the use of large-scale cash payments*. According to this model, the level of effectiveness of a national system results from the existence and implementation of various regulatory features (relating to competent authorities, sanctions, control measures, persons subjected to the control measures, etc.), the lack and/or the shortage of one or more of which makes the control less effective. *Hence, the larger the number of features regulated under the national legislative control system and the higher the level of their implementation, the greater the effectiveness of the system.*

The features of the regulation assumed to influence the effectiveness of national control systems were identified on the basis of the existing international and national literature, the purpose being to ensure that our assumption about the contribution of these features to the effectiveness of the national system would be supported by both the international community and high profile experts in the field, who indeed confirmed their soundness on the occasion of the working seminar held in Brussels on 16 – 17 May 2003.

The variables identified were translated into effectiveness indicators, which were then incorporated into questions contained in section 2 of the questionnaire. The indicators of effectiveness selected are listed below. The reason why each indicator was assumed to be relevant to quantification of the effectiveness of the national legislative systems is explained. The modalities of each indicator are also specified.

*1. Implementation of EU Directive 2001/97/EC.*

The new EU Directive on anti-money laundering foresees the transposition of the new regulations by EU Member States into their national legislations by June 15, 2003. Given this transition period, we sought to establish whether or not the respondent country had implemented the Directive, thereby determining whether or not the national legislative controls described in the questionnaire have been updated.

MODALITIES OF THE INDICATOR: YES / NO, where YES=implementation of EU Directive 2001/97/EC; NO=no implementation.

Mentioned by: EU Directive 2001/97/EC, Article 3.1.

*2. a) Existence of national legislation governing the use of large-scale cash payments.*

Given the particular area covered by this investigation and the lack of a European Directive addressing this specific matter, we had to acquire

preliminary information on the existence of legislative controls in each Member State. This information was also needed for further investigation of the legislative situations in Member States and their comparison.

The existence of legislation is an indirect indicator of the effectiveness of legislative controls. In fact, it is assumed that where legislation exists, controls are effective. At the same time, it can also be assumed that where legislation exists in a specific field, the country adopting it is aware of the importance of regulating that field in order to control, prevent and detect its abuse/misuse by criminals.

MODALITIES OF THE INDICATOR: YES, autonomous legislation / YES, *specific* provisions within anti-money laundering legislation / YES, *general* provisions within anti-money laundering legislation / NO, where YES, aut.=existence of an autonomous legislation; YES, sML=existence of *specific* provisions within anti-money laundering legislation; YES, gML=existence of *general* provisions within anti-money laundering legislation; NO=non-existence of such legislative instruments.

Mentioned by: EU Directive 91/308/EEC, Article 15.

*b) Existence of proposal(s) to adopt such legislation.*

If autonomous legislation or provisions within anti-money laundering legislation did not exist, we sought to verify whether there were proposals for their adoption, since this would indicate awareness of the significance of using cash payments for money laundering purposes.

MODALITIES OF THE INDICATOR: YES/NO, where YES=proposals under examination; NO=no proposal under examination.

AUTONOMOUS/SPECIFIC NATIONAL LEGISLATION GOVERNING THE USE OF LARGE-SCALE CASH PAYMENTS/TRANSACTIONS

3. *a) Role of the FIU in regularly/ systematically monitoring large-scale cash payments (according to the national legislation).*

The existence of a national financial intelligence authority in charge of traditional money laundering schemes is well known. However, when researching new methods such as money laundering through the use of large-scale cash payments, it is useful to determine whether this authority is also in charge of this specific kind of money laundering method. It was assumed in this regard that if a role of the FIU proved to exist in monitoring large-scale cash payments, the controls were more effective.

MODALITIES OF THE INDICATOR: YES / NO, where YES=role of the national FIU in controlling the use of large-scale cash payments; NO= no role of the national FIU in controlling the use of large-scale cash payments.

Mentioned by: EU Directive 91/308/EEC, Article 1.

*b) Existence of a specific national authority monitoring the use of large-scale cash payments.*

The constantly changing techniques used by criminal organisations to conceal their illicit proceeds require greater specialisation of public authorities belonging to both law enforcement agencies and intelligence services so that they may identify these proceeds. It was thus assumed that the existence of specific national authorities trained and specialised in the monitoring of large-scale cash payments signified the greater effectiveness of the control phase.

MODALITIES OF THE INDICATOR: YES/NO, where YES=existence of a *specific* national authority monitoring the use of large-scale cash payments; NO=non-existence of a *specific* national authority monitoring the use of large-scale cash payments.

*4. Level of implementation of national legislation controlling the use of large-scale cash payments.*

Apart from the existence of legislation, the effectiveness of a set of legislative controls is denoted by the implementation of this legislation. The existence alone of legislation is not in itself a direct indicator of its effectiveness. For this reason, it is of utmost important to examine the implementation of existing legislation, since this is indicative of the practical application of legislative control. The main consideration is that the higher the level of implementation of national legislation, the higher the level of control on cash payments/transactions.

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=no implementation, 2=partial implementation, 3=extensive implementation.

Mentioned by: EU Directive 91/308/EEC, Article 14.

*5. Typologies of measures/instruments to control the use of large-scale cash payments.*

The assumption was that the more comprehensive a set of adopted control measures/instruments, the greater the effectiveness of the control itself.

MODALITIES OF THE INDICATOR: Customer identification, Record keeping, Other, where A=customer identification; B=record keeping; C=other.

Mentioned by: FATF Recommendations nos. 10 and 15; EU Directive 91/308/EEC, Article 4 and 6, EU Directive 2001/97/EC, Article 1.3.1, 1.5.1–2.

*6. a) Existence of a threshold for the application of control measures on cash payments.*

With regard to the control framework on large-scale cash payments, one of the preliminary aspects to address is the definition of 'large-scale'. Used for the purpose of this Study was the European Commission's interpretation of "large-scale cash payments" as payments equal to or exceeding €15,000 (which is also the threshold established for controls on other forms of transactions). However, no obligation exists at EU level as regards cash payments. Member States can therefore choose to apply control measures on

cash payments above a given threshold. It was for this reason that we assumed that where a threshold amount for control measures on cash payments to be applied exists, the legislative controls are effective.

MODALITIES OF THE INDICATOR: YES / NO, where YES= threshold exists, NO=no threshold exists.

Mentioned by: FATF Recommendation no. 23, EU Directive 91/308/EEC, Article 3.2; EU Directive 2001/97/EC, Article 1.3.2

*b) Level of threshold for the application of control measures on cash payments.*

With regard to a threshold, a further aspect to consider is its level, i.e., the amount of money representing the threshold itself. Considering that cash is normally used for small (or relatively small)–sum operations/ transactions, our assumption was that the lower the threshold, the closer the control, and therefore the more operations subject to the control measures established by law. And the larger the number of operations controlled, the higher the effectiveness of control itself. This indicator also allowed us to determine the level of harmonisation between EU Member States in the establishment of a threshold for cash payments.

MODALITIES OF THE INDICATOR: exact amount.

Mentioned by: EU Directive 91/308/EEC, Article 3.2; EU Directive 2001/97/EC, Article 1.3.2.

*7. Existence of legislative controls on legal and natural persons, acting in the exercise of their professional activities, when dealing with large-scale cash payments.*

Criminals in general and money launderers in particular tend to conduct their criminal operations where it is more likely that these will be concluded successfully. Given the high number of legal and natural persons handling operations (i.e., payments and transactions) in cash, money launderers using cash tend to utilise those less subject to controls. For this reason, it was assumed that the larger the number of legal and natural persons (and categories) subject to legislative controls on the use of large-scale cash payments, the greater the effectiveness of controls.

MODALITIES OF THE INDICATOR: YES/NO, where YES= legislative control exist; NO= legislative controls do not exist.

Mentioned by: FATF Recommendation nos. 8 and 9; EU Directive 91/308/EEC, Article 1; EU Directive 2001/97/EC, Article 1.2 (Article 2a).

*8. Typologies of control measures/instruments that legal and natural persons, acting in the exercise of their professional activities, are obliged to comply with when dealing with large-scale cash payments.*

There exist a wide range of instruments and measures to control the activities of persons dealing with cash in the exercise of their profession. This range includes measures that are more restrictive and others that are less so. The application of these legislative control instruments/measures differs from

subject to subject. This diversity creates loopholes that can be easily exploited by criminals. Hence, the assumption was that the more uniform the set of control measures/instruments that legal and natural persons, acting in the exercise of their activities, are obliged to use, the greater the effectiveness of the control.

MODALITIES OF THE INDICATOR: None, Customer identification, Record keeping, Other, where A=none; B=customer identification; C=record keeping; D=other.

Mentioned by: FATF Recommendations nos. 10 and 15; EU Directive 91/308/EEC, Article 4 and 6, EU Directive 2001/97/EC, Article 1.3.1, 1.5.1–2.

*9. Existence of sanctions for not complying with national legislation governing the use of large-scale cash payments.*

Sanctions are the legal instruments used to punish transgressors. However, they also act as deterrents. Legislation including sanctions performs a proactive role in the implementation of effective legislative controls on the use of large-scale cash payments. The assumption was that where sanctions exist, criminals are less inclined to commit a crime.

MODALITIES OF THE INDICATOR: YES/NO, where YES=sanctions exist, NO=no sanctions exist.

Mentioned by: EU Directive 91/308/EEC, Article 14.

*a) Typologies of sanctions for not complying with national legislation governing the use of large-scale cash payments.*

Various types of sanctions are available to punish the commission of crimes. Each of them is applied according to the area in which a crime (like money laundering through cash) is committed and its gravity. The assumption was that the larger the number of types of sanctions available, the closer the control and thus the greater the effectiveness of that control.

MODALITIES OF THE INDICATOR: Administrative, Civil, Penal, Other, where A=administrative; C=civil; P=penal; O=other.

Mentioned by: EU Directive 91/308/EEC, Article 14.

*b) Degree of implementation of sanctions for not complying with national legislation governing the use of large-scale cash payments.*

After considering the kinds of sanctions available, we had to determine the extent to which these sanctions are implemented. The existence of sanctions is not useful in itself, for they must also be applied. It was therefore assumed that the greater the extent to which sanctions are applied, the greater the effectiveness of control.

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=not implemented, 2=implemented, 3=extensively implemented.



*10. Overall effectiveness of the national system of legislative controls<sup>70</sup> on the use of large-scale cash payments.*

This question asked the respondent to evaluate the national system of legislative control on the use of large-scale cash payments from his/her professional point of view. Comparison between the results of this “inside” effectiveness evaluation<sup>71</sup> against those obtained by the “outside” effectiveness evaluation conducted on the indicators presented above, yielded a measure of the discrepancy between the internal and external ‘images’ of the national system. This evaluation was based on three main indicators:

*a) Degree of effectiveness of the national system of legislative controls on the use of large-scale cash payments.*

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=ineffective, 2=partially effective, 3=fully effective.

*b) Positive aspects of the national system of legislative controls on the use of large-scale cash payments.*

MODALITIES OF THE INDICATOR: open answer.

*11. Shortcomings of the national system of legislative controls on the use of large-scale cash payments.*

MODALITIES OF THE INDICATOR: A=lack of legislation/regulation; B= lack of legislative implementation of the provisions; C= lack of sanctions; D= lack of law enforcement action; E= lack of a data collection system; F=other.

NATIONAL ANTI-MONEY LAUNDERING LEGISLATION: PROVISIONS GOVERNING THE USE OF LARGE-SCALE CASH PAYMENTS

*12. a) Role of the FIU in regularly/ systematically monitoring large-scale cash payments (according to the national legislation).*

The existence of a national financial intelligence authority in charge of traditional money laundering schemes is well known. However, when researching new methods such as money laundering through the use of large-scale cash payments, it is useful to establish whether this authority is also in charge of this specific kind of money laundering method. It was assumed in this regard that if a role of the FIU proved to exist in the monitoring large-scale cash payments, the controls were more effective.

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<sup>70</sup> This indicator was based purely on the point of view of the respondents.

<sup>71</sup> The expression “inside” (or internal) effectiveness evaluation means an evaluation given by those working inside and with the instruments of a legislative control apparatus. It is the opposite of the term “outside” (or external) effectiveness evaluation, which indicates evaluation conducted by persons not professionally involved in the legislative control apparatus.

MODALITIES OF THE INDICATOR: YES / NO, where YES=role of the national FIU in controlling the use of large-scale cash payments; NO= no role of the national FIU in controlling the use of large-scale cash payments.

Mentioned by: EU Directive 91/308/EEC, Article 1.

*b) Existence of a specific national authority monitoring the use of large-scale cash payments.*

The constantly changing techniques used by criminal organisations to conceal their illicit proceeds require greater specialisation of public authorities, belonging to both law enforcement agencies and intelligence services, so that they may identify those proceeds. Hence, it was assumed that the existence of specific national authorities trained and specialised in the monitoring of large-scale cash payments signifies the greater effectiveness of the control phase.

MODALITIES OF THE INDICATOR: YES/NO, where YES=existence of a *specific* national authority monitoring the use of large-scale cash payments; NO=non-existence of a *specific* national authority monitoring the use of large-scale cash payments.

*13. Level of implementation of national legislation controlling the use of large-scale cash payments.*

Apart from the existence of legislation, the effectiveness of a set of legislative controls is denoted by the implementation of this legislation. The existence alone of legislation is not in itself a direct indicator of its effectiveness. For this reason, it is of utmost importance to examine the implementation of existing legislation, since this is indicative of the practical application of legislative control. The main consideration is that the higher the level of implementation of national legislation, the closer the controls on cash payments/transactions.

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=no implementation, 2=partial implementation, 3=extensive implementation.

Mentioned by: EU Directive 91/308/EEC, Article 14.

*14. a) Categories of policies/measures in force to prevent the use of large-scale cash payments.*

*b) Categories of policies/measures in force to detect the use of large-scale cash payments.*

The legislative control procedure consists of both prevention and detection. These are put into practice through a series of different policies and measures. Knowledge of their main categories yields understanding as to whether they cover both prevention and detection, or just one of these aspects. The assumption was that the more comprehensive the set of control policies/measures in force, the greater the effectiveness of controls. Of course, this should concern both prevention and detection.

MODALITIES OF THE INDICATOR: Regulatory; Administrative; Law enforcement; Other, where A=regulatory; B=administrative; C=law enforcement; D=other.

Mentioned by: FATF Recommendation no. 27.

15. *a) Effectiveness of policies/measures to prevent the use of large-scale cash payments.*

*b) Effectiveness of policies/measures to detect the use of large-scale cash payments.*

The prevention and the detection phases play different roles in the control process. With specific regard to large-scale cash payments used for purposes of money laundering, we sought to identify the categories of policies/measures most effective in preventing and detecting this type of crime. The degree of effectiveness expressed by this indicator, which represents the point of view of those working in the field of anti-money laundering, was assumed to be the degree of effectiveness of each measure/policy.

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=ineffective, 2=partially effective, 3=fully effective).

Comparing the results of questions 14 and 15, which consider prevention and detection separately, enables estimation of the degree of discrepancy between what would be more effective (in terms of categories of policies/measures) and what is actually in force. In other words, the higher the score attributed in question 15 to the answer(s) selected chosen in question 14, the more effective the control conducted through prevention and detection.

16. *Existence of legislative controls on legal and natural persons, acting in the exercise of their professional activities, when dealing with large-scale cash payments.*

Criminals in general and money launderers in particular tend to conduct their criminal operations where it is more likely that these will be concluded successfully. Given the large number of legal and natural persons that handle operations (i.e., payments and transactions) in cash, money launderers using cash utilise those less subject to controls. For this reason, we assumed that the larger the number of legal and natural persons (and categories) subject to legislative controls on the use of large-scale cash payments, the greater the effectiveness of controls.

