

# FINANCE



## FINAL QUESTIONNAIRE

### 1. CRIMINAL LAW AND ANTI-MONEY LAUNDERING LAW

(i) Short and concise description of the domestic criminal law provisions that punish money laundering, also in relation to the state of implementation of the Directive 1673/2018, including:

- Really brief explanation of the structure of the offence/s of money laundering and self-laundering;
- Relevant predicate crimes. It should be explained, (a) really briefly, how they are selected by law and whether criminal offences affecting the Union's financial interests are included (with a special focus on procurement and non-procurement related frauds and VAT frauds, covered by art. 3 of Directive 1371/2017), (b) whether not intentional offences are included, (c) whether it is relevant that the predicate offense is committed abroad, i.e. the extent of the dual criminality principle (see art. 3, par. 4, Directive 1673/2018 and FATF Recommendation n. 3), (d) and dividing line between administrative and criminal sanctions.

(ii) Short and concise description of the national anti-money laundering legal framework, also in relation to the state of the Implementation of the Directives 849/2015 and 843/2018, including:

- The identification of the transposition laws of the aforementioned EU Directives;
- A brief overview of the national coordination authority or mechanism in the fight against money laundering (art. 7, Directive 849/2015) and of the competent authorities to monitor and guarantee compliance to the AML provisions by the obliged entities (ar. 48, Directive 849/2015);
- A brief overview of the obliged entities included in the national provisions, including a reference to the main national provisions aimed at limiting or extending the obliged entities (art. 2, par. 3 and art. 4, Directive 849/2015).

### 2. STATUS, FUNCTIONS AND GOVERNANCE OF THE FIU

(i) An overview of the Institutional setting of the FIU, including provisions aimed at guaranteeing the organizational and operational autonomy and the independence of the governance of the FIU.

### 3. FIU'S ACCESS POWERS ON DATA AND INFORMATION

(i) FIUs' access power to information from the obliged entities, including:

- An overview of national provisions and/or soft laws, if any, regulating the structure and content of STRs/SARs/UTRs and the reporting procedures (such as standard templates);
- Rules concerning data and information that can be requested from obliged entities;

- Reference to conditions and limits, such as *(a)* prior STR/SAR or court orders *(b)* category or type of suspected predicate crime of money laundering.

*(ii)* FIUs' access power in accordance with art. 32, par. 4, Directive 849/2015, including a brief explanation of methods of access (direct or indirect) and the relevant discipline, with reference to:

- Central register or retrieval systems of the bank accounts owners requested by art. 32a, Directive 849/2015, with reference, if any, to facultative additional information provided by domestic implementation laws (art. 32a, par. 4);
- Central register of the beneficial owners (art. 30, par. 4, Directive 849/2015);
- Central register of the real estate owners (art. 32b, Directive 849/2015);
- Other financial and administrative information accessible by the FIU according to domestic law (e.g. Social security databases; Tax and revenue databases; Credit exposures registers; other information mentioned in the art. 18, par. 1, let. a) of the EC proposal for a VI AML Directive);
- Other police information accessible by the FIU (e.g. Criminal judicial decisions, Criminal investigations or prosecutions or other police databases), including those provided for in implementation of Art. 8, Directive 1153/2019.

#### **4. COOPERATION WITH OTHER FIUS**

*(i)* Domestic rules and, if any, soft laws (including, for example, indexes, guidelines and codified practices) on *(a)* autonomous (cross-border report, XBR and cross-border dissemination, XBD) and *(b)* on request dissemination of information from the domestic FIU to other European FIUs (art. 53, Directive 849/2015)

*(ii)* Conditions and limits to the dissemination of information to other European FIUs, such as limits concerning:

- Structure and content of the request;
- Nature or status of the requesting FIU;
- Differences between national law definitions of predicate crimes;
- Domestic provisions on secrecy or confidentiality;
- Inquiry, investigation or proceeding underway in the requested Member State;
- Other limits and conditions that may not comply with art. 50a, Directive 849/2015 and/or the "Principles for Information Exchange Between Financial Intelligence Units" of the EGMONT Group.

#### **5. COOPERATION WITH LAW ENFORCEMENT AND JUDICIAL AUTHORITIES**

(i) Domestic rules and, if any, soft laws on dissemination of information to National investigative authorities (law enforcement, public prosecutors), also taking into account rules transposing Directive 1153/2019. In particular should be considered:

- (a) Data and analysis developed by the national FIU;
- (b) Information received by the national FIU from other European FIUs.

(ii) If existing, domestic rules and soft laws on dissemination of information to supranational EPPO (see art. 43 of Regulation 1939/2017), OLAF (see art. 7, par. 3-bis of Regulation 883/2013), Europol and/or Europol National Units (see art. 12, Directive 1153/2019)

(iii) Admissibility of the information and analyzes of the FIUs in criminal proceedings, taking into account possible restrictions and conditions provided by national rules according to art. 54, Directive 849/2015, in particular as regards:

- *notitia criminis* value of FIU data and analyzes for starting a new criminal investigation;
- admissibility of data and analyzes of the FIUs to support the adoption of measures that restrict personal freedom or other fundamental rights, such as personal and home searches, authorization for the interception of telephone / telematics communications, preventive seizures of proceeds of crime, personal precautionary measures (preventive custody in prison, house arrest, etc.);
- other hypotheses.