

## Establishing International and Regional Co-operation

Money laundering is an international problem, often carried out by international crime syndicates, and effective measures to tackle it require international co-operation – no one country or agency can succeed alone. This co-operation is necessary at a number of levels, and among a number of different agencies.

The objective is to beat the criminals by applying the same basic standards world-wide. Countries that delay in taking effective action risk opening the door to organised crime.

### 4.1 Co-operation between Governments

Co-operation between governments is vital to ensure that a legal and administrative framework exists for cross-border investigations into money laundering. At the most basic level, it is important that the legal and constitutional definitions of money laundering adopted by different governments are compatible, so that a crime committed in one jurisdiction will be recognised as such in others. The widespread adoption of the 40 FATF Recommendations, together with the 1988 United Nations Convention and the 1990 Council of Europe Convention, has greatly assisted in this process.

At the intergovernmental level, the processing of requests for international co-operation in money laundering cases is greatly eased by the negotiation of bilateral or multi-lateral treaties or agreements. In particular, Mutual Legal Assistance Treaties (MLATs), covering asset tracing, freezing and confiscation, the production of evidence and the questioning of witnesses, are extremely valuable tools in pursuing investigations across national boundaries.

The FATF Recommendations cover the fol-

lowing areas where international co-operation is required.

#### 4.1.1 Exchange of General Information

Recommendation 31 recognises the importance of gathering and disseminating information about the latest developments in money laundering trends and techniques. For several years, the FATF has conducted an annual survey of money laundering methods and counter-measures, providing a global overview of trends and techniques focusing on selected major issues.

The FATF typologies exercises provide a forum for exchange of information and intelligence on current trends and effective counter-measures. These exercises have been supplemented by others within the regional groupings.

The basic techniques and mechanisms for money laundering have therefore been well documented. A summary of this information is contained in Appendix D.

#### 4.1.2 Exchange of Information Relating to Suspicious Transactions

FATF Recommendation 32 states:

*Each country should make efforts to improve a spontaneous or 'upon request' international information exchange relating to suspicious transactions, persons and corporations involved in those transactions between competent authorities. Strict safeguards should be established to ensure that this exchange of information is consistent with national and international provisions on privacy and data protection.*

In recognition that obstacles continue to

prevent information exchange and effective co-operation between national financial intelligence units, and that such obstacles can be removed through a foundation of mutual trust, the Egmont Group of Financial Intelligence Units was formed in 1997.

The objectives of the Egmont Group are:

- ❖ The development of Financial Intelligence Units (FIUs) in governments around the world;
- ❖ Stimulation of information exchange on the basis of reciprocity or mutual agreement;
- ❖ Access to the Egmont Secure Website for all FIUs;
- ❖ Continued development of training opportunities, regional/operational workshops and personal exchanges;
- ❖ Consideration of a formal structure to maintain continuity in the administration of the Egmont Group, as well as consideration of a regular frequency and location for plenary meetings;
- ❖ Articulation of more formal procedures by which decisions as to particular agencies' status vis à vis the FIU definition are to be taken;
- ❖ Designation of appropriate modalities for the exchange of information;
- ❖ Creation of Egmont Group sanctioned materials for use in presentations and communication to public audiences and the press about Egmont Group matters.

The Development of FIUs is considered in Chapter 8 and the Egmont Group Statement of Purpose is set out in Appendix F.

#### 4.1.3 Co-operation in Confiscation and Mutual Assistance

Money laundering is international by nature and investigations into cases of money laundering are rarely confined to one country. To

ensure that the investigation and money trail can be conducted across borders, mutual legal assistance is required. Recommendations 33–40 set out the basis for this, stating in essence that:

- ❖ Different standards, definitions and predicate offences should not affect the ability or willingness of countries to provide each other with mutual legal assistance;
- ❖ A network of bilateral and multilateral agreements and arrangements, based on general legal concepts, should aim to provide practical measures for mutual assistance;
- ❖ Countries should ratify the relevant conventions on money laundering;
- ❖ Co-operative investigations should be encouraged, with particular reference to controlled delivery techniques;
- ❖ Procedures should exist for the use of compulsory measures, including the production of records, search, seizure and obtaining of evidence;
- ❖ Requests by foreign countries to identify, freeze, seize and confiscate the proceeds of crime should be dealt with expeditiously, including arrangements for sharing confiscated assets;
- ❖ Mechanisms for determining the best venue for prosecution of defendants should be applied in cross-border cases;
- ❖ Each country should enact measures to recognise money laundering as an extraditable offence.