MODALITIES OF THE INDICATOR: YES/NO, where YES=subject to control legislation; NO=not subject to control legislation.

Mentioned by: FATF Recommendations nos. 10 and 15; EU Directive 91/308/EEC, Article 4 and 6, EU Directive 2001/97/EC, Article 1.3.1, 1.5.1–2.

17. *Typologies of control measures/instruments that legal and natural persons, acting in the exercise of their professional activities, are obliged to use when dealing with large-scale cash payments.*

There exist a wide range of instruments and measures to control the activities of persons dealing with cash in the exercise of their profession. This range includes measures that are more restrictive and others that are less so. The application of these legislative control instruments/measures differs from

subject to subject. This creates loopholes that can be easily exploited by criminals. The assumption was therefore that the more uniform the set of control measures/instruments that legal and natural persons, acting in the exercise of their professional activities, are obliged to use, the greater the effectiveness of the control.

MODALITIES OF THE INDICATOR: None, Customer identification, Record keeping, Suspicious/Unusual Transaction Report, where A=none; B=customer identification; C=record keeping; D= suspicious/unusual transaction report.

Mentioned by: FATF Recommendations nos. 10 and 15; EU Directive 91/308/EEC, Article 4 and 6, EU Directive 2001/97/EC, Article 1.3.1, 1.5.1–2.

18. *a) Existence of sanctions for subjects using large-scale cash payments for money laundering purposes.*

Sanctions are the legal instruments used to punish transgressors. However, they also act as deterrents. Legislation including sanctions performs a proactive role in the implementation of effective legislative controls on the use of large-scale cash payments. The assumption was that where sanctions exist, criminals are less inclined to commit a crime.

MODALITIES OF THE INDICATOR: YES/NO, where YES=sanctions exist, NO=no sanctions exist.

Mentioned by: EU Directive 91/308/EEC, Article 14.

*b) Typologies of sanctions for subjects using large-scale cash payments for money laundering purposes.*

Various types of sanctions are available to punish the commission of crimes. Each of them is applied according to the area in which a crime (like money laundering through cash) is committed and its gravity. The assumption was that the greater the number of types of sanctions contemplated, the closer the control and thus the greater the effectiveness of the control.

MODALITIES OF THE INDICATOR: Administrative, Civil, Penal, Other, where A=administrative; C=civil; P=penal; O=other.

Mentioned by: EU Directive 91/308/EEC, Article 14.

*c) Degree of implementation of sanctions for subjects using large-scale cash payments for money laundering purposes.*

After considering the kinds of sanctions available, we had to determine the extent to which these sanctions are implemented. The existence of sanctions is not useful in itself, for they must also be applied. It was therefore assumed that the greater the extent to which sanctions were applied, the greater the effectiveness of the control.

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=not implemented, 2=implemented, 3=extensively implemented.

19. *a) Overall effectiveness of the national system of legislative controls on the use of large-scale cash payments.*

This question asked the respondent to evaluate the national system of legislative control over the use of large-scale cash payments from his/her professional point of view. Comparison between the results of this “inside” effectiveness evaluation (as defined above when dealing with indicators 10/11) and those obtained by the “outside” effectiveness evaluation (as defined above when dealing with indicators 10/11) conducted on the indicators presented above, would yield a measure of the discrepancy between the inside and outside ‘images’ of the system. This evaluation was based on three main indicators:

*b) Degree of effectiveness of the national system of legislative controls on the use of large-scale cash payments.*

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=ineffective, 2=partially effective, 3=fully effective.

*c) Advantages of the national system of legislative controls on the use of large-scale cash payments.*

MODALITIES OF THE INDICATOR: open answer.

20. *Shortcomings of the national system of legislative controls on the use of large-scale cash payments.*

MODALITIES OF THE INDICATOR: A=lack of legislation/regulation; B= lack of legislative implementation of the provisions; C= lack of sanctions; D= lack of law enforcement action; E= lack of a data collection system; F=other.

21. *Priority in the creation of a European-wide system of legislative control on the use of large-scale cash payments for money laundering purposes.*

MODALITIES OF THE INDICATOR: open answer.

#### REPORTING SYSTEM

This section contains information on the reporting systems applied by Member States with regard to suspicious large-scale cash payments. As the reporting system is an important part of the control of money laundering activities, it is important to assess its effectiveness in order to evaluate the overall effectiveness of the legislative controls on large-scale cash payments.

Moreover, this project also had the purpose of verifying the need for and feasibility of a European declaration system. For this reason, this section of the questionnaire also determined the characteristics of such systems at national level (where they exist). This would serve to identify what does and what does not ‘work’ in national reporting systems and to single out the best aspects for possible incorporation into a European-wide reporting system to control large-scale cash payments.

*22. Existence of a comprehensive reporting system (i.e., “identification”, “record keeping” and “declaration/reporting”) including suspicious large-scale cash payments/transactions.*

The existence of a comprehensive reporting system that includes “identification”, “record keeping” and “declaration/report” allows complete control to be exerted over suspicious transactions. For this reason, it was important to verify whether this kind of control adopted for general suspicious (or unusual) transactions is also applied to cash payments. It was assumed that the existence of a comprehensive national reporting system which also covered large-scale cash transactions indicated the greater effectiveness of control on large-scale cash payments.

MODALITIES OF THE INDICATOR: YES/NO, where YES=existence, NO=inexistence.

Mentioned by: FATF Recommendations nos. 10 and 15; EU Directive 91/308/EEC, Article 4 and 6, EU Directive 2001/97/EC, Article 1.3.1, 1.5.1–2.

22.1.(1–7): Indicators for cases where a comprehensive national reporting system including large-scale cash payments exists.

*22.1.1.a) Role of the FIU in regularly/ systematically monitoring reports on large-scale cash payments (according to the national legislation).*

The existence of a national financial intelligence authority in charge of traditional money laundering schemes is well known. However, when researching new methods such as money laundering through the use of large-scale cash payments, it is useful to determine whether this authority is also in charge of this specific kind of money laundering method. It was assumed in this regard that if a role of the FIU proved to exist in the monitoring of large-scale cash payments, the controls were more effective.

MODALITIES OF THE INDICATOR: YES / NO, where YES=role of the national FIU controlling the use of large-scale cash payments; NO= no role of the national FIU controlling the use of large-scale cash payments.

Mentioned by: EU Directive 91/308/EEC, Article 1.

*22.1.1.b) Existence of a specific national authority monitoring reports on the use of large-scale cash payments.*

The constantly changing techniques used by criminal organisations to conceal their illicit proceeds require the greater specialisation of public authorities, belonging to both law enforcement agencies and intelligence services, so that they can identify these proceeds. The main assumption was that the existence of *special* authorities trained and specialised in monitoring reports on large-scale cash payments signifies the greater effectiveness of the control phase.

MODALITIES OF THE INDICATOR: YES/NO, when YES=existence of a *specific* authority monitoring reports on large-scale cash payments; NO=non-existence of a *specific* authority monitoring such reports.

*22.1.2 Existence of a centralised system of data collection (database) including large-scale cash payments.*

The existence of a centralised database of information on large-scale cash payments gives authorities rapid access to previous cases as they conduct their investigations. This assists cross-checking controls over a period of time, making investigations more effective. Hence, it was assumed that where a database of large-scale cash payments exists, the effectiveness of the control system is greater.

MODALITIES OF THE INDICATOR: YES/NO, where YES=existence of a centralised system, NO=non-existence of a centralised system.

Mentioned by: FATF, Recommendation no. 23.

*22.1.3 Existence of a defined period by which data collected must be sent to central authority*

The existence of a fixed term by which data on large-scale cash payments must be sent to a central national authority makes central and constantly updated information available, while also making it possible to exchange data with other national and foreign investigative authorities. For this reason it was assumed that if such a term existed, the general control system was more effective.

MODALITIES OF THE INDICATOR (A): YES/NO, where YES=existence of a defined period, NO=non-existence of a defined period.

MODALITIES OF THE INDICATOR (B): indication of time.

*22.1.4 Existence of an information technology system for data collection.*

The use of information technology enables the collection of data and their rational use in different periods of time. An information technology system of data collection can also be used by different authorities, also foreign ones, and therefore foster cooperation among them. The assumption was that the more a system of data collection is based on information technology, the greater the effectiveness of the control system.

MODALITIES OF THE INDICATOR: YES/NO, where YES=existence of an information technology system, NO=non-existence of an information technology system.

Mentioned by: FATF, recommendation no. 23.

*22.1.5 Existence of an obligation to keep records on customers and operations for a given period of time.*

With regard to money laundering in general, suspicious (or unusual) transactions must be reported when operations exceed a given threshold or are in any way suspicious. Operators must also keep records on all their customers and operations for a certain period of time. This requirement is useful because it enables authorities to ascertain past operations and customers. In this case, the assumption was that the control system on large-scale cash payments is more effective when such an obligation exists. It was also assumed that the longer the period, the more effective the system.

MODALITIES OF THE INDICATOR (A): YES/NO, where YES=existence of an obligation to keep records, NO=non-existence of an obligation to keep records.

MODALITIES OF THE INDICATOR (B): indication of time frame.

Mentioned by: FATF Recommendation no. 12; EU Directive 91/308/EEC, Article 4

#### *22.1.6 Existence of an obligation to update records.*

The updating of records may concern both individual operators at the peripheral level and the central authority. Record updating is important because it makes fresh information constantly available. For this reason we assumed that when a record updating obligation exists, the control system is more effective.

MODALITIES OF THE INDICATOR (A): YES/NO, where YES=existence of an obligation to update records, NO=non-existence of an obligation to update records.

MODALITIES OF THE INDICATOR (B): indication of time frame.

#### *22.1.7 Effectiveness of the national reporting system.*

This question asked the respondent to evaluate the national reporting system of large-scale cash payments from his/her professional point of view. Comparison between the results of this kind of effectiveness evaluation, i.e., the “inside” evaluation (as defined above when dealing with indicators 10/11), with those obtained by the effectiveness evaluation conducted on the indicators presented above, i.e., the so called “outside” evaluation (as defined above when dealing with indicators 10/11), measures the discrepancy between internal and external evaluations of the national reporting system.

MODALITIES OF THE INDICATOR: a range from 1 to 3, where 1=ineffective, 2=partially effective, 3=fully effective.

#### *22.2.(1): question answered where a comprehensive national reporting system does not exist.*

##### *22.2.1 Usefulness of a database on large-scale cash payments/transactions to prevent and detect their use for illegal purposes.*

In a country where a comprehensive system of control over large-scale cash payments does not exist, and especially with a view to creating a European-wide reporting system, it is important to determine whether the personnel conducting investigations in the field consider it useful to have a database for data collection and storage.

MODALITIES OF THE INDICATOR: YES/NO, where YES=useful, NO=not useful.

#### *23. Level at which a database of large-scale cash payments/transactions would be more effective.*

The effectiveness of existing control systems was assessed by previous questions. However, with a view to proposing further improvements in the field of reporting large-scale cash payments, we sought to verify the level at which the effectiveness of a database would be greater.



MODALITIES OF THE INDICATOR: National; European; International; None, where A=National; B=European; C=International; D=None.

24. *Usefulness of a European database of large-scale cash payments/transactions to foster cooperation between national FIUs.*

According to the Commission's Legislative and Work Programme for 2003, one of the objectives in the field of Justice and Home Affairs is to enhance cooperation among FIUs. One way to pursue this end is to examine the need for an instrument to create an EU-wide system to combat money laundering involving cash payments. One possibility might be the creation of a European database for operations conducted through large-scale cash payments. We consequently gathered the opinions on the matter of professionals working on anti-money laundering.

MODALITIES OF THE INDICATOR: YES/NO, where YES=useful, NO=not useful.

*STEP 6: Quantitative analysis (cross comparison) of the national legislative control systems on the use of large-scale cash payments for money laundering purposes*

This step served to quantify, for the purposes of cross comparison, the effectiveness of national legislative controls on large-scale cash payments in the EU Member States.

An **Effectiveness Index** was first calculated for each effectiveness indicator previously identified. This effectiveness index was calculated on a scale from 0 to 100. It expresses the degree of effectiveness of the national legislative control system with reference to the specific indicator. *The higher this index, the greater the effectiveness of the national legislative controls system, with regard to the indicator considered.*

The following values were assigned to the selected indicators of effectiveness when the effectiveness indexes were calculated.

- INDICATOR 1: *Implementation of EU Directive 2001/97/EC*

YES	100
NO	0

- INDICATOR 2: *Existence of national legislation governing the use of large-scale cash payments*

YES, autonomous legislation	100
YES, <i>specific</i> provisions in anti-money laundering legislation	67
YES, <i>general</i> provisions in anti-money laundering legislation	33
NO	0

- INDICATOR 12a): *Role of the FIU in regularly/ systematically monitoring large-scale cash payments (according to the national legislation)*

YES	100
NO	0

- INDICATOR 13: *Level of implementation of national legislation controlling the use of large-scale cash payments*

1	0
2	50
3	100

(where: 1 = not implemented; 2 = implemented; 3 = extensively implemented).

- INDICATORS 14a): *Categories of policies/measures in force to prevent the use of large-scale cash payments*

1. Regulatory	33
2. Administrative	33
3. Law enforcement	33
1. and 2.	67
1. and 3.	67
2. and 3.	67
1. and 2. and 3.	100

- INDICATOR 14b): *Categories of policies/measures in force to detect the use of large-scale cash payments*

1. Regulatory	33
2. Administrative	33
3. Law enforcement	33
1. and 2.	67
1. and 3.	67
2. and 3.	67
1. and 2. and 3.	100

- INDICATOR 16: *Existence of legislative controls on legal and natural persons, acting in the exercise of their activities, when dealing with large-scale cash payments*

YES	100
NO	0

In order to calculate this indicator, each sector (financial, non-financial, professionals) was evaluated separately. This required the attributing of a score from 0 to 100 to each activity in the sector, depending on the existence of controls on that sector, and then summing all the individual results. The arithmetic mean was finally computed.

- INDICATORS 17: *Typologies of control measures/instruments that legal and natural persons, acting in the exercise of their activities, are obliged to use when dealing with large-scale cash payments*

A. None	0
B. Customer Identification	33
C. Record Keeping	33
D. Suspicious Transaction report	33
B. and C.	67
B. and D.	67
C. and D.	67
B. and C. and D.	100

In order to calculate this indicator, each sector (financial, non-financial, professionals) was evaluated separately. This required the attributing a score from 0 to 100 to each activity in the sector, depending on the kind of control existing on that sector, and then summing all the individual results. The arithmetic mean was finally computed.

- INDICATORS 18: *Existence of sanctions for not complying with the national legislation governing the use of large-scale cash payments*

YES	0
NO	100

- INDICATORS 18.1: *Typologies of sanctions for not complying with the national legislation governing the use of large-scale cash payments*

A. Administrative	33
B. Civil	33
C. Penal	33
A. and B.	67
A. and C.	67
B. and C.	67
A. and B. and C.	100

- INDICATORS 18.2: *Degree of implementation of sanctions for not complying with the national legislation governing the use of large-scale cash payments*

1	0
2	50
3	100

- INDICATOR 19.1: *Degree of effectiveness of national system of legislative controls*

1	0
2	50
3	100

- INDICATOR 22: *Existence of a comprehensive reporting system (i.e., “identification”, “record keeping” and “declaration/reporting”) which covers suspicious large-scale cash payments/transactions*

YES	100
NO	0

- INDICATORS 22.1.1a): *Role of the FIU in regularly/ systematically monitoring reports on large-scale cash payments (according to the national legislation)*

YES	100
NO	0

- INDICATOR 22.1.2: *Existence of a centralised system of data collection (database) including large-scale cash payments*

YES	0
NO	100

- INDICATORS 22.1.3: *Existence of a defined period by which the data collected must be sent to a central authority*

YES	100
NO	0

- INDICATORS 22.1.4: *Existence of an information technology system for data collection*

YES	100
NO	0

-

- INDICATORS 22.1.5: *Existence of an obligation to keep records on customers and operations for a given period of time*

YES	100
NO	0

- INDICATOR 22.1.6: *Existence of an obligation to update records*

YES	100
NO	0

In the cases of both non-reply and non-applicability of the indicator to the national system of legislative controls, the indicator was not taken into account in the calculation.

