



# EFFECTIVE INTER-AGENCY CO-OPERATION IN FIGHTING TAX CRIMES AND OTHER FINANCIAL CRIMES

Second Edition

2013



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## BACKGROUND AND INTRODUCTION

Financial crimes are growing in sophistication and criminals accumulate significant sums of money through offences such as drug trafficking, investment fraud, extortion, corruption, embezzlement, tax evasion and tax fraud. The nature of financial crime means that the same activity may violate a number of different laws. Different government agencies may be involved at various stages of tackling financial crimes, including the prevention, detection, investigation and prosecution of offences and the recovery of the proceeds of crime. Tax offences are often intrinsically linked to other financial crimes as criminals fail to report their income from illicit activities for tax purposes. Conversely, criminals may over-report income in an attempt to launder the proceeds of crime. The Financial Action Task Force ('FATF') has explicitly recognised the linkages between tax crimes and money laundering by adding tax crimes to the list of designated predicate offences for money laundering purposes in the 2012 update of its Recommendations.

Where criminal activity does cross national boundaries, the amounts involved can be staggering. A 2011 UNODC report<sup>1</sup> estimates that in 2000 to 2009 total proceeds from transnational organised crime was the equivalent of 1.5% of global GDP, or USD 870bn in 2009. Issues of financial crime are of concern to all countries, but particularly to developing countries. Illicit financial flows resulting from financial crimes strip resources from developing countries that could finance their long-term development. Although it is difficult to estimate the total amounts at stake, experts agree that the amounts at stake are vast.

The OECD has been active in this area for many years, encouraging countries to take action to strengthen their legal, regulatory or administrative provisions and their powers of investigation for the detection and prevention of tax evasion, with regard to both their domestic and international aspects. In 1998, further work was initiated in response to a call by G7 Finance Ministers which encouraged international action to enhance the capacity of anti-money laundering systems to deal effectively with tax related crimes. The OECD and the FATF subsequently strengthened co-operation in areas of mutual concern and, since 2003, the OECD has held Observer status at FATF meetings. In July 2009, the G8 Leaders called for further efforts in combating illicit financing, and acknowledged the progress being made by the FATF in improving the standards for combating money laundering and the financing of terrorism and by the OECD on international standards of transparency.

In its 2009<sup>2</sup> and 2010<sup>3</sup> Recommendations, the OECD advocated greater co-operation and better information sharing between different government agencies involved in the

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<sup>1</sup> United Nations Office on Drugs and Crime, *Estimating Illicit Financial Flows from Drug Trafficking and Other Transnational Organised Crimes* (October 2011).

<sup>2</sup> OECD Council Recommendation on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions, 25 May 2009, C(2009)64.

fight against financial crimes both domestically and internationally. These recommendations are reproduced in the box at the end of this chapter. The OECD has also developed practical guidance in the form of handbooks to better enable tax officials to detect bribes and instances of money laundering.<sup>4</sup> These handbooks have been translated into many languages and are being used by tax administrations around the world.

It was against this backdrop that Norway hosted the first international Forum on Tax and Crime, held in Oslo in March 2011. The purpose of the Forum was to find more effective ways to use a ‘whole-of-government’ approach to counter financial crimes by harnessing the skills and knowledge of different agencies through better domestic and international co-operation. Inter-agency co-operation can enhance financial integrity and good governance by improving the effectiveness of countries’ abilities to fight financial crimes. In a world where criminals operate in a complex financial environment and across geographic boundaries, effective domestic and international inter-agency co-operation is the only viable response. The Forum asked the OECD, working with other international organisations and interested parties, to focus on improving inter-agency co-operation by mapping out different models of co-operation, their advantages and challenges with a view to developing best practice standards, and with a particular focus on the contribution that tax administrations can make in this regard. The importance of inter-agency co-operation was also underlined by the G20 Finance Ministers Communiqué of February 2012, which called for an update by the OECD, together with the FATF, on steps taken to prevent the misuse of corporate vehicles and improve interagency co-operation in the fight against illicit activities.

The first edition of the OECD Report on *Effective Inter-Agency Co-operation in Fighting Tax Crimes and Other Financial Crimes* (the Rome Report) was prepared by the Task Force on Tax Crimes and Other Crimes (TFTC) and launched at the second international Forum on Tax and Crime, hosted by the *Guardia di Finanza* in Rome in June 2012. That report contained the first in-depth analysis of inter-agency co-operation in fighting financial crimes in 32 countries. The first edition of the Rome Report was very well received by countries and international organisations, and has directly contributed to the debate within countries on how inter-agency co-operation may be improved. In part as a result of this work, a number of countries have already implemented changes, some of which are outlined in Chapter 1. This second edition of the Rome Report builds on this success with a number of enhancements.

- Customs administrations are a key agency in preventing, detecting and investigating financial crime, with sophisticated systems for monitoring the movement of people, goods and funds across national borders. Customs administrations also maintain records on individuals, companies and transactions for use in the administration of customs and excise duties and, in many cases, indirect taxes such as VAT or GST. This edition contains an analysis of gateways used in different countries to enable the customs administration to share this information with other agencies for use in

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<sup>3</sup>. OECD Council Recommendation to Facilitate Co-operation between Tax Authorities and Other Law Enforcement Authorities to Combat Serious Crimes, 14 October 2010, C(2010)119.

<sup>4</sup>. The OECD Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors (2009) and the OECD Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors (2013).

the fight against financial crime, as well as for the customs administration to obtain relevant information from other agencies.

- Chapter 5 of the Report now contains detailed country-specific sections to complement the comparative information contained in Chapters 2 to 4. These country sections include additional information on key agencies as well as mechanisms for sharing information and co-operation between agencies in combating financial crimes.
- Since the first edition, the number of countries that have provided information and are covered in the Report has increased from 32 to 48. This allows the comparison of mechanisms for inter-agency co-operation in developed and developing countries, and in all geographic regions. The countries included in this edition of the report are **Australia, Austria, Azerbaijan, Belgium, Brazil, Burkina Faso, Canada, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, El Salvador, Estonia, Finland, France, Germany, Ghana, Greece, Hungary, Iceland, India, Ireland, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Malaysia, Mexico, the Netherlands, New Zealand, Norway, Peru, Portugal, Serbia, Singapore, the Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Uganda, the United Kingdom and the United States.**

This second edition of the Rome Report was presented and launched at the third international Forum on Tax and Crime, held in Istanbul on 7-8 November 2013 and hosted by the GIB (the Turkish tax administration), VDK (the Turkish Tax Inspection Board) and MASAK (the Turkish Financial Intelligence Unit).

This report is not an end point but the next step in a series of work. Financial crime is an issue for all countries around the world. Future work may be conducted to further enlarge the country coverage and to deepen the level of analysis, with a view to providing maximum insights into the most effective ways of fighting financial crimes. Further reports may also be prepared to measure progress and enable countries to benchmark their systems internationally. The ongoing objective is to identify ways in which agencies can work together in combating financial crime to deliver better results, in shorter time frames and with lower costs. Improvements on domestic inter-agency co-operation will also have a positive impact on cross-border international co-operation. While this report is limited to domestic co-operation, future reports may also cover aspects of international co-operation, a topic on which work is also underway in the TFTC.

**Box 1: Recommendation of the Council on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions**

**25 May 2009**

THE COUNCIL,

Having regard to Article 5, b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Having regard to the Recommendation of the Council on the Tax Deductibility of Bribes to Foreign Public Officials (hereafter the "1996 Recommendation"), to which the present Recommendation succeeds;

Having regard to the Revised Recommendation of the Council on Bribery in International Business Transactions;

Having regard to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions to which all OECD Members and eight non-members are Parties, as at the time of the adoption of this Recommendation (hereafter the "OECD Anti-Bribery Convention");

Having regard to the Commentaries on the OECD Anti-Bribery Convention;

Having regard to the Recommendation of the Council concerning the Model Tax Convention on Income and on Capital (hereafter the "OECD Model Tax Convention");

Welcoming the United Nations Convention Against Corruption to which most parties to the OECD Anti-Bribery Convention are State parties, and in particular Article 12.4, which provides that "Each State Party shall disallow the tax deductibility of expenses that constitute bribes";

Considering that the 1996 Recommendation has had an important impact both within and outside the OECD, and that significant steps have already been taken by governments, the private sector and non-governmental agencies to combat the bribery of foreign public officials, but that the problem still continues to be widespread and necessitates strengthened measures;

Considering that explicit legislation disallowing the deductibility of bribes increases the overall awareness within the business community of the illegality of bribery of foreign public officials and within the tax administration of the need to detect and disallow deductions for payments of bribes to foreign public officials; and

Considering that sharing information by tax authorities with other law enforcement authorities can be an important tool for the detection and investigation of transnational bribery offences;

On the proposal of the Committee on Fiscal Affairs and the Investment Committee;

I. RECOMMENDS that:

(i) Member countries and other Parties to the OECD Anti-Bribery Convention explicitly disallow the tax deductibility of bribes to foreign public officials, for all tax purposes in an effective manner. Such disallowance should be established by law or by any other binding means which carry the same effect, such as:

- Prohibiting tax deductibility of bribes to foreign public officials;
- Prohibiting tax deductibility of all bribes or expenditures incurred in furtherance of corrupt conduct in contravention of the criminal law or any other laws of the Party to the Anti-Bribery Convention.

Denial of tax deductibility is not contingent on the opening of an investigation by the law enforcement authorities or of court proceedings.

(ii) Each Member country and other Party to the OECD Anti-Bribery Convention review, on an ongoing basis, the effectiveness of its legal, administrative and policy frameworks as well as practices for disallowing tax deductibility of bribes to foreign public officials. These reviews should assess whether adequate guidance is provided to taxpayers and tax authorities as to the types of expenses that are deemed to constitute bribes to foreign public officials, and whether such bribes are effectively detected by tax authorities.

(ii) Each Member country and other Party to the OECD Anti-Bribery Convention review, on an ongoing basis, the effectiveness of its legal, administrative and policy frameworks as well as practices for disallowing tax deductibility of bribes to foreign public officials. These reviews should assess whether adequate guidance is provided to taxpayers and tax authorities as to the types of expenses that are deemed to constitute bribes to foreign public officials, and whether such bribes are effectively detected by tax authorities.

(iii) Member countries and other Parties to the OECD Anti-Bribery Convention consider to include in their bilateral tax treaties, the optional language of paragraph 12.3 of the Commentary to Article 26 of the OECD Model Tax Convention, which allows "the sharing of tax information by tax authorities with other law enforcement agencies and judicial authorities on certain high priority matters (e.g. to combat money laundering, corruption, terrorism financing)" and reads as follows:

"Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use."

II. Further RECOMMENDS Member countries and other Parties to the OECD Anti-Bribery Convention, in accordance with their legal systems, to establish an effective legal and administrative framework and provide guidance to facilitate reporting by tax authorities of suspicions of foreign bribery arising out of the performance of their duties, to the appropriate domestic law enforcement authorities.

III. INVITES non-members that are not yet Parties to the OECD Anti-Bribery Convention to apply this Recommendation to the fullest extent possible.

IV. INSTRUCTS the Committee on Fiscal Affairs together with the Investment Committee to monitor the implementation of the Recommendation and to promote it in the context of contacts with non-members and to report to Council as appropriate.

**Box 2: Recommendation of the Council to Facilitate Co-operation between Tax and Other Law Enforcement Authorities to Combat Serious Crimes**  
**14 October 2010**

THE COUNCIL

Having regard to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Having regard to the Recommendation of the Council on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions;

Having regard to the Recommendation of the Council concerning the Model Tax Convention on Income and on Capital (hereafter the “OECD Model Tax Convention”)

Having regard to the Conclusions of the 2010 meeting of the Council at Ministerial level and the Declaration on Propriety, Integrity and Transparency in the Conduct of International Business and Finance

Having regard to the Conclusions of the 2009 meeting of the Council at Ministerial level;

Having regard to the FATF 40 Recommendations and nine Special Recommendations;

Having regard to the 2009 OECD Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors;

Considering that tax authorities can play an important role in the detection of all serious crimes and not only foreign bribery;

Considering that sharing information by tax authorities with other law enforcement authorities can advance efforts to detect, investigate and prosecute serious crimes;

On the proposal of the Committee on Fiscal Affairs;

I. RECOMMENDS that Members establish, in accordance with their legal systems, an effective legal and administrative framework and provide guidance to facilitate reporting by tax authorities of suspicions of serious crimes, including money laundering and terrorism financing, arising out of the performance of their duties, to the appropriate domestic law enforcement authorities.

II. FURTHER RECOMMENDS that Members consider to include in their bilateral tax treaties, the optional language of paragraph 12.3 of the Commentary to Article 26 of the OECD Model Tax Convention, which allows “the sharing of tax information by tax authorities with other law enforcement agencies and judicial authorities on certain high priority matters (e.g. to combat money laundering, corruption, terrorism financing)” and reads as follows:

“Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.”

III. INVITES non-Members to adhere to this Recommendation.

IV. ENCOURAGES all countries to distribute widely within their tax administrations the 2009 OECD Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors.

V. INSTRUCTS the Committee on Fiscal Affairs to monitor the implementation of the Recommendation and to promote it in the context of contacts with non-Members and to report to Council as appropriate.

## *CHAPTER 1*

### KEY FINDINGS AND RECOMMENDATIONS

#### A. Introduction

The report identifies key agencies involved in the different stages of combating financial crime. It considers the organisational models for these agencies adopted in different countries. These models form the framework around which arrangements for inter-agency co-operation are built. Taking into account the different agency models applied, the report identifies flows of information that are particularly important in enabling these agencies to operate effectively in combating financial crime. It describes the broad position with respect to the existence of legal gateways in countries to enable these flows to take place, as well as any particular barriers or impediments that exist. While the ability to share information is a necessary condition for inter-agency co-operation, many countries have gone further and have put in place enhanced forms of co-operation to make optimal use of these gateways and the report describes the arrangements for enhanced co-operation currently in place.

#### B. Organisational models for agencies fighting tax crimes and other financial crime

Strategies for combating financial crimes comprise a number of key stages, including the prevention, detection, investigation and prosecution of offences, and the recovery of the proceeds of crime. Depending upon the circumstances, these strategies can involve a number of government agencies, including the tax administration; the customs administration; anti-money laundering authorities including the Financial Intelligence Unit ('FIU'); the police and specialised law enforcement agencies; the public prosecutor's office; and financial regulators.

A range of organisational models exist for structuring each of these agencies and allocating competences among them. Some of these models are long-standing and were established as a country's framework for law enforcement was developed. Other models reflect more recent policy decisions. Each organisational model has distinct features which need to be taken into account when developing strategies for inter-agency co-operation, so as to ensure that the full benefits of co-operation are achieved. Which agency has responsibility for a particular activity will directly impact the processes and agreements required to achieve a desired benefit from co-operation.

For instance, looking at ways countries have allocated responsibilities for countering tax crime the Report identifies the following four models:

- **Model 1:** the tax administration has responsibility for directing and conducting investigations. This model is applied in **Australia, Canada, Germany, Greece, India, Ireland, Japan, Korea, Malaysia, New Zealand, South Africa, Singapore, Switzerland, Uganda, the United Kingdom and the United States.**

- **Model 2:** the tax administration has responsibility for conducting investigations, under the direction of the public prosecutor. This model is applied in **Austria, Azerbaijan, El Salvador, Estonia, Hungary, Latvia, the Netherlands, Portugal, Serbia, Sweden, Spain** and **the United States**. In **Spain** investigations are currently directed by an examining judge.
- **Model 3:** a specialist tax agency, under the supervision of the Ministry of Finance but outside the tax administration, has responsibility for conducting investigations. This model is applied in **Ghana, Greece, Iceland** and **Turkey**.
- **Model 4:** the police or public prosecutor has responsibility for conducting investigations. This model is applied in **Belgium, Brazil, Burkina Faso, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, Finland, France, Iceland, Lithuania, Luxembourg, Mexico, Norway, Peru, the Slovak Republic, Slovenia** and **Spain**.

**Italy** is not included in the four models set out above. In Italy, responsibility for carrying out investigations into financial crimes, including tax crimes, sits with the *Guardia di Finanza*, which can conduct such investigations both independently and also under the direction of the public prosecutor. The *Guardia di Finanza* is also able to carry out civil tax investigations and audits in accordance with its own administrative powers. **The United States** is included in both Model 1 and Model 2, to reflect two types of criminal investigations. The first is an administrative investigation, which is conducted by a tax administration employee and the case is then referred to a prosecutor. The second is a Grand Jury investigation which is initiated and worked under the direction of a prosecutor from the inception of the investigation. In **Greece**, tax offences may be investigated by the tax administration or by the Financial and Economic Crime Unit (SDOE), which sits under the Ministry of Finance. Greece is therefore included under both Model 1 and Model 3. **Spain** is shown under Models 2 and 4. The Spanish tax administration may conduct tax crime investigations under the direction of an examining judge. However, there are investigations in which the tax administration does not participate, because the case was initiated outside the tax administration (for example by the police or public prosecutor), or because the examining judge has not requested assistance from the tax administration. **Iceland** is included under both Models 3 and 4, to reflect the fact that the Directorate of Tax Investigations (which sits outside the tax administration) has responsibility for conducting investigations into suspected tax fraud, while the police also has competency to conduct independent investigations into serious tax crimes

### C. Models for sharing information

In the course of their activities, different government agencies collect and hold information on individuals, corporations and transactions which may be directly relevant to the activities of other agencies in combating financial crime. Mechanisms to enable this information to be shared improve the prevention and detection of financial offences, enable investigations to be conducted more effectively and efficiently, result in faster and more successful prosecutions, and increase the likelihood of the proceeds of crime being recovered. In order for information to be shared, legal gateways must exist between the relevant agencies. Conditions and exceptions can be applied to different forms of arrangement and gateways may provide for different arrangements to apply in different

circumstances. Under all types of co-operation with respect to sharing information among different agencies, it is important to protect the confidentiality of information and the integrity of work carried out by other agencies. The Report identifies four different types of co-operation with respect to sharing information among different agencies: (i) direct access to information contained in agency records or databases; (ii) an obligation to provide information spontaneously (sometimes expressed as a ‘reporting obligation’); (iii) an ability, but not an obligation, to provide information spontaneously; and (iv) an obligation or ability to provide information only on request.

On this basis, countries provided information on their current legal gateways for information sharing, placing them in categories 0 to 4. This report analyses the existence of gateways which allow, oblige or prevent the tax administration, the police (and related law enforcement agencies), the FIU and financial regulators to share information with other agencies in certain situations. It analyses 21 possible flows of information.

The analysis is not meant to be an evaluation of the effectiveness of the gateways in a given country, but simply represents an overview of the legal gateways that are in place. In addition, it does not necessarily indicate that in all cases a legal gateway in one category is in practice more effective than one in another category. For example, spontaneous sharing of information may be very effective when there is a long-standing co-operative relationship between the agencies involved, and there is a clear understanding of what information may be useful in the activities of the recipient agency. On the other hand, direct access to information may be less effective in cases where officials are unfamiliar with the information available or have not received appropriate training in using systems operated by the other agency.

Based on the results of this analysis, the following key findings have been identified in relation to inter-agency sharing of information:

#### ***Information held by the tax administration***

- All countries have legal gateways to enable the tax administration to share information obtained for the purpose of a civil tax audit or assessment with agencies conducting tax crime investigations and with the customs administration.
- There appear to be barriers to the ability of tax administrations to share information with the police or public prosecutor in non-tax investigations. In 13 countries, there is no legal obligation on tax officials or the tax administration to report suspicions of serious non-tax offences to the appropriate law enforcement authority. In three of these countries there is an explicit prohibition on the tax administration from sharing information relevant to non-tax offences.
- The position is mixed regarding the ability of tax administrations to share tax information with the FIU. Four countries continue to prohibit the FIU from obtaining tax information.

