




FINANCIAL ACTION TASK FORCE  
GROUPE D'ACTION FINANCIÈRE

# The Revised FATF Standards

## 12. Operational issues

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# Overview

- FIUs (R.29)
- Responsibilities of law enforcement authorities (LEA) and investigative authorities (IA) (R.30)
- Powers of LEA and IA (R.31)
- Cash couriers (R.32)
- General Remarks

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## FIUs (R.29)

### Introduction

- Revised to clarify the requirements based on the experience of the 3<sup>rd</sup> round
- Highlights the role and functions of FIU, in particular, the analysis function
- No prejudice to a country's choice for a particular model of FIU
- R.29 deals with the domestic role of FIU

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## FIUs (R.29)

### Three functions

- Special role of FIU in the national AML/CFT system, i.e. carrying out analysis of financial information and providing support to other competent authorities
- A clearer articulation of the 3 core FIU functions:
  - (1) **Receipt** and (2) **analysis** of STRs and other information relevant to potential money laundering, predicate offences or terrorist financing, and
  - (3) **Dissemination** of the results of that analysis.

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## FIUs (R.29)

### Main function - analysis

- Central function of the FIU: analysis of STRs and other relevant information
- FIU should add value to the information when performing its analytical function
  - Use of analytical software
  - Necessary human judgement
- FIU should conduct two types of analysis:
  - Operational
  - Strategic

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## FIUs (R.29)

### Receipt

- Central agency for the receipt of STRs
- Other relevant information that may be required by national legislation: cash transaction reports, wire transfers reports, other threshold-based declarations/disclosures
- Access to information, in order to conduct proper analysis: additional information from reporting entities; widest range of financial, administrative and law enforcement information (including, where appropriate, commercially held data)

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## FIUs (R.29)

### Dissemination

- Higher requirements for dissemination product: results of **analysis**
- Two types of dissemination:
  - Spontaneous
  - Upon request
- Final decision to disseminate should remain within the FIU
- Dedicated and secure channels should be used
- R.29 does not cover exchange of information with foreign counterparts

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## FIUs (R.29)

### Operational independence and information security

- FIU should be operationally independent and autonomous
  - authority and capacity to carry out its functions
  - independent right to disseminate
  - independent cooperation with domestic or foreign partners
  - free from undue influence or interference
- Information security and confidentiality: should have rules in place for access, handling, storage, dissemination, protection of information

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## FIUs (R.25)

### Other aspects

- FIUs should apply for membership in the Egmont Group
- Former R.19 concerning large cash transaction reporting is added as a paragraph in the IN to R.29

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## Law Enforcement Authorities and Investigative Authorities

### Introduction

- New Recs. 30/31
- First significant revision of these Recs. since 1990
- Clear distinction between: responsibilities (R.30 and its INR) / powers (R.31)
- Strengthening of the Standard to reflect the international common practices

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## Responsibilities of LEA and IA

- LEA to investigate ML, predicate offences and TF
  - in the context of national AML/CFT policies
- Requirement for LEA to conduct pro-active parallel financial investigations on ML, predicate offences and TF
  - includes offences committed outside the jurisdiction
  - FATF Guidance on Financial Investigations to be issued
- Responsibility to designate **competent authority** (broader than LEA) to:
  - expeditiously identify, trace and initiate actions to freeze and seize proceeds of crime

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## Responsibilities of LEA and IA

- R.30 also applies to other relevant investigative agencies, for example Anti-corruption agencies
- Use of multi-disciplinary investigative groups
- Cooperative investigations in other countries

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## Powers of LEA and IA

- Basic powers: obtain access to all necessary documents and information when conducting investigations and *take witness statements*
- The list of investigative techniques LEA and IA should have has been expanded:
  - controlled delivery,
  - undercover investigation,
  - wire tapping, etc., which should be available for investigations of ML, TF and predicate offences.
  - accessing computer systems.

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## Powers of LEA and IA

- Competent authorities should have access to mechanisms:
  - to identify owner / controller of accounts
  - to be able to do so without prior notification
- Competent authorities should be able to ask for information from the FIU, which retains discretion in responding to such requests

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## Cash couriers (R.32)

- Rec. adopted in 2004, and updated in 2009 – no need to revise significantly
  - Amendments reflecting the Int'l BPP (description of declaration / disclosure) systems
  - Description of the elements that should in place whichever system is chosen
- Safeguards to ensure there is no restriction on trade and movement of capital
- Specific situation of gold, precious metals and precious stones

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## General remarks

- Requirements for resources and staff now introduced into each “operational” Recommendation (*previously under former Rec. 30*)
  - adequate financial, human and technical resources
  - high professional standards for staff (integrity, skills)

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