



UNDERSTANDING FIU OPERATIONAL INDEPENDENCE AND AUTONOMY

EXECUTIVE SUMMARY

1. **This paper has been drafted to assist governments (decision and policy makers), financial intelligence units (FIUs) and other key stakeholders in identifying and understanding the characteristics that define and shape FIU operational independence and autonomy.** The paper has been formulated in response to the Egmont Group of Financial Intelligence Units (EG) membership who have requested guidance on what characteristics should be in place to best facilitate operationally independent and autonomous FIUs. The paper focuses on describing characteristics that may foster FIU operational independence and autonomy, it is not intended to set a new standard, nor does it discuss strategies to achieve these characteristics.

2. **Operational independence and autonomy of an FIU is seen as a fundamental condition to an effective anti-money laundering and counter financing of terrorism (AML/CFT) framework.** The consequences of FIUs having their operational independence and autonomy compromised has a significant impact on the efforts to combat money laundering (ML) and terrorist financing (TF). The credibility of an FIU with members of the private sector and domestic law enforcement is further influenced as is an FIUs ability to gather information it needs domestically to exchange information with international partners. Furthermore, it can have negative downstream effects on the quality and scope of investigations related to ML, TF, and predicate offences such as corruption and organized crime.

3. **The identification of characteristics has been conducted in the form of review of mutual evaluation reports (MER) that have highlighted several common jurisdictional shortcomings related to FIU operational independence and autonomy.** These include issues related to the appointment of the Head of FIU (HoFIU) being subject to undue influence, challenges to the FIU's independent decision-making capability when the FIU is located within the existing structure of another authority or when the mandates of administrative boards or committees are too broadly

defined; as well as the exchange of information with foreign FIUs being constricted due to external approval processes.

4. **Low ratings in a MER may result in the reviewed country being highlighted publicly as a jurisdiction with strategic deficiencies by the Financial Action Task Force (FATF) (so-called “grey lists” or “black lists”).** Such a process could imply significant damage to the economy and may lead to hampering foreign investment.¹

5. **The characteristics of an operationally independent and autonomous FIU can be grouped into six (6) broad categories.** These include the FIU governance and organisational structure, budget and resources, the appointment and dismissal of FIU senior management and staff, the protection of information and information exchanges as well as characteristics linked to accountability, integrity, transparency and leadership. Characteristics include, but are not limited to, specific requirements outlined in the FATF standards.

6. **The foundational assumption is that the FIU has the authority and capacity to carry its functions freely, including the autonomous decision to analyse, request and/or disseminate specific information.** This criterion helps ensure that decision-making regarding the FIUs operations lies entirely within the FIU. This protects the FIU and the sensitive information it holds from undue influence(s) and is the basis underpinning international cooperation between FIUs.

7. **FIU core functions should be distinct from those of its parent entity and the FIU should be provided with adequate financial, human and technical resources that secures its autonomy and independence and allows it to conduct its mandate effectively.** This includes the ability to recruit and manage staff independently as well as the capacity to obtain and deploy resources free from any undue political, government or industry influence or interference.

8. **The appointment and dismissal of the Head of FIU (HoFIU) should be apolitical, timely and based on merit.** The role of HoFIU is critical to the success of the FIU and its political leveraging. As such it is important to have appointment and dismissal processes that are free from undue influence and lead to the best candidate being appointed.

9. **The FIU should be able to decide or engage independently with other domestic competent authorities or foreign counterparts with regards to the exchange of information.** This authority should not be subject to approval from a third party, whether a parent organisation or a minister.

¹ Before a public identification, countries are under the revision process of the FATF's International Co-operation Review Group (ICRG) to address their deficiencies.

10. **Challenges to FIU operational independence and autonomy are also explored.** Lack of understanding of the operational independence and autonomy by key stakeholders, restrictive governance structures and practices as well as undue influence by politicians and/or criminal organisations are all seen as factors that impede an FIU's ability to be operationally independent and autonomous.

11. **This document may serve as the basis for future EG workshops and provision of technical assistance.** Workshops and document dissemination will focus on EG members and candidate FIUs, policy-makers, other government agencies as well as other key stakeholders. It can also serve as a basis for an FIU to conduct a self-assessment of its own structures and activities to determine its own level of operational independence, autonomy and identify potential areas for improvement.