#### ***Information held by the customs administration***

- In all countries covered by the report, legal gateways are in place to allow the customs administration to share information with the tax administration for the

purposes of administering taxes. In 18 countries, tax officials have direct access to customs information for these purposes, including six countries where tax and customs laws are administered by separate authorities.

- All countries in the report have gateways to allow the customs administration to share information with the agency responsible for investigating tax offences, though in six countries this is only possible on request.
- Most countries allow the customs administration to share information with the police or public prosecutor investigating non-tax offences. Seven countries allow the police or public prosecutor direct physical or electronic access to customs information. However, in eight countries this information may not be provided in the absence of a request and one country does not permit customs officials to share information obtained in the performance of their duties for this purpose.
- Six countries only allow the customs administration to provide information to the FIU on request and one country does not permit the customs administration to share information concerning possible money laundering or terrorist financing with the FIU.

#### ***Information held by the police or public prosecutor***

- In all but two of the countries in the report, legal gateways enable the police or public prosecutor to provide information to the tax administration for the purpose of administering taxes, though there is often no obligation on them to do so.
- There are gateways in all countries to enable the police or public prosecutor to provide relevant information to agencies conducting tax crime investigations, though in five countries this information is only made available on request. One country prohibits the police and public prosecutor from sharing information with the customs administration and a further nine only permit the sharing of information on request.
- Legal gateways are available in almost all countries to enable the FIU to obtain relevant information from the police or public prosecutor, with one country imposing a prohibition. These gateways broadly reflect the FIU organisational model and there are greater obligations on the police to share information with the FIU where the FIU is established as a division of the police force.

#### ***Information held by the Financial Intelligence Unit***

- The position with respect to the availability to the tax administration of FIU information for the purpose of making tax assessments varies significantly: some countries give the tax administration direct access or require the FIU to provide relevant information while in 13 countries the FIU does not share information with the tax administration for these purposes. Six countries prohibit the FIU sharing information with the customs administration.
- Legal gateways are in place in most countries to enable FIUs to provide information concerning possible tax offences to the agency responsible for investigating tax crimes, though in many cases the FIU is able to exercise discretion in deciding whether to provide information. In three countries this information is only available

on request and three countries do not allow any sharing of FIU information in these circumstances.

- All countries provide legal gateways to enable the FIU to provide information concerning suspected non-tax offences to the police or public prosecutor, though in three countries this information is only available on request. In one half of the countries where the police have direct access to FIU information, the FIU is established within the police authority. However, there is otherwise no clear relationship between the organisational model for the FIU adopted by a country and the ability of the FIU to share information concerning suspected non-tax offences.

#### *Information held by financial regulators*

- Financial regulators are generally not obliged to provide information to tax administrations for the purpose of assessing taxes. Only four countries impose an obligation on regulators to share information for these purposes, while 11 countries impose an express prohibition on doing so.
- Legal gateways exist in most countries to enable financial regulators to provide information concerning suspected tax offences or customs offences to the agency responsible for investigations. Regulators in two countries cannot share information regarding suspected tax offences, while those in seven countries cannot share information regarding suspected customs violations.
- All countries have legal gateways for financial regulators to provide information to the police or public prosecutor with respect to suspected non-tax offences, though in 11 countries information cannot be provided spontaneously and is only available on request.
- In all but one of the countries in the report, gateways exist to allow financial regulators to share information with the FIU with respect to suspected money laundering or terrorist financing activity, though in five countries this information may only be provided on request.

#### **D. Models for enhanced co-operation**

Sharing information is a necessary condition for inter-agency co-operation in combating financial crime. However, countries may go further and develop operational models that make the most effective use of gateways. Several countries have done so and have developed models for enhanced co-operation which enable agencies to work together to their mutual benefit. These models should not be viewed in isolation, but as forming part of a coherent strategy, which involves agencies moving in the same direction to a common goal. Although there is no limit to the ways in which agencies are capable of working together, and countries should consider new and innovative methods based on their needs and experiences, the report identifies a number of main models, namely:

- **Joint investigation teams:** these enable agencies with a common interest to work together in an investigation. In addition to sharing information, this enables an investigation team to draw on a wider range of skills and experience from investigators with different backgrounds and training. Joint investigations may avoid

duplication arising from parallel investigations, and increase efficiency by enabling officials from each agency to focus on different aspects of an investigation, depending upon their experience and legal powers. In some cases, gateways for sharing information are wider when agencies are engaged in a joint investigation than they would be in other circumstances. Countries that make use of these strategies include **Australia, Austria, Azerbaijan, Brazil, Burkina Faso, Canada, the Czech Republic, Denmark, El Salvador, Finland, Ghana, Hungary, India, Japan, Luxembourg, Malaysia, the Netherlands, Portugal, Singapore, Slovenia, South Africa, Turkey and the United States.**

- **Inter-agency centres of intelligence:** these are typically established to centralise processes for information gathering and analysis for a number of agencies. They can focus on a specific geographic area or type of criminal activity, or have a wider role in information sharing. These centres conduct analyses based on primary research as well as information obtained from agencies. In some cases they access data through gateways available to participating agencies, while in other cases they have specific information gathering powers. By centralising these activities, officials within a centre gain experience of particular legal and practical issues, and specialised systems can be developed, which can increase their effectiveness. Cost savings may also be achieved, as the expense of collecting, processing and analysing data can be shared between participating agencies. Countries that make use of these strategies include **Australia, Finland, Hungary, India, Lithuania, the Netherlands, Sweden and the United States.**
- **Secondments and co-location of personnel:** these are an effective way of enabling skills to be transferred while allowing personnel to build contacts with their counterparts in another agency. Seconded officials share their skills, experience and specialist knowledge while participating directly in the work of the host agency. Countries report that arrangements to co-locate and second staff have wider benefits for inter-agency co-operation, by encouraging officials to be more proactive in engaging with counterparts from other agencies and improving the effectiveness of co-operation that does take place. Countries that make use of these strategies include **Australia, Austria, Belgium, Canada, Finland, France, Ghana, Greece, Hungary, Ireland, Italy, Japan, Korea, the Netherlands, Norway, Portugal, Spain, the United Kingdom and the United States.**
- **Other models:** other strategies include the use of shared databases, dissemination of strategic intelligence products such as newsletters and intelligence briefs, joint committees to co-ordinate policy in areas of shared responsibility, and inter-agency meetings and training sessions to share information on trends in financial crime, guidance on investigative techniques and best practice in managing cases. Countries that make use of these strategies include **Austria, Azerbaijan, Brazil, Canada, the Czech Republic, Estonia, Finland, Germany, Ghana, India, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, the Netherlands, New Zealand, the Slovak Republic, South Africa, Turkey, Uganda and the United States.**

## E. Models adopted since the first edition

Since the first edition of the Rome Report was published in June 2012, there have been a number of changes to arrangements for inter-agency co-operation within countries

covered by the report, many of which were driven or influenced by information contained in the Report. The examples set out below are not a comprehensive list of these changes, but illustrate the progress that has been made in inter-agency co-operation to combat financial crimes.

In **Colombia**, since the first edition of the Rome Report was published, a secondment programme has been piloted between the tax administration and the General Attorney's Office, and there are now 17 officers from the General Attorney's Office seconded to the tax administration, working on tax and customs cases.

In **the Czech Republic**, an inter-departmental agreement has now been signed between the Ministry of Finance and the police, to establish *ad hoc* joint investigation teams dealing with the individual investigations, together with a permanent joint special unit responsible for the organisation and co-ordination of such inter-agency co-operation. To date, several joint investigations have been conducted involving the police and the customs administration. There have been no joint investigations including the tax administration, though these are in theory possible.

In **Hungary**, tax crime investigators may request from the tax administration any tax information required for the purposes of a criminal investigation. Previously, certain information was available directly to tax crime investigators, while other information must be obtained through written requests. However, since May 2013 all tax information held by the tax administration is directly electronically accessible to tax crime investigators.

On the 8 January 2013 the **Italian** Ministry of Justice established a study group on the self laundering of money. This group is chaired by a public prosecutor and is made up of experts from the FIU, the *Guardia di Finanza*, the tax administration and academia.

In **Korea**, in July 2013, the Financial Transaction Report Act (FTRA) was revised to enable the tax administration to gain wider access to FIU information. Previously, the FIU disseminated FIU information to the tax administration only where it was required for conducting tax criminal investigations. Under the revised law, the FIU information can also be disseminated for the purposes of selecting and conducting tax audits and collecting tax debts. To control the privacy of information, an 'Information Analysis Review Committee' was introduced to monitor that FIU information is disseminated to law enforcement agencies in accordance with the law. A requirement was also introduced that, whenever the FIU refers a Currency Transaction Report to a law enforcement agency, the person filing the Report must be notified. In most cases, this notification must take place within 10 days of the Currency Transaction Report being referred to law enforcement, though in certain circumstances this notification may be suspended for a period.

In **Mexico**, in October 2012, the law on the Federal Prevention and Identification of Operations from Illicit Resources was published, which contains provisions to strengthen co-operation in preventing, detecting and combating money laundering and sharing of information between government agencies. This law took effect from July 2013.

In 2012 **New Zealand** conducted a consultation on the potential impact on the integrity of the tax system of sharing taxpayer information with other government departments to prevent, detect or disrupt serious crime. The key findings of this study

were that the tax administration's participation in information sharing to address serious crime was acceptable so long as it was fit for purpose. However, if the sharing of taxpayer information was to be widened, there were important issues that the government must consider. These include: the balance between an individual's right to privacy and the benefits to society; the nature of the serious crime in question and the type and breadth of information required; the authority of the information and the ability of the tax administration to supply it; and the intended and potential use of the information, together with the risk of error and misuse.

In 2013 in **the Netherlands**, FIOD, the area of the Netherlands Tax and Customs Administration with responsibility for criminal investigations, announced its strategy for combating money laundering. One aspect of this strategy was the establishment of a new *Centre for Intelligence and Operational Excellence*. This Centre, which commenced operation on 9 September 2013, includes all national agencies involved in the fight against money laundering.

The **Portuguese Gabinete de Recuperação de Ativos** (Asset Recovery Office or GRA) was established in 2012 with the mission to identify, trace and seize property or proceeds related to crimes, at national and international level, and to co-operate with other Asset Recovery Offices overseas. The GRA comprises staff from the *Polícia Judiciária* (Criminal Police), which act in a coordination role, the *Instituto dos Registos e Notariado* (Register and Notary Services Institute) and the *Autoridade Tributária e Aduaneira* (Tax and Customs Authority). The GRA conducts financial and asset investigations under the direction of the Public Prosecutor, mainly where proceeds are related to crimes subject to a penalty of imprisonment of more than three years and they have an estimated value of over EUR 102 000. Besides the access to information held by *Polícia Judiciária*, the *Instituto dos Registos e Notariado* and the *Autoridade Tributária e Aduaneira*, the GRA may also access information held by the *Instituto da Segurança Social* (Social Security Authority), the *Comissão do Mercado de Valores Mobiliários* (Securities Market Commission), the *Instituto de Seguros de Portugal* (Insurance Institute of Portugal) and the *Banco de Portugal* (Bank of Portugal), depending on a Public Prosecution request. The GRA hands over the seized assets or property to the *Gabinete de Administração de Bens* (Asset Management Office or GAB) which is responsible for their conservation and management.

In **the Slovak Republic**, Project Tax Cobra was launched in July 2012 as a pilot for greater team working between the tax and customs administration and police, based on a Memorandum of Understanding between the two agencies, to detect and investigate the most serious tax offences. Specialist teams include investigators from the tax and customs administration's Criminal Office, the anti-fraud department, the National Criminal Agency and the FIU. Project Tax Cobra has already been involved in a number of high profile investigations with considerable success.

In January 2013, the customs administration in **Sweden** was granted access to the Excise Movement and Control System, which is held by the tax administration.

## F. Successful Practices

The mechanisms outlined below are examples of approaches taken by countries to facilitate inter-agency co-operation. These have been chosen as models for co-operation

that have proved successful in the countries where they are applied. However, they are not the only option for each given type of co-operation and models used in other countries are discussed throughout his report. In designing an appropriate model for inter-agency co-operation a country should take into account its specific needs, the legal organisational structure it has adopted and particular risks that it faces. More information on each of the approaches below may be found in the appropriate country section in Chapter 5.

### *Sharing information with the tax administration for the purpose of assessing taxes*

A country's tax administration is responsible for assessing and collecting taxes which are a main source of public revenue. Through a rigorous application of tax legislation, even where a criminal prosecution is not possible, tax administrations may be able to ensure that individuals and companies are required to pay tax on all of their income, while denying a deduction for expenses related to criminal activity. This may significantly reduce the benefits from criminal activities and can remove at least part of the proceeds of crime from the hands of offenders. In the course of tax audits, a tax administration may also uncover information that may be valuable to criminal investigations. However, in most countries covered by this report, there is no obligation on the police, public prosecutor or FIU to report information to the tax administration for the purpose of assessing taxes. In **Serbia** on the other hand, all State authorities and organisations, bodies of territorial autonomy and local government are required to report spontaneously to the tax administration all facts and information detected in the performance of their duties which are relevant to the assessment of tax liability.

### *Tax administration access to Suspicious Transaction Reports*

Countries which have legislation to allow the tax administration access to Suspicious Transaction Reports claim a number of benefits, including an improvement in the detection of money laundering offences, greater success in tax crime investigations and prosecutions, an increase in the amount of tax assessed and improved recovery of the proceeds of crime. In **the United Kingdom**, the tax administration has direct access to Suspicious Transaction Reports (Suspicious Activity Reports in the UK) held by the FIU, via a secure online facility, Moneyweb. Information obtained from the FIU can be used by the tax administration to determine civil tax assessments and in tax crime investigations. Very sensitive reports, for example concerning police corruption and live terrorism investigations, are available on request. Access to Moneyweb within the tax administration is restricted to authorised financial investigators, intelligence officers and confiscation officers that work across the tax compliance and criminal investigations divisions.

### *FIU access to information held by the tax administration*

In **Italy**, the FIU has direct access to the *Anagrafe dei Conti* (Account and Deposit Register) maintained by the tax administration, which includes information on accounts and financial transactions carried out by financial intermediaries, including banks, post-offices, trust companies and brokerage companies. Legislation has also been passed which allows the FIU direct access to the *Anagrafe Tributaria* (Tax Register), containing information on the tax information of Italian taxpayers, such as declared income, tax payments, real estate and other property, cross-border financial transactions, and information on the results of tax audits, though this has not yet been implemented. Tax

officials must also report to the FIU any suspicious transactions they encounter in the course of their work.

### *A co-ordinated strategy for dealing with Suspicious Transaction Reports*

In **Ireland**, specialists from the FIU and the tax administration's Suspicious Transaction Reports Office meet approximately every four to six weeks to discuss their analyses of Suspicious Transaction Reports and to co-ordinate investigations where evidence exists of both tax and non-tax offences, as well as discuss broader operational issues related to money laundering investigations. Officials also attend feedback fora between the other agency and institutions that are required to submit Suspicious Transaction Reports under anti-money laundering legislation. This ensures that the agencies display a united front and consistent message in their dealings with the private sector.

In **the United States**, multi-agency Suspicious Activity Report Review Teams (SAR-RTs) operate in 80 of the 94 federal judicial districts. The primary purpose of a SAR-RT is to systematically review all SARs (or Suspicious Transaction Reports) that affect a specific geographic jurisdiction, identify individuals who may be engaged in criminal activities, and co-ordinate and disseminate leads to the appropriate agencies for follow-up. A SAR-RT is usually led by an Assistant US Attorney, and may include specialists from the tax administration, Customs, federal and local law enforcement and, in some cases, the FIU.

### *Obligations on tax officials to report suspicions of non-tax crimes to the police or public prosecutor*

Since 1 January 2011, federal law in **Switzerland** has contained a duty for every federal civil servant, including tax officials, to report to the public prosecutor suspicions of all misdemeanours or felonies which they become aware of in the course of their professional activity. The Federal Tax Administration has designated one of its units to assist tax officials in complying with this obligation and reporting offences.

### *Co-operation between the tax administration and the police*

In **France**, several initiatives have been implemented to facilitate co-operation between the police and the tax administration in combating tax crimes and other financial crimes. The *Brigade Nationale d'Enquêtes Économiques* (BNEE) is composed of about fifty tax inspectors working within the judicial police. The BNEE participates in the investigation and prosecution of financial and tax crimes. It also identifies risk areas for tax audits, which are reported to national and regional departments of the tax administration. The BNEE also acts as a liaison between the judicial police services and the tax administration. Separate to the BNEE, the *Brigade Nationale de Répression de la Délinquance Fiscale* (BNRDF) is a new judicial police unit, established in December 2010 and attached to the Central Department of the Judiciary Police. The BNRDF is responsible for investigating serious tax frauds such as undeclared foreign accounts in tax havens, and complex illegal structures. The introduction of the BNRDF has brought two particular advantages. Firstly, the BNRDF combines the skills and experience of the judicial police with respect to criminal investigations and procedure and the knowledge of tax officials, who have become tax police with the same powers as judicial police officers. Secondly, tax offences are now at the centre of criminal investigations and

prosecutions, while previously they were often only considered as a consequence of criminal investigations.

### *The use of multi-agency task forces to combat financial crimes*

Project Wickenby is a multi-agency taskforce established in 2006 to protect the integrity of **Australia's** financial and regulatory systems by preventing people promoting or participating in the abusive use of secrecy havens. The Australian tax administration is the lead agency for the overall project, with other participating agencies being the Australian Crime Commission, the Australian Federal Police, the Australian Securities and Investments Commission, the Commonwealth Director of Public Prosecutions, the FIU, the Attorney-General's Department and the Australian Government Solicitor. Special legislation was enacted to enable agencies to share information more widely for the purposes of Project Wickenby investigations than is generally permitted. The taskforce works with both Australian and international bodies to prevent, detect and combat abusive arrangements involving: secrecy havens; international tax evasion; breaches of Australian financial laws and regulations; attempts to defraud the community, including investors and creditors; money laundering; or the concealment of income or assets. As at 30 June 2013, 70 people have been charged with serious offences as a result of Project Wickenby investigations, leading to 38 convictions with over AUD 1.838 billion in tax liabilities raised and AUD 428.20 million in cash collections. This integrated joint agency approach has delivered unprecedented results and has been acknowledged by the Australian National Audit Office (ANAO) as setting the "template" for other taskforces in Australia.

In **Malaysia**, the national Special Task Force (STF) is an inter-agency initiative to fighting tax crimes and other financial crimes. The STF, is headed by the Attorney General Chambers and members include the tax administration, Company Commission Malaysia, Central Bank of Malaysia, Malaysian Anti-Corruption Commission and Royal Customs Department. The role of the STF is to improve co-operation between law enforcement agencies to ensure a holistic approach to development, good governance and combating corruption as well as to assist agencies in fighting financial crimes. The STF also monitors the sharing of information and planning of joint operation among law enforcement agencies in high profile cases.

### *A centralised structure for inter-agency co-operation*

In India, there are various mechanisms for sharing of information among various agencies involved in investigation or handling of financial crimes. The Economic Intelligence Council (EIC) acts as the main body to ensure co-ordination among various agencies. The EIC has been established under the chairmanship of the Finance Minister of India and the CEIB acts as its Secretariat. The EIC meets twice a year and holds extraordinary meetings as and when considered necessary. The EIC is mandated to consider various aspects of intelligence relating to economic security and to develop strategy for the effective collection and collation of intelligence and its dissemination to various law enforcement agencies. The EIC reviews measures to combat economic offences and formulates a co-ordinated strategy of action by various law enforcement agencies. It reviews important cases involving inter-agency co-ordination and approves mechanisms for improving such co-ordination. The EIC also examines the changing dynamics of economic offences including new modus operandi for such offences, and

approves measures for dealing with them effectively. So far as sharing of information among various agencies is concerned, the EIC generally performs this through the meetings of its Regional Economic Intelligence Councils (REICs). The functioning of the REICs is co-ordinated by the CEIB.

