

Summary note: Meeting with DG Justice

23/11/2017

Participants:

Thierry Lebeaux, DG ESTA

Andrea Nitsche, Chair Global Cash Alliance Committee, ICA

Marianne Carrubba, Seconded National Expert, Policy Analyst, DG Justice

Andrei Stefanuc, Policy officer, DG Justice

Wes Himes, Managing Partner Instinctif Partners

- 1.0 DG Justice made it clear that it sees cash as a risky product. They have undertaken a risk analysis in light of AMLD 4 and 5 and it grants certain characteristics to cash that depict it as a risky payment medium.
- 2.0 The largest, by magnitude, characteristic is anonymity.
- 3.0 DG Justice made it clear that there were no conclusions reached about the future output of the study by CEPS. They did not explain in detail whether that pertained to data which would support a decision on whether an instrument was justified at all or simply the impact of measures to determine a proportional reply. Certainly the study will support decision-making on what measure would be appropriate.
- 4.0 DG Justice hinted that DG ECFIN was having second thoughts on using terrorism financing as a justification of the introduction of an EU level CPL.
- 5.0 DG Justice spent time on alleging that cash posed a risk to money laundering. Given their central role in all versions of AMLD, they explained that in previous versions of AMLD (4 and 5) they drafted measures to restrict the use of cash but each time they were rejected by the Council. In fact this includes tightened cash declarations as opposed to CPLs. They are still wedded to going beyond AMLD for cash restrictions.
- 6.0 DG Justice write down the fact that ESTA would find a declaration system more acceptable. ICA/ESTA stressed that CPLs are easy to bypass, enforcement is difficult and the inherent limits of CPL are to P2P transactions which are core to terrorism (eg purchase of weapons).
- 7.0 DG Justice refused to be drawn on the terrorism financing and legality issues raised by ESTA and ICA. In fact they rejected all discussion on proportionality based on their view that the case for restrictions on the use of cash was already made. DG Justice believes that there is a case already for limiting cash usage even if not justifiable for fighting terrorism.
- 8.0 DG Justice defended 114 as a basis, on the presumption that 114 was appropriate for AMLD and the insertion of cash restrictions in draft versions of AMLD 5 was not challenged legally.

9.0 DG Justice indicated that they felt ECFIN would have a full consultation process following the publication of the study. They confirmed that the study would most certainly be publicly available.

10.0 DG Justice indicated that they wanted ESTA and ICA to contribute to the next Supranational risk assessment (2).

11.0 DG Justice acknowledged that there was a lack of data in regards onward usage of cash.

END