

# **INTERNATIONAL POLICIES TO PREVENT MONEY LAUNDERING AND TERRORIST FINANCING (MLTF)**

## **What is money laundering?**

***It is the process of making funds obtained through crime become part of the economic system and appear to be lawfully acquired.***

**It is a process of CONCEALING income from criminal activities to make it appear legitimate.**

## Concealment

**Why is it important to work on effective means of forfeiting ASSETS?**

- **Because criminals need to conceal their resources to ensure that their organisations continue to exist.**
- **Because one of the top priorities for States is to combat the growth in organised crime by depriving criminals of “the proceeds of crime”.**

# COMBATTING MONEY LAUNDERING

## Identification by States of the “Issue”

- Large criminal structures
- Globalisation
- Trade and international transactions
- Methods for concealing the illicit origin of their assets and permeating various systems (new technologies, deregulation in certain sectors, informal economy)

# COMBATTING MONEY LAUNDERING

## Key actions that States must take

- Joint action to prevent permeability in financial and non-financial systems (prevention)
- Investigative powers (special techniques)
- Forfeiture of assets
- Transnational policies
- Exchange of information
- Policies for managing confiscated funds
- Sharing of confiscated proceeds

# COMBATTING MONEY LAUNDERING

States have at their disposal:

## 1. Criminal justice system: detection and punishment

Purpose: to deprive the predicate offence of its profitability

## 2. Preventive or administrative system

Focused on preventing unlawfully obtained funds or assets from entering the economic/financial system by making financial and non-financial entities subject to specific obligations (Designated Non-Financial Businesses or Professions – DNFBP)



# COMBATTING MONEY LAUNDERING

Interaction between the three key components  
of the system



# **PREVENTIVE SYSTEM**

## **What is it?**

It is the system that seeks to prevent unlawfully obtained funds and assets from entering the economic and financial system.

## **How does it work?**

By making financial and non-financial entities subject to certain obligations that make it possible for them to detect and report “suspicious transactions” and thus enable the authorities to act.

## **What is its purpose?**

Correct implementation of procedures leads to a reduction in money laundering and terrorist financing within the entities concerned.

# PREVENTIVE SYSTEM

## EFFECTIVENESS OF THE PREVENTIVE SYSTEM

Financial institutions, Designated Non-Financial Businesses or Professions (DNFBP) and Virtual Asset Service Providers (VASP):

- understand the nature and level of the risks of money laundering and terrorist financing that they run;
- develop and implement AML/CFT policies, internal controls and programmes to mitigate the risks appropriately;
- apply appropriate customer due diligence (CDD) measures to identify and verify the identity of their clients (including beneficial owners) and conduct ongoing monitoring;
- detect and report suspicious transactions appropriately; and comply with other AML/CFT requirements.

COMPLIANCE WITH “INTERNATIONAL STANDARDS ON COMBATTING MONEY LAUNDERING AND THE FINANCING OF TERRORISM AND PROLIFERATION”

# **MLTF PREVENTION IN ACCORDANCE WITH INTERNATIONAL STANDARDS**

**“FATF RECOMMENDATIONS”**

**WHAT REQUIREMENTS ARE THERE FOR  
THE PREVENTIVE SYSTEM?**

**WHAT PROVISION MUST COUNTRIES  
MAKE?**

# REPORTING ENTITIES

- In an effort to achieve an effective system of prevention, specific entities and activities are designated in order to improve the prevention and detection of unusual or suspicious transactions in areas that may present MLTF risks.
- Because of the activities they pursue, the entities concerned are partners in the State's efforts to combat these scourges.

# REPORTING ENTITIES

- The specialist knowledge of the entities involved in the transactions makes them ideal partners for detecting and reporting dealings that are suspected of being moves involving illicitly obtained assets, or assets obtained lawfully, but intended for terrorist financing.
- Making these entities subject to reporting requirements is essential in order to ensure that the reporting mechanism, and therefore the system to prevent money laundering and terrorist financing, operates in a satisfactory fashion.

