FATF • GAFI

Financial Action Task Force
on Money Laundering

Groupe d'action financière
sur le blanchiment de capitaux

Guidance for Financial Institutions in Detecting Terrorist Financing

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Guidance for Financial Institutions in Detecting Terrorist Financing Activities

Introduction

1. At its extraordinary Plenary meeting on 29-30 October 2001, the Financial Action Task Force on Money Laundering (FATF) agreed to develop special guidance for financial institutions to help them detect the techniques and mechanisms used in the financing of terrorism. The FATF subsequently brought together experts from its member countries to gather information on and study the issue of terrorist financing as part of its annual exercise on money laundering methods and trends. One goal of this exercise was to begin establishing such guidance for financial institutions that could be issued along with the annual FATF Report on Money Laundering Methods and Trends. Material derived from the exercise, along with contributions from the Egmont Group and other international bodies, was used in developing the present document. The information contained in it represents a first attempt to provide necessary guidance for financial institutions in this area.

2. The goal in providing this guidance is to ensure that financial institutions do not unwittingly hide or move terrorist funds. Financial institutions will thus be better able to protect themselves from being used as a conduit for such activity. To help build awareness of how terrorists, their associates or those who support terrorism may use the financial system, this document describes the general characteristics of terrorist financing. The accompanying case studies illustrate the manner in which competent law enforcement authorities or financial intelligence units (FIUs) are able to establish a terrorist financing link based on information reported by financial institutions. Annex 1 contains a series of characteristics of financial transactions that have been linked to terrorist activity in the past. When one or several of these potentially suspicious or unusual factors is present in regard to a specific financial transaction – especially when the individual or entity may appear on one of the lists of suspected terrorists, terrorist organisations or associated individuals and entities (see Annex 2: Sources of Information) – then a financial institution would have cause to increase its scrutiny of the transaction and any associated individuals or entities. In certain instances, this scrutiny could result in reporting the transaction to authorities under applicable suspicious or unusual transaction reporting systems.

Terrorist financing and risks to financial institutions

3. A financial institution that carries out a transaction, knowing that the funds or property involved are owned or controlled by terrorists or terrorist organisations, or that the transaction is linked to, or likely to be used in, terrorist activity, may be committing a criminal offence under the laws of many jurisdictions. Such an offence may exist regardless of whether the assets involved in the transaction were the proceeds of criminal activity or were derived from lawful activity but intended for use in support of terrorism.

4. Regardless of whether the funds in a transaction are related to terrorists for the purposes of national criminal legislation, business relationships with such individuals or other closely associated persons or entities could, under certain circumstances, expose a financial institution to significant reputational, operational, and legal risk. This risk is even more serious if the person or entity involved is later shown to have benefited from the lack of effective monitoring or wilful blindness of a particular institution and thus was to carry out terrorist acts.

Reinforcing existing requirements

5. Consideration of the factors contained in this guidance is intended to clarify, complement and / or reinforce already existing due diligence requirements, along with current policies and procedures imposed by national anti-money laundering programmes. It should be stressed, however, that this guidance does not constitute an additional rule or regulation. Rather it represents advice from the operational experts of FATF members as to factors associated with financial transactions that should trigger further questions on the part of the financial institution. The FATF encourages all financial institutions to consider these factors along with policies, practices and procedures already in place for ensuring compliance with appropriate laws and regulations and for minimising reputational risks. It should be noted as well that, while the characteristics indicated in this document may apply specifically to terrorist financing, most of them may also apply in identifying suspicious transactions generally. Financial institutions in many jurisdictions may already be aware of these characteristics through existing guidance notes or other sources.

6. In providing this guidance, the FATF intends it to be consistent with applicable criminal and civil laws, as well as relevant regulations, to which financial institutions may be subject in their particular jurisdiction. It should be noted however that this guidance does not replace or supersede any obligations under the current national laws or regulations. In particular, implementing the measures proposed by this guidance should not be construed as necessarily protecting a financial institution from any action that a jurisdiction might choose to take against it. Furthermore, this guidance does not supersede or modify requirements imposed by national or regional authorities, which call for the freezing of assets of individuals and entities suspected of being terrorists or terrorist related, as part of implementing relevant United Nations Security Council Resolutions (see Annex 2: Sources of Information).