Furthermore, some of the indicators initially selected were excluded from the calculation:

- INDICATOR 2.1 *Existence of proposal(s) to adopt such legislation or to include provisions on the matter in national anti-money laundering legislation*, INDICATORS from 3 to 11, and INDICATOR 22.2.1 *Usefulness of a database for large-scale cash payments/transactions to prevent and detect their use for illegal purposes*, because these were not applicable to any respondent country;
- INDICATORS 12.b) and 22.1.1 b), because they were designed to gather a specific item of information;
- INDICATOR 15 a) and b) *Effectiveness of policies/measures to prevent and to detect the use of large-scale cash payments*: replies to this were unreliable.
- INDICATORS 19.2, 20 and 21, because of the qualitative nature of these indicators;
- INDICATORS 15.a) and 15.b), 19.2, 20 and 21, because they gathered qualitative information of the system of legislative controls on the use of large-scale cash payments;
- INDICATOR 22.1.7, because they were unreliable.

The Effectiveness Indexes were then aggregated into a ***Synthetic Effectiveness Index***, also calculated on a scale from 0 to 100. This quantifies the effectiveness of the entire national legislative controls system governing the use of large-scale cash payments. This index was obtained as the average of the effectiveness indexes. *The higher this index, the greater the effectiveness of the national legislative controls system governing the use of large-scale cash payments in the country.*

When allocating the weights for calculating the Synthetic Effectiveness Index, it was assumed that each of the indicators considered contributed to the same extent to the effectiveness of the legislative control system, except that:

- INDICATOR 2, INDICATOR 13 and INDICATOR 19.1 were considered to contribute as one single indicator to the effectiveness of the legislative controls system, given that they represent three aspects of the same element (i.e. the legislation governing the use of large-scale cash payments). They were assigned

a weight of 100 altogether, which meant that each of them accounted for one third of the total (on a scale from 0 to 33 each).

- INDICATORS 16 and 17 were considered to be one single indicator because they are aspects of the same element (i.e. legislative controls). For this reason, they were considered to contribute as one single indicator to the effectiveness of the legislative control system. They were assigned a weight of 100 altogether, which meant that each of them accounted for one half of the total (on a scale from 0 to 50 each).
- INDICATORS 18, 18.1 AND 18.2 were considered to be one single indicator because they all refer to the same aspect (i.e. sanctions) of the existing national legislation governing the use of large-scale cash payments. For this reason, they were considered to contribute as one single indicator to the effectiveness of the legislative control system. They were assigned a weight of 100 altogether, which meant that each of them accounted for one third of the total (on a scale from 0 to 33 each).

## ANNEX 2

## THE QUESTIONNAIRE

This Annex contains the questionnaire prepared for the development of the Study.

## SECTION 1

**NATIONAL LEGISLATION AND REGULATION GOVERNING LARGE-SCALE CASH  
PAYMENTS AND CONTROLLING THE USE OF LARGE-SCALE CASH PAYMENTS FOR  
THE PURPOSES OF MONEY LAUNDERING**

*This section of the questionnaire aims to obtain information about existing national controls on the use of large-scale cash payments, for both money laundering purposes and not. Special attention is devoted to the current systems of declaration (if any) in force in Member States, which enable authorities to prevent and detect the misuse of cash payments to conceal criminal proceeds.*

1. Has your country already enacted legislation to implement EU Directive 2001/97/EC of 4 December 2001 on anti-money laundering?

☐ YES

2. Does a legislation / regulation governing large-scale cash payments / transactions exist in your country?

☐ YES, there is autonomous legislation.

Please quote legislative references \_\_\_\_\_

***Please go to question no. 3.***

☐ YES, there are *specific* provisions contained in money laundering legislation.

Please quote provisions and legislative references \_\_\_\_\_

☐ YES, there are *general* provisions contained in money laundering legislation.

Please quote provisions and legislative references \_\_\_\_\_

***Please go to question no. 12.***

☐ NO

*If not,*

- 2.1 Has any proposal been made to adopt a legislation/regulation on this subject?

☐ YES

***Please go to Section 2.***

**A) SPECIFIC NATIONAL LEGISLATION / REGULATION GOVERNING THE USE OF LARGE-SCALE CASH PAYMENTS / TRANSACTIONS**

3.a) Does your national FIU have a role in regularly/ systematically monitoring large-scale cash payments (according to your national legislation)?

- ☐ YES
- ☐ NO

3.b) Does a specific national authority monitoring the use of large-scale cash payments exist in your country?

- ☐ YES
- ☐ NO

4. Is the national legislation / regulation governing the use of large-scale cash payments implemented? *Please evaluate the level of implementation (1=no implementation; 2=implementation; 3=extensive implementation).*

- ☐ 1
- ☐ 2
- ☐ 3

*If it is not implemented,*

4.1 please give reason(s) \_\_\_\_\_

5. Which measures are used to control the use of large-scale cash payments?  
*Please tick all the relevant answers.*

- ☐ Customer identification
- ☐ Record keeping
- ☐ Other (*please specify*) \_\_\_\_\_

6. Is there a threshold for the application of these control measures (i.e., customer identification, record keeping, other) to cash payments in your Country?

- ☐ YES
- ☐ NO

*If yes,*

6.1 What is the legislative threshold established for cash payments / transactions in your country?

Please specify the exact amount (in €) \_\_\_\_\_



7. Are the following legal and/or natural persons, acting in the exercise of their professional activities, subject to legislative controls on the use of large-scale cash payments? *For each financial institution, non-financial business and profession, please choose Y/N and specify applicable law or regulation, where existing.*

INSTITUTION	YES	NO	(specify)
<b>FINANCIAL INSTITUTIONS</b>			
Financial leasing			
Money transmission services			
Issuing and administering means of payments (e.g. credit cards, travellers' cheques and bankers' drafts)			
Trading for own account or for account of customers in: <ul style="list-style-type: none"> <li>- money market instruments (cheques, bills, certificates of deposit, etc.)</li> <li>- foreign exchange</li> <li>- financial futures and options</li> <li>- exchange and interest-rate instruments</li> <li>- transferable securities</li> </ul>			
Participation in securities issues and the provision of services related to such issues			
Money broking			
Safekeeping and administration of securities			
Safe custody services			
Insurance companies			
Investment firms			
Collective investment undertakings marketing its units or shares			
<b>NON-FINANCIAL BUSINESSES</b>			
Real estate agents			
Dealers in high value metals and precious stones			
(Luxury) Motor vehicles dealers			
Dealers in work of arts			
Auctioneers			
Casinos			
Gambling houses (e.g., lotteries, horse race)			

<b>PROFESSIONALS</b>			
<i>Auditors, External accountants, Tax advisors</i>			
<i>Notaries and other independent legal professions</i>			

8. What obligation/s must each of the following legal and/or natural persons, acting in the exercise of their professional activities, comply with when dealing with large-scale cash payments / transactions? *For each activity, please tick one or more answers, where applicable.*

<b>INSTITUTION</b>	<b>None</b>	<b>Customer Identification</b>	<b>Record Keeping</b>	<b>Other (specify)</b>
<b>FINANCIAL INSTITUTIONS</b>				
Financial leasing				
Money transmission services				
Issuing and administering means of payments (e.g. credit cards, travellers' cheques and bankers' drafts)				
Trading for own account or for account of customers in: <ul style="list-style-type: none"> <li>- money market instruments (cheques, bills, certificates of deposit, etc.)</li> <li>- foreign exchange</li> <li>- financial futures and options</li> <li>- exchange and interest-rate instruments</li> <li>- transferable securities</li> </ul>				
Participation in securities issues and the provision of services related to such issues				
Money broking				
Safekeeping and administration of securities				
Safe custody services				
Insurance companies				
Investment firms				
Collective investment undertakings marketing its units or shares				

<b>NON-FINANCIAL BUSINESSES</b>				
<i>Real estate agents</i>				
<i>Dealers in high value metals and precious stones</i>				
<i>(Luxury) Motor vehicles dealers</i>				
<i>Dealers in work of arts</i>				
<i>Auctioneers</i>				
<i>Casinos</i>				
<i>Gambling houses</i>				
<b>PROFESSIONALS</b>				
<i>Auditors, External accountants, Tax advisors</i>				
<i>Notaries and other independent legal professions</i>				

9. Does your national legislation governing the use of large-scale cash payments provide for sanctions for not complying with it?

- ☐ YES  
☐ NO

*If yes,*

9.1 What kind of sanctions are they? *Please tick all the relevant answers.*

- ☐ Administrative  
☐ Civil  
☐ Penal  
☐ Other (*please specify*) \_\_\_\_\_

9.2 Please assess the degree of implementation of sanctions

*(1=not implemented; 2=implemented; 3=extensively implemented)*

- ☐ 1  
☐ 2  
☐ 3

10. As a whole, do you think that your national system of legislative controls on the use of large-scale cash payments is effective?

10.1 Please evaluate its degree of effectiveness *(1=ineffective; 2=partially effective; 3=fully effective)*

- ☐ 1  
☐ 2  
☐ 3

10.2      What is the main positive advantage?

-----

11. What do you consider as a very significant shortcoming in the control system on large-scale cash payments in force in your country? *Please give a maximum of THREE answers.*

- ☐ Lack of legislation / regulation
- ☐ Lack of legislative implementation of the provisions
- ☐ Lack of sanctions
- ☐ Lack of law enforcement action
- ☐ Lack of a data collection system (database)
- ☐ Other (*please specify*) -----

Now,

***please go to question no. 22,***

***UNLESS*** your national anti-money laundering legislation / regulation contains provisions on the control of large-scale cash payments. In this case, ***please go to question no. 12.***

**B) NATIONAL ANTI-MONEY LAUNDERING LEGISLATION: PROVISIONS GOVERNING THE USE OF LARGE-SCALE CASH PAYMENTS / TRANSACTIONS (for money laundering purposes)**

12.a) Does your national FIU have a role in regularly/ systematically monitoring large-scale cash payments (according to your national legislation)?

- ☐ YES  
☐ NO

12.b) Does a specific national authority monitoring the use of large-scale cash payments exist in your country?

- ☐ YES  
☐ NO

13. Are the provisions on the use of large-scale cash payments contained in your national anti-money laundering legislation implemented? *Please evaluate the degree of implementation (1= not implemented; 2=implemented; 3=extensively implemented).*

- ☐ 1  
☐ 2  
☐ 3

*If it is not implemented,*

13.1 Please give reason(s) \_\_\_\_\_

14. Which kinds of policies/measures are currently in force in your Country to prevent and to detect the use of large-scale cash payments? *Considering Prevention and Detection separately, please tick all the relevant answers.*

	PREVENTION	DETECTION
Regulatory		
Administrative		
Law enforcement		
Other ( <i>please specify</i> ) _____		

15. According to your experience, which kind of policies / measures are more effective to prevent and to detect money laundering using large-scale cash payments in your country? *For each policy/measure proposed, please assess the level of effectiveness regarding prevention and detection (1=ineffective; 2=partially effective; 3=fully effective).*

POLICY/MEASURE	PREVENTION			DETECTION		
	1	2	3	1	2	3
Regulatory						
Administrative						
Law enforcement						
Self-regulatory						
Other ( <i>please specify</i> ) ----						

16. Are the following legal and/or natural persons, acting in the exercise of their professional activities, subject to national anti-money laundering legislation when dealing with large-scale cash payments?

INSTITUTION	YES	NO
<i>FINANCIAL INSTITUTIONS</i>		
Financial leasing		
Money transmission services		
Issuing and administering means of payments (e.g. credit cards, travellers' cheques and bankers' drafts)		
Trading for own account or for account of customers in: - money market instruments (cheques, bills, certificates of deposit, etc.) - foreign exchange - financial futures and options - exchange and interest-rate instruments - transferable securities		
Participation in securities issues and the provision of services related to such issues		
Money broking		
Safekeeping and administration of securities		
Safe custody services		
Insurance companies		
Investment firms		
Collective investment undertakings marketing its units or shares		

<i><b>NON-FINANCIAL BUSINESSES</b></i>		
Real estate agents		
Dealers in high value metals and precious stones		
(Luxury) Motor vehicles dealers		
Dealers in work of arts		
Auctioneers		
Casinos		
Gambling houses (e.g., lotteries, horse race)		
<i><b>PROFESSIONALS</b></i>		
Auditors, External accountants, Tax advisors		
Notaries and other independent legal professions		

17. What obligation/s must each of the following legal and/or natural persons, acting in the exercise of their professional activities, comply with when dealing with large-scale cash payments / transactions? *For each of the following activities, please tick one or more answers, where applicable.*

<b>INSTITUTION</b>	<b>None</b>	<b>Customer Identification</b>	<b>Record Keeping</b>	<b>Suspicious/ Unusual Transaction Report</b>
<i><b>FINANCIAL INSTITUTIONS</b></i>				
Financial leasing				
Money transmission services				
Issuing and administering means of payments (e.g. credit cards, travellers' cheques and bankers' drafts)				
Trading for own account or for account of customers in: <ul style="list-style-type: none"> <li>- money market instruments (cheques, bills, certificates of deposit, etc.)</li> <li>- foreign exchange</li> <li>- financial futures and options</li> <li>- exchange and interest-rate instruments</li> </ul>				

- transferable securities				
Participation in securities issues and the provision of services related to such issues				
Money broking				
Safekeeping and administration of securities				
Safe custody services				
Insurance companies				
Investment firms				
Collective investment undertakings marketing its units or shares				
<b><i>NON-FINANCIAL BUSINESSES</i></b>				
Real estate agents				
Dealers in high value metals and precious stones				
(Luxury) Motor vehicles dealers				
Dealers in work of arts				
Auctioneers				
Casinos				
Gambling houses				
<b><i>PROFESSIONALS</i></b>				
Auditors, External accountants, Tax advisors				
Notaries and other independent legal professions				

18. Are there any sanctions provided for subjects using large-scale cash payments for money laundering purposes?

- ☐ YES  
☐ NO

*If yes,*

18.1 Which kind of sanctions are they? *Please tick all the relevant answers.*

- ☐ Administrative



- ☐ Civil
- ☐ Penal
- ☐ Other (please specify) \_\_\_\_\_

18.2 Please assess the degree of implementation of sanctions

(1=not implemented; 2=implemented; 3=extensively implemented)

- ☐ 1
- ☐ 2
- ☐ 3

19. Overall, do you think that your national system of legislative controls on the use of large-scale cash payments for money laundering purposes is effective?

19.1 Please evaluate its degree of effectiveness (1=ineffective; 2=partially effective; 3=fully effective)

- ☐ 1
- ☐ 2
- ☐ 3

19.2 What is the main advantage?

\_\_\_\_\_

20. What do you consider as a very significant shortcoming in the control system on the use of large-scale cash payments for money laundering in force in your country? Please give a maximum of THREE answers.