# REPORTING ENTITIES

**FINANCIAL**

**NON-FINANCIAL – DESIGNATED NON-FINANCIAL BUSINESSES OR PROFESSIONS – DNFBP**

**VIRTUAL ASSET SERVICE PROVIDERS – VASP**



# FINANCIAL REPORTING ENTITIES

## **RECOMMENDATION 10** **Customer due diligence**

*Financial institutions should be prohibited from keeping anonymous accounts or accounts in obviously fictitious names.*

*Financial institutions should be required to undertake customer due diligence (CDD) measures when:*

- i. establishing business relations;*
- ii. carrying out occasional transactions: (a) above the applicable designated threshold (USD/EUR 15,000); or (b) that are wire transfers [...] (Recommendation 16);*
- iii. there is a suspicion of money laundering or terrorist financing; or*
- iv. the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.*

# FINANCIAL REPORTING ENTITIES

- **FINANCIAL INTERMEDIARY COMPANIES:**

banks, investment banks, finance houses, external finance houses, financial intermediary co-operatives, savings and loans associations (consortia)

- **SAVINGS FUNDS ADMINISTRATORS**

- **INSURANCE COMPANIES AND MUTUALS**

- **SECURITIES COMPANIES:**

stock exchanges, securities brokers (securities dealers and stockbrokers), investment advisers, securities issuers, investment fund managers, trust fund managers

- **OTHER FINANCIAL INSTITUTIONS:**

financial services companies, loans companies, currency exchanges, agencies, funds transfer companies

- **SERVICE PROVIDERS:**

providers of administrative, accounting or data-processing services, securities transportation companies, providers of safety deposit box leasing and safekeeping services

- **OTHER AGENTS**

# NON-FINANCIAL REPORTING ENTITIES

## DNFBP

### RECOMMENDATION 22

[...]

- (a) Casinos – when customers engage in financial transactions equal to or above the applicable designated threshold.*
- (b) Real estate agents – when they are involved in transactions for their client concerning the buying and selling of real estate.*
- (c) Dealers in precious metals and dealers in precious stones – when they engage in any cash transaction with a customer equal to or above the applicable designated threshold.*

# NON-FINANCIAL REPORTING ENTITIES

## DNFBP

### Recommendation 22 (cont.)

- (d) Lawyers, notaries, other independent legal professionals and accountants – when they prepare for or carry out transactions for their client concerning the following activities:*
- *buying and selling of real estate;*
  - *managing of client money, securities or other assets;*
  - *management of bank, savings or securities accounts;*
  - *organisation of contributions for the creation, operation or management of companies;*
  - *creation, operation or management of legal persons or arrangements, and buying and selling of business entities.*

# NON-FINANCIAL REPORTING ENTITIES

## DNFBP

### Recommendation 22 (cont.)

*(e) Trust and company service providers – when they prepare for or carry out transactions for a client concerning the following activities:*

- *acting as a formation agent of legal persons;*
- *acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;*
- *providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;*
- *acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement;*
- *acting as (or arranging for another person to act as) a nominee shareholder for another person.*

# VASP REPORTING ENTITIES

## RECOMMENDATION 15 – NEW TECHNOLOGIES

[...]

*To manage and mitigate the risks emerging from virtual assets, countries should ensure that virtual asset service providers are regulated for AML/CFT purposes, and licensed or registered and subject to effective systems for monitoring and ensuring compliance with the relevant measures called for in the FATF Recommendations.*

# VASP REPORTING ENTITIES

## INTERPRETIVE NOTE TO RECOMMENDATION 15

- Countries should require VASPs to identify, assess and take effective action to mitigate their MLTF risks.
- VASPs should be required to be licensed or registered. At a minimum, VASPs should be required to be licensed or registered in the jurisdiction(s) where they are created.
- Countries should ensure that VASPs are subject to adequate regulation and supervision or monitoring for MLTF and are effectively implementing the relevant FATF Recommendations.
- VASPs should be subject to effective systems for monitoring and ensuring compliance with national AML/CFT requirements.
- VASPs should be supervised or monitored by a competent authority.
- Supervisors should have adequate powers to supervise or monitor and ensure compliance by VASPs with requirements to combat MLTF including the authority to conduct inspections, compel the production of information and impose sanctions.
- Supervisors should have powers to impose a range of disciplinary and financial sanctions, including the power to withdraw, restrict or suspend the VASP's license or registration, where applicable.

# VASP REPORTING ENTITIES

## INTERPRETIVE NOTE TO RECOMMENDATION 15 (cont.)

- Countries should ensure that there is a range of effective, proportionate and dissuasive sanctions, in line with Recommendation 35.
- The sanctions should also be applicable to their directors and senior management.
- Countries should rapidly, constructively and effectively provide the widest possible range of international cooperation in relation to money laundering, predicate offences and terrorist financing relating to virtual assets, on the basis set out in Recommendations 37 to 40. In particular, supervisors of VASPs should exchange information promptly and constructively with their foreign counterparts, regardless of the supervisors' nature or status and differences in the nomenclature or status of VASPs.



