



Compliance Challenges

Client Training „Summer Seminar“, July 2016

Financial Action Task Force (FATF): Recent Developments



Europe in focus

EU Regulation 2015/847: News at a glance



| Payer's Bank (Ordering Institution) | Intermediary Bank | Payer's Bank (Beneficiary's Bank) | <div style="text-align: center;">NEW</div> <ul style="list-style-type: none"> › Information on the payee of a wire transfer (name and account number only) › Intermediary banks have the same tasks and duties like the payer's bank › Provisions may also apply to SWIFT MT202COV (subject to clarification) |
|--|---|---|---|
| <p>Payer Information</p> <ul style="list-style-type: none"> • Name • Account Number • Address / National ID / Customer ID / DOB+POB <p>Payee Information NEW</p> <ul style="list-style-type: none"> • Name • Account Number | <ul style="list-style-type: none"> › Forward all information <div style="background-color: #f0f0f0; padding: 5px;"> <ul style="list-style-type: none"> › Detect empty fields NEW › Effective procedures to detect missing details › Effective risk-based procedures for handling incomplete payments › Report banks that „regularly fail to supply“ required information › Consider Filing SAR </div> | <ul style="list-style-type: none"> › Detect empty fields › Effective procedures to detect missing details › Effective risk-based procedures for handling incomplete payments › Report banks that „regularly fail to supply“ required information › Consider Filing SAR | |

Europe in focus

EU Regulation 2015/847

The Regulation (EC) No 2015/847 on information accompanying transfers of funds lays down rules for payment service providers to send information on both the payer and the payee throughout the payment chain. This is done for the purposes of prevention, investigation and detection of money laundering and terrorist financing. The Regulation transposed Recommendation 16 (formerly Special Recommendation VII) of the Financial Action Task Force (FATF) into EU law, repeals EU Regulation 1781/2006, and applies from 26 June 2017.

Requirements for your outgoing payments

- › All your outgoing wire transfer messages must include the name and account number (or a unique reference number) of both the payer and the payee in field 50 and 59, respectively.
- › Payments originating from outside the EU must contain payer’s address in addition to the full name and account number in field 50 of the payment message (address may be replaced by a unique identification number, or date and place of birth).
- › Please make sure to format your wire transfers in accordance with the current S.W.I.F.T. Standards in order to avoid unnecessary queries.

General rule

The Regulation requires all financial institutions in the European Union to monitor incoming wire transfers for complete payer and required payee details. In case of incomplete details the missing information must be requested from the sending bank.

Useful links

Financial Action Task Force
<http://www.fatf-gafi.org>

The access to European Union Law
<http://www.eur-lex.europa.eu>



Where a bank repeatedly fails to provide the required information on the payer and the payee, Commerzbank will be obligated to report such a failure to responsible AML authority and take steps, such as issuing of warnings and setting of deadlines, before either rejecting any future transfers of funds from that bank, or restricting or terminating its business relationship with that bank.

Sanctions: Iran and other Developments



Secondary Sanctions: Even booking a flight can be risky!

MAHAN AIR (a.k.a. MAHAN AIR CO.), No. 21, Mahan Air Tower, Azadegan Street, Jenah Expressway, Beginning of Sheykh Fazlollah Exp. Way, First of Karaj High Way, Tehran, Tehran 1481655761, Iran; Mahan Air Tower, 21st Floor, Azadeghan Street, Karaj Highway, P.O. Box 14515-411, Tehran, Tehran, Iran; Mahan Air Tower, Azadegan St., Karaj Highway, P.O. Box 411-14515, Tehran, Tehran 1481655761, Iran; Additional Sanctions Information - Subject to Secondary Sanctions [SDGT] [IFSR].



Secondary Sanctions – Still a risk

Pressemitteilung vom 24.03.2016:

Treasury Sanctions Supporters of Iran's Ballistic Missile Program and Terrorism Designated Mahan Air



Counter Terrorism Designations; Non-proliferation Designations

3/24/2016

OFFICE OF FOREIGN ASSETS CONTROL
Specially Designated Nationals List Update






The following individuals have been added to OFAC's SDN List:

ASHFIELD, Jeffrey John James, Hayselden Manor, Sissinghurst, Cranbrook, Kent TN172A, United Kingdom; DOB 11 Feb 1950; Additional Sanctions Information - Subject to Secondary Sanctions; Passport 307893124 (United Kingdom) (individual) [SDGT] [IFSR] (Linked To: MAHAN AIR).