The CEIB functions under the Ministry of Finance, Government of India and is headed by a Director General who is Member-Secretary of the EIC. The CEIB has the following main functions:

- to act as the Secretariat for the EIC, inter alia, by organising meetings at prescribed intervals and co-ordinating the progress of implementation of decisions taken by the EIC; and
- to act as the central agency for economic intelligence and ensure real time monitoring and co-ordination among the concerned regulatory agencies in the area of economic offences.

Intelligence having multi-agency ramifications is generally communicated to other agencies concerned through the CEIB. The CEIB is also mandated to convene meetings of Working Group on Intelligence Apparatus pertaining to the EIC which is held under the Chairmanship of the Secretary (Revenue).

### *National and Regional Intelligence Centres*

National and Regional Intelligence Centres were established in **Sweden** in 2009, as part of an inter-agency strategy to address serious organised crime, including financial crime. The National Intelligence Centre ('NIC') includes representatives of the Police, the Economic Crimes Bureau, the Prison and Probation Service, the Enforcement Agency, the Coast Guard, the tax administration, the Social Security Service and Customs. The NIC has a strategic function for intelligence analysis and an operational function for intelligence co-ordination. One of the NIC's main tasks is to compile a common threat assessment, which is used as the basis for strategic decision making by the participating agencies. The NIC identifies and maintains databases of indicators of organised crime, and of factors that facilitate organised crime, to be used in preventing and detecting offences. The NIC also co-ordinates flows of information between the Regional Intelligence Centres ('RICs'). The eight RICs are located at the headquarters of the local police authority and are responsible for conducting intelligence work in their respective region. The composition of RICs varies, but typically they comprise officers from all collaborating agencies, as well as from the Immigration Service. Officers assigned to a RIC generally work together for three days a week, with the remaining time spent working within their own agency. Each agency must provide their agents with technology to allow them to access agency information directly from the RIC's office.

### *A centralised approach to monitoring the grey economy*

The Grey Economy Information Unit (GEIU) is a division of the **Finland** tax administration specifically established to work closely with other government agencies. The GEIU was established in 2011 to promote the fight against the grey economy by producing and disseminating reports about grey economy activities and how they may be controlled. In preparing these reports, the GEIU has the right to receive, on request, necessary information held by other authorities even where that information would not

normally be available to the tax administration due to secrecy provisions. The GEIU also prepares compliance reports at the request of other government agencies, which include details of business activities of individuals and organisations covered, their financial position and history and details of whether they have complied with legal obligations concerning tax and other payments, as well as other information necessary for the intended purpose of the report. In compiling a compliance report, the GEIU has access to all information from outside sources that would be available to the agency that requested the report, even where this would not normally be available to the tax administration.

### *Co-operation in protecting the integrity of the financial sector*

**The Netherlands** Financial Expertise Centre (FEC) is a joint project between supervisory, investigation, intelligence and prosecution authorities involved in regulating or monitoring activity in the financial sector. Partners in the FEC are the National Tax and Customs Administration, the Fiscal Intelligence and Investigation Service (FIOD, which is structurally part of the NTCA), the National Police, the General Intelligence and Security Service, the Public Prosecution Service, the Netherlands Financial Markets Authority and De Nederlandsche Bank, with the Ministry of Finance and Ministry of Security and Justice as observers. The mission of the FEC is to monitor and strengthen the integrity of the financial sector, and tackle issues of financial integrity through inter-agency co-operation. This entails sharing information and building a knowledge centre belonging to and for the benefit of participating agencies, containing the knowledge and expertise needed to safeguard the integrity of the financial sector. Risks that the FEC focuses on include money laundering, property fraud, identity fraud including skimming from bank accounts, mortgage fraud, investment fraud, and cyber crime including phishing scams.

### *A co-ordinated approach to recovering the proceeds of crime*

In **Australia**, the Criminal Assets Confiscation Taskforce (CACT) came into permanent operation in January 2012 with the aim of providing a co-ordinated and integrated approach to criminal asset confiscation. The CACT is a multi-agency taskforce led by the Australian Federal Police and includes the Australian Crime Commission and the Australian Taxation Office. CACT is focussed on removing the proceeds and instruments of crime. Through its operations, it supports the key capabilities identified in the Commonwealth Organised Crime Strategic Framework, in particular targeting the criminal economy, and promoting a focus on intelligence, information sharing and inter-agency co-operation. Between 1 July 2011 and 30 June 2012, action undertaken by the CACT resulted in AUD 97million in restrained assets and AUD 32 million in assets forfeited and pecuniary penalty orders.

### *Co-operation with the private sector in the fight against financial crime*

The second **Korean** National Tax Administration Forum was held in 2012, with the object of having broad discussions on the current status and issues of Korean tax administration, appropriate policy direction and future challenges. This is an event where a wide range of experts from various communities including law-makers, government officers, news reporters, academia and legal professionals participate to discuss tax-related issues. Topic discussed by the Forum included issues related to the detection and prevention of tax crimes and related offences.

In the United Kingdom, the Criminal Finance Threat Reduction Board is a multi-agency initiative which includes engagement with the private sector to discuss risks to law enforcement from technology enabled financial services (such as prepaid cards, mobile banking products etc) and professional enablers. The Chair of the Board moved from the tax administration to the National Crime Agency in 2013.

## G. Recommendations

The whole-of-government approach to combating financial crime involves recognising that the activities of separate agencies do not operate in isolation. Officials in agencies including the tax administration, the customs administration, the FIU, the police and specialised criminal law enforcement agencies, the public prosecutor's office, and financial regulators recognise that the knowledge and skills required to combat financial crime are often spread across each of these agencies.

Barriers to effective inter-agency co-operation prevent agencies responsible for combating financial crime from obtaining the benefit of this knowledge and skills. These barriers fall into three broad groups: legal; operational and political. Legal barriers include specific restrictions and prohibitions which apply to prevent an agency obtaining access to relevant information. Operational barriers include complex or lengthy procedures for obtaining information from another agency, a lack of awareness of the availability of information or other mechanisms for co-operation, or a lack of specialist training which reduces the effectiveness of gateways which do exist. Political barriers include a lack of support for agencies to adopt a whole-of-government approach, or to make the changes required to remove or reduce legal and operational barriers.

Countries' strategies have to operate within the broader context of their legal system, administrative practice and culture. It is up to each country to decide how to approach the issues addressed in this report and what strategies would be the most appropriate in the context of, and the most consistent with, its rules and framework.

It is against this background that this report recommends that countries:

1. Review their models for sharing information among different agencies, in particular as regards:
  - the ability of the tax administration to share information with agencies such as the police and the FIU;
  - introducing an obligation for the tax administration to report to the relevant law enforcement agency or the FIU evidence of any serious offence, suspected money laundering or terrorist financing activities, and to share information relevant to investigations into these offences or activities; and
  - the ability of any agency which holds information relevant to the administration and assessment of taxes to make this information available to the tax administration. This applies in particular to information contained in Suspicious Transaction Reports. It is recommended that the tax administration be provided such information through direct access or through spontaneous exchange, as appropriate and applicable. In the latter case the FIU should have officials who are trained and experienced in recognising potential tax issues.

2. Review the models for enhanced co-operation described in this report, with a view to introducing and adapting them, as well as developing innovative models based on their particular needs, legal framework and experience. They should also consider ways in which processes for co-operation can be made more effective within existing frameworks.
3. Review the examples of successful practices identified in this report, with a view to introducing similar practices based on their particular needs, legal framework and experience. Where a particular practice is not appropriate because of a country's needs, legal framework or the risks it faces, it should consider alternative ways in which comparable benefits can be achieved.
4. Evaluate the legal and operational ability of the tax administration to be involved in tax crime investigations, where these are conducted by other agencies. Countries should explore ways to remove potential barriers, and consider requiring increased participation in investigations by tax officials, taking into account the peculiarities of the different organisational models discussed in the report.
5. Evaluate their mechanisms for co-operation on a recurrent basis. This evaluation should be informed by the experience of officers directly involved in co-operation, as well as an objective assessment of the results of inter-agency co-operation models implemented.



## *CHAPTER 2*

### **ORGANISATIONAL MODELS FOR AGENCIES FIGHTING FINANCIAL CRIME**

#### **Box 3: Key Findings**

Strategies for combating financial crimes comprise a number of critical stages, including the prevention, detection, investigation and prosecution of offences, and the recovery of the proceeds of crime.

Key government agencies involved in combating financial crimes include the tax administration; the customs administration; anti-money laundering authorities including the Financial Intelligence Unit ('FIU'); the police and specialised law enforcement agencies; the public prosecutor's office; and financial regulators.

Countries apply different organisational models in structuring each of these agencies. Some of these models are long-standing and were established as a country's framework for law enforcement was developed. Other models reflect more recent policy decisions.

Each organisational model has distinct features which need to be taken into account when developing strategies for inter-agency co-operation, so as to ensure that the full benefits of co-operation are achieved. Which agency has responsibility for a particular activity will directly impact the processes and agreements required to achieve a desired benefit from co-operation.

In the area of tax crimes, there are four different models which countries have adopted to investigate these crimes. Under Model 1, the tax administration has responsibility for directing and conducting investigations. Under Model 2, the tax administration has responsibility for conducting investigations, under the direction of the public prosecutor. Under Model 3, a specialist tax agency under the supervision of the Ministry of Finance but outside the tax administration has responsibility for conducting investigations. Under Model 4, the police or public prosecutor has responsibility for conducting investigations.

Financial crime covers a broad range of offences, including tax evasion and tax fraud, money laundering, corruption, insider trading, bankruptcy fraud and terrorist financing. Many different government agencies may be involved in the prevention, detection, investigation and prosecution of these crimes and the recovery of the proceeds of crime. These include agencies such as police forces and prosecution authorities, which have a visible role in law enforcement. They also include agencies such as tax and customs administrations and financial regulators, which in the course of their normal activities collect and hold significant information about individuals, corporations and financial transactions. Each of these agencies may hold operational and strategic information relevant to the activities of other agencies in combating financial crime. Operational information is that which is relevant to specific cases and investigations. Strategic information relates to the identification of risks and threats and is not specific to a particular case.

There is no single approach to how countries structure these agencies. Activities which are the responsibility of a particular agency in one country may be the responsibility of a different agency in a second country. Similarly, some countries may establish a number of independent agencies to carry out activities which in other countries are the responsibility of a single larger body. Understanding these differences is important to appreciate the implications of similarities and differences between countries' arrangements for domestic inter-agency co-operation. Which agency has responsibility for a particular activity will directly impact the processes and agreements required to achieve a desired benefit from co-operation. For example, whether responsibility for investigating tax fraud lies with the tax administration, the police or a specific tax investigations authority directly impacts the arrangements with other agencies required to facilitate these investigations.

In order to facilitate the analysis of arrangements for intra-agency co-operation, the following paragraphs describe in general terms the role of different agencies in combating financial crime in the countries covered by this report and, for each type of agency, groups countries together based on the organisational model they have adopted. In some cases, countries have adopted a combination of more than one organisational model and where this is the case a country is included twice in the tables below. This situation typically arises where responsibility for an activity, such as the investigation of tax crime, is shared by more than one agency.

## **A. Tax administration**

A country's tax administration is responsible for the assessment and collection of taxes on behalf of the government. This involves gathering and processing information on individuals and corporations subject to tax, including personal details, property ownership, investments, financial transactions and business operations. Tax administrations employ large numbers of trained specialists and investigators with experience in auditing and analysing financial data and investigating suspicious or anomalous transactions. Tax administrations often have extensive powers to access information and documentation from taxpayers and third parties. They typically play a central role in preventing and detecting tax crime. Once the suspicion of a tax crime exists, countries apply different models to determine the extent to which a tax administration may be involved in a subsequent investigation and prosecution.<sup>5</sup>

Models for comparing tax administrations could be based on a number of criteria. For the purposes of this report, the relevant criteria are those which might influence a tax administration's role in combating financial crime, and the ability of the tax administration (or other agency investigating tax crimes) to obtain information relevant to an investigation from other agencies. The Models applied below identify the agency which generally has responsibility for conducting investigations into tax offences. This is important in understanding which agency may require information for the purposes of conducting an investigation. The Models also identify those countries where these investigations are directed by a public prosecutor, and where they are wholly the

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<sup>5</sup> Tax administrations may in some cases also act in a supervisory capacity, monitoring compliance with money laundering regulations by businesses in certain sectors including real estate agents and traders accepting large cash payments. For example, this is the case in Latvia, Luxembourg, the Netherlands and the United Kingdom.

responsibility of the investigating agency. This may be relevant in identifying additional gateways for obtaining relevant information, at the level of the prosecutor. Based on these criteria, four models have been identified as applying in the countries covered by this report in countering tax crimes. These are set out in the table below.

Under Models 1 and 2, tax crime investigations are conducted by the tax administration, often through a specialist criminal investigations division. Under Model 1, the tax administration also directs investigations. The public prosecutor's office does not have a direct role in investigations, though a prosecutor may provide advice to investigators with respect to matters such as legal process and the laws of evidence. Under Model 2 on the other hand, investigations conducted by the tax administration are directed by public prosecutors or, exceptionally, examining judges. In Model 3, tax crime investigations are conducted by a specialist tax agency, which is under the supervision of the Ministry of Finance but outside the tax administration. Under Model 4, investigations are conducted by the police or public prosecutor. The Model under which a country is listed reflects the general practice in the country. In a number of cases, tax investigations which have particular features may be referred to another agency for investigation.

<b>Model 1</b> <i>Tax administration directs and conducts investigations</i>	<b>Model 2</b> <i>Tax administration conducts investigations, directed by prosecutor</i>	<b>Model 3</b> <i>Specialist tax agency outside tax administration conducts investigations</i>	<b>Model 4</b> <i>Police or public prosecutor conduct investigations</i>
Australia Canada Germany Greece India Ireland Japan Korea Malaysia New Zealand Singapore South Africa Switzerland Uganda United Kingdom United States	Austria Azerbaijan El Salvador Estonia Hungary Latvia Netherlands Portugal Serbia Sweden Spain* United States	Ghana Greece Iceland Turkey	Belgium Brazil Burkina Faso Chile Colombia Costa Rica Czech Republic Denmark Finland France Iceland Lithuania Luxembourg Mexico Norway Peru Slovak Republic Slovenia Spain
<b>16 countries</b>	<b>12 countries</b>	<b>4 countries</b>	<b>19 countries</b>

\* In Spain, tax crime investigations are currently directed by an examining judge.

**The United States** is included in the table above twice, to reflect two types of criminal investigations. The first is an administrative investigation, which is conducted by a tax administration employee and the case is then referred to a prosecutor (Model 1). The second is a Grand Jury investigation which is initiated and worked under the direction of a prosecutor from the inception of the investigation (Model 2). In **Greece**, tax investigations may be conducted by the tax administration or by the Financial and

Economic Crime Unit (SDOE). Greece is therefore shown under both Model 1 and Model 3. **Spain** is shown under Models 2 and 4. The Spanish tax administration may conduct tax crime investigations under the direction of an examining judge. However, there are investigations in which the tax administration does not participate, because the case was initiated outside the tax administration (for example, by the police or public prosecutor), or because the examining judge has not requested assistance from the tax administration. **Iceland** is included under both Models 3 and 4, to reflect the fact that the Directorate of Tax Investigations (which sits outside the tax administration) has responsibility for conducting investigations into suspected tax fraud, while the police also has competency to conduct independent investigations into serious tax crimes. In **Japan**, the tax administration has tax crime investigators, known as Sasatsukan, who are responsible for investigating tax offences. On the conclusion of an investigation, Sasatsukan may file an accusation against a suspect with the public prosecutor's office containing details of the evidence that has been collected. The public prosecutor may then conduct a further investigation in order to progress with an indictment.

In 16 countries (**Australia, Canada, Germany, Greece, India, Ireland, Japan, Korea, Malaysia, New Zealand, Singapore, South Africa, Switzerland, Uganda, the United Kingdom and the United States**) the tax administration has responsibility for directing and conducting tax crime investigations. These include all eight common law countries considered in this report.

In 12 countries (**Austria, Azerbaijan, El Salvador, Estonia, Hungary, Latvia, the Netherlands, Portugal, Serbia, Sweden, Spain and the United States**), tax crime investigations are conducted by the tax administration but directed by a public prosecutor or, in the case of **Spain**, an examining judge. In **El Salvador**, the majority of tax crime investigations are conducted by the tax administration, though in some cases the police may conduct cases with support from the tax administration. In both cases, the investigations are led by the public prosecutor. In **Latvia**, the administration of taxes and tax crime investigations are conducted by separate departments within the State Revenue Service.

In the majority of civil law jurisdictions, tax crime investigations are conducted outside the tax administration. In four countries (**Ghana, Greece, Iceland and Turkey**) investigations are conducted by specialist tax investigations agencies that sit under the Ministry of Finance but outside the tax administration. In **Turkey**, the majority of tax crime investigations are directed and conducted by the Tax Inspection Board. However, in the minority of cases where a tax crime investigation originates outside the tax administration (for example, from an informant's report), investigations may be directed by a public prosecutor. In **Iceland**, tax crime investigations are directed and conducted within the Directorate of Tax Investigations, which is a separate agency under the Ministry of Finance. In **Ghana**, primary responsibility for investigating tax offences sits with the Economic and Organised Crime Office, though the national police also have broad investigative powers which can include tax crimes.

In 19 countries (**Belgium, Brazil, Burkina Faso, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, Finland, France, Iceland, Lithuania, Luxembourg, Mexico, Norway, Peru, the Slovak Republic, Slovenia and Spain**), tax crime investigations are conducted by the police under the direction of a public prosecutor or, in the case of **Chile and Colombia**, by the public prosecutor directly. In **Luxembourg**, tax

crime investigations may be also be directed by an examining judge. For these purposes the police include specialist criminal investigations agencies established under the Ministry of the Interior, Ministry of Home Affairs or Ministry of Justice, such as **France's** *Brigade Nationale de Répression de la Délinquance Fiscale* and **Lithuania's** Financial Crime Investigation Service. In **Mexico**, responsibility for investigations lies with the Attorney-General, who exercises this function through the Federal Agency of Investigation and a number of specialist units. In **Chile**, the tax administration conducts administrative investigations and, where evidence of a possible tax offence is uncovered, the Commissioner of the tax administration will initiate a criminal complaint. The criminal investigation and prosecution are then directed by the Public Prosecutor's Office, which is the only agency authorised to lead criminal investigations.

**Italy** is not included in the four models set out above. In Italy, responsibility for carrying out investigations into financial crimes, including tax crimes, sits with the *Guardia di Finanza*, which can conduct such investigations both independently and under the direction of the public prosecutor. The *Guardia di Finanza* is also able to carry out civil tax investigations and audits in accordance with its own administrative powers.

## B. Customs administration

Customs administrations are responsible for the assessment and collection of customs duties. In many countries they also have responsibility for other taxes and duties, including excise duties and indirect taxes, such as sales taxes and VAT. Customs administrations hold information about cross-border flows of money and goods, as well as details of individual businesses. Customs administrations may be established as separate agencies, or as part of a joint tax and customs administration. The table below shows which countries have adopted each of these models.