# VASP REPORTING ENTITIES

## INTERPRETIVE NOTE TO RECOMMENDATION 15 (cont.)

- Preventive measures: Recommendations 10 to 21 apply to VASPs, subject to the following qualifications:
  - (a) R. 10 – The occasional transactions designated threshold above which VASPs are required to conduct CDD is USD/EUR 1,000.
  - (b) R. 16 – Countries should ensure that originating VASPs obtain and hold required and accurate originator information and required beneficiary information on virtual asset transfers, submit the above information to the beneficiary VASP or financial institution (if any) immediately and securely, and make it available on request to appropriate authorities.

Countries should ensure that beneficiary VASPs obtain and hold required originator information and required and accurate beneficiary information on virtual asset transfers and make it available on request to appropriate authorities.

# REPORTING ENTITIES' OBLIGATIONS DNFBP

## RECOMMENDATION 22

CUSTOMER DUE DILIGENCE MEASURES APPLY TO FINANCIAL  
AND NON-FINANCIAL REPORTING ENTITIES

RECOMMENDATION 10

RECOMMENDATION 11

RECOMMENDATION 12

RECOMMENDATION 15

RECOMMENDATION 17

## RECOMMENDATION 23 Other measures

The requirements set out in Recommendations 18 to 21 apply to all DNFBP, subject to certain qualifications.

# REPORTING ENTITIES' OBLIGATIONS

## Core obligations:

- **Suspicious Transaction Report (STR)**
- **Risk Analysis and Customer Due Diligence**
- **Record-Keeping**

# REPORTING ENTITIES' OBLIGATIONS STR

## Recommendation 20

### REPORTING OF SUSPICIOUS TRANSACTIONS

*If a financial institution suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity, or are related to terrorist financing, it should be required, by law, to report promptly its suspicions to the financial intelligence unit (FIU).*

# SUSPICIOUS TRANSACTION REPORT (STR)

## INTERPRETIVE NOTE TO RECOMMENDATION 20 (REPORTING OF SUSPICIOUS TRANSACTIONS)

The reference to criminal activity in Recommendation 20 refers to all criminal acts that would constitute a predicate offence for money laundering.

All suspicious transactions, including attempted transactions, should be reported regardless of the amount of the transaction.

The reporting requirement should be a direct mandatory obligation, and any indirect or implicit obligation to report suspicious transactions, whether by reason of possible prosecution for a money laundering or terrorist financing offence or otherwise (known as “indirect reporting”), is not acceptable.

# REPORTING ENTITIES' STR OBLIGATIONS

Article 12 of Law No. 19,574 – Uruguay

All natural and legal persons subject to the control of the Central Bank of Uruguay are required to report transactions, whether or not carried out, that, given the customs and practices of the activity concerned, are without any apparent economic or lawful purpose or are unusually or unjustifiably complex.

Transactions involving assets suspected of being of illicit origin must also be reported in order to prevent MLTF offences.

That requirement extends to those transactions which, although involving assets of lawful origin, are suspected of being related to TF.

# REPORTING ENTITIES' STR OBLIGATIONS

Article 13 of Law No. 19,574 – Uruguay

**This article lists the non-financial reporting entities and states that they:**

*“are subject under the same conditions to the requirement laid down in the preceding article:”*

# SUSPICIOUS TRANSACTION REPORT (STR)

The term “suspicious transaction” means a transaction that, given the customs and practices of the activity concerned, is without any apparent economic or lawful purpose or is unusually or unjustifiably complex.



# SUSPICIOUS TRANSACTION REPORT (STR)

WHEN MUST A REPORT BE SUBMITTED TO THE FIU?

When the unusual nature or suspicion cannot be disregarded

## STAGES THAT PRECEDE THE STR

- Risk analysis and customer due diligence
- Transaction monitoring
- Analysis of unusual occurrences with written documentary records of the actions taken by the reporting entity.

# **SUSPICIOUS TRANSACTION REPORT (STR)**

- **NOT AN ACCUSATION**
- **PRINICPLE OF CONFIDENTIALITY**
- **EXEMPTION FROM LIABILITY**

# SUSPICIOUS TRANSACTION REPORT (STR)

## **Characteristics of the reported transaction and the reported persons**

Careful choice of characteristics helps when determining the priority grading for the analysis.

Once the report is received, it is given a priority grading (Urgent, High, Medium, Low).

This helps to set priorities and begin the process for deciding on the instructions to be sent to the reporting entity.

This is the input that triggers the financial intelligence process.

