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Module 10

Project against Economic Crime (PECK)

Questionnaire

2.6 Financial Intelligence Unit

Has an FIU been established that serves as its centre for receiving (and if permitted, requesting), analysing, and disseminating disclosures of STR and other relevant information concerning suspected ML or FT activities? (FATF R.26.1 (2012 R.29))

- Include a commentary on the nature of the FIU e.g. LEA/Agency/Gov. Department/Judicial/Hybrid. Its range of functions, staffing levels, budget.
- Comment on what analyses are conducted.

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Does the FIU or another competent authority provide financial institutions and other reporting parties with guidance regarding the manner of reporting, including the specification of reporting forms, and the procedures that should be followed when reporting?
(FATF R.26.2)

This section should also include a commentary on the types of reporting required, e.g. STR/CTR/Threshold.

Examples of any reporting forms to be produced and any written guidance, feedback on any Outreach with the reporting sectors would be helpful.

- Does the FIU have access, directly or indirectly, on a timely basis to the financial, administrative and law enforcement information that it requires to properly undertake its functions, including the analysis of STR? (FATF R.26.3)

- Reporting entities – additional information beyond STR?
- Commercial data?
- LEA data?
- Other?

Describe!



- Is the FIU, either directly or through another competent authority, authorised to obtain from reporting parties additional information needed to properly undertake its functions? (FATF R.26.4)
- This could include information that reporting entities are required to hold under other FATF recommendations.
- Describe how this would be effected.



- Is the FIU authorised to disseminate financial information to domestic authorities for investigation or action when there are grounds to suspect ML or FT? (FATF R.26.5)
- Spontaneous dissemination?
- Dissemination upon request?
- How does the FIU communicate its suspicions?



- Does the FIU have sufficient operational independence and autonomy to ensure that it is free from undue influence or interference? (FATF R.26.6)

- Evidence of operational independence
- Budget control
- Autonomous decision to analyse, request and/or disseminate specific information
- If FIU within an existing authority, does it have distinct core functions.



- Is the information held by the FIU securely protected and disseminated only in accordance with the law? (FATF R.26.7)

- Evidence of data security/handling rules
- Access controls
- Staff vetting
- IT systems security
- Physical security
- Audit procedures

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Does the FIU publicly release periodic reports that include statistics, typologies and trends as well as information regarding its activities?
(FATF R.26.8)

- Annual report?
- Sectoral typologies for reporting entities

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- Has the FIU considered applying for membership in the Egmont Group? (FATF R.26.9)
- You should!



- Has the FIU taken account of the Egmont Group Statement of Purpose and its Principles for Information Exchange Between Financial Intelligence Units for Money Laundering Cases (these documents set out important guidance concerning the role and functions of FIUs, and the mechanisms for exchanging information between FIU)? (FATF R.26.10)

- Describe any FIU exchange with other FIU's
 - Stats
 - Mechanisms



- Is Art. 25(1) of the Directive implemented in your jurisdiction? (3MLD Art. 25(1))

- The EU 3rd Money Laundering Directive Art 25.1.
- *Member States shall ensure that if, in the course of inspections carried out in the institutions and persons covered by this Directive by the competent authorities referred to in Article 37, or in any other way, those authorities discover facts that could be related to money laundering or terrorist financing, they shall promptly inform the FIU.*



- Have legislative and other measures been adopted permitting urgent actions to be taken by the FIU or, as appropriate by any other competent authorities or body when there is a suspicion that a transaction is related to money laundering, to suspend or withhold consent to a transaction going ahead in order to analyse the transaction and confirm the suspicion? Please provide the provisions of your domestic legislation, regulations or other measures in this respect. (CETS 198 Art. 14)
- Article 14 – Postponement of domestic suspicious transactions
- Each Party shall adopt such legislative and other measures as may be necessary to permit urgent action to be taken by the FIU or, as appropriate, by any other competent authorities or body, when there is a suspicion that a transaction is related to money laundering, to suspend or withhold consent to a transaction going ahead in order to analyse the transaction and confirm the suspicion. Each party may restrict such a measure to cases where a suspicious transaction report has been submitted. The maximum duration of any suspension or withholding of consent to a transaction shall be subject to any relevant provisions in national law.

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- Are such measures restricted to cases where a suspicious transaction report had been submitted ? (CETS 198 Art. 14)

- If an STR is not required describe what is.

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- What is the maximum duration of a suspension or withholding of consent to a transaction according to your domestic legislation? (CETS 198 Art. 14)

Do the competent authorities maintain comprehensive statistics on:

- (a) suspicious transaction reports, and other reports where appropriate under domestic law, received and disseminated –
 - (i) STR received by the FIU, including a breakdown of the type of financial institution, DNFBP, or other business or person making the STR;
 - (ii) Breakdown of STR analysed and disseminated;
 - (iii) international wire transfers **(It is acceptable if these statistics are kept by another agency)**.
 - (iv) STR resulting in investigation, prosecution, or convictions for ML, FT or an underlying predicate offence

(FATF R.32.2, 32.3).

Please indicate any other data or material you consider to be relevant to the effectiveness and efficiency of this part of the AML/CFT system.



- Is the FIU adequately structured, funded, staffed, and provided with sufficient technical and other resources to fully and effectively perform its functions? (FATF R.30.1)

- ‘Adequately structured’ includes the need for sufficient operational independence and autonomy to ensure freedom from undue influence or interference.



- Is the staff of the FIU required to maintain high professional standards, including standards concerning confidentiality, integrity and appropriate skills? (FATF R.30.2)

- How is this assessed?
Any evidence of a programme of Continuing Professional Development?



- Is the staff of the FIU provided with adequate and relevant training for combating ML and FT? (FATF R.30.3)

- Awareness of scope of predicate offences
- ML & FT typologies
- Techniques of tracing property (p.o.c)
- Use of IT
- Professional qualifications

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QUESTIONS?