In 29 countries (**Australia, Azerbaijan, Burkina Faso, Canada, Chile, Costa Rica, the Czech Republic, El Salvador, Finland, France, Germany, Greece, Iceland, India, Italy, Japan, Korea, Lithuania, Luxembourg, Malaysia, New Zealand, Norway, Serbia, Singapore, Slovenia, Sweden, Switzerland, Turkey and the United States**), the customs administration is a separate agency, typically under the Ministry of Finance. In 19 countries (**Austria, Belgium, Brazil, Colombia, Denmark, Estonia, Ghana, Hungary, Ireland, Latvia, Mexico, the Netherlands, Peru, Portugal, the Slovak Republic, South Africa, Spain, Uganda and the United Kingdom**), the customs administration is part of a single tax and customs agency. There is no clear link between the countries and the model adopted. Tax and customs have been administered by a single agency in **the Netherlands** for over 200 years and in **Ireland** since the 1920s, whereas in **Denmark, Hungary, Peru, Portugal, South Africa and the United Kingdom** the current joint agency was formed more recently when previous separate tax and customs administrations were merged. The combined authority in **the Slovak Republic** was established on 1 January 2012. In contrast, in **Canada** a combined agency was separated into the separate Canada Revenue Agency and Canada Border Services Agency in 2003.

<b>Separate customs administration</b>	<b>Joint tax and customs administration</b>
Australia	Austria
Azerbaijan	Belgium
Burkina Faso	Brazil
Canada	Colombia
Chile	Denmark
Costa Rica	Estonia
Czech Republic	Ghana
El Salvador	Hungary
Finland	Ireland
France	Latvia
Germany	Mexico
Greece	Netherlands
Iceland	Peru
India	Portugal
Italy	Slovak Republic
Japan	South Africa
Korea	Spain
Lithuania	Uganda
Luxembourg	United Kingdom
Malaysia	
New Zealand	
Norway	
Serbia	
Singapore	
Slovenia	
Sweden	
Switzerland	
Turkey	
United States	
<b>29 countries</b>	<b>19 countries</b>

Customs administrations play a key role in preventing and detecting offences related to customs and excise duties and other taxes under their responsibility, as well as smuggling, drug trafficking, money laundering and offences related to the illicit movement of goods and people. In addition to differences in how the customs administration is structured as an agency, countries also adopt different models to determine the involvement of the customs administration in criminal investigations. The table below shows the countries in which the customs administration is responsible for criminal investigations, those where the customs administration conducts investigations under the direction of a public prosecutor, and those where investigations are conducted outside the customs administration. With respect to certain offences, such as smuggling and drug trafficking, the customs administration may conduct investigations together with other agencies.

<b>Model 1</b> <i>Customs administration directs and conducts investigations</i>	<b>Model 2</b> <i>Customs administration conducts investigations, directed by prosecutor</i>	<b>Model 3</b> <i>Specialist tax agency outside customs administration conducts investigations</i>	<b>Model 4</b> <i>Police or public prosecutor conduct investigations</i>
Australia Belgium Burkina Faso Canada Finland Germany Ghana Greece Iceland India Ireland Japan Korea Luxembourg Malaysia New Zealand Singapore South Africa Switzerland Uganda United Kingdom United States	Austria Azerbaijan Chile Czech Republic El Salvador Estonia France Hungary Latvia Lithuania Netherlands Peru Portugal Slovak Republic Spain* Sweden Turkey	Greece Italy	Brazil Colombia Costa Rica Denmark Mexico Norway Serbia Slovenia
<b>22 countries</b>	<b>17 countries</b>	<b>2 countries</b>	<b>8 countries</b>

\* In Spain, customs investigations are currently directed by an examining judge.

In 22 countries (**Australia, Belgium, Burkina Faso, Canada, Finland, Germany, Ghana, Greece, Iceland, India, Ireland, Japan, Korea, Luxembourg, Malaysia, New Zealand, Singapore, South Africa, Switzerland, Uganda, the United Kingdom and the United States**), the customs administration (including joint tax and customs administrations) has responsibility for directing and conducting criminal investigations. In **Japan**, the customs administration has customs crime investigators, who are responsible for investigating offences. On the conclusion of an investigation, these investigators may file an accusation against a suspect with the public prosecutor's office containing details of the evidence that has been collected. The public prosecutor may then conduct a further investigation in order to progress with an indictment. In a further 17 countries (**Austria, Azerbaijan, Chile, the Czech Republic, El Salvador, Estonia, France, Hungary, Latvia, Lithuania, the Netherlands, Peru, Portugal, the Slovak Republic, Spain, Sweden and Turkey**), the customs administration conducts criminal investigations under the direction of a public prosecutor or (in **Spain**) an examining judge. In **Sweden**, a few prosecutors are based within the customs administration, to handle relatively straightforward cases. This means that in practice the customs administration is able to both direct and conduct a small number of simple investigations (as the investigation is directed by a prosecutor within the customs administration). In **Uganda**, customs crime investigations are conducted by the Tax Investigations Department, which is not part of the Customs Department but is still part of the wider Uganda Revenue Authority.

In 11 countries, criminal investigations are conducted outside the customs administration. This is in marked contrast to the position with respect to tax crime investigations, where investigations were conducted by agencies outside the tax administration in 22 countries. In two countries (**Greece** and **Italy**) customs investigations are conducted by a specialist agency under the Ministry of Finance. In **Italy** investigations are conducted by the *Guardia di Finanza*. In **Greece** investigations are conducted by the customs administration (Model 1) and by the Financial and Economic Crime Unit ('SDOE') (Model 3). In a further eight countries (**Brazil, Colombia, Costa Rica, Denmark, Mexico, Norway, Serbia** and **Slovenia**), investigations are conducted by the police or directly by the public prosecutor. In **Mexico**, responsibility for investigations lies with the Attorney-General, who exercises this function through the Federal Agency of Investigation and a number of specialist units.

### C. Police and other law enforcement agencies

The police force is typically the primary agency in a country with responsibility to enforce criminal law, protect property and prevent civil unrest in civilian matters. A detailed analysis into models of policing is beyond the scope of this report. In many countries, general policing is the responsibility of local or regional police forces covering a defined geographical area.

A number of countries included in this report have specialist units for combating financial offences. These units may be established as separate agencies, such as **Greece's** SDOE, or within the police or public prosecutor's office, such as **New Zealand's** Organised and Financial Crime Agency of New Zealand which is part of the federal police. Due to the particular nature of financial offences, some countries have established units to deal with particular aspects of police work or types of financial crime. Examples of countries which have established these units are set out below.

- Criminal intelligence units have been established in **Australia, Austria, Belgium, Brazil, Canada, Colombia, Costa Rica, El Salvador, Estonia, Finland, Ghana, Greece, Hungary, Lithuania, Malaysia, Mexico, the Netherlands, Singapore, Sweden, Turkey, Uganda, the United States** and the **United Kingdom**.
- Asset recovery units have been established in **Australia, Austria, Brazil, Canada, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, Ghana, Greece, Hungary, Ireland, Italy, Lithuania, Malaysia, Mexico, the Netherlands, New Zealand, Singapore, South Africa, Spain, Sweden, Uganda, the United Kingdom** and the **United States**.
- Units for combating serious fraud have been established in **Austria, Azerbaijan, Burkina Faso, Canada, Colombia, Costa Rica, the Czech Republic, Denmark, El Salvador, Estonia, Ghana, Greece, Hungary, India, Ireland, Latvia, Lithuania, Malaysia, Mexico, New Zealand, Singapore, South Africa, Turkey, Uganda** and the **United Kingdom**.
- Units for combating corruption by public officials have been established in **Austria, Azerbaijan, Brazil, Burkina Faso, Canada, Chile, Colombia, Costa Rica, Estonia, Ghana, Greece, Hungary, India, Latvia, Mexico, the Netherlands, Portugal, Singapore, Slovenia, South Africa, Sweden** and **Uganda**.

Countries may also establish specialist units for combating financial offences within their police other than those listed above. For example, in **Luxembourg** the police have units for combating: organised crime; offences related to financial institutions, insurance, the stock exchange and taxation; economic and financial offences; and money laundering. In **Switzerland**, specialised units for dealing with financial crime are established within the general police and prosecution authorities. Countries may also have trained and experienced specialists in each of the areas listed above, based within the police or other law enforcement agencies, but which do not form part of a specialist unit.

#### D. Financial Intelligence Unit

Anti-money laundering authorities, including Financial Intelligence Units ('FIUs'), are central to national strategies to combat money laundering and terrorist financing. Under anti-money laundering legislation in most countries, businesses such as banks, accountants, money transfer companies and certain retailers which accept large cash payments are required to submit reports ('Suspicious Transaction Reports') to the national FIU wherever they have a suspicion, or reasonable grounds for a suspicion, that a transaction is linked to a money laundering or terrorist financing offence. FIUs analyse Suspicious Transaction Reports and should forward information relating to suspected predicate offences to the agency with responsibility for investigating the offence. In a number of countries, FIUs operate systems for receiving and analysing Suspicious Activity Reports, alongside or instead of Suspicious Transaction Reports. For the purposes of this report, the term Suspicious Transaction Reports covers both Suspicious Transaction Reports and Suspicious Activity Reports. In the Netherlands, businesses are required to report 'unusual transactions' to the FIU. The Dutch FIU analyses these Unusual Transaction Reports, and determines which should be treated as Suspicious Transaction Reports and forwarded to the relevant law enforcement agency.

Typically, a money laundering offence must be with respect to the proceeds of a specified crime, or 'predicate offence'. The list of crimes which constitute predicate offences to money laundering varies, but many countries adopt an 'all crimes' definition. Prior to 2012, FATF Recommendations included within the list of predicate offences for money laundering certain offences, such as smuggling, which in many countries are investigated by the customs administration (or a combined tax and customs administration). The 2012 revision of the FATF Recommendations added to this list by including the specification of tax crimes. The revised Recommendation should be implemented by all countries, in accordance with their domestic law framework.

Countries have applied different models in deciding where within their financial and law enforcement system their national FIU should sit. The table below contains those countries that have established the FIU: (i) as a unit of the police or public prosecutor's office; (ii) as an independent unit within the central bank; (iii) as a separate agency under the Ministry of Finance; or (iv) as a separate agency under the Ministry of Justice (or equivalent).

<b>Model 1</b> <i>FIU established within police or public prosecutor's office</i>	<b>Model 2</b> <i>FIU established within financial regulator</i>	<b>Model 3</b> <i>FIU established within or under Ministry of Finance</i>	<b>Model 4</b> <i>FIU established under Ministry of Justice</i>	<b>Model 5</b> <i>FIU established within or under another agency</i>
Austria Denmark El Salvador Estonia Finland Germany Iceland Ireland Japan Latvia Lithuania Luxembourg Netherlands New Zealand Norway Portugal Singapore Slovak Republic Sweden Switzerland United Kingdom	Azerbaijan Italy Korea Malaysia Peru	Belgium* Brazil Burkina Faso Canada Chile Colombia Czech Republic France Ghana Greece India Mexico Serbia Slovenia South Africa Spain Turkey United States	Australia** Belgium*	Costa Rica Hungary
<b>21 countries</b>	<b>5 countries</b>	<b>18 countries</b>	<b>2 countries</b>	<b>2 countries</b>

\* Belgium's CTIF-CFI is established jointly under Finance and Justice Ministries.

\*\* Australia's AUSTRAC is established under the Attorney-General's Department.

In 21 countries (**Austria, Denmark, El Salvador, Estonia, Finland, Germany, Iceland, Ireland, Japan, Latvia, Lithuania, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Singapore, the Slovak Republic, Sweden, Switzerland and the United Kingdom**), the FIU is part of the police, or the public prosecutor's office (Model 1). Of these 21, 16 countries established the FIU within the police, which for these purposes includes similar law enforcement agencies, such as **the United Kingdom** Serious Organised Crime Agency and the **Lithuanian** Financial Crimes Investigation Service. These countries report that this improves the ability of the FIU to assist in investigating criminal offences. The police force is often the main user of FIU intelligence, and the arrangement ensures ease of access to data, increases the speed of response to requests and maximises the benefits of information sharing opportunities. This arrangement is therefore especially useful where the role of the FIU is seen as directly supporting law enforcement. In a small number of these countries the FIU conducts criminal investigations into suspected money laundering, or the location and ownership of assets for the purposes of recovering criminal property. In **Latvia** and **Luxembourg**, the FIU is established under the authority of the public prosecutor. In the Netherlands the FIU has been a division of the police since 2006, but is under the joint authority of the police and public prosecutor's office.

In five countries (**Azerbaijan, Italy, Korea, Malaysia and Peru**), the FIU is established as a division within or associated to a financial regulator or central bank (Model 2). In **Korea**, the FIU is part of the Financial Services Commission. In **Peru**, it is

within the Bank, Insurance and Private Pension Fund Administrators regulator (SBS). In **Azerbaijan**, and **Malaysia**, the FIU is an independent division within the central bank. In **Italy** the FIU is a independent office associated to the central bank,

In 18 countries (**Belgium, Brazil, Burkina Faso, Canada, Chile, Colombia, the Czech Republic, France, Ghana, Greece, India, Mexico, Serbia, Slovenia, South Africa, Spain, Turkey** and **the United States**), the FIU is established within or under the Ministry of Finance (Model 3). In contrast to those established within the police, FIUs established under Models 2 and 3 may have easier access to reporting entities, and may participate directly in the regulation and supervision of the financial sector, with access to data covered by secrecy provisions for use in analyses. FIUs held under the Finance Ministry may also work more closely with related Departments, such as the tax administration. According to countries, an independent FIU under the Finance Ministry acts as an effective ‘buffer’ between financial institutions and law enforcement agencies. This has two benefits. Firstly, voluntary compliance may be encouraged, as financial institutions might be more comfortable providing information to an agency seen as similar to a financial regulator, rather than to one which is part of a criminal law enforcement agency. Secondly, businesses covered by anti-money laundering legislation are obliged to make Suspicious Transaction Reports to the FIU where they have reason to believe a money laundering or terrorist financing offence may have occurred.

In two countries (**Australia** and **Belgium**), the FIU is established under the Ministry of Justice or Attorney-General’s Department (Model 4). In **Belgium** the FIU is held jointly under the Ministries of Finance and Justice and so is a hybrid of Models 3 and 4.

In two countries (**Costa Rica** and **Hungary**), the FIU sits within or under another agency (Model 5). In **Costa Rica**, the FIU is an agency under the Institute on Drugs. In **Hungary**, the FIU was originally established within the Hungarian National Police. The functions of the FIU were then transferred to the Hungarian Customs and Finance Guard at the end of 2007. This authority became part of the National Tax and Customs Administration when the merger with the Hungarian Tax Authority took place in 2011. The Hungarian FIU is now an autonomous department of National Tax and Customs Administration. The FIU is no longer part of a general criminal investigations authority, but remains an important part of Hungary’s law enforcement from within the tax and customs administration.

**Uganda** currently does not have an FIU. An Anti-Money Laundering Bill was passed by the Ugandan parliament in July 2013 but is not yet law.

## E. Prosecution authority

The prosecution authority is the government agency that represents the State before the courts in prosecutions of criminal offences. The table below shows three models in which a prosecution office may be structured. Firstly, a central public prosecutor’s office may be responsible for investigating suspected criminal offences and conducting all criminal prosecutions. Under this model, the prosecution authority will delegate performance of significant parts of an investigation to agencies, such as the police, the tax administration or the customs administration (Model 1). Secondly, a central public prosecutor’s office may be responsible for conducting all criminal prosecutions before a court, but does not participate in an investigation (Model 2). Finally, agencies responsible

for investigating offences may have competency to conduct prosecutions directly (Model 3).

<b>Model 1</b> <i>Central prosecution authority responsible for criminal investigations</i>	<b>Model 2</b> <i>Central prosecution authority with no responsibility for criminal investigations</i>	<b>Model 3</b> <i>Law enforcement agencies may prosecute offences directly</i>
Austria Belgium Brazil Burkina Faso Chile Colombia Costa Rica Czech Republic Denmark El Salvador Estonia Finland France Germany Greece Hungary Italy Japan Korea Latvia Lithuania Luxembourg Mexico Netherlands Norway Peru Portugal Serbia Slovak Republic Slovenia Spain Sweden Switzerland Turkey	Australia Canada Ghana Iceland India Ireland Malaysia Singapore South Africa Uganda United Kingdom United States	Azerbaijan New Zealand
<b>34 countries</b>	<b>12 countries</b>	<b>2 countries</b>

The first model has been adopted by 34 countries (**Austria, Belgium, Brazil, Burkina Faso, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, El Salvador, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, the Netherlands, Norway, Peru, Portugal, Serbia, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland and Turkey**), which comprise almost all civil law countries covered by this report. In these countries criminal investigations are conducted by law enforcement agencies under the direction or supervision of a public prosecutor or, in some cases, an examining judge. In many of these countries the police are referred to as ‘judicial police’ when acting as

agents of a prosecutor or judicial authority. In some countries adopting this model, including **Germany**, the public prosecutor in practice only gets involved at an early stage in investigations of very serious offences. In **Burkina Faso**, criminal investigations are instigated by the public prosecutor, but led by an examining judge. In **Spain**, the public prosecutor can perform a short preliminary investigation, but the case is then passed to an examining judge. In **Mexico**, responsibility for conducting investigations lies with the Attorney-General, who exercises this function through the Federal Agency of Investigation and a number of specialist units.

A further 12 countries (**Australia, Canada, Ghana, Iceland, India, Ireland, Malaysia, Singapore, South Africa, Uganda, the United Kingdom and the United States**), including most common law countries, apply Model 2. Public prosecutors and judges are not directly involved in criminal investigations, though prosecutors may advise other agencies on judicial process and the law of evidence. Investigations are conducted by the police, tax administration or other agencies and cases are forwarded to a central public prosecution authority for review. A prosecutor may then submit the case for prosecution before the court, refer it back to the investigating agency with a request for further evidence, or decide not to prosecute.

The third model is much more uncommon. It is closely related to Model 2, but in addition to a central prosecution authority, a number of other law enforcement agencies have capacity to conduct criminal prosecutions directly. In the view of **Azerbaijan** and **New Zealand**, which are the only countries within this report that use the model, this approach has a number of advantages. Each agency has a high degree of specialist skills with respect to its area of focus, which enables prosecutions to be conducted by experts in a particular area of criminal law. By controlling their own prosecutions, agencies also benefit from greater autonomy in decision making and flexibility in setting their strategic direction, with less direct competition for the resources of a central public prosecutor. However, there is also the potential for the overall duplication of resource as each agency maintains its own prosecution structure. There is also the risk of inconsistency in approach between agencies, over-specialisation of prosecutors, and the possibility that important cases may not be taken based on the priorities of a particular agency that does not consider implications for the wider picture.

The legal systems of several countries listed under Models 1 and 2 in the table above include characteristics from Model 3. In **Germany**, tax administrations in the 16 Länder have responsibility for conducting prosecutions of all tax offences while, in **Australia**, the Australian Taxation Office has authority to prosecute minor offences. In **Singapore**, the IRAS can prosecute income tax offences directly, and can also prosecute certain Goods and Services Tax offences with the consent of the public prosecutor. In **Sweden**, the customs administration has a small number of prosecutors who are able to prosecute directly cases of a simple nature. In **Uganda**, the Director of Public Prosecutions has responsibility for conducting criminal prosecutions, but has granted specific authority to the Uganda Revenue Authority to prosecute tax offences directly. In both **Ghana** and **Malaysia**, criminal prosecutions are generally conducted by the Attorney General's office, though the public prosecutor may give authority to law enforcement authorities, including the tax administration, to prosecute cases that they have investigated. Prior to 2005, **the United Kingdom** tax and customs administrations had capacity to conduct criminal prosecutions. When the tax and customs administrations were merged in 2005, a combined prosecution agency known as the Revenue and Customs Prosecution Office

(‘RCPO’) was formed. In 2010 the RCPO became a unit of the United Kingdom’s central prosecution service, the Crown Prosecution Service. Serious financial crimes may still be prosecuted by the United Kingdom’s Serious Fraud Office. However, these are exceptions. In **Germany and Sweden** the general approach most closely reflects that of Model 1, while the general model applied in **Australia, Ghana, Malaysia, Singapore, Uganda** and **the United Kingdom** is closest to Model 2.