#### 4.2 Co-operation through Regional Bodies

Without doubt, the future of international money laundering prevention lies in the development and strengthening of regional

groupings. A major development in February 1998 was FATF endorsement of a policy to strengthen the work of regional or other international bodies that already exist, i.e. the Caribbean Financial Action Task Force (CFATF), the Asia/Pacific Group on Money Laundering (APG), the Council of Europe and the Offshore Group of Banking Supervisors (OGBS). The FATF report notes that the establishment of FATF-style regional bodies should rely, as far as possible, on existing structures, for example the Council of Europe or the Organisation of American States (OAS) and Inter-American Drug Abuse Control Commission (CiCAD), which are also able to assume responsibility for the fight against money laundering in their regions. Where a regional structure that can be adapted does not already exist, it will be necessary to create a new FATF-style body. The development of FATF-style regional bodies will also be encouraged by the active involvement and support of one or more FATF members. The FATF has determined that regional bodies should be treated on an equal level.

To encourage consistency in mutual evaluations, FATF members recognise the value of inviting experts from FATF-style regional bodies to participate in FATF mutual evaluations and vice versa.

#### **4.2.1 The Advantages of Developing Regional Approaches**

The political, economic and social interests of countries are often affected by, and related to, the region in which the country is located. Actions by a neighbouring country have, perhaps, the greatest effect on its close neighbours and in the areas of law enforcement and economic management this is perhaps particularly true. There are few, if any, areas of the world where regional bodies which bring together the political and economic interests of members do not exist. These regional bodies provide the opportunity for essential interests to be pursued and for co-operative mechanisms to be devel-

oped. The common interest of members of the CFATF in the welfare of the region and the close relationship between that organisation and both the Caribbean Community (CARICOM) and the OAS has undoubtedly led to its success within the region.

#### **4.2.2 Developing Regional Standards**

Perhaps the most compelling reason for countries to join with their neighbours to combat money laundering is that countries in regions or sub-regions often share particular problems and can benefit from the development of co-operative solutions. For example, it can be argued that the FATF Recommendations are most effective in countries which have structured and regulated financial systems and, most importantly, where cash is not the normal medium of exchange. The recommendations work well, when implemented, in dealing with money laundering in both the formal and non-cash sectors. They do not, however, address the issue of how to deal with, or how to detect, money laundering in economies which are cash economies and/or economies where reliance on a parallel banking system is the norm. Consequently, the Asia/Pacific Group has undertaken to develop specific recommendations in respect of this problem.

Specialist regional bodies are also in a far better position to judge the nature of their financial systems, the problems faced by them, the potential for laundering money through them and the best way to address the issue. This may mean that, while implementing the FATF 40 Recommendations, regional bodies will need to develop other specific regional recommendations to deal with the particular problems of their financial systems. Any specific measures should seek to ensure that money cannot be diverted from the formal sector and laundered through the informal sector.

Commonwealth countries may consider that there would be benefit in seeking to establish, either in conjunction with an existing

regional body of which they are a member, or separately, a regional or sub-regional body committed to the implementation of anti-money laundering measures.

#### **4.2.3 Current Regional Groupings** ***Caribbean Financial Action Task Force***

Since its inception in 1990, membership of the Caribbean Financial Action Task Force has grown to 25 states of the Caribbean basin. The CFATF's additional 19 Aruba Recommendations, designed specifically to cover the particular regional issues relating to the Caribbean Basin, are contained in Appendix A.

The CFATF monitors members' implementation of the anti-money laundering strategies set out in the Kingston Ministerial Declaration through the following activities:

- ❖ self-assessment of the implementation of the recommendations;
- ❖ an ongoing programme of mutual evaluation of members;
- ❖ plenary meetings twice a year for technical representatives;
- ❖ annual ministerial meetings.

CFATF member governments have also made a firm commitment to submit to mutual evaluations of their compliance both with the Vienna Convention and with the CFATF and FATF Recommendations. The CFATF's first round of mutual evaluations will be completed by the end of the year 2000.

The current CFATF members are set out in Appendix B.

#### ***Asia/Pacific Group on Money Laundering***

The Asia/Pacific Group on Money Laundering currently consists of 16 members in the Asia/Pacific region, comprising members from south Asia, south-east and east Asia and the south Pacific. In March 1998 the APG's first annual meeting, attended by 25 jurisdictions from the region, was held in Tokyo. Revised terms of

reference were agreed, as well as an action plan for the future which is aimed at the effective implementation of the accepted international standards against money laundering as set out in the FATF Recommendations

The current members of the APG are set out in Appendix B.

