FATF Recommendation 37: 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 37

D. INTERNATIONAL CO-OPERATION

Mutual legal assistance and extradition

Countries should, to the greatest extent possible, render mutual legal assistance notwithstanding the absence of dual criminality.

Where dual criminality is required for mutual legal assistance or extradition, that requirement should be deemed to be satisfied regardless of whether both countries place the offence within the same category of offence or denominate the offence by the same terminology, provided that both countries criminalise the conduct underlying the offence.

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 37 du GAFI: Entraide judiciaire et extradition (French)