## **F. Financial regulators**

Financial regulators, including central banks, are typically responsible for maintaining confidence in the financial system, and ensuring the competence of market participants and providers of financial services. This encourages stability and efficient functioning in the financial sector. Financial regulators may achieve these goals through regulation and supervision, together with the investigation of potential legislative or regulatory breaches. They may also have direct responsibility to combat crime related to financial markets, such as insider trading and market manipulation and in the course of their supervisory and regulatory activities collect and hold information on individuals, institutions and transactions. In some countries financial regulators also monitor and enforce compliance with money laundering regulations by institutions for which they have supervisory authority.

## *CHAPTER 3*

### MODELS FOR SHARING INFORMATION

#### **Box 4: Key findings**

In the course of their activities, government agencies collect and hold information on individuals, corporations and transactions which may be directly relevant to the activities of other agencies.

Mechanisms to enable information to be shared could improve the prevention and detection of financial offences, enable investigations to be conducted more effectively and efficiently, result in faster and more successful prosecutions, and increase the likelihood of the proceeds of crime being recovered.

All countries have legal gateways to enable the tax administration to share information obtained for the purpose of a civil tax audit or assessment with agencies conducting tax crime investigations and with the customs administration. There appear to be barriers to the ability of tax administrations to share information with the police or public prosecutor in non-tax investigations. In 13 countries, there is no legal obligation on tax officials or the tax administration to report suspicions of serious non-tax offences to the appropriate law enforcement authority. In three of these countries there is an explicit prohibition on the tax administration from sharing information relevant to non-tax offences. The position is mixed regarding the ability of tax administrations to share tax information with the FIU. Four countries continue to prohibit the FIU from obtaining tax information.

In all countries covered by the report, legal gateways are in place to allow the customs administration to share information with the tax administration for the purposes of administering taxes. In 18 countries, tax officials have direct access to customs information for these purposes, including six countries where tax and customs laws are administered by separate authorities. All countries in the report have gateways to allow the customs administration to share information with the agency responsible for investigating tax offences, though in six countries this is only possible on request. Most countries also allow the customs administration to share information with the police or public prosecutor investigating non-tax offences. Seven countries allow the police or public prosecutor direct physical or electronic access to customs information. However, in eight countries this information may not be provided in the absence of a request and one country does not permit customs officials to share information obtained in the performance of their duties for this purpose. Six countries only allow the customs administration to provide information to the FIU on request and one country does not permit the customs administration to share information concerning possible money laundering or terrorist financing with the FIU.

In all but two of the countries in the report, legal gateways enable the police or public prosecutor to provide information to the tax administration for the purpose of administering taxes, though there is often no obligation on them to do so. There are gateways in all countries to enable the police or public prosecutor to provide relevant information to agencies conducting tax crime investigations, though in five countries this information is only available on request. One country prohibits the police and public prosecutor from sharing information with the customs administration, and a further nine only permit the sharing of information on request. Legal

gateways are available in almost all countries to enable the FIU to obtain relevant information from the police or public prosecutor, with one country imposing a prohibition. These gateways broadly reflect the FIU organisational model and there are greater obligations on the police to share information with the FIU where the FIU is established as a division of the police force.

The position with respect to the availability to the tax administration of FIU information for the purpose of making tax assessments varies significantly: some countries give the tax administration direct physical or electronic access or require the FIU to provide relevant information spontaneously while in 13 countries the FIU does not share information with the tax administration for these purposes. Six countries prohibit the FIU sharing information with the customs administration. Legal gateways are in place in most countries to enable FIUs to provide information concerning possible tax offences to the agency responsible for investigating tax crimes, though in many cases the FIU is able to exercise discretion in deciding whether to provide information. In three countries this information is only available on request and three countries do not allow any sharing of FIU information in these circumstances. All countries provide legal gateways to enable the FIU to provide information concerning suspected non-tax offences to the police or public prosecutor, though in three countries this information is only available on request. In one half of the countries where the police have direct access to FIU information, the FIU is established within the police authority. However, there is otherwise no clear relationship between the organisational model for the FIU adopted by a country and the ability of the FIU to share information concerning suspected non-tax offences.

Financial regulators are generally not obliged to provide information to tax administrations for the purpose of assessing taxes. Only four countries impose an obligation on regulators to share information for these purposes, while 11 countries impose an express prohibition on doing so. Legal gateways exist in most countries to enable financial regulators to provide information concerning suspected tax offences or customs offences to the agency responsible for investigations. Regulators in two countries cannot share information regarding suspected tax offences, while those in seven countries cannot share information regarding suspected customs violations. All countries have legal gateways for financial regulators to provide information to the police or public prosecutor with respect to suspected non-tax offences, though in 11 countries information cannot be provided spontaneously and is only available on request. In all but one of the countries in the report, gateways exist to allow financial regulators to share information with the FIU with respect to suspected money laundering or terrorist financing activity, though in five countries this information may only be provided on request.

## A. Introduction

In the course of their normal activities, government agencies gather and hold information with respect to individuals, companies and transactions. This may include information that would be valuable to other agencies for the purposes of analysis, identifying possible breaches of law or regulations, or in ongoing criminal investigations. The ability to share this information can provide a valuable source of intelligence to agencies responsible for combating financial crimes.

Effective information sharing can be used to identify evidence which may lead to new investigations, and to support ongoing investigations. In some cases information may be of a type that the receiving agency could not obtain directly, particularly where the information is of a specialist nature such as that held by the tax administration or FIU. In others, the ability to receive information from other agencies may reduce the duplication of work by different agencies, increasing the speed and reducing the cost of investigations. Sharing of information can be used to identify new angles to existing investigations, such as where an investigation into a tax offence reveals other criminal activity and money

laundering. The use of information from different sources may increase officers' understanding of an issue or of the activities of a suspect, possibly increasing the effectiveness of enquiries. Importantly, mechanisms for sharing information may be used to develop relationships between agencies, and key individuals in those agencies, which can be beneficial in developing new and enhanced forms of inter-agency co-operation.

Legal gateways for sharing information may take a number of forms. Primary legislation often provides the basic framework for co-operation, for example by requiring that an agency shares certain types of information in specified circumstances, or by placing restrictions on the ability of agencies to share information. Within the framework of what is permitted by law, agencies may enter into bilateral agreements or 'memoranda of understanding', agreeing to share information where this is of relevance to the other agency's activities. These memoranda typically contain details of the types of information that will be shared, the circumstances in which sharing will take place and any restrictions on sharing information such as that the information may only be used for specified purposes. Memoranda may also include other terms agreed by the agencies, such as a requirement for the agency receiving information to provide feedback on the results of investigations in which the information was used. Memoranda of understanding may be of use in agreeing practical arrangements for co-operation, such as the format of any request for information, details of competent officials authorised to deal with requests, and agreed notice periods and time limits.

## **B. Arrangements for sharing information through legal gateways**

Arrangements for sharing information through legal gateways fall within four broad categories: (i) direct access to records and databases; (ii) mandatory spontaneous sharing of information; (iii) spontaneous sharing of information; and (iv) sharing of information on request. Under each of these four types of legal gateways for sharing information among different agencies it is important to protect the confidentiality of information and the integrity of work carried out by other agencies. For example, in **Sweden**, information shared between agencies through legal gateways must at all times comply with the provisions of the Secrecy Act. Other countries have similar protections.

### *(i) Direct access to records and databases*

An agency may grant direct access to its records and information stored on its databases to designated individuals within other authorities. This access may be for a wide range of purposes, or restricted to specific cases or circumstances. This has advantages in that an agency requiring information is able to search for the information directly and in many cases obtain it in a timely manner. However, databases may contain large quantities of data arranged for the purposes of the agency holding the information, and not those of the agency seeking information. This may make identifying important information difficult for officials unfamiliar with the other agency's systems. There may be cases where officials conducting an investigation are unaware of information contained on a database, which goes unused even though access is available. Compared to other mechanisms for sharing information, allowing direct access to records carries a particular risk that data may be accessed for purposes other than those for which it was originally intended. Countries may therefore seek to introduce safeguards to protect the confidentiality of sensitive information, such as restricting access to databases to a small number of nominated individuals, and maintaining records of what information was accessed and for what purpose.

***(ii) Mandatory spontaneous sharing of information***

An agency may be required to provide certain categories of information spontaneously, without requiring a request to be made. This is sometimes referred to as a ‘reporting obligation’. This has the advantage that the information to be shared is identified by officials within the agency holding it, who are likely to have a greater understanding of the information in their records. However, in order for this to be effective an agency must have clear rules and mechanisms in place to identify the information that must be shared. This may be straightforward where an obligation exists to provide all information of a certain class (for example, copies of all Cash Declaration Forms), but is more complex where judgement must be exercised to identify information that would be relevant to an investigation. Further, by itself this method does not allow officials conducting an investigation to specify the information required. However, it may facilitate the detection of previously unknown criminal activity.

***(iii) Spontaneous sharing of information***

An agency may have the ability to provide certain categories of information spontaneously, but is able to exercise its discretion in deciding whether or not to do so. Where this operates well, it can be at least as effective as the previous method. Information is shared spontaneously, but officials in the agency holding the information are able to exercise their judgement to provide only that information which is of value and not all information of a particular class. This model is particularly effective when it is supported by close co-operative working arrangements and a good understanding by officials in each agency of the information requirements of the other agency. This means that, even in the absence of a specific obligation, information sharing between can be very effective.

Models for information sharing that allow discretion to be exercised require clear rules for how this is to be done. For example, decisions as to whether or not relevant information is to be shared may be limited to individuals in certain positions or levels of management, while guidelines may set out the factors which can be taken into account in making a decision. The effectiveness of this type of legal gateway is also dependent on the ability of officials to identify relevant information and their willingness to exercise discretion to provide information. Where there is no previous experience of inter-agency co-operation, the benefits to both agencies of sharing information must be made clear or there may be a danger that officials exercise their discretion and choose not to share valuable intelligence.

***(iv) Sharing information on request***

An agency may provide information only when specifically requested. This may be seen as the simplest of the four methods for sharing information, as there is less need for rules or mechanisms to identify information for sharing or provide access to records. It also has the advantage of allowing officials to specify precisely the information they require. In the context of an ongoing transaction where investigators have identified specific information that is required, this can be a valuable mechanism. However, in many cases an agency may hold information that an investigator is not aware of. This may mean that the investigator is unable to request information, or is only able to do so at a later stage when the value of the information may be reduced.

### C. Analysis of the existing gateways

Each of these arrangements has advantages and disadvantages, which will vary depending upon the agencies involved, the type of information concerned and the circumstances in which the information is required, and most countries employ a combination of arrangements. For example, an FIU may be required to provide information concerning possible offences to the police force spontaneously, and also to provide additional information on request.

The following paragraphs include details of legal gateways permitting the sharing of information between agencies that are of particular importance in combating tax crimes and other financial crime. Countries were invited to provide information on their current gateways which allow for information to be shared in particular circumstances. Countries analysed each gateway and placed them in categories 0 to 4, where: 4 means the agency holding information grants direct access to its records or databases; 3 means the agency holding information is obliged to provide information spontaneously; 2 means the agency holding information is able, but not obliged, to provide information spontaneously; 1 means the agency holding information has an obligation or ability to share information only on request; and 0 means the agency holding information is unable to share information, either because no legal gateway exists or because of a specific restriction.

The analysis is not meant to be an evaluation of the effectiveness of the gateways in place in a given country, but simply represents an overview of the legal gateways that are in place. In addition, they do not necessarily indicate that in all cases a legal gateway in one category is in practice more effective than one in another category. For example, spontaneous sharing of information may be very effective when there is a long-standing co-operative relationship between the agencies involved, and there is a clear understanding of what information may be useful in the activities of the recipient agency. On the other hand, direct access to information may be less effective in cases where officials are unfamiliar with the information available or have not received appropriate training in using systems operated by the other agency.

This information is set out in tables below, together with comments on particular practices. These tables indicate the broad position in countries. They cannot fully take into account the complexity of the different types of information that can be shared, and the circumstances surrounding when information can be made available. Importantly, they also indicate only the existence of legal gateways and mechanisms for information to be shared, and not the practical experience of how these are used.

The gateways which were considered comprise those set out below.

#### **Information held by the tax administration:**

- (i) Availability to agencies investigating tax offences.
- (ii) Availability to the customs administration.
- (iii) Availability to the police or public prosecutor investigating non-tax offences.
- (iv) Availability to the Financial Intelligence Unit.

**Information held by the customs administration:**

- (i) Availability to the tax administration for the purpose of administering taxes.
- (ii) Availability to agencies investigating tax offences.
- (iii) Availability to the police or public prosecutor investigating non-tax offences.
- (iv) Availability to the Financial Intelligence Unit.

**Information held by the police or public prosecutor:**

- (i) Availability to the tax administration for the purpose of administering taxes.
- (ii) Availability to agencies investigating tax offences.
- (iii) Availability to the customs administration
- (iv) Availability to the Financial Intelligence Unit.

**Information held by the Financial Intelligence Unit:**

- (i) Availability to the tax administration for the purpose of administering taxes.
- (ii) Availability to agencies investigating tax offences.
- (iii) Availability to the customs administration.
- (iv) Availability to the police or public prosecutor investigating non-tax offences.

**Information held by financial regulators:**

- (i) Availability to the tax administration for the purpose of administering taxes.
- (ii) Availability to agencies investigating tax offences.
- (iii) Availability to the customs administration.
- (iv) Availability to the police or public prosecutor investigating non-tax offences.
- (v) Availability to the Financial Intelligence Unit.

## D. Information held by the tax administration

### (i) Availability to agencies investigating tax offences

The model a country adopts for countering tax crimes determines the role of the tax administration in combating tax crime (see Chapter 2). This directly influences the practical mechanisms for sharing information held by the tax administration for the purposes of assessing taxes with tax crime investigators. The table below shows the availability to agencies investigating tax offences of information held by the tax administration.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Australia	Azerbaijan	Costa Rica	Burkina Faso	
Austria	Brazil	Finland	Colombia	
Belgium	Czech Republic	France	Ghana	
Canada	Denmark	Slovak Republic	Mexico	
Chile	Japan	South Africa	Peru	
El Salvador	Luxembourg		Spain*	
Estonia	Norway			
Germany	Serbia			
Greece	Slovenia			
Hungary	Switzerland			
Iceland				
India				
Ireland				
Italy				
Korea				
Latvia				
Lithuania				
Malaysia				
Netherlands				
New Zealand				
Portugal				
Singapore				
Spain*				
Sweden				
Turkey				
Uganda				
United Kingdom				
United States				
<b>28 countries</b>	<b>10 countries</b>	<b>5 countries</b>	<b>6 countries</b>	<b>0 countries</b>

\* Spain is included in the above table twice, to reflect the position concerning investigations conducted by tax officials and those conducted entirely outside the tax administration.

In all countries covered by the report, gateways exist for the tax administration to provide tax crime investigators, as defined in Chapter 2, with information relevant to suspected tax offences. In 28 countries (**Australia, Austria, Belgium, Canada, Chile, El Salvador, Estonia, Germany, Greece, Hungary, Iceland, India, Ireland, Italy, Korea, Latvia, Lithuania, Malaysia, the Netherlands, New Zealand, Portugal, Singapore, Spain, Sweden, Turkey, Uganda, the United Kingdom and the United States**), tax crime investigators have direct access to information obtained by the tax administration for the purposes of administering and assessing taxes. In **Australia**, where tax offences are under investigation by officials within the tax administration, these investigators have direct

access to information held by the tax administration for other purposes. Where a tax offence is being investigated by another agency, such as the Australian Federal Police, or State Police, the tax administration does not grant direct access to tax information, but may share relevant information with investigators. In **Canada**, tax crime investigators within the Canada Revenue Agency have direct access to information held by the tax administration. The Canadian tax administration also has the ability to share information with provincial tax administrations, under Memoranda of Understanding. The **Chilean** tax administration has created an electronic platform accessed through a secure website, to which the public prosecutor's office has direct access. This provides instant access to tax information such as tax returns, while other information may be obtained from tax auditors on request. In **Germany**, there are no restrictions on the disclosure of information subject to tax secrecy if it serves the implementation of criminal tax proceedings. Tax crime investigators have regular direct access to tax databases and may request information from departments responsible for tax assessments. In **Greece**, the Financial and Economic Crime Unit (SDOE) has direct access to the TAXIS DATA tax information database. In **Hungary**, since May 2013, all tax information held by the tax administration has been directly accessible to tax crime investigators. In addition, the tax administration must disclose information, including confidential tax information, to criminal tax investigators where this is for the purposes of detecting, preventing or investigating tax offences or prosecuting cases. Criminal tax investigators may also obtain information on request. In **Iceland**, tax crime investigators within the Directorate of Tax Investigations have direct access to databases held by the tax administration. Police conducting tax crime investigations do not have direct access to tax databases, but the tax administration is under an obligation to provide all relevant information to the police. In **Latvia**, investigators within the State Revenue Service Financial Police Department have access to servers maintained by the State Revenue Service Tax Control Department, containing details of tax audits and desk audits, including audit decisions. Tax auditors must also provide investigators spontaneously with information relevant to the prevention, detection or investigation of tax offences, and must report suspicions of possible tax crime within 10 days of detection. In **Lithuania**, tax crime investigators have direct access to information contained in a central register of bank accounts, held by the tax administration. The tax administration also provides information spontaneously regarding indicators of possible financial crime and tax crime investigators may request information concerning possible tax violations and administrative liabilities of taxpayers. In **the Netherlands**, with respect to tax crimes and investigations on tax and economic crimes together, FIOD has direct access to tax information. For investigations of other crimes (money laundering, economic crimes etc.) which do not include a tax crime element, the tax and customs administration is able to provide on request and tax secrecy provisions are lifted. In **New Zealand**, due to the relatively small size of the tax administration and the functionally-based structure employed within this administration, a high level of co-operation exists between all the investigations and audit teams. In **Spain**, direct access is possible through the tax officials participating in an investigation. Where an investigation is conducted wholly outside the tax administration, information may be provided to the public prosecutor or examining judge on request. In **Sweden**, investigators working within Tax Fraud Investigation Units are part of the tax administration, but are treated separately for the purpose of legislation governing the sharing of information. Tax crime investigators may access directly certain information held by other parts of the tax administration. Other information may be provided by the tax administration spontaneously or made available on request. In the **United Kingdom**, any information held by the tax administration is available to be used by its officers for any other function. Therefore, HMRC Criminal Investigations is able to use any information held by the tax administration for the purposes of a criminal investigation. Criminal

investigators have direct access to databases containing taxpayer details, and may obtain other information on request to the relevant area. In **the United States**, IRS Criminal Investigators have complete access to tax information where the investigation concerns tax charges and the IRS is the sole investigating agency. If the investigation concerns non-tax charges or involves other agencies, then the rules for sharing information with the other agency apply to tax crime investigators. In these cases, the IRS can also provide information on trends and typologies to tax crime investigators, so long as no taxpayer information is included.