- ☐ Lack of legislation
- ☐ Lack of legislative implementation of the provisions
- ☐ Lack of sanctions
- ☐ Lack of law enforcement action
- ☐ Lack of a centralised and shared data collection system (database)
- ☐ Other (please specify) \_\_\_\_\_

21. According to your experience, what should be a priority in the creation of a European-wide system of legislative control on large-scale cash payments to prevent and detect their use for money laundering purposes?

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

### C) REPORTING SYSTEM

22. Does a comprehensive reporting system (i.e., identification, record keeping and declaration) including large-scale cash payments exist in your country?

- ☐ YES
- ☐ NO

*If yes,*

22.1.1 a) Does your national FIU have a role in regularly/ systematically monitoring large-scale cash payments reports (according to your national legislation)?

- ☐ YES
- ☐ NO

22.1.1 b) Does a specific national authority monitoring reports on large-scale cash payments exist in your country?

- ☐ YES
- ☐ NO

22.1.2 Is it based on a centralised system of data collection (i.e., database)?

- ☐ YES
- ☐ NO

22.1.3 When, or with what frequency, must collected data be sent to the central system?

*Please specify* \_\_\_\_\_

22.1.4 Is an information technology system (if any) used for data collection?

- ☐ YES
- ☐ NO

22.1.5 According to your national regulation, for how long must records on customers and/or operations be kept?

*Please specify* \_\_\_\_\_

22.1.6 Is there an obligation to update these records?

- ☐ YES
- ☐ NO

22.1.7 Is this system effective? *Please assess its degree of effectiveness.*

*(1=ineffective; 2=partially effective; 3=fully effective).*

- ☐ 1
- ☐ 2
- ☐ 3

*If not,*

22.2.1 Do you think that a database for large-scale cash transactions / payments would be useful to prevent and detect their use for illegal purposes?

- ☐ YES
- ☐ NO

23. At which level do you think a database of large-scale cash transactions / payments would be more effective? Please choose only ONE answer.

- ☐ National level
- ☐ EU level
- ☐ International level
- ☐ None

24. Do you think that a European database of large-scale cash payments / transactions, whether suspicious or not, would foster cooperation between national FIUs?

- ☐ YES
- ☐ NO

<p style="text-align: center;"><b>SECTION 2</b></p> <p style="text-align: center;"><b>THE PHENOMENON OF THE USE OF LARGE-SCALE CASH PAYMENTS FOR THE PURPOSES OF MONEY LAUNDERING</b></p>
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*This section of the questionnaire aims at acquiring information and knowledge on the phenomenon of the use of large-scale cash payments for money laundering purposes. A detailed enquiry on specific areas of interest is conducted in the sub-sections.*

**AREAS OF RISK**

*The main objective is to identify those sectors of the economy that are most likely to be misused (or exploited) for money laundering purposes, also by learning about the development of criminal exploitation (if any) of the identified sectors.*

**SECTORS OF THE ECONOMY MOST VULNERABLE TO ABUSE**

1. Is the use of cash payments and / or transactions common in your country?

- ☐ YES
- ☐ NO

2. How much is your business economy cash-oriented? *(from 1=not at all, to 5=completely)*

- ☐ 1
- ☐ 2
- ☐ 3
- ☐ 4
- ☐ 5

3. Among the sectors identified below, which is the one most likely to be subject to exploitation through the use of large-scale cash payments for money laundering purposes? *Please give only ONE answer.*

- ☐ Credit Institutions
- ☐ Financial sector
- ☐ Non-financial sector
- ☐ Other *(please specify)*

3.1 Were there any outstanding reasons?

-----  
-----

4. Assuming that the credit sector is fully regulated (level of regulation=3) in your country, please assess the level of regulation of the following sectors with respect to it (1=not regulated; 2=regulated; 3=extensively regulated).

SECTOR	1	2	3
CREDIT SECTOR			√
Financial sector			
Non-financial sector			
Professionals' sector			

**a) FINANCIAL SECTOR**

5. On the basis of suspicious (or unusual) transaction reports to the FIU and/or official documents (i.e. investigative and/or judicial cases), which financial activities are most exploited in the use of large-scale cash payments / transactions for money laundering purposes when conducting their business? For each of the following, please estimate the degree of exploitation (1=not exploited, 2= exploited; 3=extensively exploited).

FINANCIAL ACTIVITY	1	2	3
Financial leasing			
Money transmission services			
Issuing and administering means of payments (e.g. credit cards, travellers' cheques and bankers' drafts)			
Trading for own account or for account of customers in: <ul style="list-style-type: none"> <li>- money market instruments (cheques, bills, certificates of deposit, etc.)</li> <li>- foreign exchange</li> <li>- financial futures and options</li> <li>- exchange and interest-rate instruments</li> <li>- transferable securities</li> </ul>			
Participation in securities issues and the provision of services related to such issues			
Money broking			
Safekeeping and administration of securities			
Safe custody services			
Insurance companies			

Investment firms			
Collective investment undertakings marketing its units or shares			

6. In case you did not detect any suspicious transaction, which financial activities are more likely to be exploited in the use of large-scale cash payments / transactions when conducting their business? Please estimate the degree of their potential exploitation (1= *potentially not exploited*; 2=*potentially exploited*; 3= *potentially extensively exploited*). Please give an answer **ONLY** for those activities to which you answered “not exploited” (=1)” in the previous question.

FINANCIAL ACTIVITY	1	2	3
Financial leasing			
Money transmission services			
Issuing and administering means of payments (e.g. credit cards, travellers' cheques and bankers' drafts)			
Trading for own account or for account of customers in: <ul style="list-style-type: none"> <li>- money market instruments (cheques, bills, certificates of deposit, etc.)</li> <li>- foreign exchange</li> <li>- financial futures and options</li> <li>- exchange and interest-rate instruments</li> <li>- transferable securities</li> </ul>			
Participation in securities issues and the provision of services related to such issues			
Money broking			
Safekeeping and administration of securities			
Safe custody services			
Insurance companies			
Investment firms			
Collective investment undertakings marketing its units or shares			

**b) NON-FINANCIAL SECTOR**

7. On the basis of suspicious (or unusual) transaction reports to the FIU and/or official documents (i.e. investigative and/or judicial cases), which non-financial businesses / commercial activities are most exploited in the use large-scale

cash payments / transactions for money laundering purposes when conducting their business? For each of the following, please estimate the degree of exploitation (1=not exploited; 2= exploited; 3=extensively exploited).

NON-FINANCIAL BUSINESS	1	2	3
Real estate agents			
Dealers in high value metals and precious stones			
(Luxury) Motor vehicles dealers			
Dealers in work of arts			
Auctioneers			
Casinos			
Gambling houses (e.g., lotteries, horse race)			

8. In case you did not detect any suspicious transaction, which non-financial businesses / commercial activities are more likely to be exploited in the use of large-scale cash payments / transactions when conducting their business? Please estimate the degree of their potential exploitation (1= *potentially not exploited*; 2=*potentially exploited*; 3= *potentially extensively exploited*). Please give an answer *ONLY* for those activities to which you answered “not exploited” (=1)” in the previous question.

NON-FINANCIAL BUSINESS	1	2	3
Real estate agents			
Dealers in high value metals and precious stones			
(Luxury) Motor vehicles dealers			
Dealers in work of arts			
Auctioneers			
Casinos			
Gambling houses			

### c) PROFESSIONALS

9. On the basis of suspicious (or unusual) transaction reports to the FIU and/or official documents (i.e. investigative and/or judicial cases), which professional categories are most exploited in the use of large-scale cash payments / transactions for money laundering purposes when conducting their business?

For each of the following, please estimate their degree of exploitation (1=*not exploited*; 2= *exploited*; 3=*extensively exploited*).

PROFESSION	1	2	3
Auditors, External accountants, Tax advisors			
Notaries and other independent legal professionals			

10. In case you did not detect any suspicious transaction, which professional categories are more likely to be exploited in the use of large-scale cash payments / transactions when conducting their business? Please estimate the degree of their potential exploitation (1= *potentially not exploited*; 2=*potentially exploited*; 3= *potentially extensively exploited*). Please give an answer *ONLY* for those activities to which you answered “not exploited” (=1)” in the previous question.

PROFESSION	1	2	3
Auditors, External accountants, Tax advisors			
Notaries and other independent legal professionals			

**TREND: DEVELOPMENT OF THE PHENOMENON OF THE USE OF LARGE-SCALE CASH PAYMENTS FOR MONEY LAUNDERING PURPOSES OVER THE LAST TEN YEARS AND POSSIBLE FUTURE TRENDS.**

11. According to your professional experience, which of the following financial institutions have been, are and will be involved in money laundering schemes exploiting the use of large-scale cash payments? *Please grade the involvement of each activity (from 1=most involved, to 11=least involved). Please grade Past, Present and Increasing involvement separately.*

<i>FINANCIAL INSTITUTIONS</i>	Past involvement	Present involvement	Increasing involvement
Financial leasing			
Money transmission services			
Issuing and administering means of payments (e.g. credit cards, travellers' cheques and bankers' drafts)			
Trading for own account or for			



account of customers in:			
- money market instruments (cheques, bills, certificates of deposit, etc.)			
- foreign exchange			
- financial futures and options			
- exchange and interest-rate instruments			
- transferable securities			
Participation in securities issues and the provision of services related to such issues			
Money broking			
Safekeeping and administration of securities			
Safe custody services			
Insurance companies			
Investment firms			
Collective investment undertakings marketing its units or shares			

12. According to your professional experience, which of the following non-financial businesses have been, are and will be more involved in money laundering schemes exploiting the use of large-scale cash payments? *Please grade the involvement of each activity (from 1=most involved, to 7=least involved). Please grade Past, Present and Increasing involvement separately.*

<b>NON-FINANCIAL BUSINESSES</b>	<b>Past involvement</b>	<b>Present involvement</b>	<b>Increasing involvement</b>
Real estate agents			
Dealers in high value metals and precious stones			
(Luxury) Motor vehicles dealers			
Dealers in work of arts			
Auctioneers			
Casinos			
Gambling houses			

13. According to your professional experience, which of the following professional activities have been, are and will be more involved in money laundering schemes exploiting the use of large-scale cash payments? *Please grade the involvement of each activity (1=most involved, 2=least involved). Please grade Past, Present and Increasing involvement separately.*

<i>PROFESSIONALS</i>	Past involvement	Present involvement	Increasing involvement
Auditors, External accountants, Tax advisors			
Notaries and other independent legal professions			

14. According to your experience, what are the main reasons for the change/s (if any) in past attitudes to present ones? *Give a maximum of TWO answers.*

- ☐ Introduction of stricter regulation
- ☐ Higher controls (stricter law enforcement)
- ☐ Increase of sanctions
- ☐ Relative newness of the system (i.e., lack of familiarity with obligations)
- ☐ Other (*please specify*) \_\_\_\_\_

15. According to your experience, what are the main reasons that could affect changes (if any) in future trends (in respect to the current situation)? *Give a maximum of TWO answers.*

- ☐ Introduction of stricter regulation
- ☐ Higher controls (stricter law enforcement)
- ☐ Increase of sanctions
- ☐ Relative newness of the system (i.e., lack of familiarity with obligations)
- ☐ Other (*please specify*) \_\_\_\_\_

#### THE ROLE OF *EURO*

16. Did the conversion of national European currencies into Euro facilitate money laundering in cash?

- ☐ YES
- ☐ NO

17. Did the introduction of high denomination Euro banknotes into the legitimate economy have a role in fostering the use of (large-scale) cash payments / transactions for money laundering?

- ☐ YES
- ☐ NO

## CONNECTIONS EXISTING BETWEEN ECONOMIC SECTORS AND ORGANISED CRIME / TERRORISM

*The aim of this sub-section is to identify the connections existing between identified legal sectors of the economy (financial sector, non-financial sector, professionals) and organised crime/terrorism.*

18. Is there any connection between organised crime and the below-mentioned sectors of the economy? *Please assess the degree of involvement of organised crime in the following sectors of the economy (1=not involved; 2=involved; 3=extensively involved).*

ECONOMIC SECTORS	1	2	3
<i>FINANCIAL INSTITUTIONS</i>			
Financial leasing			
Money transmission services			
Issuing and administering means of payments (e.g. credit cards, travellers' cheques and bankers' drafts)			
Trading for own account or for account of customers in: <ul style="list-style-type: none"> <li>- money market instruments (cheques, bills, certificates of deposit, etc.)</li> <li>- foreign exchange</li> <li>- financial futures and options</li> <li>- exchange and interest-rate instruments</li> <li>- transferable securities</li> </ul>			
Participation in securities issues and the provision of services related to such issues			
Money broking			
Safekeeping and administration of securities			
Safe custody services			
Insurance companies			
Investment firms			
Collective investment undertakings marketing its units or shares			

<i><b>NON-FINANCIAL BUSINESSES</b></i>			
Real estate agents			
Dealers in high value metals and precious stones			
(Luxury) Motor vehicles dealers			
Dealers in work of arts			
Auctioneers			
Casinos			
Gambling houses			
<i><b>PROFESSIONALS</b></i>			
Auditors, External accountants, Tax advisors			
Notaries and other independent legal professions			

19. What type of criminal organisation / network is most devoted to this means of money laundering? *Give a maximum of TWO answers.*

- ☐ Mafia style criminal organisations
- ☐ Terrorist networks
- ☐ Traffickers (in different items)
- ☐ White collar criminals
- ☐ Small non-organised criminality
- ☐ Other (*please specify*) \_\_\_\_\_

20. Please specify if there is any significant dimension regarding *terrorist financing*.

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-----

21. Is there any current significant evidence that terrorist organisations are using no-profit organisations (in the last 12 months)? *Please assess the extent (1=no evidence; 2=evidence; 3=extensive evidence).*

- ☐ 1
- ☐ 2
- ☐ 3

22. Which financial sectors are more likely to have links to organised crime and terrorism to *move money*? Please choose a maximum of TWO sectors per category (Organised Crime and Terrorism)

SECTOR	Organised crime	Terrorism
Banks		
Money remittance services		
<i>Bureaux de change</i>		
Postal service		
Other (please specify) _____		

## VOLUME AND SIZE OF LARGE-SCALE CASH PAYMENTS IN BOTH LEGAL AND ILLEGAL MARKETS

*The scope of this sub-section is to estimate the volume of large-scale cash payments in identified legal sectors of the economy as well as the size of the illicit market for goods and services giving rise to large-scale cash payments.*

### VOLUME OF LARGE-SCALE CASH PAYMENTS IN LEGAL ECONOMIC SECTORS

23. Can you provide us with data indicating the volume of large-scale cash payments in those sectors of the economy that you consider most involved in the use of such a means of payments? Please try to estimate the average number of operations/traded items and price per year where payment took place in cash, for both the frameworks of non-suspicious transactions and suspicious transactions reported.

	NON-SUSPICIOUS OPERATIONS		SUSPICIOUS OPERATIONS	
	No. of operations / transactions (per year)	Average price per operation/ transaction (per year)	No. of operations / transactions (per year)	Average price per operation/ transaction (per year)
<b>FINANCIAL SECTOR</b>				
Financial leasing				
Money transmission services				
Issuing and administering means of payments (e.g. credit cards, travellers' cheques and bankers' drafts)				
Trading for own account or for account of customers in: - money market instruments (cheques, bills, certificates of deposit, etc.) - foreign exchange				

<ul style="list-style-type: none"> <li>- financial futures and options</li> <li>- exchange and interest-rate instruments</li> <li>- transferable securities</li> </ul>				
Participation in securities issues and the provision of services related to such issues				
Money broking				
Safekeeping and administration of securities				
Safe custody services				
Insurance companies				
Investment firms				
Collective investment undertakings marketing its units or shares				

<i>NON-FINANCIAL / BUSINESSES SECTOR</i>	NON-SUSPICIOUS OPERATIONS		NON-SUSPICIOUS OPERATIONS	
	No. of operations/ transactions (per year)	Average price per operation/ transaction (per year)	No. of operations/ transactions (per year)	Average price per operation/ transaction (per year)
Real estate agents				
Dealers in high value metals and precious stones				
(Luxury) Motor vehicles dealers				
Dealers in work of arts				
Auctioneers				
Casinos				
Gambling houses				



24. Considering suspicious (or unusual) transaction reports to your national competent authority, what is the average percentage of large-scale cash payments / transactions reported in comparison to the total? Please give the exact percentage.

