

## Information Paper on Financial Intelligence Units and the Egmont Group

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### Background

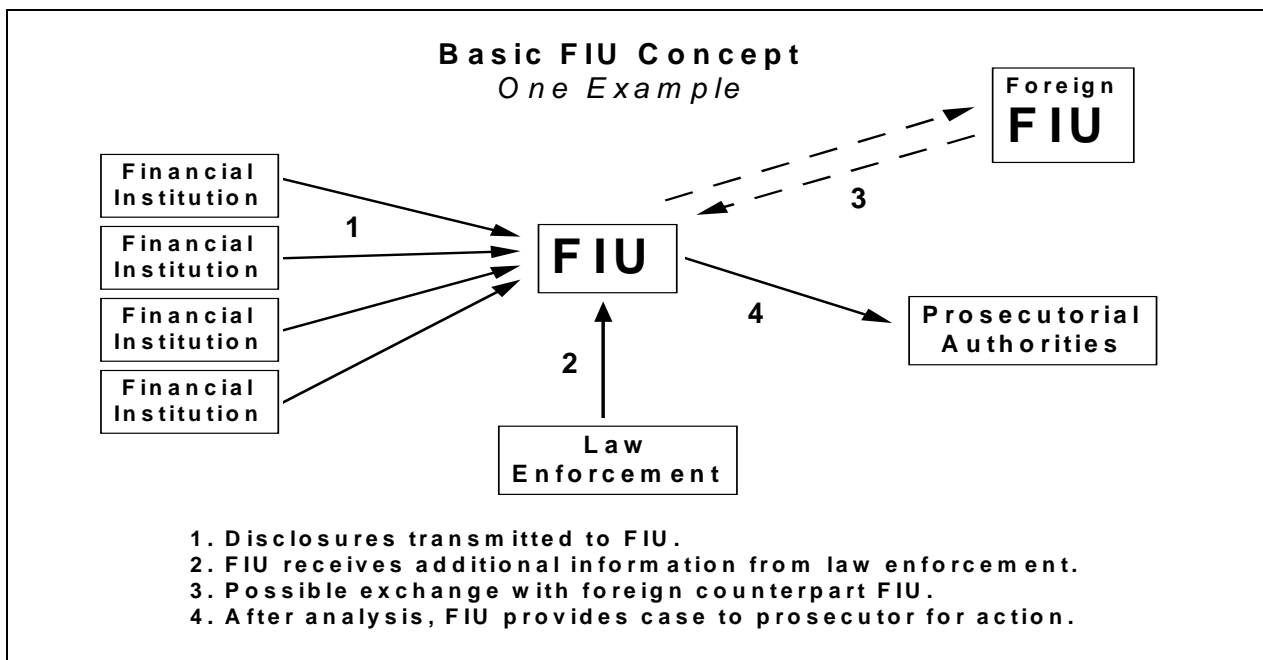
For nearly ten years now, the fight against money laundering has been an essential part of the overall struggle to combat illegal narcotics trafficking and the activities of organised crime. During that time, the key issue involved in the anti-money laundering effort has been ensuring that the critical piece or pieces of information make it to the right people -- the investigators and prosecutors charged with putting criminals behind bars and taking their illegally obtained wealth away -- in a timely and useful manner.

The information needed to support anti-money laundering investigations often involves a wide range of human activity beyond that based purely on criminal motivation. Countering money laundering effectively requires not only knowledge of laws and regulations, investigation, and analysis, but also of banking, finance, accounting and other related economic activities. Money laundering is after all an economic phenomenon; launderers rely to a certain extent on already existing financial and business practices (and the lack of understanding of these by the law enforcement community) as a way of hiding illegally obtained funds.

Anti-money laundering investigations conceivably touch a number of law enforcement agencies within a particular jurisdiction. This along with the fact of ever-present resource limitations means that a completely effective, multi-disciplined approach for combating money laundering is often beyond the reach of any single law enforcement or prosecutorial authority. In many cases, there is also a reluctance on the part of financial institutions to provide to government authorities information that might be related to but is not obviously indicative of a crime. One may add to these restrictions on information exchange in certain instances, the unwillingness or inability to share such information among relevant government agencies and the seemingly insurmountable obstacles to rapid exchanges of information with foreign counterparts.

All of these barriers to information exchange directly affect the outcome of anti-money laundering investigations. The crime of money laundering may not become completely obvious until many or all of the pieces are put together. Since money may transfer hands in a matter of seconds or be relocated to the other side of the world at the speed of an electronic wire transfer, law enforcement and prosecutorial agencies that investigate money laundering must be able to count on a virtually immediate exchange of information. This information exchange must also be at an early point after possible detection of a crime -- the so-called "pre-investigative" or intelligence stage. At the same time, the information on innocent individuals and businesses must be protected from potential misuse by government authorities.