MEADOWS, John Edward (a.k.a. MEADOWS, John), The Retreat, St. Mary's Lane, Bexhill on Sea, United Kingdom; DOB 17 Dec 1958; Additional Sanctions Information - Subject to Secondary Sanctions; Passport 099270130 (United Kingdom); alt. Passport 093032285 (United Kingdom) (individual) [SDGT] [IFSR] (Linked To: AIRCRAFT, AVIONICS, PARTS & SUPPORT LTD.).

- › Sanctions that apply to Mahan Air, the IRGC-QF, and any other person who remains designated in connection with Iran's support for terrorism or Iran's proliferation of weapons of mass destruction and their means of delivery fall outside the scope of the relief provided in the Joint Comprehensive Plan of Action, and as such, were not lifted on Implementation Day.
- › In addition, secondary sanctions continue to apply to non-U.S. persons who knowingly facilitate significant financial transactions with or provide material or certain other support to those Iranian or Iran-related persons that remain or are placed on the SDN List.

Sanctions remain dynamic (selected countries)

| | | |
|---|-------------------------|---|
|  | Myanmar | › Partial lifting of sanctions by both EU and US; successful elections held |
|  | Belarus | › Release of political prisoners leads to temporary lifting of financial sanctions |
|  | Cuba | › Increasing easing of sanctions as US and Cuban governments increase diplomatic ties |
|  | Russia / Ukraine | › No solution to crisis in eastern Ukraine in sight. Sanctions remain unchanged. |
|  | Burundi | › New financial sanctions imposed |



Crimea Sanctions: OFAC Advisory on Circumvention

- › E.O. 13685 prohibits virtually all direct and indirect transactions (including financial, trade, and other commercial transactions) by U.S. persons or within the United States to or from Crimea

OFAC has identified evasive practices, in particular the omission or obfuscation of references to Crimea and locations within Crimea in documentation underlying transactions

PAYMENTS

TRADE FINANCE

- › Repeatedly omitting originator or beneficiary address information from SWIFT messages involving individuals or entities located in Crimea
- › Some SWIFT messages omit all originator or beneficiary address information while other payment messages contain only partial address information.
- › References to Crimea have been obscured in trade transactions and associated agreements and documentation
- › certain individuals and entities list Crimean counterparties on financial and trade documents as being located in Russia rather than in Ukraine.

What to do?



Screening / Monitoring

- › Search Terms: Not just "Crimea"
- › Major cities and ports

Request Information

- › from parties with previous violations / incomplete information

Communicate

- › Training on US Sanctions for international partners
- › Discuss expectations

My Dog, the Terrorist



Dash



Daesh

Summary: DOs and DON'Ts

DO...

- › ...make sure you are being fully transparent by including all relevant information on your transactions (especially SWIFT Messages) which might be relevant for other banks involved!
- › ...try to provide timely response to Requests for Information (RFIs) received from your correspondent banks regarding transaction sent by your bank!
- › ...consider international best practices when creating and maintaining your compliance program!
- › ...provide all Know Your Customer information requested from correspondent banks!

DON'T...