----- %

25. What is the present trend in large-scale cash payments reporting?

- ☐ Increasing
- ☐ Decreasing
- ☐ Constant

25. a) What is the present trend in suspicious transaction reporting?

- ☐ Increasing
- ☐ Decreasing
- ☐ Constant

26. Please add or attach any other information you consider relevant to estimate the volume of large-scale cash payments in the legal economy.

-----  
-----

**SIZE OF THE ILLICIT MARKET FOR GOODS AND SERVICES INVOLVING LARGE SCALE CASH PAYMENTS**

27. What is the degree of use of large-scale cash payments for illegal market transactions? *Please estimate the degree (from 1=no use, to 5=extensive use).*

- ☐ 1  
☐ 2  
☐ 3  
☐ 4  
☐ 5

28. What is the percentage of large-scale cash payments occurring in the illicit market of goods and services? Considering that 100% of goods are sold in the market, estimate the percentage passing through the legal market and that through the illegal one. *Please give an answer for each of the following businesses.*

NON-FINANCIAL BUSINESSES	LEGAL MARKET	ILLICIT MARKET	
Real estate agents			100%
Dealers in high value metals and precious stones			100%
(Luxury) Motor vehicles dealers			100%
Dealers in work of arts			100%
Auctioneers			100%
Casinos			100%
Gambling houses			100%

*Please add any other significant information.*

-----  
 -----

## CURRENT CRIME TRENDS IN MONEY LAUNDERING SCHEMES USING LARGE-SCALE CASH PAYMENTS

*The relations existing between certain sectors of the economy using large-scale payments and organised crime/terrorism have been assessed before. Now, we would like to look at the problem from the other side, by figuring out those crimes that generate large volumes of cash, which are thus more interested in money laundering schemes involving large-scale cash payments/transactions. In this framework of crime trend identification, it is also important to analyse the role played by the use of new technologies, which could facilitate new forms of money laundering.*

### TYPES OF CRIME THAT GENERATE LARGE VOLUME OF CASH

29. What are the current criminal activities that produce large volumes of cash?  
Please give a maximum of FIVE answers.

- ☐ Fraud
- ☐ Corruption
- ☐ Drug trafficking
- ☐ Aliens smuggling
- ☐ Trafficking in human beings for the purpose of exploitation
- ☐ Theft
- ☐ Trafficking in vehicles
- ☐ Commodity smuggling
- ☐ Child pornography
- ☐ Financial crime
- ☐ Environmental crime
- ☐ Trafficking in cultural property
- ☐ High technology crime
- ☐ Terrorism
- ☐ Other (please specify) \_\_\_\_\_

### THE USE OF NEW TECHNOLOGY SYSTEMS

30. Have any cases of money laundering schemes using large-scale cash transactions / payments involving new technologies been detected in your country?

- ☐ YES
- ☐ NO

If not,

30.1 Do you consider it as a potential threat?

- ☐ YES
- ☐ NO

31. Which new technology payment system is most used in large-scale cash payments / transactions for money laundering purposes? *Please give only ONE answer.*

- ☐ Smart cards or electronic purses
- ☐ Internet / network based systems (i.e., e-cash)
- ☐ Hybrid systems (which are interoperable by the former systems)
- ☐ Other (*please specify*) \_\_\_\_\_

32. What are the main electronic contexts where new technology payment systems are used? *Give maximum TWO answers.*

- ☐ E-commerce
- ☐ On-line banking (accessing financial services<sup>72</sup> indirectly, i.e. by telephone, the Internet)
- ☐ Financial institution services on the Internet
- ☐ Casinos and non-casino types of gambling on the Internet (e.g., Bingonet)
- ☐ Other (*please specify*) \_\_\_\_\_

33. Which are the most important features of e-payment systems that affect/could affect their degree of use in large-scale cash transactions / payments for money laundering purposes? *Give a maximum of THREE answers.*

- ☐ Rapidity of execution
- ☐ Magnitude of value
- ☐ Territorial extension
- ☐ Dematerialisation of operations (i.e., absence of (or low) record keeping rules)
- ☐ Anonymity
- ☐ Low traceability of operations
- ☐ “Depersonification” of operations (i.e., absence of intermediaries conducting operations)
- ☐ Value transferability between individuals rather than just to/from merchants
- ☐ Interoperability between different e-payment systems (e.g., stored value cards and Internet based systems)

34. According to your experience, what is the level of the (present and future) threat posed by new payment technologies in the field of large-scale cash payments for money laundering purposes?

*(1=no threat; 2=medium threat; 3=high threat)*

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<sup>72</sup> For the purposes of this study, we mainly take into consideration “transactional” services which may include such activities as opening new accounts (checking, savings, etc.); bill payment; debit, ATM and credit cards; on-line lending; and deposit taking in some cases.

	1	2	3
Present threat			
Future threat			

### ROLE OF THE PRIVATE SECTOR<sup>73</sup> IN IDENTIFYING MONEY LAUNDERING USING LARGE-SCALE CASH PAYMENTS

35. Is there an obligation to use the services of a qualified person (belonging to financial, non-financial or professional categories) in setting up a large-scale cash transaction (e.g., purchase of a real estate, luxury items, etc.) in your country?

- ☐ YES  
☐ NO

36. Which one of the following positions (facilitator/obstacle) in money laundering schemes using large-scale cash payments do you consider closer to the role currently played by the private sector in preventing and detecting money laundering through large-scale cash payments? *Considering the three main categories (financial, non-financial sectors and professionals) separately, please choose one answer for prevention and one for detection.*

	FINANCIAL		NON-FINANCIAL		PROFESSIONALS	
	prevention	detection	prevention	detection	prevention	detection
<b>FACILITATOR</b>						
<b>OBSTACLE</b>						

37. With reference to the below-mentioned business activities and professions, could you please rate their ability to identify, in the exercise of their professional activities, money laundering schemes using large-scale cash payments? (1=no ability; 2= medium ability; 3=full ability)

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<sup>73</sup> With the term "Private Sector" we refer to those financial, non-financial and professional activities that are required by law, or where it is necessary in practice, to conduct operations giving rise to large-scale cash payments / transactions.

BUSINESS	1	2	3
Insurance companies			
Casinos			
Gambling houses			
Real estate agents			
Dealers in high value/luxury items			
Money brokers			
Other ( <i>please specify</i> ) _____			
PROFESSIONALS	1	2	3
Auditors, External accountants, Tax advisors			
Notaries and other independent legal professions			

38. Of the total amount of suspicious (or unusual) large-scale cash payments / transactions reported in the last 12 months, what is the percentage of those reported by the private sector in your country? *Please give the exact percentage.*

Credit institutions	%
Financial institutions	%
Non-financial businesses	%
Professionals	%

*Please add any other significant information*

-----

39. Please evaluate the degree of cooperation of the private sector in developing financial investigations in your country (*1=no cooperation; 2=medium cooperation; 3=full cooperation*)

SECTOR	1	2	3
Credit institutions			
Financial institutions			
Non-Financial businesses			
Professionals			

**COST IMPLICATIONS FOR BUSINESS, LAW ENFORCEMENT AND PERSONAL PRIVACY**

*With reference to the possible enactment of stricter legislative/regulatory forms of control on large-scale cash payments, including a declaration system enabling competent authorities to carry out their investigations, we would like to consider cost implications of such a provision.*

40. What is the main cost that a system of compulsory declaration of large-scale cash payments / transactions would impose on entities dealing with such forms of payment? *Please choose ONLY ONE answer per category (i.e., law enforcement, business sector, professionals).*

	LAW ENFORCEMENT	BUSINESS SECTOR	PROFESSIONALS
Training of employees			
Number of employees			
Reduction of business volume			
Expenses for IT			
Other <i>(please specify)</i>			

41. Would a compulsory system of declaration of large-scale cash payments/transactions create problems in terms of breaches of confidentiality and professional relationship with their customers for professionals?

- ☐ YES  
☐ NO

42. Would a compulsory system of declaration of large-scale cash payments have implications in terms of limitation of personal privacy?

- ☐ YES  
☐ NO

*If yes,*

- 42.1 How is the trade-off between personal privacy limitation and money laundering reduction/elimination?

- ☐ POSITIVE  
☐ NEGATIVE



**CONCLUSION**

43. Overall, how concerned is your country about the use of large-scale cash payments / transactions? *Please assign a rate (from 1=no concern, to 5=high concern).*

- ☐ 1
- ☐ 2
- ☐ 3
- ☐ 4
- ☐ 5



## ANNEX 3

### SYNOPTIC TABLES

This Annex contains the Synoptic Tables constructed on the basis of the replies to the questionnaire. These Tables have been commented and discussed with the national experts from EU FIUs during the working seminar held in Brussels on the 16 – 17 May 2003.

The synoptic tables are presented as follows:

#### THE USE OF LARGE-SCALE CASH PAYMENTS FOR MONEY LAUNDERING PURPOSES

TABLE 1 A	Areas of risk (1)
TABLE 1 B	Areas of risk (2)
TABLE 2	Involvement trend: development of the use of large-scale cash payments for money laundering purposes over the last ten years and future trends
TABLE 3	Role of €
TABLE 4	Connections between sectors of the economy and organised crime / terrorism
TABLE 5	Volume and size of legal and illegal markets for goods and services
TABLE 6	Crime trends and role of new technologies
TABLE 7	Role of the private sector
TABLE 8	Cost implications
TABLE 9	Concerns

#### CURRENT LEGISLATIVE CONTROLS ON LARGE-SCALE CASH PAYMENTS

TABLE 10	General information
TABLE 11	Provisions in anti-money laundering legislation
TABLE 12	Reporting system

Each effectiveness indicator in the Synoptic Tables is numbered in the same way as described in Annex 1.

Indicator no. 23 is not included in the tables because no answer was given to the relative question. Indicators nos. 26 (Section 1) and 21 (Section 2) are not included in the tables because of their descriptive nature. However, their content was taken into consideration inside Sections 8 and 9.

**TABLE 1A**  
**AREAS OF RISK (1)**

<div> <div>RISK INDICATOR</div> <div>COUNTRY</div> </div>	1. Commonness of the use of cash payments	2. Degree of cash orientation of the business economy	3. Sector most likely to be subject to exploitation through the use of large- scale cash payments for money laundering purposes	4. Level of regulation of financial sector, non- financial sector, professional sector with respect to the credit sector (assumed to be extensively regulated=3)		
				FIN. SECTOR	NON- FIN.	PROF.
<i>Austria</i>	NO	2	C	3	2	1
<i>Belgium</i>	YES	3	C	3	1	2
<i>Finland</i>	NO	1	C, D	3	2	2
<i>Germany</i>	YES	2	/	3	3	3
<i>Ireland</i>	YES	3	C	3	1	1
<i>Italy</i>	YES	3	C	3	1	1
<i>Luxembourg</i>	NO	2	B	3	2	2
<i>Portugal</i>	YES	2	C	3	2	2
<i>Spain</i>	YES	2	C	3	3	2
<i>Sweden</i>	NO	2	C	2	2	2
<i>United Kingdom</i>	NO	2	B	2	2	2

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; /= no data available;



= answers to be presented  
in separated tables.

Question no. 2: from 1=not at all, to 5=completely.

Question no. 3: A=Credit institutions, B=Financial institutions, C=Non-financial institutions, D=Professionals.

Question no. 4: 1=not regulated, 2=regulated, 3=extensively regulated.

Replies to questions aimed at measuring the degree of exploitation of the financial sector, the non financial sector and professionals for cash laundering purposes (indicators nos. 5 to 10) are presented separately for activities carried out in each of the three mentioned sectors.

TABLE 1B (5–6)

**DEGREE OF EXPLOITATION OF THE FINANCIAL SECTOR IN THE USE OF LARGE-SCALE  
CASH PAYMENTS FOR MONEY LAUNDERING PURPOSES**

FINANCIAL ACTIVITY  COUNTRY	Financial leasing		Money transmission service, including <i>underground banking</i>		Issuing and administering means of payments		Trading for own account or for account of customers in: a) money market instruments; b) foreign exchange; c) financial futures and options; d) exchange and interest-rate instruments; e) transferable securities		Participation in securities issues and the provision of services related to such issues	
	EXPL.	POT. EXPL.	EXPL.	POT. EXPL.	EXPL.	POT. EXPL.	EXPL.	POT. EXPL.	EXPL.	POT. EXPL.
<i>Austria</i>	2	n.a.	3	n.a.	2	n.a.	2	n.a.	2	n.a.
<i>Belgium</i>	1	1	3	n.a.	2	n.a.	2,3,1,1,1	n.a.	1	1
<i>Finland</i>	1		3	n.a.	1		2 [b]3]	n.a.	2	n.a.
<i>Germany</i>	/	/	/	/	/	/	/	/	/	/
<i>Ireland</i>	2	n.a.	3	n.a.	2	n.a.	2	n.a.	2	n.a.
<i>Italy</i>	1		3	n.a.	2	n.a.	2	n.a.		1
<i>Luxembourg</i>	1	2	2	n.a.	2	n.a.	2	n.a.	1	2
<i>Portugal</i>	1	1	2	n.a.	1	1	2	n.a.	1	2
<i>Spain</i>	1	1	3	n.a.	2	n.a.	3	n.a.	1	2
<i>Sweden</i>	1	1	2	n.a.	1	2	2	n.a.	1	1
<i>United Kingdom</i>	2	n.a.	3	n.a.	3	n.a.	2	3	1	2

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; / = no data available.

Degree of exploitation: 1=not exploited, 2=exploited, 3=extensively exploited.

TABLE 1B (5–6)

**DEGREE OF EXPLOITATION OF THE FINANCIAL SECTOR IN THE USE OF LARGE-SCALE  
CASH PAYMENTS FOR MONEY LAUNDERING PURPOSES**

FINANCIAL ACTIVITY  COUNTRY	Money broking		Safekeeping and administratio n of securities		Safe custody services		Insurance companies		Investment firms		Collective investment undertakings marketing its units or shares	
	EXPL.	POT. EXPL.	EXPL.	POT. EXPL.	EXPL.	POT. EXPL.	EXPL.	POT. EXPL.	EXPL.	POT. EXPL.	EXPL.	POT. EXPL.
<i>Austria</i>	2	n.a.	2	n.a.	2	n.a.	2	n.a.	2	n.a.	2	n.a.
<i>Belgium</i>	1	1	1	1	1	1	2	n.a.	2	n.a.	1	1
<i>Finland</i>	2	n.a.	2	n.a.	2	n.a.	2	n.a.	2	n.a.	2	n.a.
<i>Germany</i>	/	/	/	/	/	/	/	/	/	/	/	/
<i>Ireland</i>	2	n.a.	2	n.a.	2	n.a.	2	n.a.	2	n.a.	2	n.a.
<i>Italy</i>	2	n.a.	1		2	n.a.	2	n.a.	2	n.a.	1	
<i>Luxembourg</i>	1	2	2	n.a.	2	n.a.	2	n.a.	2	n.a.	2	n.a.
<i>Portugal</i>	1	2	1	2	1	1	1	1	1	1	1	1
<i>Spain</i>	1	1	1	1	1	1	2	n.a.	1	2	1	2
<i>Sweden</i>	1	2	1	1	1	1	1	1	1	1	1	1
<i>United Kingdom</i>	1	2	1	2	1	1	2	n.a.	2	3	2	3

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; **/**= no data available.

