



ASSET RECOVERY

**Practice and Strategies
Issues/Challenges and Recommendations**

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PRACTICE and STRATEGY

THINGS TO REMEMBER

Best Practices

Understand that what works in other jurisdictions may not work in your jurisdiction

Terminologies

Same legal concept or procedure may have a different terminology in a different jurisdiction

Agencies/Authorities Concerned

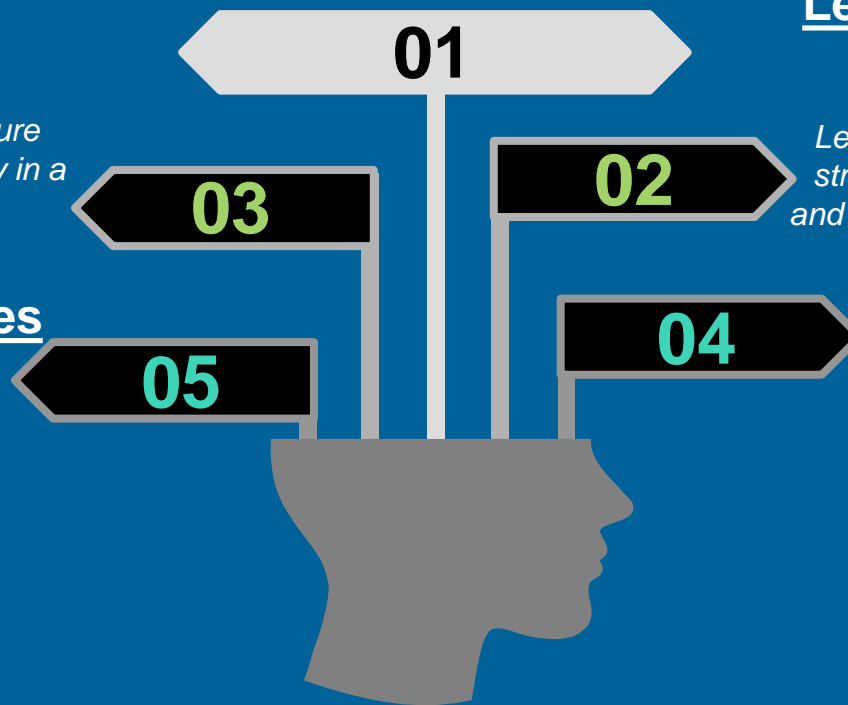
Jurisdictions may assign different roles and responsibilities to those involved in assets recovery

Legal and Procedural Frameworks

Legal systems, law enforcement structures, resources, legislation and procedures vary per jurisdiction

