

# Global Anti-Terrorism Financing Group Challenged by Syria's Application

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May 31, 2007

## ABOUT THE AUTHORS



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## Brief Analysis

**T**his week, the Egmont Group -- an international body of more than 100 national financial intelligence units (FIUs) -- is holding its annual plenary session and working group meetings in Bermuda. One of the issues on the agenda is whether to admit a Syrian FIU into the group. Although Syria may in fact technically qualify for membership despite some significant shortcomings, extending membership to a state the United States regards as a sponsor of terrorism would raise serious questions about Egmont's standards and continued efficacy in the fight against money laundering and terrorism financing.

## Background

FIUs are centralized, national agencies responsible for detecting and fighting terrorism financing and money laundering. In the United States, the Financial Crimes Enforcement Network (FinCEN), a bureau of the Treasury Department, serves as Washington's FIU and Egmont representative (see [PolicyWatch no. 1218, "An Iranian Financial Intelligence Unit: Less than Meets the Eye."](http://www.washingtoninstitute.org/templateC05.php?CID=2587) (<http://www.washingtoninstitute.org/templateC05.php?CID=2587>) by Michael Jacobson)

The process for joining Egmont does not include an evaluation of a country's record in supporting or countering terrorism. Instead, it is based on a technical assessment of the legal framework supporting the nation's FIU, beginning with whether or not the unit is already up and running. At the outset of the membership process, Egmont's outreach working group obtains a contact address and name, determines that money laundering and terrorism financing legislation is in force, assesses the operational status of an FIU, establishes the FIU's willingness to join Egmont, gauges the possibility of that unit exchanging information with other FIUs, and performs additional operational assessment via an onsite visit. Upon receipt of a written recommendation from the outreach working group chair, Egmont's legal working group conducts an in-depth assessment of the FIU before making a final recommendation to the heads of Egmont-member FIUs.

The legal working group makes sure that the candidate FIU fulfills the basic Egmont admission criteria, including being operational and showing a willingness and legal capability to exchange information. Candidate FIUs must also be sponsored by a current Egmont member. Syria's candidacy is sponsored by several states, including Cyprus,

Poland, and -- ironically -- Lebanon. FIUs are officially recognized as Egmont members when the heads of FIUs around the globe gather at the group's annual plenary meeting and endorse a recommendation for membership by the legal working group. For Syria, such endorsement could come this week.

#### Syria's Legal Framework Insufficient

Although Syria has taken steps to establish a legal framework for its financial services industry, it has not gone far enough. Even based on Egmont's membership criteria, there is reason to question whether Syria's efforts suffice to support its acceptance in the group. On the one hand, Syria has passed a number of laws required for membership. Law No. 28 (2001) legalized private banking, Law No. 29 (2001) established bank secrecy rules, and Decree No. 59 (2003) criminalized money laundering and led to the creation of an Anti-Money Laundering Commission in 2004. In 2005, Decree No. 33 strengthened the commission and laid the foundation for a functioning FIU. It also required banks and other institutions to file suspicious activity reports (SARs).

According to a recently released State Department report, however, "Decree 33 provides the Commission with a relatively broad definition of what constitutes a crime of money laundering, but one that does not fully meet international standards." In a section on Syria, the State Department's 2006 International Narcotics Control Strategy Report, Vol. II: Money Laundering and Financial Crimes noted that "despite the legislative powers of the commission, only 100 suspicious transactions were reported in 2005, including SARs from the police who identified suspected money laundering activities in the course of other investigations." The report noted that there was not a single arrest or conviction on charges of money laundering in Syria in 2005.

Moreover, contrary to Egmont standards, while Decree No. 33 criminalizes money laundering, it does not list terrorism financing as a predicate offense or indicate that it is in any way punishable under law. Similarly, in 2004, FinCEN reported that Decree No. 59 criminalized money laundering only "for a small category of offenses [that] do not meet the minimum categories of offenses as provided in the Financial Action Task Force (FATF) 40 Recommendations on Money Laundering." FinCEN further noted that the commission is composed of both regulators and members of the banking community, "automatically creating a conflict of interest."

#### The Commercial Bank of Syria: A Primary Concern

In May 2004, the Treasury Department issued a "notice of proposed rulemaking" designating the Commercial Bank of Syria (CBS) -- owned by the Syrian government -- as a "financial institution of primary money laundering concern." In March 2006, the department issued a final rule upholding this designation. According to the State Department, "The [Syrian] banking sector is dominated by the . . . CBS, which holds almost 90 percent of all deposits and controls most of the country's foreign currency reserves." The designation was carried out "due to a reasonable belief that the CBS has been used by terrorists or persons associated with terrorist organizations and as a conduit for the laundering of proceeds generated from the illicit sale of Iraqi oil."

The action against the CBS was pursued under section 311 of the USA PATRIOT Act, as a defensive measure to protect the U.S. financial system from abuse and deny an illicit financial actor access to said system. In its ruling against the CBS, the Treasury Department noted that as "a financial entity under the control of a State Sponsor of Terrorism, [the bank] provides cause for real concern about terrorist financing and money laundering activities."

Indeed, even with a legal foundation and a functioning FIU, there is no reason to believe that the Syrian government, as a terrorism sponsor, would actually share information on terrorism financing with its Egmont partners. As Treasury Undersecretary Stuart Levey testified in April 2006, "State sponsors of terrorism, like Iran and Syria, present a vexing problem, providing not only money and safe haven to terrorists, but also a financial infrastructure through which terrorists can move, store, and launder their funds." In such an environment, there can be no reasonable expectation that an FIU could or would exercise serious oversight -- let alone receive, analyze, and

disseminate information about suspicious financial activity related to terrorism.

### A Challenge for the Egmont Group

Although a technical argument could be made that Syria qualifies for Egmont membership, a Syrian FIU would be a significant liability -- not an asset -- to the international network. After all, terrorism financing is not a crime under Syrian law, and the United States has had to block the most significant Syrian bank from the U.S. financial system because of its involvement in terrorism financing and other illicit activity. Moreover, the Syrian government's active sponsorship of terrorist groups makes a mockery of the premise of Egmont and similar bodies designed to prevent such activity. The Egmont Group should carefully consider the wisdom and efficacy of admitting a Syrian FIU.

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Policy #1238

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