In ten countries (**Azerbaijan, Brazil, the Czech Republic, Denmark, Japan, Luxembourg, Norway, Serbia, Slovenia and Switzerland**), the tax administration has an obligation to provide this information to tax crime investigators, but investigators cannot access it directly. The **Brazilian** tax administration must inform the Federal Prosecution Service where it discovers evidence of a possible tax offence, even where this information would be covered by tax secrecy rules. The tax administration may also provide information directly to the police, but may only provide the police with information covered by tax secrecy if a court order has been obtained. In **the Czech Republic**, the tax administration must report suspected offences and spontaneously provide any information relevant to an offence it has reported. However, where a tax criminal investigation did not commence following the report of a suspicion by the tax administration, the Czech Republic tax administration may only provide information requested by the public prosecutor or judge. In **Japan**, tax officials responsible for tax assessment or collection are obliged to report suspicions of tax crime to tax officials in charge of tax crime investigations, known as Sasatsukan. Following the investigation, Sasatsukan may file an accusation against a suspect with the public prosecutors, including details of the evidence collected. The public prosecutors then conduct a further investigation to proceed with an indictment. In **Luxembourg**, where it comes to the knowledge of the Inland Revenue in the course of its duties that a tax or non-tax offence has been committed, it must immediately inform the public prosecutor's office and forward all information, reports and acts related to that offence. In **Serbia**, where a tax official in the course of their activities uncovers evidence of possible tax crimes, this information must be reported to relevant office within the Tax Administration. This report must be forwarded to the Serbian Tax Police within 24 hours. In **Switzerland**, officials within the Federal Tax Administration and Cantonal Tax Administrations responsible for administering and assessing taxes are required to share with the agencies' criminal investigators any information that is required for the purposes of investigating a tax offence.

In five countries (**Costa Rica, Finland, France, the Slovak Republic and South Africa**) the tax administration is able to provide tax information to tax crime investigators, but is not under an obligation and may exercise discretion in choosing whether to do so. In **Costa Rica**, tax information may only be provided to the Prosecutor's Office where criminal proceedings have commenced. In **France**, the tax administration has the ability to provide information spontaneously to police conducting tax investigations, but is not under an obligation to do so. Tax officials seconded to the Brigade Nationale d'Enquetes Economiques (BNEE), which is under the supervision of the Ministry of the Interior, have direct access to databases held by the tax administration, including the national register of bank accounts (FICOBA). By working within the judicial police, BNEE officers facilitate sharing of information between the two agencies. In **the Slovak Republic**, the prosecutor or court may also request information covered by tax secrecy rules.

In six countries (**Burkina Faso, Colombia, Ghana, Mexico, Peru and Spain**) tax crime investigators can only obtain information from the tax administration on request. In **Mexico**, where the tax administration has grounds to suspect a tax offence has been committed, it is required to report this to the public prosecutor. However, officials conducting tax crime investigations in Mexico may only obtain information from the tax administration on request, even where the investigation was commenced following a report by the tax administration. In **Peru**, the tax administration may only provide information to the police that is not covered by tax secrecy rules. Information covered by tax secrecy may be requested by the public prosecutor if accompanied by a court order. In most countries, tax crime investigators may request information from the tax administrator in addition to that provided through other legal gateways. No country imposes a prohibition on the tax administration from sharing information relevant to suspected tax offences with tax crime investigators. In **Spain**, this only concerns tax crime investigations conducted entirely outside the tax administration. Tax crime investigators within the Spanish tax administration have direct access to tax information.

### Box 5: Matching Gateways with Models to Tackle Tax Crime

The report identifies four models for investigating and prosecuting tax crime and it may be interesting to match these models with the gateways identified above. Italy is not included in these four models. In **Italy**, the Guardia di Finanza, which has responsibility for carrying out investigations into tax crimes, has direct access to the Anagrafe Tributaria (the ‘Tax Register’) held by the Italian Revenue Agency, which includes tax information on Italian residents. **Greece** operates a hybrid model whereby tax crime investigations can be conducted by the tax administration or by SDOE, a separate agency under the Ministry of Finance.

#### Models where tax crime investigations are conducted within the tax administration

In Models 1 and 2 described in Chapter 2, tax crime investigations are conducted by officials within the tax administration. Under Model 1 investigations are both directed and conducted by the tax administration, while under Model 2 they are conducted by the tax administration under the direction of a public prosecutor or examining judge. In countries applying these models, physical or legal barriers may exist to restrict access by criminal investigators to information gathered by the tax administration in the course of its tax audit and compliance activities. Of the 27 countries that apply Model 1 or 2 in conducting tax crime investigations, 22 countries (**Australia, Austria, Canada, El Salvador, Estonia, Germany, Greece, Hungary, India, Ireland, Korea, Latvia, Malaysia, the Netherlands, New Zealand, Portugal, Singapore, Spain, Sweden, Uganda, the United Kingdom and the United States**) allow information obtained by the tax administration for the purposes of conducting tax audits and assessments to be used by its tax crime investigators. Much of this information may be obtained directly from taxpayer records and databases, while other information may be requested from the relevant area. It is important to note that although criminal investigators have direct access to information held by tax auditors within the same tax administration, they may not use tax audit powers to obtain information solely for the purposes of a criminal investigation. In **Sweden**, tax criminal investigations are carried out by Tax Fraud Investigation Units (‘TFIU’), which are part of the tax administration, but are treated separately for the purpose of legislation governing the sharing of information. TFIU may access directly certain information held by other parts of the tax administration. Other information may be provided spontaneously by the Swedish tax administration or made available on request. In four countries (**Azerbaijan, Japan, Serbia and Switzerland**) criminal tax investigators do not have direct access to tax information, but officials within the tax administration responsible for administering and assessing taxes are required to share with the agency’s criminal investigators any information that is required for the purposes of investigating a tax offence. In one country (**South Africa**) tax administration officials

working on civil tax assessments may provide information to criminal tax investigators, but there is no obligation on them to do so.

#### **Models where tax crime investigations are conducted outside of the tax administration**

In countries where tax crime investigations are conducted outside the tax administration (Models 3 and 4), legal gateways are generally in place to ensure that criminal investigators have access to relevant information held by the tax administration, which may include taxpayer data, so as to enable a full and effective investigation to take place.

Under Model 3, investigations are conducted by agencies outside the tax administration but under the supervision of the Ministry of Finance. In three countries where this model is applied (**Greece, Iceland and Turkey**), tax crime investigators are granted direct access to some or all relevant information held by the tax administration. In Iceland, this only applies where tax crimes are investigated by the Directorate of Tax Investigations. In contrast, under the fourth country applying Model 3 (**Ghana**), the tax administration only provides information to tax crime investigators on request.

Under Model 4, tax crime investigations are conducted by the police or directly by the public prosecutor. Of the 19 countries applying this model, three countries (**Belgium, Chile and Lithuania**) provide for tax crime investigators to have direct access to tax administration information. In **Chile**, the tax administration has created an electronic platform accessed through a secure website, to which the public prosecutor's office has direct access. This provides instant access to tax information such as tax returns, while other information may be obtained from tax auditors on request. In seven countries (**Brazil, the Czech Republic, Denmark, Iceland, Luxembourg, Norway and Slovenia**) the tax administration must provide the police or public prosecutor with relevant tax information spontaneously, without the ability to exercise discretion. In four countries (**Costa Rica, Finland, France and the Slovak Republic**) the tax administration has the ability to provide information spontaneously to police conducting tax investigations, but is not under an obligation to do so. In **Costa Rica** the tax administration may only provide information where criminal proceedings have commenced. **France** does allow direct access to taxpayer information for tax inspectors working in the Brigade Nationale d'Enquetes Economiques ('BNEE') that operates within the judicial police. In five countries (**Burkina Faso, Colombia, Mexico, Peru and Spain**), the tax administration may report tax offences to the police or public prosecutor responsible for conducting tax investigations, but can only provide additional tax information on request. In **Spain**, this concerns only investigations conducted wholly outside the tax administration. Investigations conducted by tax officials are considered above under Model 2.

#### **(ii) Availability to the customs administration**

Tax administrations and customs administrations often work closely together in the administration and enforcement of their respective laws, and in a number of countries form two parts of a single joint administration. However, structural and technical issues, as well as tax secrecy rules, can operate as an impediment to the free sharing of information, even within a single agency. The table below summarises the availability to customs officials of information held by the tax administration.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Belgium Brazil Colombia El Salvador Estonia Germany Ghana Hungary Iceland Ireland Italy Lithuania Mexico Netherlands Peru Portugal Spain Sweden Uganda United Kingdom	Austria Burkina Faso Costa Rica Denmark Greece Norway Serbia Slovak Republic Slovenia Switzerland Turkey	Australia Chile Finland France India Latvia Luxembourg New Zealand Singapore	Azerbaijan Canada Czech Republic Japan Korea Malaysia United States	
<b>20 countries</b>	<b>11 countries</b>	<b>9 countries</b>	<b>7 countries</b>	<b>0 countries</b>

In all countries covered by this report, the tax administration is able to share certain information with customs officials. In 20 countries (**Belgium, Brazil, Colombia, El Salvador, Estonia, Germany, Ghana, Hungary, Iceland, Ireland, Italy, Lithuania, Mexico, the Netherlands, Peru, Portugal, Spain, Sweden, Uganda** and **the United Kingdom**), customs officials have direct access to tax administration information. In 14 of these countries (**Belgium, Brazil, Colombia, Estonia, Ghana, Hungary, Ireland, Mexico, the Netherlands, Peru, Portugal, Spain, Uganda** and **the United Kingdom**) the tax administration and customs administration are part of a single combined authority. In **Brazil**, customs officials have direct access to tax information held by the Federal tax administration, and may obtain information from State tax authorities on request. In the **Netherlands**, customs officials to have direct access to certain tax files, while other information is available on request. Customs officials do not have access to information held by the Criminal Investigations Service of the NTCA (FIOD), but FIOD may provide information that it believes is relevant for customs purposes. With the consent of the Public Prosecutor's Office, other information may be requested from FIOD. In **the United Kingdom**, the tax and customs administrations have been part of a single agency since 2005. Customs officials have direct access to information held by the joint agency for civil tax purposes. Where the criminal investigations division holds information that may be relevant to customs, it may provide this information spontaneously. However, there is no obligation to do so and customs officials do not have direct access to this information.

In the remaining six countries (**El Salvador, Germany, Iceland, Italy, Lithuania** and **Sweden**) the tax administration and customs administration are separate agencies. **German** tax and customs administrations share access to common risk analysis data, particularly concerning suspected VAT fraud. There is also a duty to share information concerning illegal employment. Information sharing is subject to tax secrecy rules. In **Iceland**, the customs administration has restricted access to information held by tax authorities. It has access to the tax administration's Information Database and VAT Database, which are used for tax collection purposes. However, it does not have direct access to the database of tax returns. The **Italian** tax administration has granted the Italian Customs and Monopolies

Agency direct access to a system called SERPICO which holds a number of databases, including the *Anagrafe Tributaria* (Tax Register) and the VIES system containing information on intra-Community transactions within the EU. Other information is shared spontaneously or on request. In **Lithuania**, the customs administration has direct access to information held by the tax administration concerning bank accounts in Lithuania, tobacco and alcohol products sold, business licenses granted, permanent establishments of foreign companies and information required for risk assessment purposes. The tax administration also provides information spontaneously which concerns possible violations under the competency of Customs. The customs administration may request information concerning possible tax violations and administrative liabilities of taxpayers. Since 1 January 2013, in **Sweden** the customs administration has had direct access to the Excise Movement and Control System, which is held by the tax administration and contains information on movements of goods such as tobacco, ethyl alcohol, spirits and energy products. Other information may be obtained on request though information covered by tax secrecy may only be shared where permitted by the Secrecy Act or other legislation. Criminal investigations units within the tax administration may spontaneously provide information to equivalent units within customs.

In 11 countries (**Austria, Burkina Faso, Costa Rica, Denmark, Greece, Norway, Serbia, the Slovak Republic, Slovenia, Switzerland** and **Turkey**), tax officials are under an obligation to provide customs officials with information that is relevant to their activities. In three countries (**Austria, Denmark** and **the Slovak Republic**), tax and customs are part of a single administration. However, although in **Austria**, attempts were made to allow reciprocal direct access to information between the tax and customs arms of the administrations, in practice it proved difficult for officials in one division to conduct effective data searches of the other division's databases and obtain useful information. In eight countries (**Burkina Faso, Costa Rica, Greece, Norway, Serbia, Slovenia, Switzerland** and **Turkey**) tax and customs are administered by separate agencies.

In nine countries (**Australia, Chile, Finland, France, India, Latvia, Luxembourg, New Zealand** and **Singapore**), officials within the tax administration may share information with customs officials, but are not obliged to do so. In one country (**Latvia**) a single agency administers tax and customs. In eight countries (**Australia, Chile, Finland, France, India, Luxembourg, New Zealand** and **Singapore**), the tax administration and customs administration are separate. In **Chile**, general information held by the tax administration and not covered by tax secrecy provisions may be made available to customs. The tax administration may also provide information covered by tax secrecy to the customs administration on request, to the extent it is used in customs audits. Information on VAT refunds on exports is shared in order to combat refund frauds. In **Finland**, the tax administration may send information to the customs administration while reporting a suspected custom crime and may also send information on request. In **Luxembourg**, this ability concerns only information that relates to cash controls or suspected VAT fraud. In **New Zealand**, information held by the tax administration with respect to goods and services tax may be shared spontaneously with the customs administration but other tax information cannot be shared with customs. In **Singapore**, information sharing between the tax administration and customs administration is permitted with respect to Goods and Services Tax, which is jointly administered by the two authorities.

In seven countries (**Azerbaijan, Canada, the Czech Republic, Japan, Korea, Malaysia** and **the United States**) the tax administration may only share information with Customs on request. In all of these countries, tax and customs are administered by separate

agencies. In **Canada**, the CRA and the CBSA may receive information from each other on request for the effective administration and enforcement of laws that provide for the imposition of a tax or a duty. In **the United States**, tax return information is confidential by statute and cannot be disclosed except as authorised by the U.S. Internal Revenue Code. The customs administration, through the Department of Justice can seek a court order for access to specified return information to assist it with investigation of non-tax crimes, provided certain statutory prerequisites are met. The IRS can also disclose limited return information to the customs administration, but only to the extent it must do so in order to obtain information it needs for use in tax investigations or examinations.

No countries impose a total prohibition on the tax administration sharing information with Customs.

*(iii) Availability to the police or public prosecutor investigating non-tax offences*

In the course of their normal activities, tax administrations hold significant information about taxpayers, including personal and bank details, information concerning business activities, and data on people, capital and goods moving across national borders, which is often valuable to police and public prosecutors conducting criminal investigations. The table below shows the availability of information held by the tax administration to the police or public prosecutor investigating non-tax offences.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Chile Estonia	Azerbaijan Belgium Brazil Denmark El Salvador France Greece Iceland Italy Japan Luxembourg Netherlands Norway Serbia Switzerland	Australia Canada Costa Rica Finland India Ireland Portugal Singapore Slovak Republic Slovenia South Africa Sweden Turkey United Kingdom United States	Austria Burkina Faso Colombia Czech Republic Ghana Hungary Latvia Lithuania Malaysia Mexico Peru Spain Uganda	Germany Korea New Zealand
<b>2 countries</b>	<b>15 countries</b>	<b>15 countries</b>	<b>13 countries</b>	<b>3 countries</b>

In two countries (**Chile** and **Estonia**) the police or public prosecutor when investigating non-tax offences have direct access to information held by the tax administration. In **Chile**, the public prosecutor has direct access to information held by the tax administration on a secure website, including tax information such as tax returns. The Chilean tax administration cannot share information covered by tax secrecy directly with the police, but may share non-tax information on request. In **Estonia**, the police and tax administration share information through a common intelligence database.

In 15 countries (**Azerbaijan, Belgium, Brazil, Denmark, El Salvador, France, Greece, Iceland, Italy, Japan, Luxembourg, the Netherlands, Norway, Serbia** and **Switzerland**), where the tax administration obtains information relevant to a non-tax

investigation, it is under an obligation to report this to the police or public prosecutor. In **Brazil**, the tax administration must inform the Federal Prosecution Service where it discovers evidence of a possible non-tax offence, even where this information would be covered by tax secrecy rules. The police may request information directly from the tax administration, but may only obtain information covered by tax secrecy where a court order is obtained. In **El Salvador**, the tax administration is under an obligation to spontaneously provide information to the public prosecutor in the Attorney-General's Office, but tax secrecy rules mean no information can be provided directly to the police. In India, this information is channelled through the Central Economic Intelligence Bureau. In **Italy**, if the Italian Revenue Agency or *Guardia di Finanza* obtains information relevant to a non-tax investigation, they are obliged to suspend its enquiries and without any delay report this information to the public prosecutor. In **Luxembourg**, where the tax administration reports an offence to the Public Prosecutor, it must submit all information, reports and acts related to that offence. The tax administration must also forward to the courts on request any information which may be useful in criminal proceedings. In **the Netherlands**, covenants in place between the police and tax administration act as permanent requests for information. This enables spontaneous sharing of information to take place. In **Switzerland**, federal officials have an obligation to inform the public prosecutor with respect to any suspicions of possible non-tax offences which may be punishable by a prison sentence, which includes all serious offences.

In 15 countries (**Australia, Canada, Costa Rica, Finland, India, Ireland, Portugal, Singapore, the Slovak Republic, Slovenia, South Africa, Sweden, Turkey, the United Kingdom and the United States**), the tax administration is able to provide the police or public prosecutor with information it obtains that relates to suspected non-tax offences, but it is not under an obligation to do so. However, in a number of countries this ability is subject to important restrictions, examples of which include **Australia, Canada, Portugal and the United States**. The **Australian** tax administration is able to provide information spontaneously to law enforcement agencies, but only for the purposes of investigating serious offences punishable by imprisonment for a period exceeding 12 months, or in connection with the making of proceeds of crime orders. The police cannot obtain any taxpayer information relevant to less serious offences. In **Canada**, if the conditions are met, the RCMP may obtain taxpayer information from the CRA when they are working together in Joint Forces Operations. The CRA may also provide information to police and law enforcement agencies where a court order has been obtained, criminal charges are laid or it has concerns related to threats against Canada's security. There is currently no obligation on the CRA to report suspicions of serious non-tax crime to the competent law enforcement agencies. The CRA may only spontaneously report taxpayer information relating to imminent danger of death or physical injury to any individual or where there are reasonable grounds to suspect that there is a threat to national security, including terrorism financing. In **Costa Rica**, the tax administration may only provide taxpayer information to the Prosecutor's Office where criminal proceedings have commenced. The tax administration cannot provide taxpayer information directly to the police, but may provide general information on request. In **Finland**, information may be sent to the police or public prosecutor when the tax administration is reporting suspicions of a possible crime. The police and public prosecutor may also request information required for an investigation. Legal gateways exist between the **Irish** tax administration and the police (*An Garda Siochána*) which enable sharing of information. These gateways also permit information exchange between the tax administration and the FIU, which is part of the police. The **Portuguese** tax administration may provide the public prosecutor with certain information relevant to criminal investigations spontaneously, and is also obliged to provide

information on request where a prosecutor has determined that tax secrecy provisions should be lifted. Information may be shared between the Portuguese police and tax administration via a liaison group within the Financial Intelligence Unit, which is part of the police force. In **the Slovak Republic**, information not covered by tax secrecy laws is also available to the public prosecutor on request. In **South Africa** the police can generally only obtain information relevant to non-tax investigations from the tax administration through an *ex parte* court application or under specific legislation related to the prevention and investigation of serious organised crime. Information requests under this legislation must be specific. The tax administration may also inform the police where it discovers evidence of a possible non-tax offence, but only if it first obtains specific consent from the court pursuant to an *ex parte* application. The **Swedish** tax administration may provide information that is required in a preliminary investigation, and may also provide information requested by the police intelligence unit, so long as certain conditions are met. In **the United States** the tax administration may share information with law enforcement agencies that are conducting a joint investigation with the IRS Criminal Investigations and the investigation has been approved by the Department of Justice Tax Division. Otherwise, the tax administration may only provide taxpayer information on request under an *ex parte* order that has been signed by a federal judge.

