

EGMONT GROUP

Best Practices for the Exchange of Information Between Financial Intelligence Units

Introduction

1. According to the **Statement of Purpose** of the Egmont Group, the Financial Intelligence Units (FIUs) participating in the Egmont Group resolve to encourage co-operation among and between them in the interest of combating money laundering and terrorism financing.

The members showed an awareness of the need to maximise information exchange and effective co-operation among FIUs and expressed their conviction that there exists both significant potential for broad-based international co-operation among the FIUs and a critical need to enhance such co-operation.

The Egmont Members agreed to pursue as a priority the further enhancement of information exchange on the basis of reciprocity or mutual agreement and the development of appropriate modalities to that end.

2. Consequently, a document on "**Principles of Information Exchange Between Financial Intelligence Units** " was agreed on and incorporated into the Statement of Purpose.

These principles reflect the intention of the Egmont Group to make their pursuit of the enhancement of information exchange a priority and to overcome the obstacles preventing cross-border information sharing. FIUs are therefore invited to do everything possible to ensure that national legal standards and privacy laws are not conceived so as to inhibit the exchange of information between or among FIUs. The principles relate to the conditions for the exchange of information, the permitted uses of information, as well as the confidentiality issue.

3. In some countries there might be restrictions that limit the free exchange of information with other FIUs or the access to information relevant to a requesting FIU. This document firstly describes practices that maximize cooperation between FIUs and can be used as inspiration for government authorities and officials when considering money laundering legislation.

Furthermore to address the practical issues that have been identified as impeding the efficiency of mutual assistance, this document aims to provide guidelines in terms of best practices for the exchange of information between FIUs. When dealing with international requests for information, FIUs should endeavour to take these best practices into account to the greatest possible extent.

A. LEGAL

1. The Egmont principle of free exchange of information at FIU-level should be possible on the basis of reciprocity, including spontaneous exchange.
2. The exchange of information between FIUs should not be affected by their status, be it of an administrative, law enforcement, judicial or other nature.
3. Differences in the definition of the offences governing the competence of FIUs should not be an obstacle to free exchange of information at FIU-level. To this end, the FIU's competence should extend to all predicate offences for money laundering as well as terrorism financing.
4. The exchange of information between FIUs should take place as informally and as rapidly as possible and with no excessive formal prerequisites, while guaranteeing protection of privacy and confidentiality of the shared data.
5. Should an FIU still need MOUs to exchange information, these should be negotiated and signed by the FIU without undue delay. To that end the FIU should have the authority to sign MOUs independently.
6. It should be possible for communication between FIUs to take place directly, without intermediary body.
7. Requests from a counterpart FIU should be dealt with in the same way as a domestic disclosure so that the receiving FIU can exchange all information available to the FIU under its own authority.

To this end FIUs should have speedy access to complementary information. FIUs should in particular have access to:

- all relevant tools and registers existing in their respective jurisdiction, including law enforcement information;
 - information held by financial institutions and other reporting entities;
 - information on beneficial ownership and control of legal persons, such as corporate entities, trusts and IBCs.
8. The providing FIU's prior consent to disseminate the information for further law enforcement or judicial purposes should be granted promptly and to the largest extent possible.

The providing FIU should not refuse its consent to such dissemination unless this would fall beyond the scope of application of its AML/CFT provisions, could lead to impairment of a criminal investigation, would be clearly disproportionate to the legitimate interests of a natural or legal person or the State of the providing FIU, or would otherwise not be in accordance with fundamental principles of its national law. Any such refusal to grant consent shall be appropriately explained.

B. PRACTICAL

1) REQUEST

The following practices should be observed by the FIU intending to submit a request for information:

1. All FIUs should submit requests for information in compliance with the Principles for Information Exchange that have been set out by the Egmont Group. Where applicable the provisions of information sharing arrangements between FIUs should also be observed.
2. Requests for information should be submitted as soon as the precise assistance required is identified.
3. When an FIU has information that might be useful to another FIU, it should consider supplying it spontaneously as soon as the relevance of sharing this information is identified.
4. The exchange of information between Egmont FIUs should take place in a secure way. To this end the Egmont FIUs should use the Egmont Secure Web (ESW) where appropriate.
5. If necessary the requesting FIU should indicate the time by which it needs to receive an answer. Where a request is marked "urgent" or a deadline is indicated, the reasons for the urgency or deadline should be explained. All FIUs should refrain from arbitrary use of this terminology. When the requested information is only partially urgent, the request for information should use the 'urgent' mark only for the relevant sections. The requesting FIU should indicate if it desires an acknowledgment of receipt of the request. The requesting FIU may not require an acknowledgment (orally or in writing) unless the request is marked "urgent" by that FIU or, in its view, an acknowledgment is necessary in the light of the circumstances of the case. An urgent request should include the contact information for the individual responsible for sending the request.
6. Where appropriate, especially in the case of urgent requests, and in order to speed up proceedings, the requesting FIU may ask for prior consent for further use of the information to be granted directly together with the reply itself.
7. The Egmont Group has developed a request for information form. The use of this form should be encouraged, when exchanging information.
8. Requests should contain sufficient background information to enable the requested FIU to conduct proper analysis/investigation. Requests shall be accompanied by a brief statement of the relevant facts known to the requesting FIU. Particular attention should be paid to:
 - the information identifying the persons or companies involved (at least name and date of birth for individuals and name and registered office for companies);
 - the reported suspicious or unusual transactions or activities, including the involved accounts;
 - the *modus operandi* or circumstances in which the transactions or activities took place;
 - whether the request for information is based on one or more disclosures or whether it has another base, such as a request from a national police authority, a list of suspected terrorists... ;
 - the link with the country of the requested FIU.

9. Requests for information that are not related to a specific country and that are being sent to several FIUs at the same time should be justified as much as possible, providing an overview of the underlying facts. Also the request should be targeted as precisely as possible. The FIU should therefore refrain from using group mailings unnecessarily and should consider carrying out preliminary research into the transactions in order to identify a possible target cluster of FIUs that are more likely to have the relevant information at their disposal.

2) PROCESSING THE REQUEST

1. Except if indicated otherwise, all incoming requests for information originating from a counterpart FIU should be answered, also in case of a negative reply.

2. The request should be dealt with as soon as possible upon receipt.

3. FIUs should assign unique case reference numbers on both outgoing and incoming case requests to facilitate tracking of a particular case request or response.

4. Where a request is acknowledged, the requested FIU concerned should provide the requesting unit with the name and contact details, including telephone and fax numbers, of the contact person and the case or reference number assigned to the case by the responding FIU.

5. FIUs should give priority to urgent requests. If the receiving FIU has concerns about the classification of a request as urgent, it should contact the requesting FIU immediately in order to resolve the issue. Moreover each request, whether or not marked as "urgent", should be processed in the same timely manner as domestic requests for information.

6.a As a general principle, the requested FIU should strive to reply to a request for information, including an interim response, within 1 week from receipt in the following circumstances:

- if it can provide a positive/negative answer to a request regarding information it has direct access to;
- if it is unable to provide an answer due to legal impediments.

6.b Whenever the requested FIU needs to have external databases searched or query third parties (such as financial institutions), an answer should be provided within 1 month after receipt of the request. The requested FIU may consider contacting the requesting unit within 1 week from receipt to state that it has no information directly available and that external sources are being consulted or that it is experiencing particular difficulties in answering the request. The latter may be done orally.

6.c If the results of the enquiries are still not all available after 1 month, the requested FIU should provide the information it already has in its possession or at least give an indication of when it will be in a position to provide a complete answer. This may be done orally.

7. FIUs should consider establishing mechanisms in order to monitor request-related information, enabling them to detect new information they receive regarding transactions, STRs, etc. that are involved in previously received requests. Such a monitoring system would enable FIUs to inform former requestors of new and relevant material related to their prior request.

3) REPLY

1. Where the requested FIU desires feedback on how the information it provided was used, it should request this explicitly. When the requesting FIU is not able to obtain this information, it should reply stating the reasons why the requested feedback cannot be provided.
2. If appropriate, especially in case of urgent requests, and in order to speed up proceedings, prior consent for further use of the information can be granted with the reply itself.
3. The exchange of information between FIUs should take place in a secure way. To this end the Egmont FIUs should use the Egmont Secure Web (ESW) where appropriate.

4) CONFIDENTIALITY

1. All FIUs should use the greatest caution when dealing with supplied information in order to prevent any unauthorized use resulting in a breach of confidentiality.

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