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INTER-AMERICAN DRUG ABUSE CONTROL COMMISSION CICAD

Secretariat for Multidimensional Security

XXXIV GROUP OF EXPERTS FOR THE CONTROL OF MONEY LAUNDERING
May 30-31, 2012
Washington, D.C.

OAS/Ser.L/XIV. 4.34
CICAD/LAVEX/doc.5/12
May 29, 2012
Original: Spanish

2012 FATF RECOMMENDATIONS INCLUSION OF TAX CRIMES IN THE DESIGNATED CATEGORIES OF MONEY LAUNDERING PREDICATE OFFENCES



2012 FATF Recommendations

**Inclusion of tax crimes in the
designated categories of money
laundering predicate**



Organization of
American States



Inter-American
Drug Abuse Control
Commission



2012 FATF Recommendations

✓ 4° Review of the Recommendations:

- § Most powerful tools to act against the new threats to the international financial system;
- § Equilibrium between the strengthening of the exigencies in some areas and greater flexibility for simplified measures;
- § Inclusion of tax offenses in the designated categories of offenses.



2012 FATF Recommendations

✓ Designated categories of offenses :

1. participation in an organized criminal group and racketeering;
2. terrorism, including terrorist financing;
3. human trafficking and smuggling of immigrants;
4. sexual exploitation, including sexual exploitation of children;
5. illegal trafficking of narcotic drugs and psychotropic substances;
6. illegal arms trafficking;
7. trafficking of stolen merchandise or other property;
8. corruption and bribery;
9. fraud;
10. counterfeit money;
11. counterfeiting and piracy of products;



2012 FATF Recommendations

✓ Designated categories of offenses :

- 12. environmental crimes;
- 13. murder, serious bodily injury;
- 14. kidnapping, illegal restraint of freedom and hostage-taking;
- 15. robbery or theft;
- 16. Contraband (including customs and special taxes and fees);
- 17. tax offenses (relating to direct and indirect taxes);
- 18. extortion;
- 19. counterfeiting;
- 20. piracy;
- 21. misuse of confidential or privileged information and market manipulation.



2012 FATF Recommendations

§ Inter-American Convention on Mutual Assistance in Criminal Matters (1992)



Article 9. Refusal of assistance

The requested state may refuse assistance when it determines that:

f. The request pertains to a tax crime. Nevertheless, the assistance shall be granted if the offense is committed by way of an intentionally incorrect statement, whether oral or written, or by way of an intentional failure to declare income derived from any other offense covered by this convention for the Purpose of concealing such income.



2012 FATF Recommendations

✓ Optional Protocol related to the Inter-American Convention on Mutual Assistance in Criminal Matters (1993)

Article 1

The states parties to this Protocol shall not exercise the right provided for in Article 9.f of the Convention to refuse a request for assistance solely on the ground that the request concern a tax crime in any case in which the request is from another state party to this Protocol.

Article 2

The states parties to this Protocol, when acting as a requested state under the Convention, shall not decline assistance which requires the measures referred to in Article 5 of the Convention, if the act specified in the request corresponds to a tax crime of the same nature under the laws of the requested state.



2012 FATF Recommendations

✓ United Nations Convention against Transnational Organized Crime (2000)



Article 18

Mutual legal assistance

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.



2012 FATF Recommendations

✓ Methodology for Assessing Compliance with the FATF 40 Recommendations and FATF 9 Special Recommendations

Recommendation 1

The predicate offences for money laundering should cover all serious offences, and countries should seek to extend this to the widest range of predicate offences. At a minimum, predicate offences should include a range of offences in each of the designated categories of offences.



2012 FATF Recommendations

✓ Interpretative Note Recommendation 3

The countries should relate to the crime of money laundering all serious crimes, to include the widest range of predicate offenses. The definition of predicate offenses can be applied to all offenses; or a threshold linked to a category of serious offenses; or with the penalty of imprisonment for the offense above; or a list of predicate offenses; or a combination of these approaches.



2012 FATF Recommendations

✓ Beneficial effects of the inclusion of tax offenses in the designated categories of predicate offenses:

§ Expansion of the area of action of the competent powers and authorities to investigate money laundering;

§ Better coordination between police, border and tax authorities;

§ Removing obstacles to international cooperation in relation to tax offenses.

Thank you very much.

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