

TECHNICAL COMMUNIQUÉ CT-02/2023

Andorra la Vella, 13th February 2023

Dear Sirs and Madams,

For some years now, cash movements have been a focus of attention in the sphere of the prevention of money laundering and terrorist financing due to the high risk that they pose. Evidence shows that the use of cash is still a quite commonly used payment method and that it is often connected with a broad range of criminal schemes.

This is why the Technical Communiqué CT-03/2019 issued in 2019 is aimed at developing the measures which the Andorran regulations consider applicable in matters relating to cash transactions, within the framework of the application of continuous monitoring measures on the business relations that are established by reporting entities.

In this sense, this Technical Communiqué amends CT-03/2019 mentioned above to adapt the matters relating to cash transactions to the amendments introduced to *Law 14/2017 of 22 June, on prevention and the fight against the laundering of money or assets and terrorist financing* (hereinafter, *Law 14/2017*) by the fourth final provision of *Law 26/2022, of July 14, amending Law 17/2013 of October 10, on introduction of euro in the framework of the Monetary Agreement signed between the Principality of Andorra and the European Union*.

In this sense, according to article 3.16 of *Law 14/2017*, the definition of cash includes the following:

- a) **Currency:** banknotes and coins that are in circulation as a medium of exchange or that have been in circulation as a medium of exchange and can still be exchanged through financial institutions or central banks for banknotes and coins that are in circulation as a medium of exchange;
- b) **Bearer-negotiable instruments:** instruments other than currency which entitle their holders to claim a financial amount upon presentation of the instruments without having to prove their identity or entitlement to that amount, including: (i) traveller's cheques, and (ii) cheques, promissory notes or money orders that are either in bearer form, signed but with the payee's name omitted, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery;
- c) **Commodities used as highly-liquid stores of value:** goods that present a high ratio between its value and its volume and that can easily be converted into currency through accessible trading markets while incurring only modest transaction costs;
- d) **Prepaid cards:** non-nominal cards, that store or provide access to monetary value or funds which can be used for payment transactions, for acquiring goods or services

or for the redemption of currency where such card is not linked to a bank account.

Please, note that letters c) and d) above, are solely applicable for the purposes of Chapter VIII of *Law 14/2017*, concerning the declaration of cross-border transportation of cash.

Otherwise, *Regulation concerning the declaration of cross-border transportation of cash*, approved by *Decree 377/2022*, of 21-9-2022 (hereinafter, *Regulation of cross-border transportation*) develops in article 2 the definitions contained in letters c) and d) mentioned above.

Consequently, this technical communiqué requires financial reporting entities to adopt the following measures:

1. Cross-border movements of cash for an amount equal to or greater than 10,000 euros:

Law 14/2017 and its above mentioned amendments establishes:

- 1) Article 43.1 concerning the obligation to declare accompanied cash estates that “*any carrier entering or leaving the Principality of Andorra and carrying cash of a value of EUR 10,000 or more or its equivalent in foreign currency shall declare that sum to the Customs and make it available to them for control purposes under the provisions set out in this chapter*”; and
- 2) Article 43 bis paragraph 1 concerning the obligation to disclose unaccompanied cash that “*where unaccompanied cash of a value of EUR 10,000 or more or its equivalent in foreign currency is entering or leaving the Principality of Andorra, a disclosure declaration has to be submitted within thirty days prior to the unaccompanied movement*”

Subsequently, *Regulation of cross-border transportation* develops the obligation to declare accompanied cash and the obligation to disclose unaccompanied cash established under articles 43 and 43 bis of *Law 14/2017*, respectively. Likewise, the *Regulation of cross-border transportation* contains the accompanied cash declaration form and unaccompanied cash informative disclosure form, determining, among other issues, the place and procedure of their presentation.

In this respect, in relation to:

- 1.1. Cash income for an amount equal to or greater than 10,000 euros or the equivalent sum in foreign currency, the entry of which into the Principality of Andorra has been subject to the obligation of declaration (in case of accompanied cash) and the obligation to disclose (in case of unaccompanied cash) established in Articles 43 and 43 bis of the *Law 14/2017*, respectively: financial reporting entities should obtain from their customers the declaration form for accompanied cash and the disclosure declaration for unaccompanied

cash, duly processed by the Customs officials, and said reporting entities should keep a copy of same.

In this way, both forms are configured as additional elements, which are compulsory but not sufficient, of the analysis of the origin of funds which financial reporting entities are obliged to carry out.