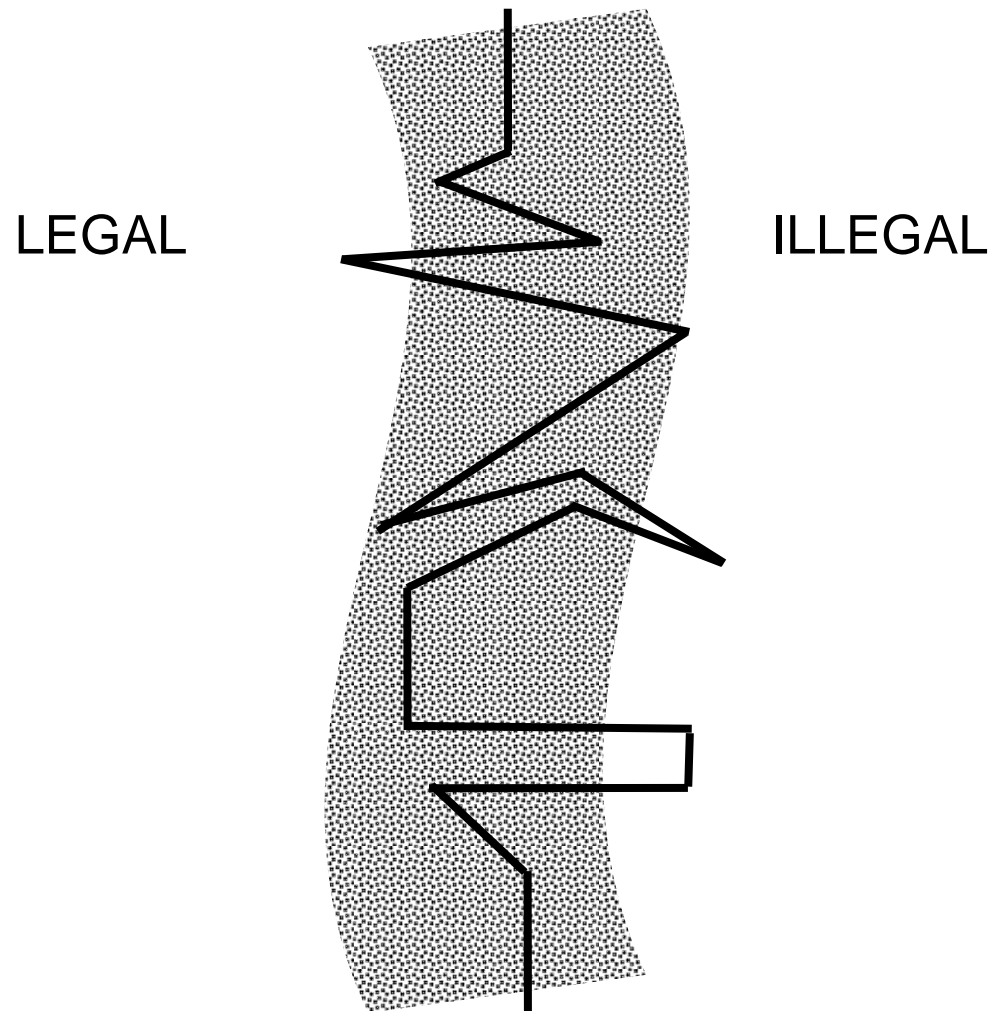
- › ...omit or delete any information that other banks may need to fully assess their risks when handling the transaction!
- › ...ignore international sanctions simply because they have not (yet) been fully implemented in your jurisdiction!
- › ...attempt to circumvent sanctions applicable to you or other banks involved by modifying the information contained in the transaction records!

In theory, Compliance is very simple.

