As clearly shown in the Supra-national risk assessment, cash continues to represent one of the major sources of risk, particularly due to anonymity, disintermediation and lack of traceability. Those risks may now be heightened due to the deployment of emergency recovery measures to address the economic fall out of the pandemic. Frauds are likely to happen; transfers and payments in cash would certainly be one of the favorite means used to circumvent controls and monitoring on the use of public funds.

On January 23rd 2021, the European Commission presented in the EGMLTF a non-paper tabling several options as regards the introduction of limits or AML/CFT safeguards for cash payments in the European Union. This proposal builds on previous discussions and policy reflections. These have been reflected, for example, in Recital 6 of the fourth AMLD where, emphasizing that “the use of large cash payments is highly vulnerable to money laundering and terrorist financing”, Member States are called on “to adopt lower thresholds, additional general limitations to the use of cash and further stricter provisions”.

Notwithstanding the risks, and the awareness of these risks by all competent authorities, a harmonized approach to mitigating measures for the use of cash is lacking and national solutions diverge considerably. This goes to the detriment of effective prevention and detection of risks of money laundering and financing of terrorism and increase uncertainties and transactional costs for all stakeholders involved.

Belgium, France, Italy, the Netherlands and Spain expect that the upcoming legislative proposal on AML/CFT will enable an ambitious step forward on this issue. Introducing a harmonized ceiling of EUR 5,000 throughout the EU, might prove useful to address current AML/CFT deficiencies, while still allowing Member States to adopt stricter rules on a risk- based approach and leaving them with the option to distinguish between residents and non-residents regarding the application of this ceiling if so desired. We also call on the Commission to engage with the European Central Bank to consider further steps regarding the EUR 500 note.

I. Cash is the main source of money laundering and terrorist financing in Europe.

Cash remains an instrument of choice to facilitate the laundering of proceeds from all types of illicit trafficking[1]. Examples are: trafficking of counterfeit products; trafficking of human beings; drug trafficking; tax evasion; frauds, including those affecting the financial interest of the EU.

Cash is often used to launder the proceeds of these offences, especially through gambling, loading of prepaid payment cards, moonlighting, injection into commercial companies as well as collection and physical transport or informal clearing.

In addition, cash also remains a preference tool to finance terrorism. This trend has found particularly dramatic illustrations in the Paris and Strasbourg attacks in 2015 and 2018.

II. The low ceilings put in place by some Member States have proved particularly effective in preventing criminal diversion of cash.

Currently, 18 Member States have introduced ceilings above which cash payments are prohibited. The signatories of this non-paper are among them and have chosen particularly low ceilings, ranging from EUR 1,000 to EUR 3,000 per transaction.

These national regulations have proven to be particularly effective. Cash is the least traceable form of payment. Limiting the use of cash through strict ceilings forces networks to use more traceable payment methods. Doing so would make it much easier to investigate and prosecute criminals

[1] “Why is cash still a king? A strategic Report on the use of cash by Criminal groups as a facilitator for money laundering”, Europol, February 2015; Money laundering through the physical transportation of cash, FATF report, October 2015.

effectively.

Moreover, contrary to what might have been feared, these ceilings have not elicited any problematic effects on financial inclusion. Indeed, statistics[2] show that low income households expenditures only exceptionally exceed EUR 1,000 per transaction. Introducing ceilings, even low, has therefore little impact on these groups of people, especially in a context of diversification of payment methods.

III. The lack of harmonisation of cash payment limits is a weakness for the European AML/CFT system.

The absence of a ceiling for cash payments in certain Member States and the rather uneven level of existing ceilings open up real opportunities for criminals. Criminals exploit this heterogeneity in their money laundering activities, particularly in border areas. Competent authorities have in particular observed laundering of criminal proceeds through the cross border purchase of top-of-the-range vehicles in cash.

In an integrated market such as the EU, which guarantees the free movement of capital and the free provision of services, this lack of homogeneity undermines the overall effectiveness of the European AML/CFT framework and deprives Member States from efficient tools to combat the risks they identify locally.

In addition, the existence of largely different measures in place in various EU Countries adds to the difficulties in compliance and affect legitimate businesses and households by increasing costs and creating potential barriers to legal economic activities. Furthermore, the lack of a decisive action against large payments in cash can constrain the development and use of advanced means of payment, stifle technological innovations, put the EU payment system at a disadvantage with respect to other payment areas.

IV. A European ceiling of less than EUR 10 000 is now necessary.

The European Commission proposed three options that could be pursued to address the negative impacts of the current lack of a coherent approach to the misuse of cash : status quo; introducing a ceiling of EUR 10,000; introducing a ceiling of less than EUR 10,000.

For the reasons mentioned above, the status quo would be harmful and is not justified by the prospective development of payment instruments.

A EUR 10,000 ceiling would be a useful first step. However, this ceiling will have no effect in the Member States that have already introduced much lower ceilings.

This is why the signatories of this non-paper advocate for the introduction of a ceiling of less than EUR 10,000. In this respect, a ceiling of EUR 5,000 would be an ambitious step forward.

The introduction of such a ceiling appears perfectly legal in the European context. In a recent judgment of January 26th 2021 (Johannes Dietrich und Norbert Häring/Hessischer Rundfunk), the CJEU confirmed the possibility for Member States to restrict, in a proportionate manner and for reasons of public interest, the acceptance of legal tender cash denominated in euro. AML/CFT is clearly such a goal of public interest while not preventing the use of other means of payment.

V. The scope of application of AML/CFT safeguards for cash payments should be fully harmonised.

Measures in place throughout the EU diverge not only in terms of the applicable ceilings to cash payments, but also as concerns their respective scope. Criminals exploit also this heterogeneity in their money laundering activities.

In order to achieve effective harmonization of AML/CFT safeguards for cash payments, it is therefore

[2] Survey on family Housholds, Institut national de la statistique et des études économiques, April 2021

appropriate for the EU legislation to include detailed provisions on the scope of application of such safeguards, including also the subjects required to comply with them, and possible exemptions, if any. However, the room for exemptions should be accurately identified taking into account an AML/CFT risk based approach at EU level.

VI. Consider further steps regarding the EUR 500 note

Different studies show that the EUR 500 note is an important factor in facilitating money laundering[3]. In 2016 the Commission also underlined the role EUR 500 notes play in financing terrorist activities in its Action plan for strengthening the fight against terrorist financing. In this Action plan the Commission states that high denomination notes are in high demand among criminal elements who engage in physical transportation of cash due to their high value and low volume[4].

On 4 May 2016 the European Central Bank took into account the concerns around the EUR 500 note and decided to discontinue production and issuance of EUR 500 notes. However, the EUR 500 notes remain legal tender. They retain their value and can be exchanged at the national central banks for an unlimited period of time. The latest statistics at the end of February 2021 show that there are still 400 million notes in circulation, with a total value of 200 billion euros. This corresponds to a decrease of one-fifth compared to the cessation of the issuance of 500 banknotes by the ECB in 2019, but this is part of a long-term trend, as the decrease is 35% compared to the peak in December 2015 (around 613 million 500 banknotes in circulation). We therefore call on the Commission to engage with the European Central Bank to consider further steps regarding the EUR 500 note, including the introduction of a phasing out to allow for the gradual conversion by the public into smaller denomination notes under the supervision of banks and Central Banks.

[3] 'Why is cash still king?', op. cit.

[4] Communication from the Commission to the European Parliament and the Council on an Action Plan for strengthening the fight against terrorist financing, 2.2.2016, p. 10.