

The Italian and European rules

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Italy, as a Member State of the European Union, applies the Union's rules on cash controls. Regulation (EU) 2018/1672 of 23 October 2018, which has applied since 3 June 2021, obliges every carrier of cash of EUR 10,000 or more entering or leaving the Union to declare it to the customs authorities (Art. 3) and allows the authorities to require the disclosure of unaccompanied cash, for example cash sent by post or freight (Art. 4). Cash includes currency, bearer-negotiable instruments, commodities used as highly liquid stores of value such as gold, and prepaid cards.¹ Italy implemented the earlier Union rules and its own rules on cash movements by Legislative Decree no. 195 of 19 November 2008, which applies the declaration of cash of EUR 10,000 or more also to movements between Italy and other Member States and, in its original version, provided for administrative fines of up to 40 per cent of the amount in excess of the threshold, with a minimum of EUR 300.² Italy also limits cash payments within the country, with a ceiling that has varied between EUR 1,000 and EUR 5,000 in recent years.³

The Italian customs authorities continue to find large sums at the Swiss border, although the direction of travel and the destinations have changed. According to figures reported for the first half of 2021, the Italian customs authorities received 3,971 declarations of cash for a total of EUR 523 million, an increase of 48 per cent over the previous year, and identified 2,487 persons who were carrying more than EUR 37 million without declaration, of which EUR 25.3 million entering Italy and EUR 12 million leaving it. The main destinations of illegal cash exports had moved from Switzerland, Liechtenstein and San Marino to countries such as Egypt, Albania, Morocco and Tunisia.⁴ The historical pattern of the lira economy has thus been reversed. The Swiss border is no longer the principal exit for undeclared Italian cash, because Swiss banks no longer accept it on the old terms.

1 Legacy cash

The period of the lira economy has left a residue that practitioners occasionally meet: banknotes, gold and bearer securities kept for decades in safe deposit boxes in Lugano and Chiasso and found by heirs. Italian lire ceased to be exchangeable at the Banca d'Italia when the decree-law of 6 December 2011 brought forward with immediate effect the deadline for conversion into euros, which would otherwise have run until 29 February 2012. The Italian Constitutional Court declared the provision unconstitutional by judgment no. 216 of 7 October 2015, which in practice reopened the exchange for holders who could show that they had tried to convert their notes in time.⁵ Swiss banknotes of the sixth series, issued between October 1976 and November 1979, were recalled on 1 May 2000, but since the revision of the Federal Act on Currency and Payment Instruments that took effect on 1 January 2020 the Swiss National Bank must exchange them at nominal value without time limit.⁶ Bearer securities may have lost their validity through conversion, redemption or the rules on bearer shares introduced in 2019. Before such assets are presented to a bank, the heir must expect questions about their origin and their tax history in Italy. The bank will apply the same due diligence to a box of old banknotes as to any other cash deposit.

For the practitioner. Clients moving cash between Italy and Ticino today should be advised that: - Leaving Italy with EUR 10,000 or more in cash, including bearer instruments and gold, requires a declaration under Regulation (EU) 2018/1672 and Legislative Decree no. 195/2008. - Entering Switzerland, there is no spontaneous declaration duty, but on request of the BAZG the carrier must disclose cash of CHF 10,000 or more, its origin, purpose and beneficial owner. - A Swiss bank will verify identity for cash transactions above CHF 15,000 and will require a plausible explanation of the source of large cash amounts. Unexplained cash may lead to a report to MROS. - Since 2016 qualified tax fraud can be a predicate offence for money laundering in Switzerland. Undeclared Italian funds can therefore expose both the client and the intermediary to criminal risk. - Legacy cash and bearer instruments from safe deposit boxes require documentation of the family history of the assets and, in most cases, regularization in Italy before a bank will accept them.

2 Notes

1. Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005, OJ L 284, 12

November 2018, Arts. 2–4,
<https://eur-lex.europa.eu/eli/reg/2018/1672/oj>; Art. 21 ("It shall apply
from 3 June 2021"), text at
[https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?
uri=CELEX:32018R1672](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32018R1672). ↩

2. Legislative Decree of 19 November 2008, no. 195, "Modifiche ed integrazioni alla normativa in materia valutaria in attuazione del regolamento (CE) n. 1889/2005", *Gazzetta Ufficiale* no. 291 of 13 December 2008, issue at [https://www.gazzettaufficiale.it/gazzetta/serie_generale/caricaDettaglio? dataPubblicazioneGazzetta=2008-12-13&numeroGazzetta=291](https://www.gazzettaufficiale.it/gazzetta/serie_generale/caricaDettaglio?dataPubblicazioneGazzetta=2008-12-13&numeroGazzetta=291) and PDF at <https://www.gazzettaufficiale.it/eli/gu/2008/12/13/291/sg/pdf>, Art. 3 para. 1 ("denaro contante di importo pari o superiore a 10.000 euro"; movements with other Member States included) and Art. 9 para. 1 (fine of up to "quaranta per cento dell'importo trasferito o che si tenta di trasferire, eccedente la soglia", minimum EUR 300). Later amendments of the decree are not reflected here. ↩
3. Legislative Decree of 21 November 2007, no. 231, Art. 49, as amended several times; ceiling of EUR 5,000 from 1 January 2023 under the Law of 29 December 2022, no. 197 (*Gazzetta Ufficiale* no. 303 of 29 December 2022, ordinary supplement no. 43). ↩
4. [tio.ch](https://www.tio.ch), "Denaro, euro e informazioni: la Svizzera e gli spalloni" (as above). The publication date of the article is not given on the page as consulted; the figures relate to the first half of 2021. ↩
5. Decree-law of 6 December 2011, no. 201, Art. 26; Corte costituzionale, judgment no. 216 of 7 October 2015. See Wikipedia (Italian), "Lira italiana", https://it.wikipedia.org/wiki/Lira_italiana (exchange possible "fino al 29 febbraio 2012"; the decree "decretò la prescrizione immediata"; provision "dichiarata incostituzionale dalla sentenza n. 216 del 7 ottobre 2015"), used as a last resort. ↩

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6. Federal Act of 22 December 1999 on Currency and Payment Instruments (CPIA), SR 941.10, Art. 9 para. 3 (duty of the National Bank to exchange at nominal value recalled notes "that were issued from 1976 as part of the sixth banknote series or as a subsequent series"), as amended by the Federal Act of 21 June 2019 (Time Limit for Exchanging Banknotes), in force since 1 January 2020, English text at <https://www.droit-bilingue.ch/de-en/9/94/941.10-9-13.html>. On the issue dates (4 October 1976 to 5 November 1979) and the recall of 1 May 2000 see Swiss National Bank, "Past banknote series", <https://www.snb.ch/en/the-snb/mandates-goals/cash/all-series>, and on unlimited exchange of the sixth series Swiss National Bank, "Cash", <https://www.snb.ch/en/the-snb/mandates-goals/cash>. ↩

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