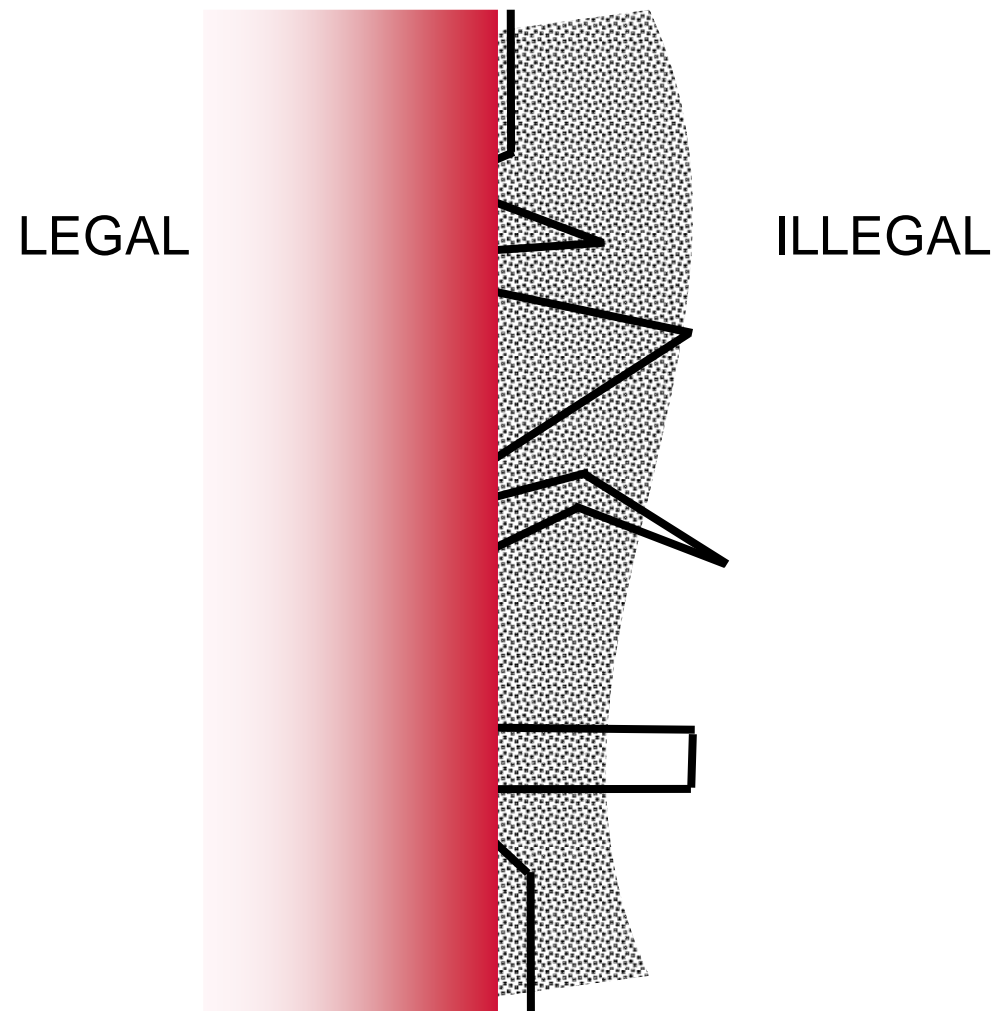
LEGAL

ILLEGAL

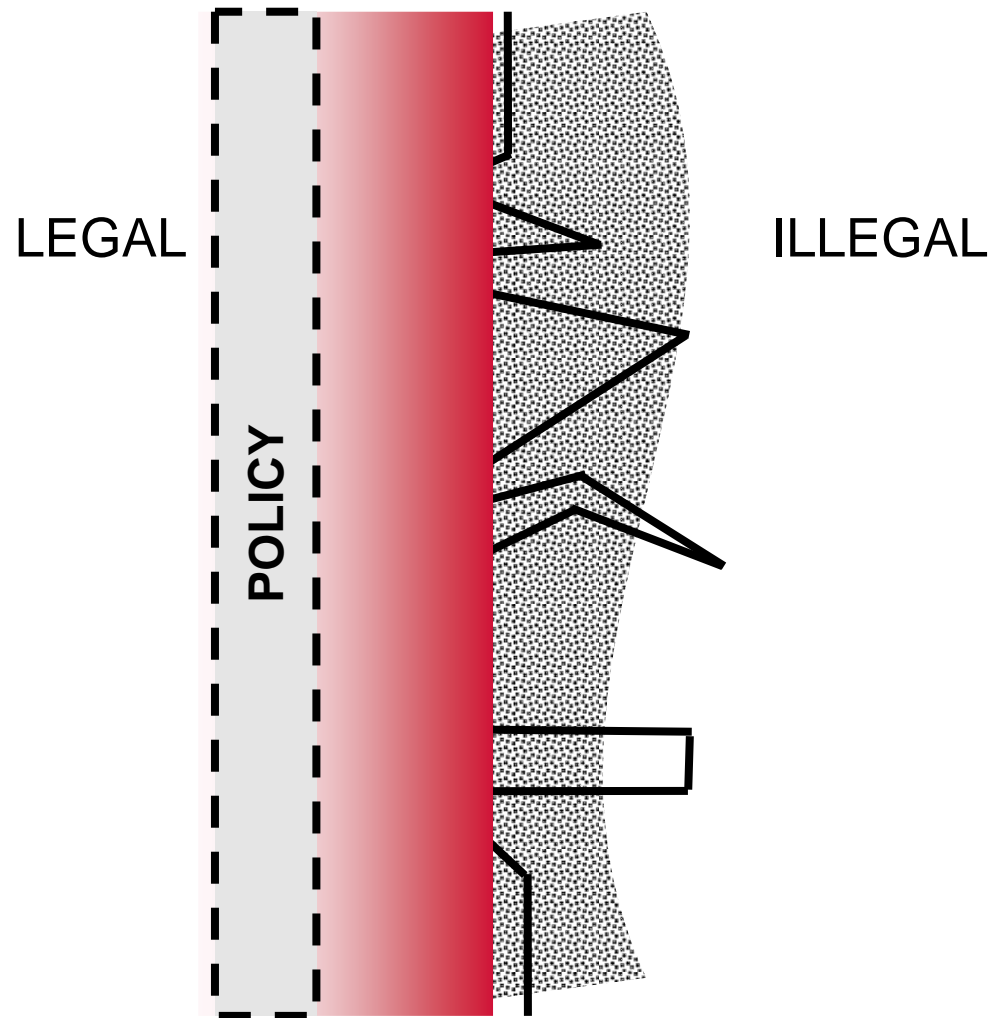
And not everybody has the same understanding of where to draw the line.



