



FATF Recommendation 36 : Mutual legal assistance and extradition

Text of the Recommendation and Interpretative Note

See also: [The full text of the 40 Recommendations, glossary and interpretative notes](#) 

 [Return to the FATF 40 Recommendations page.](#)

Recommendation 36

D. INTERNATIONAL CO-OPERATION

Mutual legal assistance and extradition

Countries should rapidly, constructively and effectively provide the widest possible range of mutual legal assistance in relation to money laundering and terrorist financing investigations, prosecutions, and related proceedings. In particular, countries should:

- a) Not prohibit or place unreasonable or unduly restrictive conditions on the provision of mutual legal assistance.
- b) Ensure that they have clear and efficient processes for the execution of mutual legal assistance requests.
- c) Not refuse to execute a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.
- d) Not refuse to execute a request for mutual legal assistance on the grounds that laws require financial institutions to maintain secrecy or confidentiality.

Countries should ensure that the powers of their competent authorities required under Recommendation 28 are also available for use in response to requests for mutual legal assistance, and if consistent with their domestic framework, in response to direct requests from foreign judicial or law enforcement authorities to domestic counterparts.

To avoid conflicts of jurisdiction, consideration should be given to devising and applying mechanisms for determining the best venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country.

Interpretative Notes

General

1. Reference in this document to “countries” should be taken to apply equally to “territories” or “jurisdictions”.
2. Recommendations 5-16 and 21-22 state that financial institutions or designated non-financial businesses and professions should take certain actions. These references require countries to take measures that will oblige financial institutions or designated non-financial businesses and professions to comply with each Recommendation. The basic obligations under Recommendations 5, 10 and 13 should be set out in law or regulation, while more detailed elements in those Recommendations, as well as obligations under other Recommendations, could be required either by law or regulation or by other enforceable means issued by a competent authority.

3. Where reference is made to a financial institution being satisfied as to a matter, that institution must be able to justify its assessment to competent authorities.
4. To comply with Recommendations 12 and 16, countries do not need to issue laws or regulations that relate exclusively to lawyers, notaries, accountants and the other designated non-financial businesses and professions so long as these businesses or professions are included in laws or regulations covering the underlying activities.
5. The Interpretative Notes that apply to financial institutions are also relevant to designated non-financial businesses and professions, where applicable.

Also available:

- [Recommandation 36 du GAFI: Entraide judiciaire et extradition](#) (French)

Related documents:

- [40 Recommendations - English 20 June 2003 \(incorporating the amendments of 22 October 2004\)](#) (English)
- [The 40 Recommendations](#) (English)