In 13 countries (**Austria, Burkina Faso, Colombia, the Czech Republic, Ghana, Hungary, Latvia, Lithuania, Malaysia, Mexico, Peru, Spain and Uganda**), the tax administration may not provide any information spontaneously to the police or public prosecutor, but may provide information on request. In **the Czech Republic**, information obtained in the course of tax administration activities can be provided to the police only on request of the state prosecutor, court or specialised police unit authorised by the Police President. Moreover, in order to use information obtained by the tax administration as evidence in criminal proceedings conditions of the Criminal Code regarding how the information has to be obtained must be fulfilled, for example interviews conducted by the tax administration cannot be used as evidence in criminal proceedings. In **Hungary**, the court, Public Prosecutor and law enforcement agencies may request information, data or documents from the tax and customs administration and prescribe a time limit of between eight and 30 days for these to be provided. In **Mexico**, information is provided to criminal investigators on request via the fiscal public prosecutor (PFF). Under the rules of tax secrecy, this information may only be used for the purposes for which it is requested, and the PFF must also observe the rules of tax secrecy. The tax administration may not provide information directly to the police. In **Peru**, the tax administration may only provide information to the police that is not covered by tax secrecy rules. Information covered by tax secrecy may be requested by the public prosecutor if accompanied by a court order. In **Spain**, public prosecutors and examining judges may request information for use in the investigation of crimes, and judicial police may obtain information on request if authorised by a judge or public prosecutor. The law does not permit the tax administration to provide information directly to the police outside these provisions.

In three countries (**Germany, Korea and New Zealand**) there is a general prohibition against the tax administration providing information to the police or public prosecutor with respect to non-tax offences. In **Germany**, disclosure by the tax administration of information protected by tax secrecy rules is only permitted in very exceptional circumstances. In **Korea**, there is a general prohibition on the tax administration reporting suspicions or sharing information with respect to non-tax offences, other than in exceptional circumstances. **New Zealand** legislation specifically prohibits the tax administration from providing taxpayer information to the police or other agencies except

in cases related to the administration of taxation, investigation of tax crimes and the facilitation of asset recovery. Therefore, with the exception of asset recovery cases, the tax administration cannot share tax information with law enforcement agencies for the purposes of investigating non-tax offences.

#### **Box 6: Obligations to Report Suspicions of Serious Crime to the Police or Public Prosecutor**

Tax officials conducting audits or examinations are often ideally placed to detect indicators of a wide range of non-tax offences, and in particular other forms of financial crime. The 2010 OECD Council Recommendation to Facilitate Co-operation between Tax and other Law Enforcement Authorities to Combat Serious Crimes includes a recommendation that countries establish, in accordance with their legal systems, an effective legal and administrative framework and provide guidance to facilitate reporting by tax authorities of suspicions of serious crimes, including money laundering and terrorism financing, arising out of the performance of their duties, to the appropriate domestic law enforcement authorities. In cases of suspected money laundering, the appropriate domestic law enforcement authority will often be the national Financial Intelligence Unit, but other types of financial crime are generally reported to the public prosecutor, police or a specialist law enforcement agency responsible for certain categories of crime (such as serious fraud or corruption).

In order to assist tax officials in recognising indicators of serious offences that they may encounter in the course of their work, the OECD has produced two handbooks: the Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors and the Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors, both of which are available in several languages on the OECD website.

The above section of this Report concerned the ability of tax administrations to share information, including that covered by tax secrecy rules, to assist the police or public prosecutor conducting non-tax investigations. However, in a number of countries, tax officials are under an obligation to report suspicions of possible non-tax offences, even though there are restrictions on their ability to provide additional information to help in the subsequent criminal investigation.

Of the countries featured in this report, in 35 countries (**Australia, Austria, Azerbaijan, Belgium, Brazil, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, El Salvador, Estonia, France, Germany, Greece, Hungary, Iceland, India, Italy, Japan, Lithuania, Luxembourg, Mexico, the Netherlands, Norway, Portugal, Serbia, Singapore, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey and Uganda**) officials in the tax administration are required to report suspicions of possible non-tax offences to the appropriate law enforcement authority.

Under the **Australian** Government Investigation Standards and Commonwealth Fraud Control Guidelines, the Australian Taxation Office must refer all instances of potentially serious or complex crimes to the Australian Federal Police, except where the tax administration itself has the capacity and the appropriate skills and resources needed to conduct the investigation. In **Chile**, there is a general provision that imposes on all public officials the obligation to report suspicions of crimes to report to the Public Prosecutor any crimes or irregular activities that comes to their knowledge in the exercise of their position. This must be done in the first 24 hours after they become suspicious of possible criminal activity. It is important to note that this obligation applies to individual officials and not to the tax authority as an agency. In **Colombia** and **Costa Rica**, where during the course of their activities tax officials detect indications of possible criminal activity, the tax administration is compelled to report these findings to the Attorney General's Office (in **Colombia**) or the Prosecutor's Office (in **Costa Rica**) for investigation.

In **Hungary**, all public officials, including tax officials, must file a report with the public prosecutor if they become aware of any criminal offence in the course of their duties, including the identity of the suspected offender. This report must include details of why the official is suspicious of criminal activity, including any evidence that has come to their attention. In **Italy**, when officers of the *Guardia di Finanza*, the *Agenzia delle Entrate* (Italian Revenue Agency) and the *Agenzia delle Dogane e dei Monopoli* (Italian Customs and Monopolies Agency) in the course of their tax activities detect evidence of possible crimes, they have to suspend their investigations and without any delay report these suspicions to the Judicial Authority. In **Japan**, public officials, including tax officials, are obligated to report suspicions of criminal activities to law enforcement agencies. When doing so, tax officials must balance the public welfare benefit of protecting tax secrecy against the benefit of reporting possible offences. In **Lithuania**, tax officials are obligated to inform law enforcement authorities or other competent institutions where they establishes elements of criminal acts or other violations of law not under the competence of the tax administration. In **Luxembourg**, where it comes to the knowledge of the Inland Revenue in the course of its duties that a tax or non-tax offence has been committed, it must immediately inform the public prosecutor's office and forward all information, reports and acts related to that offence.

In **the Netherlands** there are few legal obligations to report crimes to the domestic law enforcement authorities, including where there are suspicions of corruption by civil servants. However, officials are able to report suspected crimes and, to facilitate this, the Minister of Finance has waived tax secrecy rules in these specific circumstances. The Minister of Finance has also issued guidance on how tax officials should report suspected crimes, through the chain of command, to the police or public prosecutor. This guidance applies to specified crimes only, which include bribery, private-sector corruption (public corruption being covered by a legal obligation), money laundering of the proceeds of non-tax offences, and terrorist financing.

In **Norway**, any reasonable suspicion of crimes that may have a sentencing over six months must be reported by the tax administration to the Police. In **Portugal**, according to the Portuguese Code of Criminal Procedure any public official who gets knowledge of any crime being committed is obliged to report it to the Public Prosecutor. In **Singapore**, any tax official that knows or suspects that any criminal conduct has taken place is obligated to disclose this information in a Suspicious Transaction Report files with the FIU. This obligation is not restricted to offences linked to possible money laundering or terrorism financing. Suspicious Transaction Reporting Officers within the FIU analyse these reports and disseminate information concerning any suspected criminal activity to the appropriate law enforcement agency. In **the Slovak Republic**, under the Code of Criminal Procedure, all entities and individuals are under an obligation to report to the police suspicions of all types of crime. Similarly, in **Slovenia**, the Criminal Procedure Act provides an obligation to report to the public prosecutor all criminal offences liable to public prosecution for all state agencies and organisations having public authority.

In **Spain**, the Criminal Procedure Law establishes an obligation to report suspicions of public crimes immediately to the public prosecutor, competent tribunal or investigating magistrate. This obligation is developed in the General Regulation for Tax Management and Inspection Proceedings, to require tax officials to inform the criminal courts or State Prosecution Service, via the competent authority, of facts uncovered in the course of their activities which could constitute crimes.

Since 1 January 2011, the federal law in **Switzerland** has contained a duty of every federal civil servant to report suspicions of all misdemeanours or felonies which they become aware of in the course of their professional activity. The Federal Tax Administration has nominated one of its units to assist tax officials in complying with this obligation and reporting offences.

In 13 countries (**Burkina Faso, Canada, Ghana, Finland, Ireland, Korea, Latvia, Malaysia, New Zealand, Peru, South Africa, the United Kingdom and the United States**) there is no legal obligation for officials from the tax administration to report suspicions to law enforcement,

or an obligation does exist but only applies in very restricted cases. However in a number of these countries, as outlined below, despite the lack of a legal obligation non-tax crimes are in practice reported to the appropriate authority.

In **Canada**, there is currently no general obligation on the Canada Revenue Agency to report suspicions of serious non-tax crime to the competent law enforcement agencies. The CRA may only spontaneously report taxpayer information relating to imminent danger of death or physical injury to any individual or where there are reasonable grounds to suspect that there is a threat to national security, including terrorism financing.

In **Finland**, there is no obligation on the tax administration to report suspicions of non-tax offences to the police, though the tax administration is able to do so and in practice suspicions are reported. In **Ireland**, tax officials are not obliged to report suspicions of non-tax crimes but reports can be made and there is an effective legal framework in place to facilitate this. In **Korea**, strict rules prohibit the tax administration from sharing information for purposes other than the enforcement of taxes or the investigation of tax crimes. Suspicions of non-tax offences may only be reported in exceptional circumstances.

In **New Zealand**, there is no provision for the tax administration to report suspicions of non-tax offences to the public prosecutor or law enforcement agency. Legislation is currently under policy review with respect to the ability of Inland Revenue to broaden its powers to spontaneously share information, especially in relation to serious crime.

The **South African** tax administration may inform the police where it discovers evidence of a possible non-tax offence, but only if it first obtains specific consent from the court.

In **the United Kingdom**, there is no legal obligation on tax officials to report suspicions of non-tax offences to law enforcement. However, legal gateways do exist to enable reporting to take place at the discretion of the tax administration, and a specialist team has been established within the tax administration to receive reports of suspicions from individual officials.

In **the United States**, tax administration officials are only under an obligation to report suspicions of non-tax offences where a Treasury employee, former employee, contractor, subcontractor, or potential contractor is engaged in criminal conduct; or the violation involves foreign intelligence or national security.

*(iv) Availability to the Financial Intelligence Unit*

Tax administrations in many countries routinely receive financial information from taxpayers and financial institutions, including details of asset ownership, bank accounts, income and expenditure, cross-border movements of people and capital and relationships between individuals and corporations. This information may be extremely useful to FIUs in analysing Suspicious Transaction Reports and other data for the purposes of identifying possible money laundering and terrorist financing. The table below shows the availability of information held by the tax administration to the FIU.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Azerbaijan Czech Republic Estonia Greece Hungary Italy Lithuania Turkey	Austria Belgium Brazil Colombia Denmark El Salvador Germany Ghana Iceland Latvia Luxembourg Mexico Norway Serbia Singapore Slovak Republic Slovenia South Africa Spain United Kingdom*	Canada Chile Costa Rica Finland France Ireland Netherlands* Peru Portugal	Burkina Faso India Korea Malaysia Sweden Switzerland	Australia Japan New Zealand United States
<b>8 countries</b>	<b>20 countries</b>	<b>9 countries</b>	<b>6 countries</b>	<b>4 countries</b>

\* Refers to information held in its capacity as tax administration and not as supervisor over compliance with anti-money laundering regulations.

From the table it can be seen that there is a broad spread of positions between countries as to the ability of the FIU to gain access to tax information. In eight countries (**Azerbaijan, the Czech Republic, Estonia, Greece, Hungary, Italy, Lithuania and Turkey**), the FIU is granted direct access to databases maintained by the tax administration. In **the Czech Republic**, the FIU has direct access to the ADIS database, which contains taxpayer information including the location of business premises, bank account number, tax arrears, any risk assessment and relations to other natural and legal persons. In **Estonia**, the tax administration and police share access to a common intelligence database. As the FIU is part of the police authority, it also has access to tax information through this database. In **Greece** where, in the course of a tax audit conducted by a Local Tax Office or Audit Centre, evidence of possible money laundering or a predicate offence other tax evasion is discovered, the General Directorate of Tax Audits submits a Suspicious Transaction Report to the FIU. Where a Suspicious Transaction Report has been submitted by the tax administration, the FIU sends follow up reports and feedback on the results of any action taken. In **Hungary**, the FIU is a unit within the tax and customs administration, and has access to all information including that covered by tax secrecy provisions. In **Italy**, the *Guardia di Finanza*, the FIU and the *Direzione Investigativa Antimafia* (the Bureau of Anti-Mafia Investigation) are the lead agencies in combating money laundering. The **Italian** FIU has direct access to the *Anagrafe dei Conti* ('Account and Deposit Register') maintained by the tax administration, which includes information on accounts and financial transactions carried out by financial intermediaries, including banks, post-offices, trust companies and brokerage companies. Legislation has also been passed which allows the Italian FIU direct access to the *Anagrafe Tributaria* ('Tax Register'), containing information on the tax information of Italian taxpayers, such as declared income, tax payments, real estate and other property, cross-border financial transactions, and information on the results of tax audits. Direct access for the Italian FIU to the *Anagrafe*

*Tributaria* has not yet been implemented. In **Lithuania**, the FIU has direct access to the Central Register of Bank Accounts, held by the tax administration. The tax administration also provides information spontaneously to the FIU concerning suspected financial offences committed by taxpayers. The FIU may also obtain information on request.

In 20 countries (**Austria, Belgium, Brazil, Colombia, Denmark, El Salvador, Germany, Ghana, Iceland, Latvia, Luxembourg, Mexico, Norway, Serbia, Singapore, the Slovak Republic, Slovenia, South Africa, Spain and the United Kingdom**) the tax administration has a reporting obligation to provide information concerning possible money laundering or terrorist financing to the FIU. The **Brazil** tax administration must inform the FIU where it obtains evidence of possible money laundering, but may only provide information covered by tax secrecy where a court order is obtained. In **El Salvador**, this obligation is covered by provisions that require the tax administration to provide information to the Attorney-General's Office, which includes the public prosecution service and the FIU. In **Germany**, where there are indicators of possible money laundering or terrorist financing (or that there has been or will be an attempt to commit such offences), tax administrations must immediately inform the relevant law enforcement authority and send a copy of this report to the FIU. In **Latvia**, officials from all state authorities, including the State Revenue Service, who detect suspicious or irregular transactions during the course of their work are obliged to report this to the FIU. Other information is available on request. In **Luxembourg**, the tax administration has a duty to provide the prosecutor with all information relevant to criminal proceedings concerning non-tax offences. As the Luxembourg FIU is a unit within the Public Prosecutor's Office, this obligation provides a mechanism for the tax administration to provide information to the FIU. In **Serbia**, government agencies are obligated to provide information to the FIU for the purposes of compiling and analysing data on offences related to money laundering, terrorism financing, and the recovery of the proceeds of crime. The FIU may also request information, which must be provided within eight days of the request, or the FIU must be given a direct electronic link to the relevant information at no cost. In **the Slovak Republic**, this obligation is subject to tax secrecy rules. In **Slovenia**, the FIU may also request information and documentation required for detecting or investigating money laundering or terrorist financing. The tax administration must forward the, information without delay and at the latest within 15 days of receipt of the request, or shall allow the FIU direct electronic access to data and information. In **the United Kingdom**, the tax administration supervises compliance with anti-money laundering regulations by certain industry sectors, including money service businesses, high value dealers, trust or company service providers and accountancy service providers. Where, in this capacity, the tax administration obtains information concerning possible money laundering, it is obliged to inform the FIU. However, the FIU is not permitted under law to receive information held by the tax administration in its capacity as tax administration unless authorised by an HMRC Commissioner.

In another 9 countries (**Canada, Chile, Costa Rica, Finland, France, Ireland, the Netherlands, Peru and Portugal**) the tax administration has the ability to provide such information, but is able to exercise its discretion in doing so. The **Canadian** tax administration may provide the FIU with certain taxpayer information where it has concerns related to threats against Canada's security. Where the FIU has provided information to the tax administration about possible tax offences, the CRA also provides feedback on any results. In **Chile**, the tax administration may only share tax information with the FIU where consent has been obtained from a judge. In **Finland**, the tax administration is able to provide information on suspicious transactions spontaneously, and

may also provide information to the FIU on request. In **Ireland**, legislation requires financial institutions and other reporting entities to submit Suspicious Transaction Reports to both the tax administration and the FIU, and broad legal gateways permit the agencies to share information. Specialists from the FIU and the tax administration's Suspicious Transaction Reports Office meet approximately every four to six weeks to discuss their analyses of Suspicious Transaction Reports and to co-ordinate investigations where evidence exists of both tax and non-tax offences, as well as discuss broader operational issues related to money laundering investigations. Arrangements are also in place for the tax administration to provide the FIU with information relating to declarations of cash moving into or out of the EU through Ireland. In **Peru**, the tax administration may only provide information to the FIU that is not covered by tax secrecy rules. If during a tax audit, tax officials find indications of possible money laundering, these must be reported to the FIU through an online Suspicious Transaction Report. The **Portuguese** tax and customs administration may share information with the FIU under the protocol established with the *Polícia Judiciária*, which the FIU forms part of. In **Singapore**, this follows the designation of tax crimes as predicate offences to money laundering, from 1 July 2013.

In six countries (**Burkina Faso, India, Korea, Malaysia, Sweden and Switzerland**) tax information is only made available to the FIU on request. In **Sweden** and **Switzerland**, to obtain information from the tax administration the FIU must also demonstrate the specific facts and circumstances which may be confirmed by the information requested.

Legislation in four countries (**Australia, Japan, New Zealand and the United States**) specifically prevents the tax administration from sharing information with the FIU, even where the information would be directly relevant to the FIU's activities. In **Japan** and **the United States**, tax offences are not currently included in the definition of a predicate offence for money laundering purposes. In contrast, tax crimes are predicate offences for money laundering purposes in **Australia** and **New Zealand**. In **Australia**, this is because AUSTRAC is established as a regulatory agency and not an investigatory body. In **New Zealand**, this legislation is currently under review to determine whether the tax administration's powers to share information with other agencies may be widened.

## E. Information held by the customs administration

### (i) *Availability to the tax administration for the purpose of administering taxes*

Customs administrations frequently gather and analyse financial information on individuals, businesses and transactions that would be of great assistance to a tax administration in tax audits and examinations, and the determination of assessments. The table below outlines the availability of information held by customs to the tax administration for the purpose of determining civil tax liabilities.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Belgium Brazil Burkina Faso Colombia El Salvador Estonia Germany Ghana Hungary Iceland Ireland Italy Lithuania Peru Portugal Spain Uganda United Kingdom	Austria Azerbaijan Czech Republic Denmark Korea Netherlands Norway Serbia Slovak Republic Slovenia Switzerland Turkey	Australia Chile Costa Rica Finland France Greece India Latvia Luxembourg New Zealand Singapore Sweden United States	Canada Japan Malaysia Mexico	
<b>18 countries</b>	<b>12 countries</b>	<b>13 countries</b>	<b>4 countries</b>	<b>0 countries</b>

In all countries covered by this report, the customs administration is able to share at least some information with tax officials. In 18 countries, (**Belgium, Brazil, Burkina Faso, Colombia, El Salvador, Estonia, Germany, Ghana, Hungary, Iceland, Ireland, Italy, Lithuania, Peru, Portugal, Spain, Uganda and the United Kingdom**) tax officials have direct access to information held by customs. Out of these 18, in 12 countries (**Belgium, Brazil, Colombia, Estonia, Ghana, Hungary, Ireland, Peru, Portugal, Spain, Uganda and the United Kingdom**) tax and customs are administered by a single, integrated authority. Six countries (**Burkina Faso, El Salvador, Germany, Iceland, Italy and Lithuania**) have separate tax and customs administrations. In **Germany**, tax and customs administrations share direct access to risk analysis data and there is also an obligation on these agencies to report information related to illegal employment. The **Italian** Customs and Monopoloies Agency has granted the tax administration direct access to the software COGNOS, which contains information on customs transactions between Italian traders and third countries, and also on intra-Community transactions within the EU. The Customs anti-fraud database, BDA, is available on request. This database contains information on investigations related both to customs crimes and administrative infringements carried out through customs offices. Other information is shared spontaneously or on request. In **Lithuania**, the customs administration is also obligated to provide information to the tax administration spontaneously, and on request.