#### ***Eastern and Southern Africa Anti-Money Laundering Group***

In October 1996 representatives of 13 African countries attended the first Eastern and Southern Africa Anti-Money Laundering Conference in Cape Town, South Africa. The Conference was jointly sponsored by the Commonwealth Secretariat and the FATF. Participants agreed that regional co-ordination was an essential component of national strategies to combat money laundering and therefore proposed, for the consideration of governments, the establishment of a Regional Task Force. At a meeting of Finance and Law Ministers held in Arusha, Tanzania on 27 August 1999, the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) was established. The aim of the Group, which is governed by Ministers representing each of the member states, is to combat the laundering of the proceeds of all serious crime. At both ministerial and senior official level, the Group brings together representatives from the legal, financial and law enforcement fields to ensure the development of comprehensive national and regional anti-money laundering strategies.

The current members of ESAAMLG are set out in Appendix B.

#### ***Council of Europe (PC-R-EV)***

The Select Committee of experts on the Evaluation of Anti-Money Laundering Measures (PC-R-EV) was established in September 1997 by the Committee of Ministers of the Council of Europe to conduct self and mutual assessment exercises of the anti-money laundering measures in place in the 22 Council of Europe

countries which are not members of the Financial Force. The PC-R-EV is a sub-committee of the European Committee on Crime Problems of the Council of Europe (CDPC).

The membership of the Committee, which is comprised of the Council of Europe member states which are not members of the FATEF, is set out in Appendix B.

### *Offshore Group of Banking Supervisors*

The conditions for membership of the Offshore Group of Banking Supervisors include a requirement that a clear political commitment be made to implement the FATF's 40 Recommendations. Members of the OGBS who are not members of the FATF or the CFATF are formally committed to the 40 Recommendations through individual ministerial letters sent to the FATF President during 1997–1998. Mutual evaluations of members who are not members of FATF or CFATF commenced in 1999.

The current members of the OGBS are set out in Appendix B.

#### **4.2.4 The Activities of Regional Anti-Money Laundering Groups**

The FATEF, the CFATF and the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (which has the widest coverage of the subject) have all developed core programmes of activity which include self-assessment of progress in implementing the 40 FATF Recommendations and any other regionally agreed recommendations, mutual evaluation of national programmes and the monitoring of developments in the field of money laundering.

### *Self-Evaluation Procedures*

Commonwealth countries are familiar with self-evaluation of progress in combating money laundering. Finance Ministers have mandated two rounds of self-evaluation and Law Ministers one round. These evaluations use exactly the same methods as those which are employed

by the FATF and the CFATF, firstly because they have proved successful, and secondly to save work for those Commonwealth countries which are members of one of these other bodies. The tabulated results of self-assessment surveys, when distributed to members, assist other countries to understand the laws of fellow member countries and accordingly provide a basic tool which can be used when seeking international co-operation.

### *Mutual Evaluation Procedures*

The 1991 Report of the FATF records a 'decision that underscores the great importance attached to the (evaluation) process' to initiate a process of mutual evaluation under which each member would be subject to evaluation on progress measures three years after endorsing the FATF 40 Recommendations. Mutual evaluations are conducted by multi-disciplinary teams drawn from other member countries which look at the financial, legal and law enforcement aspects of a country's anti-money laundering efforts. In their early years, most evaluations concentrated on the state of a country's laws. More recent evaluations have looked closely at the effectiveness and implementation of those laws and at the operational aspects of combating money laundering.

The FATF was the first to adopt this process of peer evaluation, followed by the CFATF. Most recently, the Council of Europe has put in place its own mutual evaluation process and the OGBS has agreed to a similar procedure amongst its members. Where a country is a member of more than one group which conducts mutual evaluations, the arrangements for evaluation are made between that country and the organisations of which it is a member, so that only one evaluation is conducted. For example Cyprus, which is a member of both the Council of Europe and the OGBS, underwent an evaluation organised jointly by those bodies.

The mere knowledge that other group members are to examine, at a country's own

invitation, its statute books, its banking and financial regulations and its law enforcement methods has the very real effect of ensuring that governments give greater priority to anti-money laundering efforts and make real efforts to meet standards. The prospect of not only having examiners visit their country, but also of having their report discussed in a plenary meeting of all members of the group, has an equally focusing effect.

One of the most important benefits of mutual evaluation is that it gives the examined country the opportunity to examine the effectiveness and implementation of national laws, regulations and operating procedures, and pro-

vides a wider perspective on the national and international effects of anti-money laundering efforts.

### ***Monitoring Money Laundering Developments***

One of the major activities of the FATF, the CFATF and the APG has become known as 'typologies exercises'. Each of these bodies works actively to identify trends in money laundering methods and, perhaps more importantly, to consider emerging threats and effective counter-measures. The issues arising out of these typologies exercises are covered in Appendix D.