# REPORTING ENTITIES' OBLIGATIONS

## RISK ANALYSIS AND CUSTOMER DUE DILIGENCE

### Risk-based analysis

- The reporting entities will implement the due diligence measures laid down for each business sector, using a risk-based analysis. In other words, they will be able to determine the applicability of the measures in line with the ML/TF/FPWMD, with regard to the type of client, business relationship, product, transaction or geographical location.
- Risks in matters of ML/TF/FPWMD must be categorised at least as: Low, Medium or High.
- On the basis of the categorisation, they must conduct differentiated due diligence, namely simplified, standard or enhanced, consistent with the risk and the requirements set out in the regulations.

# **REPORTING ENTITIES' OBLIGATIONS RISK ANALYSIS AND CDD**

## **RISK**

THE POSSIBILITY THAT THE REPORTING ENTITY MAY, THROUGH ITS ACTIVITIES OR TRANSACTIONS, BE USED, WHETHER DIRECTLY OR INDIRECTLY, AS AN INSTRUMENT FOR COMMITTING AN ML/TF/FPWMD OFFENCE.

# REPORTING ENTITIES' OBLIGATIONS

## RISK ANALYSIS AND CDD

### CUSTOMER DUE DILIGENCE

This consists of checks on our clients that enable us to obtain proper identification and adequate knowledge of them:

- identity of the beneficial owner;
- the socio-economic profile in relation to the transaction conducted;
- the origin of the funds used, etc.

The reporting entities must draw up and implement policies and procedures to that end.

# **REPORTING ENTITIES' OBLIGATIONS RISK ANALYSIS AND CDD**

## **CUSTOMER DUE DILIGENCE**

- SIMPLIFIED
- STANDARD
- ENHANCED

# REPORTING ENTITIES' OBLIGATIONS RECORD-KEEPING

## *RECOMMENDATION 11 Record-keeping*

*Financial institutions should be required to maintain, for at least five years, all necessary records on transactions, both domestic and international, to enable them to comply swiftly with information requests from the competent authorities. Such records must be sufficient to permit reconstruction of individual transactions (including the amounts and types of currency involved, if any) so as to provide, if necessary, evidence for prosecution of criminal activity.*



# REPORTING ENTITIES' OBLIGATIONS RECORD-KEEPING

## *RECOMMENDATION 11 (cont.)*

*Financial institutions should be required to keep all records obtained through CDD measures (e.g. copies or records of official identification documents like passports, identity cards, driving licences or similar documents), account files and business correspondence, including the results of any analysis undertaken (e.g. inquiries to establish the background and purpose of complex, unusual large transactions), for at least five years after the business relationship is ended, or after the date of the occasional transaction.*

# REPORTING ENTITIES' OBLIGATIONS RECORD-KEEPING

## *RECOMMENDATION 11 (cont.)*

*Financial institutions should be required by law to maintain records on transactions and information obtained through the CDD measures.*

*The CDD information and the transaction records should be available to domestic competent authorities upon appropriate authority.*

# **SUPERVISORY POWERS AND SANCTIONS**

RECOMMENDATION 26. Regulation and supervision of financial institutions

RECOMMENDATION 27. Powers of supervisors

RECOMMENDATION 28. Regulation and supervision of DNFBPs

RECOMMENDATION 35. Sanctions

# **THE ROLE OF THE FINANCIAL INTELLIGENCE UNIT – FIU**

# What is an FIU?

## RECOMMENDATION 29

### Financial Intelligence Units

*Countries should establish a financial intelligence unit (FIU) that serves as a national centre for the receipt and analysis of:*

- (a) suspicious transaction reports; and*
- (b) other information relevant to money laundering, associated predicate offences and terrorist financing, and for the dissemination of the results of that analysis.*

*The FIU should be able to obtain additional information from reporting entities, and should have access, on a timely basis, to the financial, administrative and law enforcement information that it requires to undertake its functions properly.*

# Functions of the FIU

## Receipt:

Suspicious transaction reports

Cash transaction reports

Transactions making deposits, withdrawals, currency changing

Reports of funds transfers

Other reports

# Functions of the FIU

## Analysis:

- **Tax information** – information on the taxpayer
  - Tax declarations
  - Disclosure statements (payments, cash transactions, clients and suppliers, wages and salaries, bank accounts, etc.)
- **Customs information**
  - Declarations of cross-border transportation of currency and securities
  - External trade transactions (Information on importation and exportation transactions, persons or companies dealt with abroad, type of goods, sums transacted, etc.)