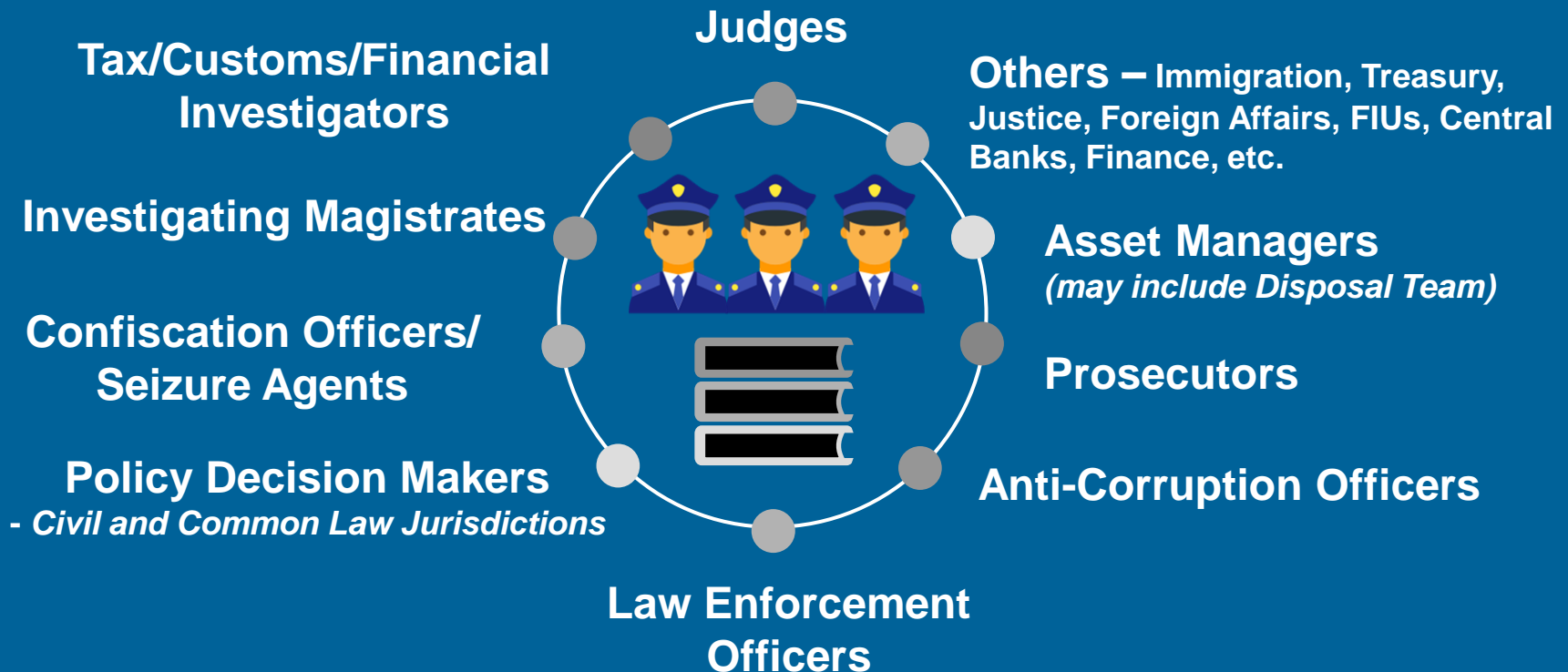
Investigative Techniques

Permitted in other jurisdictions may not be permitted in your jurisdiction or may have different procedural requirements



Source: Asset Recovery Handbook – A Guide to Practitioners by JP Brun, L. Gray, C. Scott and KM Stephenson

Stakeholders





Joint Task Forces

In some civil law jurisdictions, investigating magistrates may lead the investigation from beginning of the case until final adjudication. However, prosecutors may tend to focus on criminal conviction, not necessarily confiscation.

With the establishment of *Specialized Confiscation Units*, confiscation investigators and prosecutors develop the specialized skills needed to present evidence effectively to enforce confiscation laws. They will go farther in identifying, tracing and linking assets to criminal activities to recover the proceeds of crime.