Determining when increased scrutiny is necessary

7. Financial institutions are encouraged to develop practices and procedures that will help to detect and deter those transactions that may involve funds used in terrorist financing. The increased scrutiny that may be warranted for some transactions should be seen as a further application of the institution's due diligence and anti-money laundering policies and procedures and should lead, when appropriate, to reporting of such financial activity as suspicious or unusual under applicable transaction reporting regimes for a particular jurisdiction. To ensure that the practical steps are taken to increase scrutiny of certain transactions when necessary, it may be useful for a financial institution to review its practices in this area as part of its general internal and external audit processes.

Example 1: Front for individual with suspected terrorist links revealed by suspicious transaction report

The financial intelligence unit (FIU) in Country D received a suspicious transaction report from a domestic financial institution regarding an account held by an individual residing in a neighbouring country. The individual managed European-based companies and had filed two loan applications on their behalf with the reporting institution. These loan applications amounted to several million US dollars and were ostensibly intended for the purchase of luxury hotels in Country D. The bank did not grant any of the loans.

The analysis by the FIU revealed that the funds for the purchase of the hotels were to be channelled through the accounts of the companies represented by the individual. One of the companies making the purchase of these hotels would then have been taken over by an individual from another country. This second person represented a group of companies whose activities focused on hotel and leisure sectors, and he appeared to be the ultimate buyer of the real estate. On the basis of the analysis within the FIU, it appeared that the subject of the suspicious transaction report was acting as a front for the second person. The latter as well as his family are suspected of being linked to terrorism.

8. The manner in which a financial institution may choose to apply this Guidance will vary depending on the extent of the risk determined to exist by each institution as a general matter, given its normal business operations. It will also vary according to the individual factors of each case as it

those funds and then finally a way to ensure that the funds can be used to obtain material and other logistical items needed to commit terrorist acts.

Sources of terrorist funds

11. Experts generally believe that terrorist financing comes from two primary sources. The first source is the financial support provided by States or organisations with large enough infrastructures to collect and then make funds available to the terrorist organisation. This so-called State-sponsored terrorism has declined in recent years, according to some experts, and is increasingly replaced by other types of backing. An individual with sufficient financial means may also provide substantial funding to terrorist groups. Osama bin Laden, for example, is thought to have contributed significant amounts of his personal fortune to the establishment and support of the Al-Qaeda terrorist network.

12. The second major source of funds for terrorist organisations is income derived directly from various "revenue-generating" activities. As with criminal organisations, a terrorist group's income may be derived from crime or other unlawful activities. A terrorist group in a particular region may support itself through kidnapping and extortion. In this scenario, ransoms paid to retrieve hostages, along with a special "revolutionary tax" (in reality a euphemism for protection money) demanded of businesses, provide needed financial resources but also play a secondary role as one other means of intimidating the target population. Besides kidnapping and extortion, terrorist groups may engage in large-scale smuggling, various types of fraud (for example, through credit cards or charities), thefts and robbery, and narcotics trafficking.

13. Funding for terrorist groups, unlike for criminal organisations however, may also include income derived from legitimate sources or from a combination of lawful and unlawful sources. Indeed, this funding from legal sources is a key difference between terrorist groups and traditional criminal organisations. How much of a role that legal money plays in the support of terrorism varies according to the terrorist group and whether the source of funds is in the same geographic location as the terrorist acts the group commits.

14. Community solicitation and fundraising appeals are one very effective means of raising funds to support terrorism. Often such fundraising is carried out in the name of organisations having the status of a charitable or relief organisation, and it may be targeted at a particular community. Some members of the community are led to believe that they are giving for a good cause. In many cases,

work they purport to carry out. Most of the members of the organisation, however, have no knowledge that a portion of the funds raised by the charity is being diverted to terrorist causes. For example, the supporters of a terrorist movement from one country may carry out ostensibly legal activities in another country to obtain financial resources. The movement's supporters raise these funds by infiltrating and taking control of institutions within the immigrant community of the second country. Some of the specific fundraising methods might include: collection of membership dues and / or subscriptions; sale of publications; speaking tours, cultural and social events; door-to-door solicitation within the community; appeals to wealthy members of the community; and donations of a portion of their personal earnings.