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## The FIU Concept

Over the past years, a number of specialised governmental agencies have been created as countries develop systems to deal with the problem of money laundering. These entities are commonly referred to as “financial intelligence units” or “FIUs”. These units have attracted increasing attention with their ever more important role in anti-money laundering programmes, that is, they seem to provide the possibility of rapidly exchanging information (between financial institutions and law enforcement / prosecutorial authorities, as well as between jurisdictions), while protecting the interests of the innocent individuals contained in their data.

The creation of FIUs has been shaped by two major influences:

- **Law Enforcement:** Most countries have implemented anti-money laundering measures alongside already existing law enforcement systems. Certain countries, due to their size and perhaps the inherent difficulty in investigating money laundering, felt the need to provide a “clearinghouse” for financial information. Agencies created under this impetus were designed, first and foremost, to support the efforts of multiple law enforcement or judicial authorities with concurrent or sometimes competing jurisdictional authority to investigate money laundering.
- **Detection:** Through the Financial Action Task Force 40 Recommendations and other regional initiatives (European Union and the Council of Europe in Europe; CFATF and OAS/CICAD in the Western Hemisphere), the concept of suspicious transaction disclosures has become a standard part of money laundering detection efforts. In creating transaction disclosure systems, some countries saw the logic in centralising this effort in a single office for receiving, assessing and processing these reports. FIUs established in this way often also play the role of a “buffer” between the private financial sector and law enforcement and judicial/prosecutorial authorities. With the FIU serving as the honest broker between the

private and government sectors, this arrangement has, in many cases, fostered a greater amount of trust in the anti-money laundering system as a whole.

Over time, FIUs in the first category have tended to add the disclosure receiving function to their list of attributions. Regulatory or oversight authority (with regard to anti-money laundering matters) has also increasingly become a function of a number of FIUs. Since disclosing requirements necessitate that the receiving agency deal with the disclosing institution, it is only logical that some FIUs then become a primary force in working with the private sector to find ways to perfect anti-money laundering systems.

### **Beginning of the Egmont Group**

Despite the fact that FIUs were created in several jurisdictions throughout the world during the first years of the 1990s, their creation was still at first seen as isolated phenomena related to the specific needs of those jurisdictions establishing them. Since 1995, a number of FIUs began working together in an informal organisation known as the Egmont Group (named for the location of the first meeting at the Egmont-Arenberg Palace in Brussels). The goal of the Group is to provide a forum for FIUs to improve support to their respective national anti-money laundering programmes. This support includes expanding and systematising the exchange of financial intelligence information, improving expertise and capabilities of personnel of such organisations, and fostering better communication among FIUs through application of technology.

### **Egmont Meetings at a Glance**

The first meeting of the Egmont Group was the culmination of several years of intensive national and international anti-money laundering effort. A number of documents -- the United Nations "Vienna Convention"<sup>1</sup>, the Group of Ten "Basle Statement of Principles"<sup>2</sup>, and most notably the Group of Seven Financial Action Task Force (FATF) "40 Recommendations on Money Laundering" -- had spurred more international co-operation in this area. As FIUs were created during the past seven years, they have become more visible in representing their respective nations at international anti-money laundering conferences and seminars. It was through informal contacts made between FIU representatives at various FATF functions that an interest was established for a meeting of such organisations.

Although differing in size, structure, and individual responsibilities, all FIUs share a common purpose in the fight against money laundering. The goal of Egmont, therefore, has been to seek ways to develop among participants a more effective and practical co-operation, especially in the areas of information exchange and sharing of expertise. Examination of these and other issues was carried forward to the second Egmont Group meeting in Paris (30 November 1995) and then to the third meeting in San Francisco (22-23 April 1996) by working groups established at the close of the original conference in Brussels. These working groups are focused on three major areas: legal matters, technology, and training.

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<sup>1</sup> *United Nations Convention Against Illicit Traffic in Narcotic and Psychotropic Substances.*

<sup>2</sup> *Statement of Principles of the Basle Committee on Banking Regulations and Supervisory Practices.*

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The fourth meeting of the Egmont Group took place on 21-22 November 1996 in Rome. With over thirty countries in attendance, along with four international organisations, the Egmont Group moved one step closer to becoming the primary framework for co-operation among FIUs. The Egmont Group examined the functions of the various FIUs and like-agencies so as to determine those missions and functions that are carried out in common. The conference came to an agreement on the definition of an FIU, a definition that will likely facilitate the establishment of new units by setting a minimum standard for such a unit.