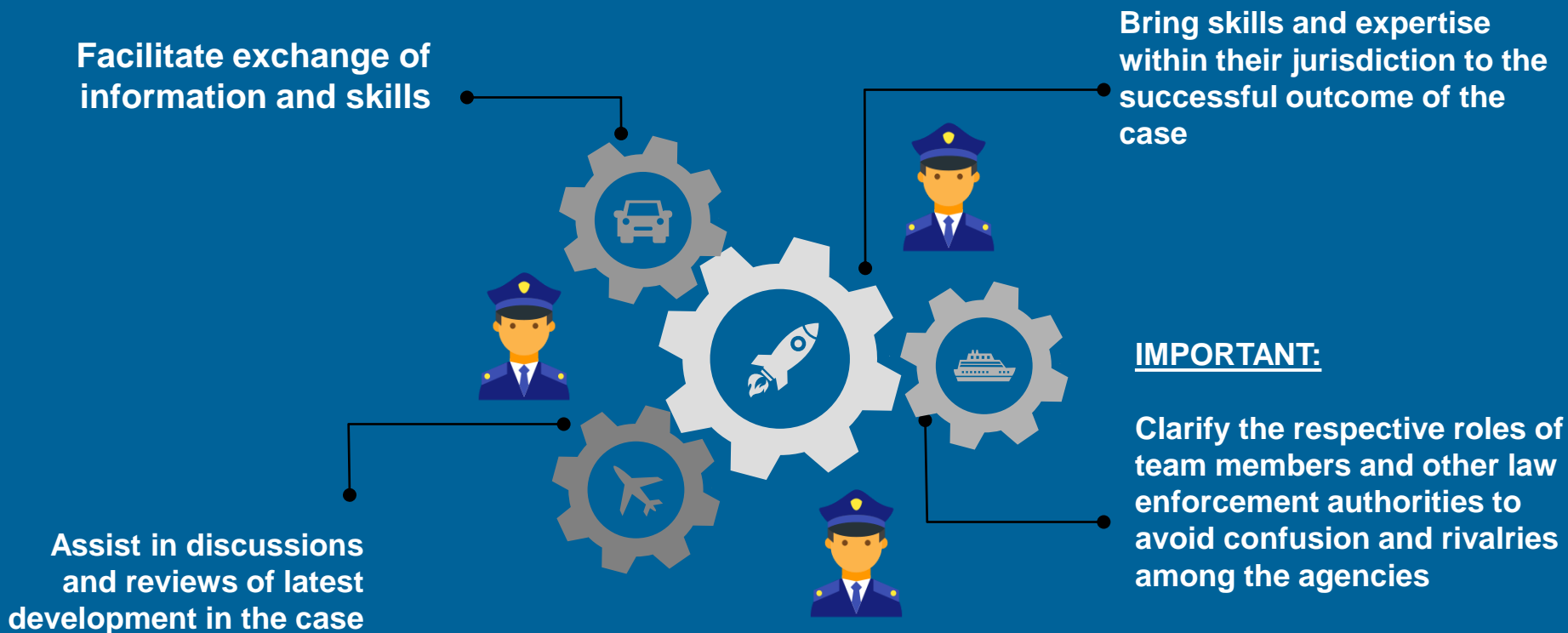


Authorities may consider forming Joint Task Forces that comprise various agencies, law enforcement authorities and even private sectors groups who have an interest in the prosecution or recovery of assets or both.

Joint Task Forces may include representatives from departments of Tax, Customs, Justice, Foreign Affairs, Treasury, Immigration as well as participants from FIUs, regulatory authority, central authority, asset management authority and other stakeholders.



Joint Task Forces



Source: *Asset Recovery Handbook – A Guide to Practitioners* by JP Brun, L. Gray, C. Scott and KM Stephenson



Challenges in Asset Recovery

Limited/Lack of:



knowledge and skills in asset recovery



political will and support from management



enterprise wider reporting, analysis and information intelligence



funding and resources provided to agencies/ authorities tasked to fight tax and financial crimes



information on Mutual Legal Agreement (MLA)/Tax Information Exchange Agreement (TIEA) procedures and requirements



resources in establishing Asset Recovery Offices, MLA Authorities, FIUs, etc.

Source: Barriers to Asset Recovery Handbook and other OECD Tax Academy instructors and participants



Issues and Challenges

**Overly complex procedures
at the domestic level**



**Absence of
expedient
coordination
mechanism among
domestic authorities**



**Disparities between
legal and institutional
frameworks**



**Complex provisions in
investigation, prosecution
and judicial proceedings
vary per country**



**Inflexible and resource
intensive strategies
and processes**



Security Threats/ Risks



Issues and Challenges

**Statute of Limitations and
Bank Secrecy Law provisions**



**Political
Interventions/
Conflict of Interests**



**Different terminologies to
describe the same legal
concepts**



**Limitations/restrictions as to
what information shall be
shared due to different
interpretations
(Data Privacy Act)**



**Shortcomings in
Practice**



**Preservation Orders /
Retention Orders
(period to retain
records)**

Source: Barriers to Asset Recovery Handbook and OECD Tax Academy instructors and participants



Recommendations



Develop cumulative knowledge in assets recovery cases as one priority field of action



Reinforce legal and institutional frameworks per country



Simplify procedures/ reengineer processes at the domestic level to align with international standards

International and Domestic Cooperation



**Capacity Development
- Sharing of Best Practices**

Utilize and strengthen informal path to obtain legal assistance



Create Specialized Confiscation Units and Joint Task Forces to expedite actions on recovery of proceeds of crime



Translate international standards into legislation, policies and practice





**Stolen Asset
Recovery Initiative**
The World Bank and UNODC

Study Materials



**Asset
Recovery
Handbook**



**Financial
Intelligence
Units Working
With Law
Enforcement
Authorities and
Prosecutors**



**Barriers to
Asset
Recovery**



**International
Partnerships
on Asset
Recovery**



**Towards a
Global
Architecture
for Asset
Recovery**

Thank you for your attention!