Degree of exploitation: 1=not exploited, 2=exploited, 3=extensively exploited.

TABLE 1B (7–8)

**DEGREE OF EXPLOITATION OF THE NON-FINANCIAL SECTOR IN THE USE OF LARGE-SCALE CASH PAYMENTS FOR MONEY LAUNDERING PURPOSES**

<div>NON-FINANCIAL ACTIVITY</div> <div>COUNTRY</div>	Real estate agents		Dealers in high value metals and precious stones		(Luxury) Motor vehicles dealers		Dealers in works of arts		Auctioneers		Casinos		Gambling houses	
	EXPL.	POT. EXPL.	EXPL.	POT. EXPL.	EXPL.	POT. EXPL.	EXPL.	POT. EXPL.	EXPL.	POT. EXPL.	EXPL.	POT. EXPL.	EXPL.	POT. EXPL.
<i>Austria</i>														
<i>Belgium</i>	2	n.a.	1	3	1	3	1	3	1	3	3	n.a.	1	3
<i>Finland</i>	1	2	3	n.a.	3	n.a.	3	n.a.	1	3	1	2	1	2
<i>Germany</i>	/	/	/	/	/	/	/	/	/	/	/	/	/	/
<i>Ireland</i>	2	n.a.	1	2	2	n.a.	1	2	2	n.a.	1		2	n.a.
<i>Italy</i>	2	n.a.	2	n.a.	2	n.a.	2	n.a.	2	n.a.	3	n.a.	3	n.a.
<i>Luxembourg</i>	2	n.a.	1	2	1	2	1	2	1	1	1	2	1	2
<i>Portugal</i>	3	n.a.	2	n.a.	2	n.a.	2	n.a.	1	2	2	n.a.	1	2
<i>Spain</i>	3	n.a.	2	n.a.	1	1	2	n.a.	2	n.a.	2	n.a.	1	1
<i>Sweden</i>	1	2	2		2		2		2		2		3	
<i>United Kingdom</i>	1	1	1	2	2	n.a.	1	2	1	1	2	n.a.	2	n.a.

TABLE 1B (9–10)

**DEGREE OF EXPLOITATION OF PROFESSIONALS IN THE USE OF LARGE-SCALE CASH PAYMENTS FOR MONEY LAUNDERING PURPOSES**

<div>PROFESSIONAL</div> <div>COUNTRY</div>	Auditors, External accountants, Tax advisors		Notaries and other independent legal professions	
	EXPLOIT.	POT. EPL.	EXPLOIT.	POT. EXPL.
<i>Austria</i>				
<i>Belgium</i>	1	1	2	n.a.
<i>Finland</i>	1	1	2	n.a.
<i>Germany</i>	/	/	/	/
<i>Ireland</i>	2	n.a.	2	n.a.
<i>Italy</i>	2	n.a.	2	n.a.
<i>Luxembourg</i>	2	n.a.	2	n.a.
<i>Portugal</i>	1	1	1	2
<i>Spain</i>	1	2	2	n.a.
<i>Sweden</i>	1	2	2	
<i>United Kingdom</i>	2	n.a.	2	n.a.

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; **/**= no data available.

Degree of exploitation: 1=not exploited, 2=exploited, 3=extensively exploited.

**TABLE 2**  
**INVOLVEMENT TREND: DEVELOPMENT OF THE USE OF LARGE-SCALE CASH PAYMENTS**  
**FOR MONEY LAUNDERING PURPOSES OVER THE LAST TEN YEARS AND FUTURE**  
**TRENDS**

INDICATOR COUNTRY	11. Trend in financial sector	12. Trend in non- financial sector	13. Trend in professionals	14. Main reasons for changes in past attitudes to present ones	15. Main reasons that could affect changes in future attitudes in respect to the current ones
<i>Austria</i>				B	E
<i>Belgium</i>				E	A, B
<i>Finland</i>				A, B	A, B
<i>Germany</i>				n.a.	n.a.
<i>Ireland</i>				A, B	A, C
<i>Italy</i>				A, C	A, C
<i>Luxembourg</i>				n.a.	A, B
<i>Portugal</i>				A, B	A, B
<i>Spain</i>				B	A, B
<i>Sweden</i>				A, B	A, B
<i>United Kingdom</i>				A, B	n.a.

*Legenda:*

**n.a.** = not applicable; **BLANK** = no answer/I do not know; / = no data available;



= answers to be presented  
in separated tables.

Questions nos. 14–15: A=Introduction of stricter regulation, B=Higher controls, C= Increase of sanctions, D=Relative newness of the system, E=Other.



TABLE 2 (11)

**INVOLVEMENT TREND (PAST, PRESENT AND FUTURE) OF THE FINANCIAL SECTOR IN MONEY  
LAUNDERING SCHEMES EXPLOITING LARGE-SCALE CASH PAYMENTS**

FINANCIAL ACTIVITY  COUNTRY	Financial leasing			Money transmission service			Issuing and administering means of payments			Trading for own account or for account of customers in: a) money market instruments; b) foreign exchange; c) financial futures and options; d) exchange and interest-rate instruments; e) transferable securities			Participation in securities issues and the provision of services related to such issues		
	PAST	PRESENT	FUTURE	PAST	PRESENT	FUTURE	PAST	PRESENT	FUTURE	PAST	PRESENT	FUTURE	PAST	PRESENT	FUTURE
<i>Austria</i>	10	10	10	2	2	2	8	8	8	8	8	8	8	8	8
<i>Belgium</i>	10	10	10		1	1	2	2	2	b)1	b)2	b)2	11	11	11
<i>Finland</i>	5	5	5	1	1	1	3	3	3	2	2	2	4	4	4
<i>Germany</i>				1	1	1				b)2	b)2	b)2			
<i>Ireland</i>	10	10	10	1	1	1	5	11	11	b)4	b)4	b)4	6	11	11
<i>Italy</i>	10	10	10	1	1	1	5	5	5	2	2	2	9	9	9
<i>Luxembourg</i>	11	11		3	3	3	6	6	6	6	6	6	6	6	6
<i>Portugal</i>															
<i>Spain</i>	11	11	11	1	1	1	9	3	3	2	2	2			
<i>Sweden</i>	10	10	10	2	2	2	5	5	5	6	6	6	10	10	10
<i>United Kingdom</i>	4	4	4	2	2	1	3	3	3	b)1	b)1	b)2	11	11	11

FINANCIAL ACTIVITY  COUNTRY	Money broking			Safekeeping and administration of securities			Safe custody services			Insurance companies			Investment firms			Collective investment undertakings marketing its units or shares		
	PAST	PRESENT	FUTURE	PAST	PRESENT	FUTURE	PAST	PRESENT	FUTURE	PAST	PRESENT	FUTURE	PAST	PRESENT	FUTURE	PAST	PRESENT	FUTURE
<i>Austria</i>	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8
<i>Belgium</i>	9	9	9	3	3	3	8	8	8	4	4	4	7	7	7	5	5	5
<i>Finland</i>	9	9	9	11	11	11	7	7	7	6	6	6	10	10	10	8	8	8
<i>Germany</i>																		
<i>Ireland</i>	7	11	11	8	11	11	9	11	11	2	2	2	3	3	3	11	11	11
<i>Italy</i>	8	8	8	4	4	4	3	3	3	6	2	2	7	7	7	11	11	11
<i>Luxembourg</i>	6	6	6	10	10	10	9	9	9	2	2	2	6	6	6	1	1	1
<i>Portugal</i>																		
<i>Spain</i>										10	10	10						
<i>Sweden</i>	7	7	7	8	8	8	9	9	9	10	10	10	10	10	10	9	9	9
<i>United Kingdom</i>	11	11	11	11	11	11	6	6	3	5	5	5	11	11	11	11	11	11

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; / = no data available.

Table 2 (11): from 1=most involved, to 11=least involved.

TABLE 2 (12)

**INVOLVEMENT TREND (PAST, PRESENT AND FUTURE) OF THE NON-FINANCIAL SECTOR IN  
MONEY LAUNDERING SCHEMES EXPLOITING LARGE-SCALE CASH PAYMENTS**

NON-FINANCIAL BUSINESS COUNTRY	Real estate agents			Dealers in high value metals and precious stones			(Luxury) Motor vehicles dealers			Dealers in works of arts			Auctioneers			Casinos			Gambling houses		
	PAST	PRES.	FUT.	PAST	PRES.	FUT.	PAST	PRES.	FUT.	PAST	PRES.	FUT.	PAST	PRES.	FUT.	PAST	PRES.	FUT.	PAST	PRES.	FUT.
<i>Austria</i>	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/
<i>Belgium</i>	3	3	7	5	5	2	4	4	1	6	6	3	7	7	4	1	1	5	2	2	6
<i>Finland</i>	3	3	3	2	2	2	1	1	1	6	6	6	7	7	7	5	5	5	4	4	4
<i>Germany</i>	2	2	2	1	1	1	/	/	/	/	/	/	3	3	3	4	4	4	5	5	5
<i>Ireland</i>	2	2	2	6	6	6	1	1	1	7	7	5	3	3	3	n.a.	n.a.	7	4	5	5
<i>Italy</i>	2	2	2	3	3	3	4	4	4	5	5	5	6	6	6	1	1	1	/	/	/
<i>Luxembourg</i>	3	3	3	2	2	2	1	1	1	4	4	4	n.a.	n.a.	n.a.	5	5	5	n.a.	n.a.	n.a.
<i>Portugal</i>	1	1	1	5	5	6	2	2	5	6	6	3	7	7	7	3	3	2	4	4	4
<i>Spain</i>	1	1	1	6			7			2			4			3			5		
<i>Sweden</i>	6	6	6	3	3	3	4	4	4	2	2	2	3	3	3	2	2	2	2	2	2
<i>United Kingdom</i>	7	7	7	2	2	1	1	1	2	4	4	4	6	6	6	3	3	3	5	5	5

TABLE 2 (13)

**INVOLVEMENT TREND (PAST, PRESENT AND FUTURE) OF THE PROFESSIONAL SECTOR IN  
MONEY LAUNDERING SCHEMES EXPLOITING LARGE-SCALE CASH PAYMENTS**

PROFESSIONAL COUNTRY	Auditors, External accountants, Tax advisors			Notaries and other independent legal professions		
	PAST	PRESENT	FUTURE	PAST	PRESENT	FUTURE
<i>Austria</i>	/	/	/	/	/	/
<i>Belgium</i>	2	2	2	1	1	1
<i>Finland</i>	2	2	2	1	1	1
<i>Germany</i>	1	1	1	1	1	1
<i>Ireland</i>	2	2	2	1	1	1
<i>Italy</i>	2	2	2	1	1	1
<i>Luxembourg</i>	2	2	2	1	1	1
<i>Portugal</i>	1	1	2	2	2	1
<i>Spain</i>	2	2	2	1	1	1
<i>Sweden</i>	2	2	2	1	1	1
<i>United Kingdom</i>	2	2	2	1	1	1

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; **/**= no data available.

Table 2 (12): from 1=most involved, to 7=least involved.

Table 2 (13): from 1=most involved, to 2=least involved.

**TABLE 3**  
**ROLE OF THE €**

INDICATOR  COUNTRY	16. Role of the conversion from national European currencies to EURO in facilitating money laundering in cash	17. Role of high denomination Euro banknotes in fostering the use of (large-scale) cash payments for money laundering
<i>Austria</i>	YES	NO
<i>Belgium</i>	YES	
<i>Finland</i>	YES	NO
<i>Germany</i>	NO	NO
<i>Ireland</i>	YES	YES
<i>Italy</i>	YES	YES
<i>Luxembourg</i>	NO	NO
<i>Portugal</i>	NO	NO
<i>Spain</i>	YES	YES
<i>Sweden</i>	YES	YES
<i>United Kingdom</i>	NO	YES

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; /= no data available.

**TABLE 4**  
**CONNECTIONS BETWEEN GIVEN SECTORS OF THE ECONOMY AND ORGANISED CRIME**  
**/ TERRORISM**

INDICATOR COUNTRY	18. Degree of involvement of organised crime in identified sectors of the economy (financial institutions, non-financial businesses, professionals) when using large-scale cash payments for money laundering purposes	19. Criminal organisations/ networks most devoted to money laundering through large-scale cash payments	20. Existence of significant dimensions regarding terrorist financing	21. Evidence of terrorist organisations using no-profit organisations (NPOs)	22. a) Financial sectors more likely to have links to <b>organised crime</b> to move money	22. b) Financial sectors more likely to have links to <b>terrorism</b> to move money
<i>Austria</i>		A, B, D	NO	1	B	B
<i>Belgium</i>		A, C	YES	2	A, C	A, B
<i>Finland</i>		C, D	NO	1	B, C	B, C
<i>Germany</i>		A, C, D	YES	2	A, B, C, D	A, B, C, D
<i>Ireland</i>		C, D	YES	2	A, C	B, C
<i>Italy</i>				2		
<i>Luxembourg</i>		A, B	NO	1	B	B
<i>Portugal</i>		C, D	NO	1	C	n.a.
<i>Spain</i>		C, D	NO	1	B, C	A, B
<i>Sweden</i>		C, D	NO	1	B, C	A, B
<i>United Kingdom</i>		C, D	YES	2	B, C	B, C

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; /= no data available;



= answers to be presented in separated tables.

Question no. 19: A=Mafia style organisations, B=Terrorist networks, C=Traffickers, D=White collar criminals, E=Small non-organised criminality, F=Other.

Question no. 21: 1=no evidence, 2=evidence, 3=extensive evidence.

Question no. 22: A=Banks, B=Money remittance services, C=Bureaux de change, D=Postal service, E=Other.

TABLE 4(18).A

**DEGREE OF INVOLVEMENT OF ORGANISED CRIME IN FINANCIAL ACTIVITIES USING  
LARGE-SCALE CASH PAYMENTS FOR MONEY LAUNDERING**

FINANCIAL ACTIVITY  COUNTRY	Financial leasing	Money transmission service	Issuing and administering means of payments	Trading for own account or for account of customers in: a) money market instruments; b) foreign exchange; c) financial futures and options; d) exchange and interest-rate instruments; e) transferable securities	Participation in securities issues and the provision of services related to such issues
<i>Austria</i>	2	3	2	2	2
<i>Belgium</i>	1	3	3	a)3; b)3; e)2	
<i>Finland</i>	1	3	1	b)3	1
<i>Germany</i>	2	2	1	2	2
<i>Ireland</i>	2	3	2	2	2
<i>Italy</i>				3	
<i>Luxembourg</i>	1	2	1	1	1
<i>Portugal</i>	1	1	1	a)2; b)1	1
<i>Spain</i>	1	3		3	
<i>Sweden</i>	1	1	1	1	1
<i>United Kingdom</i>	2	3	3	2	2

FINANCIAL ACTIVITY  COUNTRY	Money broking	Safekeeping and administration of securities	Safe custody services	Insurance companies	Investment firms	Collective investment undertakings marketing its units or shares
<i>Austria</i>	2	2	2	2	2	2
<i>Belgium</i>				2	2	
<i>Finland</i>	1	1	1	1	1	/
<i>Germany</i>	2	2	1	1	2	2
<i>Ireland</i>	2	2	2	2	2	2
<i>Italy</i>			3	3		
<i>Luxembourg</i>	1	2	2	1	1	2
<i>Portugal</i>	1	1	1	2	1	1
<i>Spain</i>				2		
<i>Sweden</i>	1	1	1	1	1	1
<i>United Kingdom</i>	2	2	1	2	2	/

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; **/**= no data available.