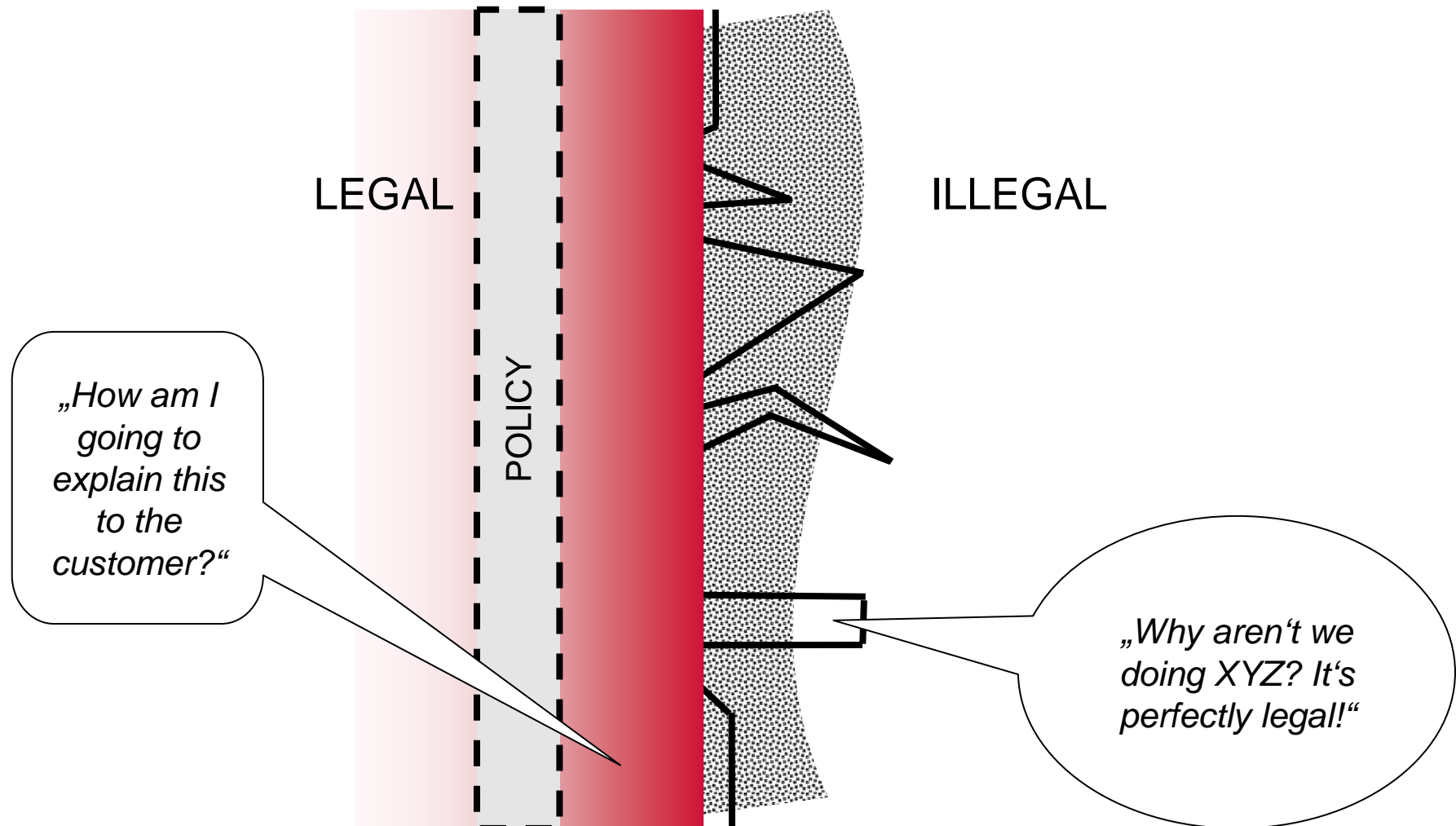
It may also not be advisable to „toe the line“ in all matters.



Which leads to your Compliance Policy.



And lots of pleasant discussions with your colleagues.



Further Reading (Internet Links)

- › Financial Action Task Force Statement of De-risking
<http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-action-to-tackle-de-risking.html>
- › Bank for International Settlement
 - Committee on Payments and Market Infrastructures (CPMI)
<https://www.bis.org/cpmi/>
 - **Committee on Banking Supervision:**
Sound Management of Risks Related to Money Laundering and Terrorist Financing <https://www.bis.org/bcbs/publ/d353.htm>
- › OFAC (Office of Foreign Assets Control) Financial Sanctions Resources
<http://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>
 - **Remarks of Secretary Lew on the Evolution of Sanctions and Lessons for the Future at the Carnegie Endowment for International Peace**
<https://www.treasury.gov/press-center/press-releases/Pages/jl0398.aspx>
- › UK Office of Financial Sanctions Implementation (OFSI)
 - <https://www.gov.uk/government/organisations/office-of-financial-sanctions-implementation>
 - **Financial Sanctions: Guidance**
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/513838/OFSI_Financial_Sanctions_-_Guidance_-_April_2016_Final.pdf

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