1.2. Cash withdrawals for a sum equal to or greater than 10,000 euros, or the equivalent sum in foreign currency: financial reporting entities should inform their customers of the obligation to declare (in case of accompanied cash) and the obligation to disclose (in case of unaccompanied cash) which is provided in Chapter Eight of the *Law 14/2017* and in the *Regulation concerning the declaration of cross-border transportation of cash*.

Compliance should be made with this obligation by means of the issue of an informative document which the customer is to sign and a copy of which is to be kept by the respective financial reporting entities.

Financial reporting entities are to have cross-border cash transport declaration forms available for their customers and such reporting entities are to offer same to their customers in the event of cash withdrawals for a sum equal to or greater than 10,000 euros or an equivalent sum in foreign currency.

2. Cash transactions involving large amounts:

For the purposes of this Communiqué, cash transactions involving large amounts are considered to be the following:

- Cash transactions for an amount greater than 100,000 euros or the equivalent sum in foreign currency, regardless of whether such transaction is carried out in a single operation or in several operations between which there appears to be some type of relation.
- Cash transactions, regardless of their amount, for a cumulative annual amount greater than 250,000 euros or the equivalent sum in foreign currency, in operations in which there are signs of some link. Transactions for a cumulative annual amount greater than 250,000 euros are considered to have been carried out on the date on which the aforesaid amount is exceeded.

The top management is to authorize the cash transactions involving large amounts, pursuant to verification that same are consistent with the knowledge of the customer, of the customer's business, of the customer's risk profile, of the origin and destination of the cash which is the object of the transaction, and that there are no suspicions or reasonable grounds for suspecting that such transactions involve the proceeds of a criminal activity that may entail acts of money laundering or that are related to terrorist financing.

In order to issue such authorizations, financial reporting entities are to apply one of the

following methods:

- Method 1 – Authorization of the top management, on a prior basis, for the **performance of a cash transaction**, on the basis of a request from the customer for cash withdrawal or deposit.
- Method 2 – Authorization of the top management, on a prior basis with validity for a specific period of time, for the **performance of cash operations for business reasons**, on the basis of a request from the customer.

3. Control measures applicable to the verifications carried out:

For the purposes of this Communiqué, 'top management' is understood as the definition included in Article 2 of the *Law 8/2013, of 9 May, on the organizational requirements and the operating conditions of the reporting entities of the financial system, the protection of investors, market abuse and financial collateral agreements*, and as provided in Article 6 of the *Law 12/2017, of 22 June, on the management and supervision of insurance and reinsurance in the Principality of Andorra*.

In order to facilitate the identification, assessment, understanding and mitigation of the risks of money laundering and terrorist financing, a report containing, as a minimum, the amount of the inflows and outflows of cash during the respective period, the number of associated transactions and, of the latter, those authorized by members of the top management, with the details of such members, is to be prepared and submitted, at least quarterly, to the Board of Directors.

In any event, financial reporting entities are to make a documentary record of the analysis carried out by the top management.

3.1. Specific control measures on the verifications carried out by Method 1

All isolated cash transactions involving large amounts are to be analysed by 'Method 1'. Within the framework of the necessary verifications, financial reporting entities are to receive information on and learn of the explicit reason for which the customer wishes to carry out a cash transaction involving large amounts, which should allow the traceability of the funds (transfer, order cheque, etc.), and such reason is to be recorded in the report on the request for authorization.

3.2. Specific control measures on the verifications carried out by Method 2:

The cash transactions involving large amounts assessed by 'Method 2' are associated with commercial invoices for large amounts sustained over a period of time in sectors which make greater use of cash. This is why this method is only to be applied to the requests of customers who are natural persons or legal entities which carry out in effect a substantial business activity.

Moreover, the verification of these transactions is carried out by means of

documentation of accounting or tax-related nature: the most recent annual accounts submitted, or the most recent vouchers of tax returns submitted.

On the basis of the foregoing, the authorized amount is to be consistent with the turnover determined according to the aforementioned documentation, restricted to the commercial activity of the respective business.

The authorization which is granted is not to be for longer than one year.

The obligations established by this Technical Communiqué will go into force on the day after its publication.

With the publication of this communiqué, the Technical Communiqué CT-03/2019, of 29 May 2019, is repealed.

Carles FIÑANA PIFARRÉ
Head of UIFAND