Degree of involvement: 1=not involved, 2= involved, 3=extensively involved.

TABLE 4(18).B

**DEGREE OF INVOLVEMENT OF ORGANISED CRIME IN NON-FINANCIAL ACTIVITIES  
USING LARGE-SCALE CASH PAYMENTS FOR MONEY LAUNDERING**

NON-FINANCIAL BUSINESS and PROFESSIONAL  COUNTRY	Real estate agents	Dealers in high value metals and precious stones	(Luxury) Motor vehicles dealers	Dealers in works of arts	Auctioneers	Casinos	Gambling houses
<i>Austria</i>	2	2	2	2	2	2	2
<i>Belgium</i>	2	3	3	3	3	3	3
<i>Finland</i>	2	3	3	2	1	1	1
<i>Germany</i>	2	2	2	2	2	1	2
<i>Ireland</i>	3	1	3	1	3	1	2
<i>Italy</i>		3				3	
<i>Luxembourg</i>	2	2	2	1	1	1	1
<i>Portugal</i>	2	1	2	1	1	1	1
<i>Spain</i>	3	3	/	3	/	3	
<i>Sweden</i>	1	2	2	2	2	1	2
<i>United Kingdom</i>	2	3	3	1	1	3	3

TABLE 4(18).C

**DEGREE OF INVOLVEMENT OF ORGANISED CRIME IN PROFESSIONAL ACTIVITIES USING  
LARGE-SCALE CASH PAYMENTS FOR MONEY LAUNDERING**

NON-FINANCIAL BUSINESS and PROFESSIONAL  COUNTRY	Auditors, External accountants, Tax advisors	Notaries and other independent legal professions
<i>Austria</i>	2	2
<i>Belgium</i>		3
<i>Finland</i>	1	2
<i>Germany</i>	2	2
<i>Ireland</i>	2	2
<i>Italy</i>		3
<i>Luxembourg</i>	1	1
<i>Portugal</i>	1	1
<i>Spain</i>		2
<i>Sweden</i>	1	1
<i>United Kingdom</i>	2	2

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; / = no data available.

Degree of involvement: 1=not involved, 2=involved, 3=extensively involved.

TABLE 5

## VOLUME AND SIZE OF LEGAL AND ILLEGAL MARKETS FOR GOODS AND SERVICES

INDICATOR COUNTRY	24. Average percentage of large-scale cash payments/ transactions reported in comparison to the total reports	25. Present trend in large-scale cash payments reporting	25a. Present trend in suspicious or unusual transactions reporting	27. Degree of use of large-scale cash payments for illicit market transactions	28. Percentage of large- scale cash payments/ transactions occurring in the illicit market for given sectors
<i>Austria</i>	/	↑	↑	3	
<i>Belgium</i>	/	↑	↑	5	
<i>Finland</i>	8,6 (2002)	↑	↑	5	
<i>Germany</i>	12 (Jan/Apr 2003)	↓	↑		
<i>Ireland</i>	85	↑	↑	5	
<i>Italy</i>	42,6 (Mar/Aug 2002)	—	—	3	
<i>Luxembourg</i>	10	—	↑	/	
<i>Portugal</i>	80-90	↑	↑	5	
<i>Spain</i>	60	—	↑	4	
<i>Sweden</i>	40	↑		4	
<i>United Kingdom</i>	/	↑	↑	5	

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; / = no data available;



= answers to be presented  
in separated tables.

Question no. 25 and 25a.: ↑=increasing, —=constant, ↓=decreasing.

Question no. 27: from 1=no use, to 5=extensive use.

TABLE 5 (28)

**PERCENTAGE OF LARGE-SCALE CASH PAYMENTS OCCURRING IN THE ILLICIT  
MARKET FOR GIVEN SECTORS**

<div>SECTOR</div> <div>COUNTRY</div>	Real estate agents		Dealers in high value metals and		(Luxury) Motor vehicles		Dealers in works of arts		Auctioneer s		Casinos		Gambling houses	
	Legal Mkt	Illegal Mkt	Legal Mkt	Illegal Mkt	Legal Mkt	Illegal Mkt	Legal Mkt	Illegal Mkt	Legal Mkt	Illegal Mkt	Legal Mkt	Illegal Mkt	Legal Mkt	Illegal Mkt
<i>Austria</i>														
<i>Belgium</i>														
<i>Finland</i>	/													
<i>Germany</i>														
<i>Ireland</i>	85	15	99	1	80	20	99	1	85	15	n.a.	n.a.	90	10
<i>Italy</i>														
<i>Luxembourg</i>	/													
<i>Portugal</i>			/	/	100	0	/	/	/	/	/	/	/	/
<i>Spain</i>	70	30	70	30			80	20	80	20	90	10		
<i>Sweden</i>	95	5	80	20	75	25	90	10	90	10	75	25	75	25
<i>United Kingdom</i>	90/10													

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; **/**= no data available.



**TABLE 6**  
**CRIME TRENDS AND ROLE OF NEW TECHNOLOGIES**

INDICATOR COUNTRY	29. Current criminal activities producing large volume of cash	30. Detection of cases of schemes of money laundering using large-scale cash payments involving new technologies	30.1 <i>Existence of a potential threat for new technologies to be used to set up a money laundering scheme involving large-scale cash payments</i>	31. New technology payment system most used in large scale cash payments for money laundering purposes	32. Electronic contexts where new technology payment systems are used	33. Features of e-payment systems that can affect their degree of use in large-scale cash payments for money laundering purposes	34. a) Level of <b>present</b> threat posed by new payment technologies in the field of large-scale cash payments for money laundering purposes	34. b) Level of <b>future</b> threat posed by new payment technologies in the field of large-scale cash payments for money laundering purposes
<i>Austria</i>	A, B, C, D, F, L, M	YES	n.a.	B	A, B	A, C, E	2	3
<i>Belgium</i>	A, C, E, G, L	NO	NO	n.a.	B	E, F, G	1	2
<i>Finland</i>	C, H, L, Q	YES	n.a.	C	B, C	A, E, I	3	3
<i>Germany</i>	C, D, E, G, H	NO	YES	n.a.	n.a.	A, C, G	1	2
<i>Ireland</i>	A, C, E, F, H	NO	YES	B	A, B	A, C, D	2	3
<i>Italy</i>	B, C, E, H, M	YES	n.a.	A	A	A, F, I	2	3
<i>Luxembourg</i>	A, B, C, E, P	NO	NO	n.a.	n.a.	A, D, F	2	2
<i>Portugal</i>	A, C, L	NO	NO	B	B	A, C, E	2	2
<i>Spain</i>	A, B, C	NO	NO	B	C	A, E, F	2	2
<i>Sweden</i>	C, D, E, F	NO	YES	A	A, B	A, E	2	3
<i>United Kingdom</i>	A, C, G, H	NO	YES	n.a.	n.a.	E, F, G	2	2

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; / = no data available.

Question no. 29: A=Fraud, B=Corruption, C=Drug trafficking, D=Aliens smuggling, E=Trafficking in human beings, F=Theft, G=Trafficking in vehicles, H=Commodity smuggling, I=Child pornography, L=Financial crime, M=Environmental crime, N=Trafficking in cultural property, O=High technology crime, P=Terrorism, Q=Other.

Question no. 31: A=Smart cards or electronic purses, B=Internet/network based systems, C=Hybrid systems, D=Other.

Question no. 32: A=e-commerce, B=On-line banking, C=Financial institution services on the Internet, D=Casinos and non-casinos types of gambling on the Internet, E=Other.

Question no. 33: A=Rapidity of execution, B=Magnitude of volume, C=Territorial extension, D=Dematerialisation of operations, E=Anonymity, F=Low traceability of operations, G='Depersonification' of operations, H=Value transferability between individuals rather than just to/from merchants, I=Interoperability between different e-payment systems.

Question no. 34 a) and b): 1=no threat, 2=medium threat, 3=high threat.

**TABLE 7**  
**ROLE OF THE PRIVATE SECTOR**

INDICATOR  COUNTRY	35. Existence of an obligation to use the service of a qualified person in setting up a large-scale cash payment/ transaction	36. a) Role played by the private sector (financial institutions, non-financial businesses, professionals) in <b>preventing</b> money laundering through large-scale cash payments			36. b) Role played by the private sector (financial institutions, non-financial businesses, professionals) in <b>detecting</b> money laundering through large-scale cash payments			37. Degree of ability for identified business activities and professionals, in the exercise of their professional activities, to identify money laundering schemes using large-scale cash payments	38. Percentage of suspicious/ unusual large-scale cash payments/ transactions reported by the private sector (over the last 12 months) for identified sectors (credit institutions, financial institutions, non-financial businesses, professionals)				39. Degree of cooperation of the private sector in developing financial investigations			
		FIN. INST.	NON-FIN. INST.	PROF.	FIN. INST.	NON-FIN. INST.	PROF.		CREDIT INST.	FIN. INST.	NON-FIN. INST.	PROF.	CREDIT INST.	FIN. INST.	NON-FIN. INST.	PROF.
<i>Austria</i>	NO	FAC		OBST	FAC		OBST						3	2	2	1
<i>Belgium</i>	YES		FAC		FAC		FAC		/	/	/	/	3	3	1	2
<i>Finland</i>	NO								40	55.3	0.4	0	3	2	2	2
<i>Germany</i>	NO	/	/	/	/	/	/		/	/	/	/	3	3	/	/
<i>Ireland</i>	NO	FAC	OBST	OBST	FAC	OBST	OBST		100	0	0	0	3	3	2	2
<i>Italy</i>	YES	FAC	FAC	OBST	FAC	FAC	OBST		92.3	7.7	0	0	3	2	1	1
<i>Luxembourg</i>	NO	FAC	FAC	FAC	FAC	FAC	FAC		55	40	5	0	2	2	1	1
<i>Portugal</i>	NO	FAC	n.a.	n.a.	FAC	FAC	FAC		90	8	2	0	3	2	2	2
<i>Spain</i>	YES	FAC	OBST	OBST	FAC	OBST	OBST			/	/	/	3	3	2	2
<i>Sweden</i>		FAC	FAC	FAC	OBST	OBST	OBST		30	10	50	10	3	3	3	3
<i>United Kingdom</i>	NO	FAC	OBST	OBST	FAC	OBST	OBST		/	/	/	/	2	2	2	2

**TABLE 7 (37)**

**DEGREE OF ABILITY OF GIVEN BUSINESS ACTIVITIES AND PROFESSIONALS TO IDENTIFY  
MONEY LAUNDERING SCHEMES USING LARGE-SCALE CASH PAYMENTS**

BUSINESS and PROFESSIONAL  COUNTRY	Insurance companies	Casinos	Gambling houses	Real estate agents	Dealers in high value / luxury items	Money brokers	Others	Auditors, External accountants, Tax advisors	Notaries and other independent legal professions
<i>Austria</i>	2	2	2	2	2	2	2	2	2
<i>Belgium</i>	3	3	3	3	3	3	3	2	3
<i>Finland</i>	3	1	1	1	1	3		3	3
<i>Germany</i>	3	3	3	3	3	3		3	3
<i>Ireland</i>	3	n.a.	2	1	1	2		2	1
<i>Italy</i>	3	2	1	1	1	1			
<i>Luxembourg</i>	3	2	2	2	1	3		2	2
<i>Portugal</i>	2	2	2	2	2	2		2	2
<i>Spain</i>	3	1		2	2			2	2
<i>Sweden</i>	3	2	2	3	3	2		3	3
<i>United Kingdom</i>	2	2	1	1	2	2		3	3

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; **/**= no data available;



= answers to be presented in separated tables.

Question no. 36 a) and b): FAC=facilitator, OBST=obstacle.

Question no. 37: 1=no ability, 2=medium ability, 3=full ability.

Question no. 39: 1=no cooperation, 2=medium cooperation, 3=full cooperation.

**TABLE 8**  
**COST IMPLICATIONS**

INDICATOR  COUNTRY	40. Costs imposed by a compulsory declaration system of large-scale cash payments on entities dealing with such forms of payments			41. Existence of breaches of confidentiality and professional relationship with their customers for professionals having to comply with a compulsory system of large-scale cash payments/ transactions declaration	42. Existence of limitation of personal privacy brought about by a compulsory system of large-scale cash payments/ transactions declaration	42.1 Kind of trade-off between personal privacy limitation and money laundering reduction/ elimination
	LAW ENF.	BUSINESS	PROF.			
<i>Austria</i>	A, B, D	NONE	/	NO	NO	n.a.
<i>Belgium</i>	A	D	A	NO	NO	n.a.
<i>Finland</i>	B	A	A	NO	NO	n.a.
<i>Germany</i>	B			YES	YES	NEGATIVE
<i>Ireland</i>	D	A, B, C		NO	YES	POSITIVE
<i>Italy</i>	D	D	C	NO	NO	n.a.
<i>Luxembourg</i>	A, B	C, D	A	NO	NO	n.a.
<i>Portugal</i>	A	C		NO	NO	n.a.
<i>Spain</i>	B	C	C	YES	NO	n.a.
<i>Sweden</i>	D	A, B, C		YES	YES	POSITIVE
<i>United Kingdom</i>	A	D	C	YES	YES	POSITIVE

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; **/**= no data available.

Question no. 40: A=Training of employees, B=Number of employees, C=Reduction of business volume, D=Expenses for IT, E=Other.

**TABLE 9**  
**CONCERNS**

COUNTRY	INDICATOR	43. Degree of concern about the use of large-scale cash payments
<i>Austria</i>		3
<i>Belgium</i>		4
<i>Finland</i>		3
<i>Germany</i>		2
<i>Ireland</i>		5
<i>Italy</i>		3
<i>Luxembourg</i>		3
<i>Portugal</i>		3
<i>Spain</i>		3
<i>Sweden</i>		3
<i>United Kingdom</i>		5

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; / = no data available.

Question no. 43: from 1=no concern, to 5=high concern.

**TABLE 10**  
**GENERAL INFORMATION**

<div style="text-align: center;">EFFECTIVENESS INDICATOR</div> <div style="text-align: center;">COUNTRY</div>	1. Implementation of EU Directive 2001/97/EC	2. Existence of national legislation governing the use of large-scale cash payments	2.1 <i>Existence of proposal(s) to adopt such a legislation</i>
<i>Austria</i>	YES	YES, gML	n.a.
<i>Belgium</i>	NO	YES, sML	n.a.
<i>Finland</i>	YES	YES, gML	n.a.
<i>Germany</i>	YES	YES, gML	n.a.
<i>Ireland</i>	NO	YES, gML	n.a.
<i>Italy</i>	NO	YES, sML	n.a.
<i>Luxembourg</i>	NO	YES, gML	n.a.
<i>Portugal</i>	YES	YES, sML	n.a.
<i>Spain</i>	NO	YES, sML	n.a.
<i>Sweden</i>	NO	YES, gML	n.a.
<i>United Kingdom</i>	YES	YES, gML	n.a.

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; /= no data available.

Question no. 2: YES, gML=*general* provisions inside money laundering legislation, YES, sML=*special* provisions inside money laundering legislation.

The tables presenting the replies to questions nos. 3 – 11, and concerning the information on specific / autonomous legislation, are not presented because this kind of legislation does not apply to any of the respondent countries.