According to this definition, a financial intelligence unit is “*a central, national agency responsible for receiving (and, as permitted, requesting), analysing and disseminating to the competent authorities, disclosures of financial information: (i) concerning suspected proceeds of crime, or (ii) required by national legislation or regulation, in order to counter money laundering.*”

One of the purposes for defining the FIU was to distinguish it from other components of an anti-money laundering programme. The definition also helped create a specific identity for the Egmont Group as distinct from FATF or other international bodies concerned with money laundering. The definition was meant to be specific enough to distinguish these agencies from other types of government authorities, yet it had to be generic enough to include the many variations of these units. In creating the definition, the Egmont Group attempted to avoid emphasising any particular type of structure (i.e., police, judicial, administrative, or regulatory). Since the Egmont Group adopted this definition, it has increasingly become the standard against which newly forming units are measured.

The fifth meeting of the Egmont Group took place on 23-24 June 1997 in Madrid, Spain. There were 35 countries and 5 international organisations present at this meeting. The Egmont Group took significant steps forward in several areas. Perhaps the most important of these was the adoption by the Group of its *Statement of Purpose*, a document that describes the work accomplished so far, as well as its current goals within the framework of national and international anti-money laundering efforts. The FIU definition adopted in Rome was applied to all participating agencies – 28 of them were found to meet it – and this definition was incorporated into the *Statement of Purpose*. A comprehensive Egmont Group training programme for FIU personnel began to take shape over the course of the conference and through several sidebar meetings. Finally, the Egmont Group decided to study ways to continue enhancing information exchange among FIUs and ultimately create a more formalised structure for the Group itself.

The sixth plenary meeting of the Egmont Group was held 30 June - 1 July 1998 in Buenos Aires, Argentina. On the margins of this meeting, the first ever “summit” of FIU heads took place. This group accepted ten candidate FIUs as satisfying the Egmont FIU definition. During the plenary meeting, the Egmont Group agreed to form a fourth working group (“Outreach) which will focus on the early stages of FIU development. The issues of creating an Egmont executive secretariat and establishing standard rules for exchange of financial information among FIUs were also discussed and sent to the appropriate working groups for further study.

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The seventh plenary meeting of the Egmont Group was held 26-28 May 1999 in Bratislava, Slovakia. During the second Heads of FIU meeting ten candidate FIUs were accepted in the Egmont Group. It was recognised that the technical issues relating to the Egmont Secure Web were no longer as time consuming as in previous years, therefore, it was decided that the Technology Working Group be absorbed into the Training Working Group and renamed the "Training/Communications" Working Group. The Heads of FIUs also agreed to create a rotating Permanent Administrative Support (in lieu of a secretariat), this after a period of over four years of voluntary administrative assistance by FinCEN. For a two-year period, the Administrator would be housed at the Dutch MOT. In 2001, the Permanent Administrative Support would be transferred to NCIS/ECU of the UK. Workshops were conducted on various issues concerning money laundering and international co-operation in the fight against money laundering and proved to be very successful.

The eighth plenary meeting was hosted by the "Unidad de Analisis Financiero" of the Republic of Panama and took place from 14-17 May 2000. An important issue discussed during this meeting was the development of a training plan for FIUs. Furthermore, the Training and Communications Working Group briefed members on their initiative to produce a booklet of sanitised cases to be completed by the end of 2000. The Legal Working Group presented their efforts to foster the international exchange of information. The Outreach Working Group reported on their activities, which included the development of a FIU development priority list. During the Heads of FIU meeting, the members accepted another five candidate FIUs to the Egmont Group, which brings the total amount of members to 53 FIUs.

On 14 and 15 June 2001, the ninth plenary meeting was held in The Hague, The Netherlands and was hosted by the Dutch Office for the Disclosure of Unusual Transactions (MOT). During this meeting the Egmont Group members accepted amendments in the Egmont Statement of Purpose and an annex to the Statement of Purpose. This annex is called "*Principles for Information Exchange Between Financial Intelligence Units for Money Laundering Cases*". Furthermore it was decided that Candidate FIUs can apply for membership each year before the Egmont working group meetings in March. The Training and Communication working group informed the members on the first joint Egmont Group-UN ODCCP/GPML - FIU Training Seminar that was held in Vienna in January of 2001. Furthermore the working group presented a CD-ROM with a booklet 100 sanitised cases on Money Laundering. This booklet is a compilation of real cases from almost all Egmont Group member FIUs. The Outreach working group presented its progression in the contacts with non-Egmont member organisations.