# Functions of the FIU

## Analysis:

- **Information on assets**
  - Immovable property
  - Movable property
  - Financial products (accounts, investments)
- **Commercial and corporate information**
  - Information from the Public Register of Commerce
  - Information from the Register of Beneficial Ownership



# Functions of the FIU

## Analysis:

- **Migrant information**
  - Register of those entering and leaving the country, their origin and destination (means of entry, frequency of visits)
  - Passport information
- **Information from the police and the courts**
  - Criminal records
  - Reports from investigations
  - Police proceedings
  - Court decisions

# Functions of the FIU

## Analysis:

- **Information from Supervisory Bodies**
  - Supervisory reports, sanctions
- **Other sources of information**
  - Social security, electoral roll, public officials, telephone and internet records, air and sea transportation, driving licences

# Functions of the FIU

## Exchange of Information:

With foreign FIUs through:

- EGMONT Group
- Memorandum of Understanding
- Information-sharing arrangements
- Asset recovery networks (e.g. Asset Recovery Network of GAFILAT (RRAG))

# Functions of the FIU

## Other sources of information

- Private suppliers (e.g. WorldCheck, WorldCompliance, LexisNexis, etc.)
- Open sources (specialist search engines, press, social networks, websites, chambers of commerce, etc.)
- Other: information from the Central Bank, credit information
- Lists supplied by the UN, OFAC, DEA, FBI, etc.

# Financial intelligence report

Result of the analysis

What should its format be?

- Logical sequence of facts
- Simple but formal language
- Figures given in a standardised manner
- Avoid acronyms
- Avoid superlatives

# Financial intelligence report

Outcome of the analysis

What should its format be?

**EXECUTIVE SUMMARY:** Brief description of the analysis conducted stating the main findings, financial/non-financial behaviours and the sums transacted.

**DIAGRAM OF RELATIONSHIPS**

**ANALYSIS:** Detailed description of the case including a comparative analysis of financial information against information from other databases. Documentary analysis and supporting material.