**TABLE 11.A**  
**PROVISIONS IN ANTI-MONEY LAUNDERING LEGISLATION**

EFFECTIVENESS INDICATOR  COUNTRY	12.a) Role of the FIU in regularly/ systematically monitoring large-scale cash payments (according to your national legislation)	12.b) Existence of a specific national authority monitoring the use of large-scale cash payments	13. Level of implementation of national legislation controlling the use of large-scale cash payments	14.a) Categories of policies/ measures in force to <b>prevent</b> the use of large-scale cash payments	14.b) Categories of policies/ measures in force to <b>detect</b> the use of large-scale cash payments	15.a) Effectiveness of policies/ measures to <b>prevent</b> the use of large-scale cash payments					15.b) Effectiveness of policies/ measures to <b>detect</b> the use of large-scale cash payments					16. Existence of legislative controls on legal and natural persons, acting in the exercise of their professional activities, when dealing with large scale cash payments
						A	B	C	D	E	A	B	C	D	E	
<i>Austria</i>	YES	NO	2	A, C	A, C	2		2	2		2		1	2		
<i>Belgium</i>	YES	NO	2	B	B		3					3				
<i>Finland</i>	YES	NO	3	A, B, C	A, B, C	3		3			3		3			
<i>Germany</i>	YES	NO	3	A, C	A, C											
<i>Ireland</i>	YES	NO	2	A, C	A, B, C	2	2	2	1		2	2	2	1		
<i>Italy</i>	YES	NO	3	A	B, C	3	3		2		3	3	2	3		
<i>Luxembourg</i>	YES	NO	2	A, B, C	A, B, C	2	2	3	2		2	2	3	2		
<i>Portugal</i>	YES	NO	2	A, B, C	B, C	2	2	3	2		1	2	2	2		
<i>Spain</i>	YES	NO	3	B	B		3	2				2	2			
<i>Sweden</i>	YES	NO	3	B, C	B, C		3	3				1	3			
<i>United Kingdom</i>	YES	NO	3	A, C	A, B, C	2	2	3	1		3	2	2	1		

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; / = no data available;



= answers to be presented in separated tables.

Question no. 13: 1=not implemented, 2=implemented, 3=extensively implemented.

Question no. 14: A=Regulatory, B=Administrative, C=Law enforcement, D=Other.

Question no. 15: A=Regulatory, B=Administrative, C=Law enforcement, D=Self-regulatory, E=Other.

TABLE 11 (16).A

**EXISTENCE OF LEGISLATIVE CONTROLS ON LEGAL AND NATURAL PERSONS  
(FINANCIAL SECTOR) WHEN DEALING WITH LARGE-SCALE CASH PAYMENTS**

LEGAL / NATURAL PERSON  COUNTRY	Financial leasing	Money transmission service	Issuing and administering means of payments	Trading for own account or for account of customers in: a) money market instruments; b) foreign exchange; c) financial futures and options; d) exchange and interest-rate instruments; e) transferable securities	Participation in securities issues and the provision of services related to such issues
<i>Austria</i>	YES	YES	YES	YES	YES
<i>Belgium</i>	YES	YES	YES	YES	YES
<i>Finland</i>	YES	YES	YES	YES	YES
<i>Germany</i>	YES	YES	YES	YES	YES
<i>Ireland</i>	YES	YES	YES	YES	YES
<i>Italy</i>	YES	YES	YES	YES	YES
<i>Luxembourg</i>	YES	YES	YES	YES	YES
<i>Portugal</i>	YES	YES	YES	YES	YES
<i>Spain</i>	YES	YES	YES	YES	YES
<i>Sweden</i>	YES	YES	YES	YES	YES
<i>United Kingdom</i>	YES	YES	YES	YES	YES

LEGAL / NATURAL PERSON  COUNTRY	Money broking	Safekeeping and administration of securities	Safe custody services	Insurance companies	Investment firms	Collective investment undertakings marketing its units or shares
<i>Austria</i>	YES	YES	YES	YES	YES	YES
<i>Belgium</i>	YES	YES	YES	YES	YES	YES
<i>Finland</i>	YES	YES	YES	YES	YES	YES
<i>Germany</i>	YES	YES	YES	YES	YES	YES
<i>Ireland</i>	YES	YES	YES	YES	YES	YES
<i>Italy</i>	YES	YES	YES#	YES	YES	YES
<i>Luxembourg</i>	YES	YES	YES	YES	YES	YES
<i>Portugal</i>	YES	YES	YES	YES	YES	YES
<i>Spain</i>	YES	YES	YES	YES		YES
<i>Sweden</i>	YES	YES	YES	YES	YES	YES
<i>United Kingdom</i>	YES	YES	YES	YES	YES	YES

Legenda:

# provisions not yet implemented



TABLE 11 (16).B

**EXISTENCE OF LEGISLATIVE CONTROLS ON LEGAL AND NATURAL PERSONS (NON-FINANCIAL SECTOR AND PROFESSIONALS) WHEN DEALING WITH LARGE-SCALE CASH PAYMENTS**

<b>COUNTRY</b> \ <b>LEGAL / NATURAL PERSON</b>	Real estate agents	Dealers in high value metals and precious stones	(Luxury) Motor vehicles dealers	Dealers in works of arts	Auctioneers	Casinos	Gambling houses
<i>Austria</i>	YES°	YES°	YES°	YES°	YES°	YES°	YES°
<i>Belgium</i>	YES	NO	NO	NO	NO	YES	YES
<i>Finland</i>	YES	YES	YES	YES	YES	YES	YES
<i>Germany</i>	YES	YES	YES	YES	YES	YES	YES
<i>Ireland</i>	NO	NO	NO	NO	NO	NO	NO
<i>Italy</i>	YES#	YES#	YES#	YES#	YES#	YES#	
<i>Luxembourg</i>	NO	NO	NO	NO	NO	YES	YES
<i>Portugal</i>	YES	YES	YES	YES	YES	YES	YES
<i>Spain</i>	YES	YES	NO	YES	YES	YES	NO
<i>Sweden</i>	YES	YES	YES	YES	YES	YES	YES
<i>United Kingdom</i>	YES	YES	YES	YES	YES	YES	YES

<b>COUNTRY</b> \ <b>LEGAL / NATURAL PERSON</b>	Auditors, External accountants, Tax advisors	Notaries and other independent legal professions
<i>Austria</i>	NO	NO°°
<i>Belgium</i>	YES	YES
<i>Finland</i>	YES	YES
<i>Germany</i>	YES	YES
<i>Ireland</i>	NO	NO
<i>Italy</i>	YES##	YES##
<i>Luxembourg</i>	NO	NO
<i>Portugal</i>	YES	YES
<i>Spain</i>	YES	YES
<i>Sweden</i>	NO	NO
<i>United Kingdom</i>	YES	YES

Legenda:

- # provisions not yet implemented
- ## provisions contained in EU Directive 97/2001 not yet implemented at national level
  - ° The existing draft law is going to enter into force by 15 June 2003.
  - A draft of the law on notaries and lawyers has been
- °° prepared by competent authorities, but it still has to be discussed in the Parliament.

**TABLE 11.B**  
**PROVISIONS IN ANTI-MONEY LAUNDERING LEGISLATION**

<b>EFFECTIVENESS INDICATOR</b>  <b>COUNTRY</b>	17. Typologies of control measures/ instruments that legal and natural persons, acting in the exercise of their professional activities, are obliged to use when dealing with large-scale cash payments	18. Existence of sanctions for subjects using large-scale cash payments for money laundering purposes	18.1 <i>Typologies of sanctions for subjects using large-scale cash payments for money laundering purposes</i>	18.2 <i>Degree of implementation of sanctions for subjects using large-scale cash payments for money laundering purposes</i>	19.1 Degree of effectiveness of the national system of legislative controls on the use of large-scale cash payments	19.2 Advantages of the national system of legislative controls on the use of large-scale cash payments	20. Shortcomings of the national system of legislative controls on the use of large-scale cash payments
<i>Austria</i>		YES	A, P	2	2	prevention	F
<i>Belgium</i>		YES	A, P	2	3		
<i>Finland</i>		YES	P	3	2	large number of STRs	F
<i>Germany</i>		YES	A, P	3	3	STR based on indicators, not amount	none
<i>Ireland</i>		YES	P	2	2	active role of f.i.	F
<i>Italy</i>		YES	A, P	2	3	reduction of cash transactions; increase of STRs	B
<i>Luxembourg</i>		YES	A, C, P	2	3	active role of banks	
<i>Portugal</i>		YES	P	2	2		B, C, E
<i>Spain</i>		YES	A, P	2	2	prevention	F
<i>Sweden</i>		YES	A, P	2	2	obligation to report	A, C, E
<i>United Kingdom</i>		YES	C, P	2	2	anti-ML mechanisms on f.i.	D

**Legenda:**

**n.a.** = not applicable; **BLANK**= no answer/I do not know; **/**= no data available;



= answers to be presented in separated tables.

Question no. 18.1: A=Administrative, C=Civil, P=Penal, O=Other.

Question no. 18.1: 1=not implemented, 2=implemented, 3=extensively implemented.

Question no. 19.1: 1=ineffective, 2=partially effective, 3=fully effective.

Question no. 20: A=Lack of legislation/regulation, B=Lack of legislative implementation of provisions, C=Lack of sanctions, D=Lack of law enforcement action, E=Lack of data collection system, F=Other.

## 11(17).A

**TYPOLOGIES OF CONTROL MEASURES/INSTRUMENTS LEGAL AND NATURAL PERSONS  
(FINANCIAL SECTOR) ARE OBLIGED TO USE WHEN DEALING WITH LARGE-SCALE  
CASH PAYMENTS**

LEGAL / NATURAL PERSON  COUNTRY	Financial leasing	Money transmission service	Issuing and administering means of payments	Trading for own account or for account of customers in: a) money market instruments; b) foreign exchange; c) financial futures and options; d) exchange and interest-rate instruments; e) transferable securities	Participation in securities issues and the provision of services related to such issues
<i>Austria</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Belgium</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Finland</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Germany</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Ireland</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Italy</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Luxembourg</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Portugal</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Spain</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Sweden</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>United Kingdom</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D

LEGAL / NATURAL PERSON  COUNTRY	Money broking	Safekeeping and administration of securities	Safe custody services	Insurance companies	Investment firms	Collective investment undertakings marketing its units or shares
<i>Austria</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Belgium</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Finland</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Germany</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Ireland</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Italy</i>	B, C, D	B, C, D	A#	B, C, D	B, C, D	B, C, D
<i>Luxembourg</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Portugal</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Spain</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Sweden</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>United Kingdom</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D

Legenda:

# provisions not yet implemented

Typologies of Control: A=None, B=Customer identification, C=Record keeping, D=Suspicious transaction report; #=provisions not yet implemented.

TABLE 11(17).B

**TYPES OF CONTROL MEASURES/INSTRUMENTS LEGAL AND NATURAL PERSONS  
(NON-FINANCIAL SECTOR AND PROFESSIONALS) ARE OBLIGED TO USE WHEN  
DEALING WITH LARGE-SCALE CASH PAYMENTS**

<b>COUNTRY \ LEGAL / NATURAL PERSON</b>	Real estate agents	Dealers in high value metals and precious stones	(Luxury) Motor vehicles dealers	Dealers in works of arts	Auctioneers	Casinos	Gambling houses
<i>Austria</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Belgium</i>	B, C, D	A	A	A	A	B, C, D	A
<i>Finland</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Germany</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Ireland</i>	A	A	A	A	A	A	A
<i>Italy</i>	A#	A#	A#	A#	A#	A#	A#
<i>Luxembourg</i>	A	A	A	A	A	C, D	C, D
<i>Portugal</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D
<i>Spain</i>	B, C, D	B, C, D	A	B, C, D	B, C, D	B, C, D	A
<i>Sweden</i>	B, C	B, C	B, C	B, C	B, C	B, C, D	B, C
<i>United Kingdom</i>	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D	B, C, D

Typologies of Control: A=None, B=Customer identification, C=Record keeping, D=Suspicious transaction report; #=provisions not yet implemented.

<b>COUNTRY \ LEGAL / NATURAL PERSON</b>	Auditors, External accountants, Tax advisors	Notaries and other independent legal professions
<i>Austria</i>	A	A
<i>Belgium</i>	B, C, D	B, C, D
<i>Finland</i>	B, C, D	B, C, D
<i>Germany</i>	B, C, D	B, C, D
<i>Ireland</i>	A	A
<i>Italy</i>	A##	A##
<i>Luxembourg</i>	A	A
<i>Portugal</i>	B, C, D	B, C, D
<i>Spain</i>	A	B, D
<i>Sweden</i>	A	A
<i>United Kingdom</i>	B, C, D	B, C, D

Legenda:

# provisions not yet implemented

## provisions contained in EU Directive 97/2001 not yet implemented at national level

**TABLE 12.A**  
**REPORTING SYSTEM**

EFFECTIVENESS INDICATOR	22.	22.1.1 a)	22.1.1 b)	22.1.2	22.1.3	22.1.4	22.1.5	22.1.6	22.1.7
	Existence of a comprehensive reporting system (i.e., "identification", "record keeping" and "declaration/report") including suspicious large scale cash payments/ transactions	Role of the FIU in regularly/ systematically monitoring reports on large-scale cash payments (according to your national legislation)	Existence of a specific national authority monitoring reports on the use of large-scale cash payments	Existence of a centralised system of data collection (database), including large-scale cash payments	Existence of a defined period by which data collected must be sent to central authority	Existence of an information technology system for data collection	Existence of an obligation to keep records on customers and operations for a given period of time	Existence of an obligation to update records	Effectiveness of the national reporting system
COUNTRY									
<i>Austria</i>	YES	YES	NO	YES		YES	5 years	NO	2
<i>Belgium</i>	YES	YES	NO	YES		NO	5 years	NO	3
<i>Finland</i>	YES	YES	NO	YES	immediately	NO	5/10 years	YES	3
<i>Germany</i>	YES	YES	NO	YES	immediately	YES	1/10 years	NO	2
<i>Ireland</i>	YES	YES	NO	YES	no said time	YES	5 years	NO	2
<i>Italy</i>	YES	YES	NO	YES	immediately/ 1 month	YES	10 years	YES	3
<i>Luxembourg</i>	YES	YES	NO	YES	immediately	YES	5/10 years	YES	2
<i>Portugal</i>	YES	YES	NO	YES	immediately	YES	5/10 years	NO	2
<i>Spain</i>	YES	YES	NO	YES	immediately/ 1 month	YES	6 years	NO	3
<i>Sweden</i>	YES	YES	NO	NO	immediately	YES	5 years	YES	3
<i>United Kingdom</i>	YES	YES	NO	YES	immediately	YES	6 years	NO	2

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; / = no data available.

Question no. 22.1.7: 1=ineffective, 2=partially effective, 3=fully effective.

**TABLE 12.B**  
**REPORTING SYSTEM**

EFFECTIVENESS INDICATOR  COUNTRY	22.2.1 <i>Usefulness of a database for large-scale cash payments/ transactions to prevent and detect their use for illegal purposes</i>	23. Level at which a database of large-scale cash payments/ transactions would be more effective	24. Usefulness of a European database of large-scale cash payments/ transactions to foster cooperation between national FIUs
<i>Austria</i>	n.a.	A	NO
<i>Belgium</i>	n.a.	D (B)	NO
<i>Finland</i>	n.a.	C	YES
<i>Germany</i>	n.a.	D	NO
<i>Ireland</i>	n.a.	C	YES
<i>Italy</i>	n.a.	C	YES
<i>Luxembourg</i>	n.a.	D (B)	YES
<i>Portugal</i>	n.a.	A	NO
<i>Spain</i>	n.a.	C	YES
<i>Sweden</i>	n.a.	C	YES
<i>United Kingdom</i>	n.a.	A	YES

*Legenda:*

**n.a.** = not applicable; **BLANK**= no answer/I do not know; /= no data available.

Question no. 23: A=National level, B=EU level, C=International level, D=none.