The Heads of the FIUs accepted five candidate FIUs to the Egmont Group. The total amount of members is now 58 FIUs. Because the Egmont Group is growing steadily and is becoming too big to be managed by only the chairmen of the working groups, supported by one Administrator, the Heads of FIU decided to study on the possibilities for a "Co-ordination Committee" for the Egmont Group. For this purpose a study group was established in which all FIUs can participate.

### **Financial Intelligence Units" and Other Anti-Money Laundering Agencies**

The FIU concept has developed rapidly during the past two to three years. In spite of the specialised nature such units, there has still often been some confusion between "financial

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intelligence units” and other official entities with seemingly similar responsibilities. Police units established for the purpose of investigating financial and white-collar crime -- to include money laundering -- have often been dubbed “financial *investigative* units” with the acronym “FIU”. These units certainly play an important and useful role in their countries’ overall anti-money laundering effort; however, the simple designation “FIU” does not necessarily mean that the unit provides a function as defined by the Egmont Group.

A number of countries have resolved this confusion by continuing to call the purely police unit an “FIU” (“financial investigative unit”), while terming the intelligence unit an “FAU” (“financial analysis unit”). Making this distinction then allows some countries to avoid the word “intelligence” (which has a somewhat negative connotation in certain areas) by focusing on the function of the unit rather than the material with which it works.

An FIU, quite simply, is a central office that obtains financial disclosure information, processes it in some way and then provides it to an appropriate government authority in support of a its national anti-money laundering effort. Although the definition states that the activities performed by an FIU include “receiving, analysing, and disseminating” information, it does not exclude other activities that may be performed on the basis of this material. Therefore, an FIU could conceivably perform the activities mentioned in the definition *and* investigate and / or prosecute violations indicated by the disclosures.

### **Procedure for Being Recognised as an FIU by the Egmont Group**

The Statement of Purpose adopted at the Madrid plenary meeting of the Egmont Group called for a more formal articulation of the process by which an agency may be recognised as meeting the Egmont definition of a financial intelligence unit. In response to this tasking, the Egmont Legal Working Group developed the following procedure:

When a member of the Outreach Working Group becomes aware of an operational anti-money laundering agency that might meet the Egmont FIU definition, he or she obtains adequate identifying information (i.e., name and address of the agency , a point of contact [usually the head of the unit, the organigram of the unit and the anti-money laundering legislation.]). After discussion in the meeting of the Outreach working group, the members can decide to forward the information to the Chairman of the Legal Working Group who then makes the decision to send a letter to the potential FIU asking whether the unit would be interested in the Egmont Group and pointing out the possible benefits of participation as an FIU. The letter contains copies of the *Statement of Purpose*, a short background paper on the Group and a questionnaire. The Chairman asks the unit head to state whether or not he or she believes that the unit meets the Egmont FIU definition. In the case of a positive answer, the unit head is asked to submit a filled in questionnaire and any supporting documentation to the Egmont Legal Working Group. The questionnaire used for this procedure is the same as that used for collecting current information on the already recognised FIUs. Copies of these questionnaires are maintained on the Egmont Secure Web.

The Legal Working Group designates a “sponsor” for the candidate FIU from among the members of the working group. This is usually the FIU that originally brought the candidate to

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the attention of the working group. The responsibility of the “sponsor” is to provide some additional guidance to the candidate in submitting paperwork and to speak on behalf of the candidate during working group meetings. Once all paperwork has been received by the Legal Working Group, the Chairman will include the candidacy in discussions at the next working group meeting. The Legal working group will only discuss Candidate FIUs during the working group meetings in September/October and March. Candidacy will not be discussed during the working group meeting just before the annual plenary meeting.

If the Legal Working Group agrees that the candidate does indeed meet the Egmont FIU definition, based on the paperwork received and the advocacy of the sponsoring working group sponsor, it will then recommend approval of the candidate FIU to the Egmont FIU heads. Information on the candidate is circulated to the FIUs of the Egmont Group (the current 58 units) for their consideration prior to the plenary meeting. The next plenary meeting of the Egmont Group will take place in June 2002. At the plenary meeting, the Egmont FIU heads make the final determination whether the candidates meet the Egmont FIU definition based on the recommendation of the Legal Working Group.

FIUs are officially recognised as meeting the Egmont FIU definition only once a year at the Egmont Group plenary meeting. Potential units may be designated as “candidate FIUs” at other times depending on the ability of the Legal Working Group to meet and make a recommendation.

This procedure was first developed in the year after the Madrid Plenary Meeting. As stated earlier, the procedure was fully endorsed by the heads of the Egmont FIUs when they met during the Buenos Aires Plenary Meeting.

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