**ANNEXES:** Information and documentation supporting the analysis made of the persons involved.

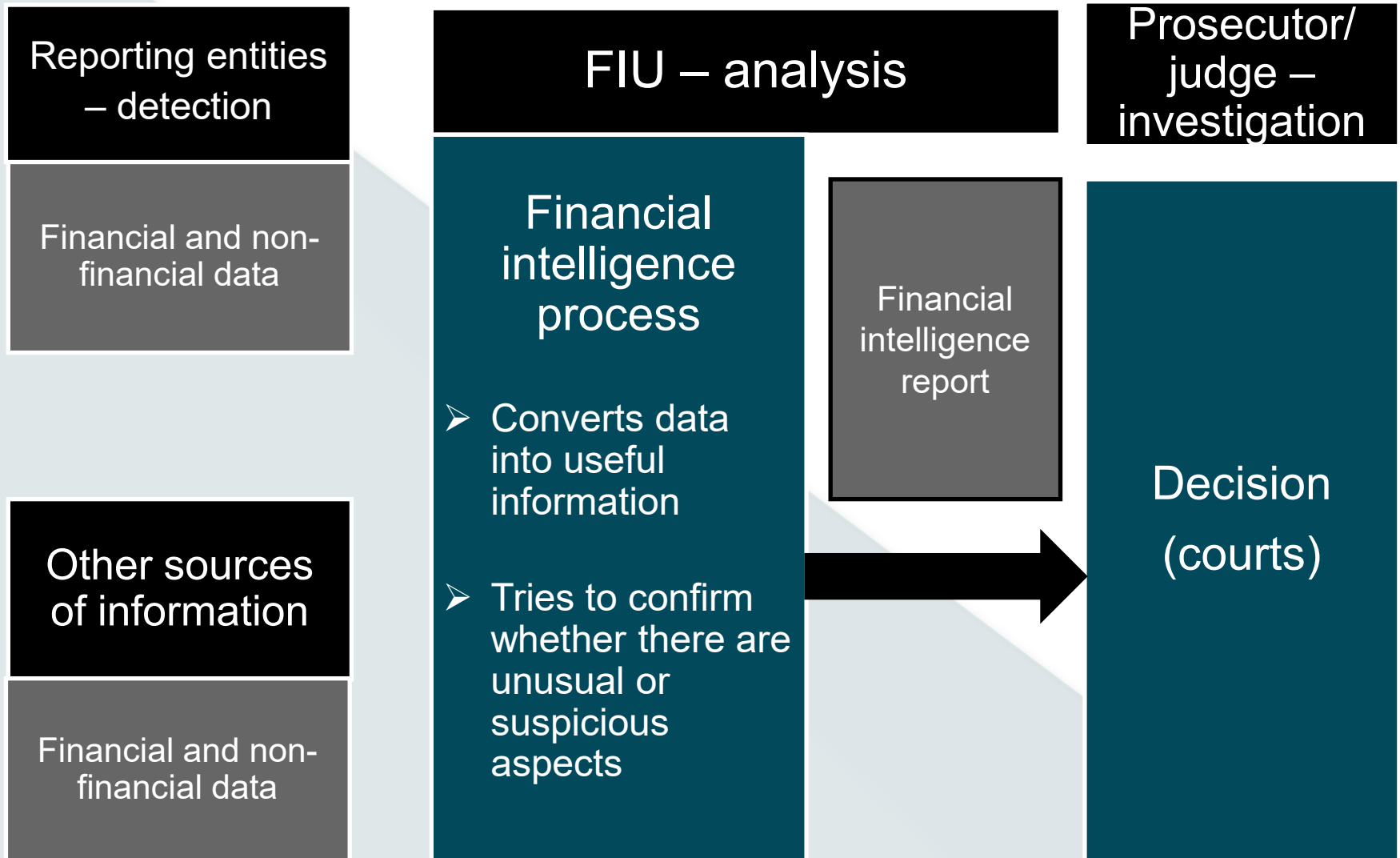
# USE OF FINANCIAL INTELLIGENCE

## KEY POINTS\*

- Independence and autonomy of the FIU in the coordination and exchange of information between the FIU and the investigative authorities.
- Use of financial intelligence reports in criminal proceedings.
- Use of financial intelligence as a means of proof and evidence, including the following: the processing and use of evidence in ML investigations in the adversarial system and the inquisitorial system; the application of general principles of proof and the use of financial intelligence in the development of evidence; and the generation and dissemination of financial intelligence reports.
- Coordination between FIUs and investigative authorities in national and international cooperation and in the recovery and confiscation of assets, respectively.

\* In conformity with Gafilat Document *INTELIGENCIA FINANCIERA: RETOS, EXPERIENCIAS Y LECCIONES APRENDIDAS* consulted at <https://www.gafilat.org/index.php/es/biblioteca-virtual/gafilat/documentos-de-interes-17/otros-17/2921-informe-uso-inteligencia-financiera-giz-gafilat/file>

# Financial intelligence cycle





# **INVESTIGATIONS LEADING TO EFFECTIVE CONFISCATION**

# Use of intelligence information in the investigation

Involve the prosecutor/judge at an early stage to determine what pieces of intelligence may be admissible as evidence.

Direct the investigation in such a way that the intelligence is supplemented or supplanted with admissible evidence, such as financial records or records of communications obtained through judicial authorisation, tax/financial information subject to confidentiality being lifted, information held in property records, etc.).

Use administrative powers to freeze or seize assets based on intelligence (if legislation so allows).

The FIU can always supply additional financial intelligence upon request or as part of multidisciplinary teams.

# Investigation planning

## Prosecutor/judge

Plan, direct and control the investigation effectively and efficiently.

Seek and obtain evidence useful to the investigation.

Lawfulness of evidence.

Assemble circumstantial evidence and obtain information for use as evidence to support the instigation of criminal proceedings and subsequent compensation for damages.

Procedural economy and speed.

Optimised use of resources.

# INVESTIGATION OF ASSETS\*

## CASE THEORY

INVESTIGATIVE OBJECTIVES (list of objectives, list of links: relatives, third parties/partners, economic and financial transactions)

ASSET IDENTIFICATION (real, nominal, held by third parties: fronts, etc.)

ASSET VALUE (value at acquisition, current value)

ASSET HISTORY (identification of income sources, net worth variations, expenses, etc.)

SOCIO-FINANCIAL GROUP (companies, firms or businesses: remittances, income/expenditure, financial products used)

## ASSETS REPORT

\* (dependent on establishment of multi-disciplinary teams)

# **MULTI-DISCIPLINARY TEAMS**

**Members**

**Roles**

**Coordination**

**Final report**

# Multi-disciplinary teams

Necessary for complex major financial investigations

Differences between requests for cooperation/information and requests for action/advice

Strategic approach to cooperation with each body/agency

May comprise:

- Specialist financial investigators – FIU

- Expert financial analysts

- Accountancy experts/IT experts

- Experts in tax/customs/records/ML

# Importance of setting up multi-disciplinary teams

In investigations that:

- are suspected of affecting the economic and financial order given the high volume of assets involved in the alleged criminal operation;
- are very complex economically and financially;
- include elements pointing to a cross-border aspect to the transaction;
- include elements signalling the involvement of a criminal organisation.

# Importance of setting up multi-disciplinary teams

Each body/agency must share any information it can contribute that may be useful and relevant to the other members for the purposes of the investigation and information analysis.

