THE ROLE OF FIUs
IN ASSET RECOVERY

DOMESTIC AND INTERNATIONAL ASPECTS
AIM

AML/CFT objectives:
- depriving criminal from illegal assets
- cut off terrorism from financial sources

REPRESSION
PREVENTION

CHALLENGE: effective recovery
PREVENTION

Essential:  - early discovery
            - timely intervention

Key position of FIU

→ proximity with financial sector (trust relation – detection of suspicious activity)
→ experience/expertise (STRs)
→ intermediary & support LE
FRAMEWORK

LEGAL CONDITIONS

- SAR system
- *a priori* disclosure obligation
- immunity for disclosing entities
- direct freezing power FIU: tracing alone not enough

→ see art. 24.1 EU Dir. 2005/60/EC
Art. 24.1

“Member States shall require the institutions and persons covered by this Directive to refrain from carrying out transactions which they know or suspect to be related to ML or TF until they have completed the necessary action in accordance with Article 22(1)(a) (i.e. disclosure of STR to FIU). In conformity with the legislation of the MS, instructions may be given not to carry out the transaction.”
INTERNATIONAL COOPERATION

→ Cross-border phenomenon → efficient FIU interaction

- real time information exchange
- possibility to freeze/stop transaction at request of counterpart FIU
- intermediary with LE authorities
FIU NETWORK

- Foreign FIU information / request
- Informal communication system (FIU-net, ESW) → speed

*Challenges:* - different statute (police/admin.)
- different function
- inadequate legislation (freezing power, cooperative ability …)

*Egmont Group solutions*
127 FIUs are currently Egmont Members
120 FIUs are connected to the Egmont Secure Web
Postponement of suspicious transactions

The CoE Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism (Warsaw 16 May 2005)

- **Article 14 - Postponement of domestic suspicious transactions**
  
  The FIUs or, if appropriate, other competent authorities or bodies should be able to postpone a domestic suspicious transaction.

- **Article 47 - International cooperation for postponement of transactions**
  
  The FIU should have the authority to postpone a suspicious transaction at the request of a foreign FIU.
BELGIAN APPROACH

AML Act

- Art. 23 §1: SAR before execution transaction
- Art. 23 §2: FIU can “oppose” (freeze) transaction for max. 2 working days → examination and report to PP
- Art. 22 §2: foreign FIU request = disclosure → CTIF-CFI can use all its powers
Money laundering: Related transaction indication

Before the execution

Immediately after the execution

Disclosure

Unusual transactions

Written report “Mr. Clean”

Administrative sanctions

Supervisory and disciplinary authorities

Facts: evidence of Money laundering

Non compliance Act 11 Jan. 1993

Foreign Counterpart Agencies:
TRACFIN, FINCEN, GUARDIA DI FINANZA, MOT, SOCA, NFIS, ØKOKRIM, SEPBLAC, AUSTRAC, OMLP, FAU, MOKAS, UIC, MLCH, JFIU, AMLD.

CTIF - CFI

Serious indications

Judicial authorities
Police services
 Receivers

Administrative Services of the State

King’s Attorney (Public Prosecutor)

Police Services

Investigation Judge

Criminal Court
STATISTICS JUDICIAL FOLLOW-UP

- Statistics for files reported to the Public Prosecutor’s Offices in the past five years (2006 to 2010)
  - Fines: 4,585,925 EUR
  - Confiscations: 8,570,890 EUR

- Number of freezing orders in 2010: 60
- Total amount frozen in 2010: 135,242,025 EUR
- Amount seized in 2010: 116,461,649 EUR
## Statistics “Human Trafficking”

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of files reported to the Public Prosecutor for trafficking in human beings</th>
<th>Number of freezing orders in files reported to the Public Prosecutor for trafficking in human beings</th>
<th>Amount frozen by CTIF-CFI (2 working days)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>67 files</td>
<td>No freezing orders</td>
<td>-</td>
</tr>
<tr>
<td>2009</td>
<td>60 files</td>
<td>1 freezing order</td>
<td>EUR 55 887,31</td>
</tr>
<tr>
<td>2010</td>
<td>53 files</td>
<td>1 freezing order</td>
<td>EUR 123 147,99</td>
</tr>
</tbody>
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INTERACTION WITH DOMESTIC AUTHORITIES

FIU ↔ COIV:  
- early warning  
- reliable statistics

FIU ↔ PP:  
- timely reporting  
- adequate follow-up & feedback
INDICATORS

- General: too many uncertainties and suspicions → gain time for further analysis
- Investigations/injunctions pending
- Large cash withdrawals announced
- Large money exchange operations
- Emptying of account
- Serious inconsistency with financial profile
- “Explosion” of dormant accounts (VAT carousels)
- Large money transfers → suspect destination or uncontrollable use (loss money trail) ……….
CAVEAT

RISK CONSIDERATIONS

- Alerting suspect
- Position reporting entity:
  - negative/aggressive reactions
  - tipping off prohibition
- Damages if unsubstantiated → financial & reputational
- Interference with ongoing investigations or undercover operations
**CASE EXAMPLES**

*Casus 1*

Russian living in France – accounts in Belgian Bank
Large amounts from off-shores transiting over Belgian account to another Russian in France
Balance (400,000 €) to be transferred to a Swiss company (closing of account) → blocked by FIU
Info from counterpart FIU → relation with organised crime
Intermediary/transit account – suspicion of shell companies (no info to be found in registers)
Report to PP → funds seized


**Casus 2**

Belgian under police investigation for forgery and ML → publicity in press → STR by bank holding accounts (immunity)

Suspect arrested → wife wanted to empty her own account

Freezing action by FIU → report to PP

Investigation: proceeds channelled through wife’s account
**Casus 3**
Director of company in Brussels → suspected of serious fraud → absconded
Request for information received from foreign FIU → reveals existence of bank and investment account (ca. 1,5 million USD)
Blocking of account at request of CTIF-CFI
Report to PP → money turned over to Belgian LE authorities
**CASE EXAMPLES**

**Casus 4**

Counterpart FIU information request on foreign citizen suspected of environmental crime → CTIF/CFI query with Belgian bank holding account → suspect wants to close and collect balance in cash

CTIF/CFI freezes account → informs counterpart → MLA request from foreign judiciary to seize and transfer money within deadline

Follow-up: suspect convicted and assets forfeited
Statistics from 1 January 2010 until 31 December 2010

- Number of disclosures received: 18,673
- Number of new files: 4,928
- Number of files reported to the Public Prosecutor’s Office: 1,259
- Amounts involved in the files reported to the Public Prosecutor’s Office: 594,93 *
- Number of freezing orders: 60
- Total amount of freezing orders: 135,84 *
- Number of closed files: 3,796
- Number of open files on 31 December 2010: 2,662

* Amounts in million EUR
Statistics from 1 December 1993 until 31 December 2010

- Number of disclosures: 178,697
- Number of disclosures reported to the Public Prosecutor’s Office: 82,990
- Disclosures reported / Total disclosures: 46.44%
- Number of files: 44,388
- Number of files reported to the Public Prosecutor’s Office: 12,442
- Amounts involved in the files reported to the Public Prosecutor’s Office: 28.03%
Judicial follow-up of files reported to the Public Prosecutor between 01/12/2006 and 31/12/2010

- Conviction: 214
- Referral to the Criminal court: 217
- Judicial investigation in progress: 378
- Court dismissal: 42
- Case handed over by the Belgian judicial authorities to foreign judicial authorities: 51
- Case closed by the Public Prosecutor’s Office: 2,913
- Police enquiry in progress: 2,196
- Total number of files: 6,011