EUROPEAN FEDERATION of JEWELLERY

POSITION PAPER:

For a harmonised cash payment ceiling

The EFJ calls for the harmonisation of the ceiling for cash payments in business-to-consumer transactions at the EU level in order to efficiently fight money laundering as well as to prevent market distortion and unfair competition between operators in different Member States.

Key points:

- **Different ceilings** for cash payments in business-to-consumer transactions go against the internal market principles, have serious economic impact and can be a cause of money laundering.
- **Cash restriction limits** often differ also within the Member States creating unjustified discriminations between residents and non-residents.
- **Due to its market structure**, the jewellery sector is particularly exposed to the current lack of harmonisation in the cash limit rules within the EU.
- **Cash remains the preferred form of payments** in the Euro area: on top of ensuring the protection of personal data, it is universally accepted, costless, flexible and allows the immediate closure of payments.
- **The EFJ urges the European Commission** to put forward a legislative proposal aimed at harmonising the limits for cash payments in business-to-consumer transactions by proposing a proportionate ceiling which takes into consideration the different necessities and sensibilities of EU citizens.

The European Federation of Jewellery (EFJ) has been proactive on the issue of cash payment thresholds, notably by providing inputs to the 2018 report on restrictions on payments in cash[1]. The Federation will continue to be a force of proposal in the future discussion and looks forward to working with the European Commission on the legislative proposal aiming to reinforce and develop the EU single rulebook.

The EFJ welcomed the adoption on the 7th of May 2020 of the "Action Plan for a comprehensive Union policy on preventing money laundering and terrorism financing[2]." The Federation fully agrees with the overall objective to reinforce the fight against money laundering notably by addressing "the major divergences in the way [the current legal framework] is applied." The Action Plan rightly points out that "the current approach to EU legislation has resulted in a diverging implementation of the framework across the Member States and, partly, in the setting of additional requirements that go beyond those implied by EU law. Examples of such measures are (…) the introduction of limitations to payments in cash."

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[1] REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on restrictions on payments in cash, European Commission, June 2018
https://ec.europa.eu/transparency/regdoc/rep/1/2018/EN/COM-2018-483-F1-EN-MAIN-PART-1.PDF
The report was based on the results of the impact assessment conducted via a public consultation and an impact study (ECORYS - Study on an EU initiative for a restriction on payments in cash - Final Report)
https://ec.europa.eu/info/files/ecorys-study-eu-initiative-restriction-payments-cash-final-report_en)

[2] Action plan for a comprehensive Union policy on preventing money laundering and terrorism financing, C(2020) 2800 final
https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=PI_COM:C(2020)2800&from=EN

As shown by the above-mentioned report on restrictions on payments in cash, **the existence of different national ceilings for cash payments has a noticeable negative impact on the EU internal market** as it distorts competition and creates an uneven playing field among businesses[3].

Only some EU Member States have decided to establish restrictions to payments in cash. Moreover, these limits **differ from one country to another**. For example, in **France the limit is 1.000 euro**; in **Belgium it is 3.000 euro and Italy recently lowered it to 2.000 euro** (this limit will be further lowered to 1.000 euro in 2022). On the opposite side of the spectrum, countries such as **Germany, Luxemburg, Ireland and Finland have no restriction**.

The different ceilings for cash payments in business-to-consumer transactions has a significant detrimental impact on the EU jewellery sector. The **jewellery market is structured around 'archetypal purchases'** driven by important life occasions such as diplomas, engagements, weddings, births, anniversaries, etc.[4] These events are the **source of high-value purchases**, which represent an **important percentage of the turnover** of a jewellery retailer. On the other side, the average client would carefully plan these purchases as they may represent several months of revenue. Being an occasional purchase, consumers are willing to **do some "regulatory shopping"** and to travel to get better conditions such as discounts, higher cash payment limits, no VAT, etc. For these specificities, the **jewellery sector is particularly exposed to the current lack of harmonisation** in the cash limit rules within the EU.

As an example, Ars Nobilis, the Belgian Federation of Jewellery and Watches, has estimated that **Belgian businesses lose around 20-25% of revenues due to these disparities. This figure can go up to 30% in the areas close to the national borders** and the ones which are located in touristic areas such as Brussels, Bruges, and Antwerp. This is due to the fact that Belgian consumers as well as non-residents and tourists often choose to buy jewels and watches in neighbouring countries such as the Netherlands or Germany, where none or higher limits exist.