Each body/agency is responsible for selecting and analysing the information it contributes.

The financial intelligence reports will include expressly worded suggestions of how to proceed in order to obtain or reconstruct the evidence in proceedings (what to ask for, how to ask for it and whom to ask).



# Guidelines for requests for cooperation (information) and/or action (advice)

## State:

- the incidents under investigation: brief outline of the key characteristics of the incident including e.g. date of commencement and any other relevant information.
- persons under investigation: information on natural and/or legal persons involved in the incident under investigation, such as: name, identity document and date of birth; company name, tax registration and head office of legal persons, and any other relevant identifying information.
- information to request: state the information required.
- applicable legal provisions: state potential offences, money laundering, predicate offence, etc.

## **Opportunities for exchange between the team and the prosecutor/judge**

Generate spaces for exchanges and/or operational coordination between the various public bodies/agencies and the competent prosecutor/judge conducting the inquiry.

Improve system efficiency.

Reduce response times .

Focus on information genuinely relevant to the investigation, e.g. refine searches, demarcate the content of requests for information, etc.

Interim deadlines for reports on specific topics.

## Lifting of secrecy

A request for cooperation (request for information) and/or action (request for advice) made to bodies/agencies in confidence must be supported by a secrecy review conducted by the competent court.

## Implementation and submission of the final report

Where a case is sufficiently serious, the members of the interinstitutional team must be protected, and, to that end, the signatories should be encouraged to sign the individual or joint report using one-time keys or codes known to the prosecutor/judge.

The statement by a report's authors should be made in appropriate secure conditions.

## Requests for cooperation and requests for information from FIUs or other foreign public bodies

*International legal cooperation:* cooperation between the judicial bodies of different States as part of a judicial proceeding.

*International Cooperation:* cooperation between public bodies of different States outside the judicial sphere.

## Requests for cooperation and requests for information from FIUs or other foreign public bodies

*Information provided for intelligence purposes:* information that is provided upon request or spontaneously by an FIU or other foreign public body in order to focus the investigation by the competent requested body, and that will not be used as evidence in judicial proceedings or disseminated (it has no evidentiary value and acts only as guidance for securing evidence for formal purposes in the judicial proceedings).

*Information provided for evidentiary purposes:* information provided by an FIU or other foreign public body upon request or spontaneously for the purposes of formal inclusion in judicial proceedings or use as evidence.

**FORFEITURE**

**CHARACTERISTICS OF AN EFFECTIVE  
SYSTEM**

## *RECOMMENDATION 4*

### *CONFISCATION AND PROVISIONAL MEASURES*

*Countries should adopt measures [...] to enable their competent authorities to freeze or seize and confiscate the following, without prejudicing the rights of bona fide third parties:*

- (a) property laundered;*
- (b) proceeds from, or instrumentalities used in or intended for use in money laundering or predicate offences;*
- (c) property that is the proceeds of, or used in, or intended or allocated for use in the financing of terrorism, terrorist acts or terrorist organisations; or*
- (d) property of corresponding value.*



## *RECOMMENDATION 4.*

### *CONFISCATION AND PROVISIONAL MEASURES*

*Such measures should include the authority to:*

- (a) identify, trace and evaluate property that is subject to confiscation;*
- (b) carry out provisional measures, such as freezing and seizing, to prevent any dealing, transfer or disposal of such property;*
- (c) take steps that will prevent or void actions that prejudice the country's ability to freeze or seize or recover property that is subject to confiscation; and*
- (d) take any appropriate investigative measures.*

## *RECOMMENDATION 4*

### CONFISCATION AND PROVISIONAL MEASURES

*Countries should consider adopting measures that allow such proceeds or instrumentalities to be confiscated without requiring a criminal conviction (non-conviction based confiscation), or which require an offender to demonstrate the lawful origin of the property alleged to be liable to confiscation, to the extent that such a requirement is consistent with the principles of their domestic law.*

## *RECOMMENDATION 4*

### CONFISCATION AND PROVISIONAL MEASURES

*Laws and other measures should provide protection for the rights of bona fide third parties.*

*Countries should have mechanisms for managing and, where necessary, disposing of property frozen, seized or confiscated.*

**Forfeiture**

**Confiscation**

**Extinction of dominion**

“[...] the definitive deprivation of any goods,  
proceeds or instrumentalities by decision of a court or other  
competent authority”

