

International Cooperation For Taxing HNIs: FATF Recommendations

Abdul Muheet Chowdhary
Senior Programme Officer
South Centre Tax Initiative

Importance of FATF

Recommendations for Tax Officials

Are not binding but have been set by influential G20 and OECD countries and accordingly can be used as 'soft law' instruments to enhance persuasive value

International cooperation related recommendations emphasise exchange of information, MLA and extradition all of which are of relevance in dealing with HNIs

Non-compliance with FATF Recommendations can lead to countries being 'black-listed' or 'grey-listed' which can affect their access to international finance, driving up debt costs.

37: Mutual Legal Assistance

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

Avoid unduly restrictive conditions.

Financial secrecy cannot be a ground for refusal.

Dual criminality – requirement satisfied when underlying conduct criminalized.

37: Mutual Legal Assistance

Powers and investigative techniques relating to the production, search and seizure of information, documents or evidence (including financial records) from financial institutions or other persons, and the taking of witness statements;

And a broad range of other powers and investigative techniques be made available to competent authorities for use in response to requests for mutual legal assistance.

39: Extradition

Execute extradition requests in relation to money laundering and terrorist financing, without undue delay.

Do not provide safe havens for individuals charged with the financing of terrorism, terrorist acts or terrorist organisations.

Ensure money laundering and terrorist financing are extraditable offences.

40: International Cooperation

Ensure that competent authorities can rapidly, constructively and effectively provide the widest range of international cooperation in relation to money laundering, associated predicate offences and terrorist financing, **spontaneously and upon request**.

When making requests, competent authorities should make best efforts to provide complete factual information.

Upon request, they should provide feedback to the requested competent authority on the use and usefulness of the information obtained.

40: International Cooperation

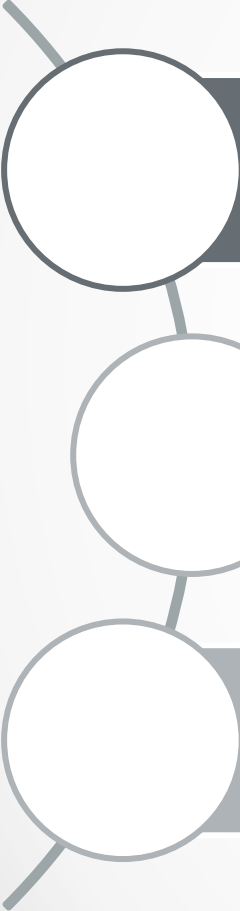
Avoid unduly restrictive conditions on provision of exchange of information or assistance.

Requests should not be refused on grounds of financial secrecy, ongoing inquiry or difference in counterpart authorities.

Exchanged information should be used only for the purpose for which the information was sought or provided.
Dissemination to other authorities should only be done with prior authorization.

Requests for cooperation and information should be kept confidential, consistent with both parties' obligations concerning privacy and data protection.

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Countries should establish controls and safeguards to ensure that information exchanged by competent authorities is used only in the manner authorised.

Exchange of information should take place in a secure way, and through reliable channels or mechanisms. It can be a ground for denying information.

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Similar provisions as FIUs apply to financial supervisors who should be able to exchange information with their counterparts on following aspects:

- (a) Regulatory information, such as information on the domestic regulatory system, and general information on the financial sectors.
- (b) Prudential information, in particular for Core Principle Supervisors, such as information on the financial institution's business activities, beneficial ownership, management, and fit and properness.
- (c) AML/CFT information, such as internal AML/CFT procedures and policies of financial institutions, customer due diligence information, customer files, samples of accounts and transaction information.

40: International Cooperation

Financial supervisors should be able to conduct inquiries on behalf of foreign counterparts and authorize them to carry out inquiries themselves in the country.

Law enforcement authorities similarly should be able to exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to money laundering, associated predicate offences or terrorist financing, including the identification and tracing of the proceeds and instrumentalities of crime.

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Law enforcement authorities similarly should be able to exchange domestically available information with foreign counterparts, and carry out inquiries on their behalf. They are also encouraged to form joint investigative teams to conduct cooperative investigations.

Thank You!

Contact us at
Taxcooperation@southcentre.int
Chowdhary@southcentre.int