Furthermore, the fact that **cash restriction limits are not the same in all EU Member States**, and often are even subdivided into different categories within the same country according to residentship, **creates a situation of uncertainty** for consumers. This is the case in France[5], where the limit for residents is set at 1.000 euro while non-residents can pay up to 15.000 euro in cash per transaction. It is hardly understandable why stricter rules should be applicable to the country's residents, reducing their personal freedom.

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[3] The report concludes that "*restrictions on payments in cash would not significantly prevent terrorism financing but indicated that such restrictions could be useful in combatting money laundering. The study also noted that the existence of diverging restrictions at national level had a noticeable negative impact on the internal market by distorting competition and creating an uneven playing field among some businesses*".

[4] A research conducted by Federpreziosi - the Italian Jewellery, Silverware and Watch Retailers' Association - in October 2017 by interviewing 700 consumers showed that 76% of the responded entered in jewellery shop in the last 18 months with the aim of celebrating such an occasion. In particular, 22.3% of the purchases were related to weddings, 9% to engagements and 37% for births (all high-ticket purchases).

[5] https://www.service-public.fr/particuliers/vosdroits/F10999

Moreover, the EFJ believes that **consumers should be able to use the methods of payment they prefer**. While acknowledging that it can be used by ill-intentioned people, the Federation recalls that cash is universally accepted, costless, flexible, and is the only mean of payment that is final, whereas electronic transactions might be subject to fraud, hacking, cancellation, software issues, commission charges and can make transactions more fragile and subject to external constraints. Among the most acknowledged advantages of cash, lie the fact that it allows the **immediate closure of payment** and does not require any **other intermediate, service provider or technical infrastructure**.

In addition, it must be considered that cash may be the preferred way of performing a payment because it guarantees **privacy and the protection of personal data** as enshrined in the European Union's Charter of Fundamental Rights. Indeed, anonymity is one of the reasons why many consumers prefer to pay by cash, making sure that their personal data are not collected, stored and used by third parties. Individual personal data are more and more important in today's world and they are being collected and stored by an increasing number of public and private actors (States, public administrations, multinationals, etc.). As a consequence, many consumers are now more reluctant to disclose their card number or their IBAN and would rather choose a payment method that guarantees an immediate one-to-one transaction where it is money that changes hand, not data.

As a conclusion, the EFJ urges the European Commission to propose new legislation, on the basis of Article 114 of the TFEU[6], to harmonise the ceiling for cash payments at the retail level (i.e in business-to-consumer transactions)[7] as the fragmented legislative landscape is detrimental in the efficient fight against money laundering, creates an uneven playing field and generates distortions of competition in the internal market. As jewellery products are of great value, it appears logical that a proportional ceiling that would be reasonable and competitive towards Third countries is desirable. In this respect, the EFJ would support any legislation aimed at harmonising the limit in cash payments inspired by the rules set by Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing[8] which establishes that customer due diligence is applicable to cash payments from 10.000 euro.

[6] Art 114 of the Treaty on the Functioning of the European Union: "*The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.*"
http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:12008E114

[7] It should be noted that all registered diamond companies in Belgium need to strictly apply the Belgian anti-money laundering legislation. Hence all diamond wholesalers are obliged to exclusively use bank payments to execute diamond transactions.

[8] Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32015L0849

The EFJ was founded in 2013 by recognized national associations from Belgium, France, Italy and Portugal, which together represent over 60% of all jewellery items manufactured and distributed in Europe. The Federation aims notably at exchanging best practices, promoting the unique European know-how of the sector as well as developing a high level of education and research.

EFJ members:

- **UFBJOP** - Union Française de la Bijouterie, Joaillerie, Orfèvrerie, des Pierres et des Perles (France)
- **ARS NOBILIS** – Fédération Belge du Bijou et de la Montre (Belgium)
- **AORP** - Associaçao de Ourivesaria e Relojoaria de Portugal (Portugal)
- **FEDERORAFI** - Federazione Nazionale Orafi Argentieri Gioiellieri Fabbricanti (Italy)
- **AWDC** - Antwerp World Diamond Centre (Belgium)

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