# Forfeiture process

Investigation phase: training – appropriate tools – resources

Provisional measures: powers to provisionally freeze or seize

Disposal phase: mechanisms for management or disposal

# **Forfeiture/confiscation**

**Funds from the predicate offence**

**Laundered funds**

**Other assets**

**Proceeds of crime/instrumentalities of crime**

# **Provisional measures**

**What do we do with the assets?**

**How do we manage them?**



# **Examples**

**Real estate**

**Car**

**Crop**

**Cattle**

**Company**

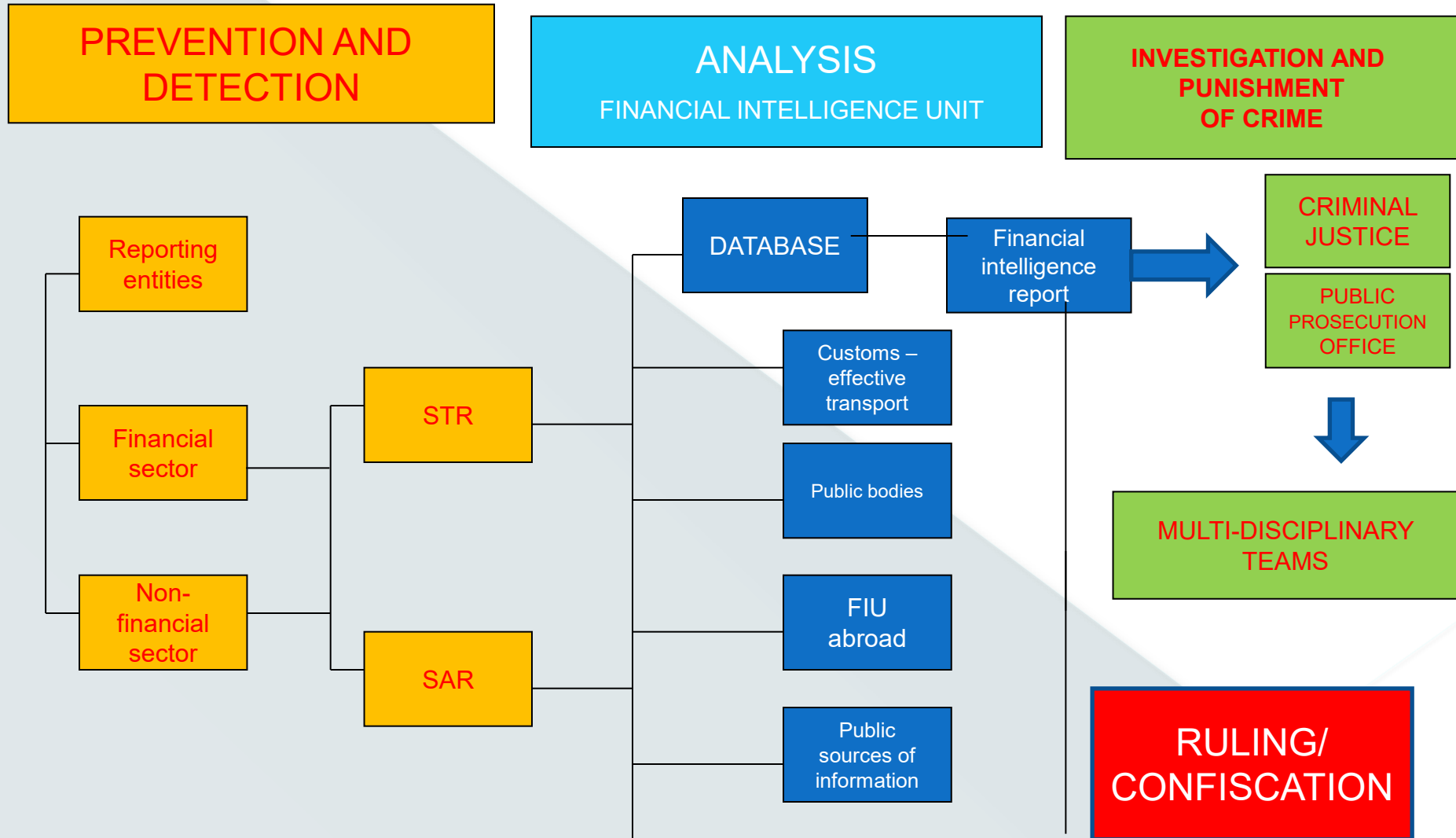
## **Effective system:**

- Seize criminals' money and property
- Seize instrumentalities of crime
- Manage them
- Share them or return them to their rightful owner(s)

# CONCLUSION

*DEPRIVE CRIMINALS OF THE  
PROCEEDS OF THEIR CRIMES*

# System to counter MLTF action flowchart



THANK YOU FOR  
YOUR ATTENTION

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