Laundering of terrorist related funds

15. From a technical perspective, the methods used by terrorists and their associates to generate funds from illegal sources differ little from those used by traditional criminal organisations. Although it would seem logical that funding from legitimate sources would not need to be laundered, there is nevertheless often a need for the terrorist group to obscure or disguise links between it and its legitimate funding sources. It follows then that terrorist groups must similarly find ways to launder these funds in order to be able to use them without drawing the attention of authorities. In examining terrorist related financial activity, FATF experts have concluded that terrorists and their support organisations generally use the same methods as criminal groups to launder funds. Some of the particular methods detected with respect to various terrorist groups include: cash smuggling (both by couriers or bulk cash shipments), structured deposits to or withdrawals from bank accounts, purchases of various types of monetary instruments (travellers' cheques, bank cheques, money orders), use of

credit or debit cards, and wire transfers. There have also been indications that some forms of underground banking (particularly the *hawala* system ra10y0.3(v0.2(t)8.2(ecd(ithcs)-0.37(leh sm)19leds)]TJ 0 no)8.8

mechanisms but to obtain resources to support his operations. In a number of countries, terrorist financing thus may not yet be included as a predicate offence for money laundering, and it may be impossible therefore to apply preventive and repressive measures specifically targeting this terrorist activity.

17. When terrorists or terrorist organisations obtain their financial support from legal sources (donations, sales of publications, etc.), there are certain factors that make detecting and tracing these funds more difficult. For example, charities or non-profit organisations and other legal entities have been cited as playing an important role in the financing of some terrorist groups. The apparent legal source of this funding may mean that there are few, if any, indicators that would make an individual financial transaction or series of transactions stand out as linked to terrorist activities.

Example 5: High account turnover indicates fraud allegedly used to finance terrorist organisation

An investigation in Country B arose as a consequence of a suspicious transaction report. A financial institution reported that an individual who allegedly earned a salary of just over USD 17,000 per annum had a turnover in his account of nearly USD 356,000. Investigators subsequently learned that this individual did not exist and that the account had been fraudulently obtained. Further investigation revealed that the account was linked to a foreign charity and was used to facilitate funds collection for a terrorist organisation through a fraud scheme. In Country B, the government provides matching funds to charities in an amount equivalent to 42 percent of donations received. Donations to this charity were being paid into to the account under investigation, and the

18. Other important aspects of terrorist financing that make its detection more difficult are the size and nature of the transactions involved. Several FATF experts have mentioned that the funding needed to mount a terrorist attack does not always call for large sums of money, and the associated transactions are usually not complex. For example, an examination of the financial connections among the September 11th hijackers showed that most of the individual transactions were small sums, that is, below the usual cash transaction reporting thresholds, and in most cases the operations consisted of only wire transfers. The individuals were ostensibly foreign students who appeared to be receiving money from their parents or in the form of grants for their studies, thus the transactions would not have been identified as needing additional scrutiny by the financial institutions involved.

Annex 1: Characteristics of financial transactions that may be a cause for increased scrutiny

As a normal part of carrying out their work, financial institutions should be aware of elements of individual transactions that could indicate funds involved in terrorist financing. The following list of potentially suspicious or unusual activities is meant to show types of transactions that could be a cause for additional scrutiny. This list is not exhaustive, nor does it take the place of any legal obligations related to the reporting suspicious or unusual transactions that may be imposed by individual national authorities.

This list of characteristics should be taken into account by financial institutions along with other available information (including any lists of suspected terrorists, terrorist groups, and associated individuals and entities issued by the United Nations[3] or appropriate national authorities – see Annex 2 : Sources of Information), the nature of the transaction itself, and the parties involved in the transaction, as well as any other guidance that may be provided by national anti-money laundering authorities. The existence of one or more of the factors described in this list may warrant some form of increased scrutiny of the transaction. However, the existence of one of these factors by itself does not necessarily mean that a transaction is suspicious or unusual. For examples of terrorist financing cases developed from the enhanced scrutiny/reporting by financial institutions, please also see the various case examples provided in the body of the main document.

Financial institutions should pay particular attention to:

A. Accounts

(1) Accounts that receive relevant periodical deposits and are dormant at other periods. These accounts are then used in creating a legitimate appearing financial background through which additional fraudulent activities may be carried out.

(2) A dormant account containing a minimal sum suddenly receives a deposit or series of deposits followed by daily cash withdrawals that continue until the transferred sum has been removed.

(3) When opening an account, the customer refuses to provide information required by the financial institution, attempts to reduce the level of information provided to the minimum or provides information that is misleading or difficult to verify.

(4) An account for which several persons have signature authority, yet these persons appear to have no relation among each other (either family ties or business relationship).

(5) An account opened by a legal entity or an organisation that has the same address as other legal entities or organisations but for which the same person or persons have signature authority, when there is no apparent economic or legal reason for such an arrangement (for example, individuals serving as company directors for multiple companies headquartered at the same location, etc.).

(6) An account opened in the name of a recently formed legal entity and in which a higher than expected level of deposits are made in comparison with the income of the founders of the entity.

[3] This guidance does not supersede or modify requirements imposed by national or regional authorities, which call for the freezing of assets of individuals and entities suspected of being terrorists or terrorist related, as part of implementing relevant United Nations Security Council Resolutions.

(7) The opening by the same person of multiple accounts into which numerous small deposits are made that in aggregate are not commensurate with the expected income of the customer.

(8) An account opened in the name of a legal entity that is involved in the activities of an association or foundation whose aims are related to the claims or demands of a terrorist organisation.

(9) An account opened in the name of a legal entity, a foundation or an association, which may be linked to a terrorist organisation and that shows movements of funds above the expected level of income.

B. Deposits and withdrawals

(1) Deposits for a business entity in combinations of monetary instruments that are atypical of the activity normally associated with such a business (for example, deposits that include a mix of business, payroll and social security cheques).

(2) Large cash withdrawals made from a business account not normally associated with cash transactions.

(3) Large cash deposits made to the account of an individual or legal entity when the apparent business activity of the individual or entity would normally be conducted in cheques or other payment instruments.

(4) Mixing of cash deposits and monetary instruments in an account in which such transactions do not appear to have any relation to the normal use of the account.

(5) Multiple transactions carried out on the same day at the same branch of a financial instcco TD n.5(re5 -1.14t3.2(c)0(ins)10..4(r -1.1413t0.9(thDuptip)13.a(c)0.(rr)9.eia)11.nt13t0.9(tre5 -1t

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(5) A customer obtains a credit instrument or engages in commercial financial transactions involving movement of funds to or from locations of specific concern when there appears to be no logical business reasons for dealing with those locations.

(6) The opening of accounts of financial institutions from locations of specific concern.

(7) Sending or receiving funds by international transfers from and/or to locations of specific concern.

Annex 2: Sources of Information

Several sources of information exist that may help financial institutions in determining whether a potentially suspicious or unusual transaction could indicate funds involved in the financing of terrorism and thus be subject to reporting obligations under national anti-money laundering or anti-terrorism laws and regulations.

A. *United Nations lists*

Committee on S/RES/1267 (1999) website: http://www.un.org/Docs/sc/committees/AfghanTemplate.htm

B. *Other lists*

(1) Financial Action Task Force

FATF Identification of Non-Cooperative Countries and Territories

FATF website: http://www.fatf-gafi.org/NCCT_en.htm

(2) United States

Executive Order 13224, 23 September 2001 (with updates)

US Department of the Treasury website: http://www.ustreas.gov/terrorism.html

(3) Council of the European Union

Council Regulation (EC) Nº 467/2001 of 6 March 2001 [on freezing Taliban funds]

Council Decision (EC) Nº 927/2001 of 27 December 2001 [list of terrorist and terrorist organisations whose assets should be frozen in accordance with Council Regulation (EC) Nº 2580/2001]

Council Common Position of 27 December 2001 on application of specific measures to combat terrorism [list of persons, groups and entities involved in terrorist acts]

EUR-lex website: http://europa.eu.int/eur-lex/en/index.html

C. *Standards*

(1) Financial Action Task Force

FATF Special Recommendations on Terrorist Financing

FATF website: http://www.fatf-gafi.org/TerFinance_en.htm

FATF Forty Recommendations on Money Laundering

FATF website: http://www.fatf-gafi.org/40Recs_en.htm

(2) UN Conventions and Resolutions

International Convention on the Suppression of Terrorist Financing

Website: http://untreaty.un.org/English/Terrorism.asp

UN Security Council Resolutions on Terrorism

Website: http://www.un.org/terrorism/sc.htm

(3) Council of the European Union

Council Regulation (EC) Nº 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism

EUR-lex website: http://europa.eu.int/eur-lex/en/index.html