In 12 countries (**Austria, Azerbaijan, the Czech Republic, Denmark, Korea, the Netherlands, Norway, Serbia, the Slovak Republic, Slovenia, Switzerland and Turkey**), customs officials are under an obligation to provide relevant information to tax officials. In four countries (**Austria, Denmark, the Netherlands and the Slovak Republic**), tax and customs are administered by a single agency. In **Austria**, attempts were made to allow reciprocal direct access to information between the tax and customs officials, but in practice it proved difficult for officials in one division to conduct effective data searches of the other division's databases and obtain useful information. The **Slovak Republic** joint administration formed on 1 January 2012. In eight countries (**Azerbaijan, the Czech Republic, Korea, Norway, Serbia, Slovenia, Switzerland and Turkey**), the

customs administration and the tax administration are separate agencies. In **Korea**, the The Korea Customs Service provides the tax administration with declared information on imports and exports and violations of the Foreign Exchange Transactions Act. In **Serbia**, all State authorities and organisations, bodies of territorial autonomy and local government are required to present to the tax administration facts detected performing operations in their competence which are important for assessing tax liabilities.

In 13 countries (**Australia, Chile, Costa Rica, Finland, France, Greece, India, Latvia, Luxembourg, New Zealand, Singapore, Sweden and the United States**), customs officials may provide information to the tax administration but are not obliged to do so. In one country (**Latvia**), tax and customs are part of a single administration, being departments within the State Revenue Service. In 12 countries (**Australia, Chile, Costa Rica, Finland, France, Greece, India, Luxembourg, New Zealand, Singapore, Sweden and the United States**), there are separate tax and customs administrations. In **Australia**, legislation allows the Australian Customs and Border Protection Service to provide information to Commonwealth agencies, state agencies, foreign countries and international organisations where certain criteria are satisfied. Permissible purposes include the protection of the public revenue of the Commonwealth, a Territory or another country. In **Chile**, the customs administration may provide information to the Director of the tax administration on request, for the purpose of use in tax audits. Customs may also enter into agreements with other authorities, including the tax administration, to send information electronically to facilitate compliance with audits and other operations. In **Luxembourg**, the customs administration may share information concerning the detection or investigation of VAT offences. In **Singapore**, this sharing of information is only in respect to Goods and Services Tax matters, which is jointly administered by the tax administration and the customs administration.

In four countries (**Canada, Japan, Malaysia and Mexico**), the customs administration may only provide information to tax officials on request. In three of these countries (**Canada, Japan and Malaysia**) the customs and tax administrations are separate, but in one country (**Mexico**) the two areas are administered by the same agency. Under a Memorandum of Understanding, the **Canadian** tax administration and customs administration may receive information from each other on request for the effective administration and enforcement of their respective laws.

*(ii) Availability to agencies investigating tax offences*

Information held by customs, including business registrations and financial information on companies and transactions, may be of great value to criminal investigators dealing with tax evasion and other tax crimes. The ability of investigators to access this information may depend in part on the organisational structure adopted, including whether the customs administration is part of a joint tax and customs administration which includes tax crime investigators, it is part of a joint tax and customs administration which does not conduct tax crime investigations, or is a separate customs administration. The table below includes details on the availability to tax crime investigators of information held by the customs administration.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Belgium Costa Rica El Salvador Estonia Germany Hungary Iceland Ireland Italy Latvia Portugal Spain Uganda United Kingdom	Austria Brazil Chile Czech Republic Denmark Japan Korea Lithuania Netherlands Norway Serbia Slovak Republic Switzerland	Australia Burkina Faso Canada Finland France Greece India Luxembourg New Zealand Singapore Slovenia South Africa Sweden Turkey United States	Azerbaijan Colombia Ghana Malaysia Mexico Peru	
<b>14 countries</b>	<b>13 countries</b>	<b>15 countries</b>	<b>6 countries</b>	

In 14 countries (**Belgium, Costa Rica, El Salvador, Estonia, Germany, Hungary, Iceland, Ireland, Italy, Latvia, Portugal, Spain, Uganda** and **the United Kingdom**), officials conducting tax crime investigations can access certain information held by customs. The **Italian** Customs and Monopolies Agency has granted the *Guardia di Finanza* direct access to the software COGNOS, which contains information on customs transactions between Italian traders and third countries, and also on intra-Community transactions within the EU. In **Latvia**, tax crime investigators within the State Revenue Service Financial Police Department have direct access to information held by other departments of the State Revenue Service, including the customs administration.

In a further 13 countries (**Austria, Brazil, Chile, the Czech Republic, Denmark, Japan, Korea, Lithuania, the Netherlands, Norway, Serbia, the Slovak Republic** and **Switzerland**), tax crime investigators do not have direct access to information, but customs officials are under an obligation to provide relevant information spontaneously. In **Brazil**, the tax and customs administration must report suspicions of possible tax offences to the Federal Prosecution Service, but may exercise discretion in whether to provide further relevant information to the police. A court order is required before the administration can provide the police with any information protected by tax secrecy. In **Chile**, all state authorities, including the customs administration, must provide as quickly as possible all information required by the Public Prosecutor's Office and criminal courts. Specifically, under the Electronic Information Exchange Agreement, entered into between the Public Prosecutor's Office and Customs, the customs administration is obliged to transmit electronically information about commercial operations relevant to active investigations.

In 15 countries (**Australia, Burkina Faso, Canada, Finland, France, Greece, India, Luxembourg, New Zealand, Singapore, Slovenia, South Africa, Sweden, Turkey** and **the United States**), the customs administration may exercise discretion in providing information to tax crime investigators. In **Australia**, the customs administration may provide information to Commonwealth agencies, state agencies, foreign countries and international organisations where certain criteria are satisfied. Permissible purposes include the administration or enforcement of a law of the Commonwealth that relates to criminal law or the protection of the public revenue of the Commonwealth, a Territory or another

country. In **Canada**, the Canada Border Services Agency may provide tax crime investigators with Cross Border Currency Reporting information, or enforcement information, pursuant to judicial authorisation where the information is necessary for criminal proceedings as prosecuted by indictment for tax offences. Information may also be provided on request. In **Luxembourg**, the customs administration may share information concerning the detection or investigation of VAT offences. In **Slovenia**, co-operation between customs and the police (including tax crime investigators) is established under a memorandum of understanding and facilitated via a liaison officer who has direct access to both authorities' databases and systems. Information may also be exchanged directly without use of the liaison, both at central and local level.

Six countries (**Azerbaijan, Colombia, Ghana, Malaysia, Mexico and Peru**) only permit customs officials to share information with tax crime investigators on request. In **Mexico**, where the tax and customs administration has grounds to suspect a customs offence has been committed, it is required to report this to the public prosecutor. However, officials conducting investigations in Mexico may only obtain information from the tax and customs administration on request, even where the investigation was commenced following a report by the tax and customs administration. In **Peru**, information may only be provided to the police that is not covered by tax secrecy rules. Information covered by tax secrecy may be requested by the public prosecutor if accompanied by a court order. No countries impose a prohibition on sharing information.

*(iii) Availability to the police or public prosecutor investigating non-tax offences*

Customs offences, including smuggling, often occur alongside other criminal activity. Even where this is not the case, the customs administration gathers information on businesses, transactions and movements of people, goods and money that are all potentially important to criminal investigations. The table below considers the ability of customs administrations to share this information with the police or public prosecutor investigating non-tax criminal offences.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Costa Rica Czech Republic Estonia Finland Iceland Luxembourg Sweden	Austria Azerbaijan Belgium Brazil Chile Denmark El Salvador France Germany Italy Japan Latvia Lithuania Norway Serbia Slovak Republic Switzerland	Australia Burkina Faso Canada Greece India Ireland New Zealand Peru Portugal Singapore Slovenia South Africa Turkey United Kingdom United States	Colombia Ghana Hungary Malaysia Mexico Netherlands Spain Uganda	Korea
<b>7 countries</b>	<b>17 countries</b>	<b>15 countries</b>	<b>8 countries</b>	<b>1 country</b>

In contrast with the position concerning tax crime investigations, only seven countries (**Costa Rica, the Czech Republic, Estonia, Finland, Iceland, Luxembourg and Sweden**) allow the public prosecutor or police investigating non-tax offences to directly access information held by customs. In **Estonia**, the Tax and Customs Board and police share access to a common intelligence database. In **Finland**, in common with all pre-trial investigation authorities, police and customs share access to information systems for reporting, recording and investigating criminal offences. Other customs information may be obtained on request. The police may only access other customs information where a formal criminal procedure has been commenced to detect, prevent or investigate a crime. In addition, customs officials posted to the joint PCB Crime Intelligence and Analysis Group have direct access to joint intelligence information. More information on the PCB Crime Intelligence and Analysis Group is contained in Chapter 4. In **Luxembourg**, the Public Prosecutor's Office has direct access to information concerning tax controls or suspected VAT offences.

In 17 countries, (**Austria, Azerbaijan, Belgium, Brazil, Chile, Denmark, El Salvador, France, Germany, Italy, Japan, Latvia, Lithuania, Norway, Serbia, the Slovak Republic and Switzerland**) customs officials must provide certain information concerning non-tax offences to the public prosecutor or police. In **Austria**, where a criminal investigation has commenced, customs are obligated to provide the police with any information it holds relevant to the case. Otherwise, information held by the Austrian customs administration is covered by tax secrecy provisions and cannot be shared with law enforcement. In **Brazil**, the tax and customs administration must inform the Federal Prosecution Service where it discovers evidence of a possible non-tax offence, even where this information would be covered by tax secrecy rules. The police may request information directly from the tax and customs administration, but may only obtain information covered by tax secrecy where a court order is obtained. In **Chile**, the customs administration must provide as quickly as possible all information required by the Public Prosecutor's Office and criminal courts. Customs will also provide information to police on request. In **El Salvador**, the tax and customs administration is under an obligation to spontaneously provide information to the public prosecutor in the Attorney-General's Office, but secrecy rules mean no information can be provided directly to the police. In **Lithuania**, information must be provided spontaneously to the police and public prosecutor's office. The police may also obtain information on request.

A further 15 (**Australia, Burkina Faso, Canada, Greece, India, Ireland, New Zealand, Peru, Portugal, Singapore, Slovenia, South Africa, Turkey, the United Kingdom and the United States**) countries have rules to allow customs to provide information to public prosecutors and criminal investigators, but do not oblige them to do so. In **Australia**, legislation allows the Australian Customs and Border Protection Service to disclose information to other agencies in certain circumstances. These include the administration or enforcement of criminal law. In **Canada**, the Border Services Agency may provide information to the police where it has reasonable grounds to suspect that the information would be relevant to investigating money laundering or terrorist financing offences. Where a court order has been obtained, the customs administration may also provide information for the purpose of prosecuting under criminal proceedings that have already commenced. Legal gateways exist between the **Irish** tax administration and the police (*An Garda Síochána*) which enable sharing of information. These gateways also permit information exchange between the tax administration and the FIU, which is part of the police. In **Peru**, the tax administration may only provide information to the police that is not covered by tax secrecy rules. Information covered by tax secrecy may be requested

by the public prosecutor if accompanied by a court order. The **Portuguese** tax administration may provide the public prosecutor with certain information relevant to criminal investigations spontaneously, and is also obliged to provide information on request where a prosecutor has determined that tax secrecy provisions should be lifted. Information may be shared between the Portuguese police and tax administration via a liaison group within the Financial Intelligence Unit, which is part of the police force. In **Slovenia**, co-operation between customs and the police is established under a memorandum of understanding and facilitated via a liaison officer who has direct access to both authorities' databases and systems. Information may also be exchanged directly without use of the liaison, both at central and local level.

Eight countries (**Colombia, Ghana, Hungary, Malaysia, Mexico, the Netherlands, Spain** and **Uganda**) only permit customs to provide information on request. In **Hungary**, the court, Public Prosecutor and law enforcement agencies may request information, data or documents from the tax and customs administration and prescribe a time limit of between eight and 30 days for these to be provided. In **Mexico**, information is provided to criminal investigators on request via the fiscal public prosecutor (PFF). Under the rules of tax secrecy, this information may only be used for the purposes for which it is requested, and the PFF must also observe the rules of tax secrecy. The tax and customs administration may not provide information directly to the police. In **Spain**, examining judges and public prosecutors responsible for leading investigations may request information from the customs administration. However, police and other law enforcement cannot obtain information directly from customs except where a request is authorised by a judge or public prosecutor. In one country (**Korea**) legislation prohibits customs officials from sharing information received in the performance of their duties.

*(iv) Availability to the Financial Intelligence Unit*

Customs administrations routinely monitor the movement of people, goods and funds across national borders. This means they collect, hold and analyse information that could be crucial to the prevention and detection of money laundering and terrorist financing. The table below includes a summary of the ability of customs administrations to share this information with the national FIU.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Azerbaijan Hungary Luxembourg Sweden	Austria Brazil Canada Chile Colombia Czech Republic Denmark El Salvador Germany Ghana Greece Italy Korea Latvia Lithuania Norway Serbia Slovak Republic South Africa Spain Switzerland United Kingdom	Australia Belgium Burkina Faso Estonia Finland France Ireland New Zealand Peru Portugal Singapore Slovenia Turkey United States	Costa Rica Iceland India Malaysia Mexico Netherlands	Japan
<b>4 countries</b>	<b>22 countries</b>	<b>14 countries</b>	<b>6 countries</b>	<b>1 country</b>

Four countries (**Azerbaijan, Hungary, Luxembourg** and **Sweden**) allow the FIU direct access to information held by the customs administration. In **Hungary**, the FIU is a unit within the tax and customs administration, which facilitates direct access to customs information. In **Luxembourg**, the Public Prosecutor's Office, which includes the Luxembourg FIU, has direct access to information concerning tax controls or suspected VAT offences.

In 22 countries (**Austria, Brazil, Canada, Chile, Colombia, the Czech Republic, Denmark, El Salvador, Germany, Ghana, Greece, Italy, Korea, Latvia, Lithuania, Norway, Serbia, the Slovak Republic, South Africa, Spain, Switzerland** and **the United Kingdom**), customs officials are under an obligation to provide relevant information spontaneously to the FIU. The **Brazilian** tax and customs administration must inform the FIU where it obtains evidence of possible money laundering, but may only provide information covered by tax secrecy where a court order is obtained. The **Canada** customs administration is required to provide Cross Border Currency Reporting and enforcement information to the FIU. In **Chile**, Customs receives reports of all movements of cash and bearer negotiable instruments exceeding USD 10 000 to and from Chile. This information is then provided by the customs administration to the FIU. In **El Salvador**, the obligation is contained in provisions that require relevant information to be provided to the Attorney-General's Office, which includes public prosecutors and the FIU. In **Latvia**, officials from all state authorities, including the State Revenue Service, who detect suspicious or irregular transactions during the course of their work are obliged to report this to the FIU. Other information is available on request. In **Serbia**, government agencies are obligated to provide information to the FIU for the purposes of compiling and analysing data on offences related to money laundering, terrorism financing, and the recovery of the proceeds of crime. The FIU may also request information, which must be provided within eight days

of the request, or the FIU must be given a direct electronic link to the relevant information at no cost.

In 14 countries (**Australia, Belgium, Burkina Faso, Estonia, Finland, France, Ireland, New Zealand, Peru, Portugal, Singapore, Slovenia, Turkey and the United States**) the customs administration may exercise discretion in providing information. In **Australia**, the Australian Customs and Border Protection Service may provide information to Commonwealth agencies, state agencies, foreign countries and international organisations where certain criteria are satisfied. Permissible purposes include the administration or enforcement of a law of the Commonwealth that relates to criminal law, including the prevention of money laundering or terrorist financing. In **Peru**, the tax and customs administration may only provide information to the FIU that is not covered by tax secrecy rules. If during a tax audit, the tax and customs administration finds indications of possible money laundering, it must report this to the FIU through an online Report. The **Portuguese** tax and customs administration may share information with the FIU under the protocol established with the *Polícia Judiciária*, which the FIU forms part of. In **Slovenia**, the FIU may also request information and documentation required for detecting or investigating money laundering or terrorist financing. The tax and customs administration must forward the, information without delay and at the latest within 15 days of receipt of the request, or shall allow the FIU direct electronic access to data and information.

In six countries (**Costa Rica, Iceland, India, Malaysia, Mexico and the Netherlands**), spontaneous sharing of information is not possible, but the customs administration may provide information to the FIU on request. Only one country (**Japan**) prohibits the customs administration from sharing information with the FIU.

## **F. Information held by the police or public prosecutor**

### *(i) Availability to the tax administration for the purpose of administering taxes*

Investigations by the police into financial crimes may include a detailed analysis of a suspect's financial position. This may lead to the discovery of information that would be of interest to the tax administration for the purposes of administering taxes and determining tax assessments. The table below shows the ability of the police or public prosecutor to share this information with the tax administration. Legal gateways with respect to information relevant to tax crime investigations are considered separately.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Estonia Italy*	Azerbaijan Belgium Chile El Salvador Germany Greece Hungary Iceland Italy* Latvia Luxembourg Serbia Slovak Republic Switzerland	Australia Austria Burkina Faso Canada Czech Republic Denmark Finland France India Ireland Japan Lithuania Netherlands New Zealand Norway Peru Portugal Singapore Slovenia South Africa Sweden United Kingdom	Brazil Korea Ghana Malaysia Spain Turkey Uganda United States	Colombia Mexico
<b>2 countries</b>	<b>14 countries</b>	<b>22 countries</b>	<b>8 countries</b>	<b>2 countries</b>

\* Italy is included in the table twice, to reflect the position of both the *Guardia di Finanza* (under 'Direct access to information') and the Italian Revenue Agency (under 'Obligation to share information spontaneously').

In two countries (**Estonia** and **Italy**), the tax administration has direct access to certain information held by the police or public prosecutor. In **Estonia**, the police and tax administration share information through common intelligence databases. In **Italy**, the *Guardia di Finanza* has authority to carry out civil tax investigations and audits under its administrative powers. In particular, the *Guardia di Finanza* may conduct civil tax audits that follow on from a criminal tax investigation (subject to authorisation by the public prosecutor). The *Guardia di Finanza* has direct access to information held by other police agencies for the purpose of tax audits and administration of taxes. Although operating under the supervision of the Ministry of Finance, the *Guardia di Finanza* has broad powers to investigate financial crimes, including money laundering, smuggling, drug trafficking and illegal immigration. Under Italian law, any agency or public official who discovers information relating to possible tax evasion is obliged to share this information with the the *Guardia di Finanza*, which may conduct an investigation.

In 14 countries (**Azerbaijan, Belgium, Chile, El Salvador, Germany, Greece, Hungary, Iceland, Italy, Latvia, Luxembourg, Serbia, the Slovak Republic and Switzerland**) a mandatory gateway exists which requires the police or public prosecutor to share information with the tax administration for the purpose of determining tax assessments. In **El Salvador**, the police must provide the tax administration with all relevant information except for that information that relates directly to a current police investigation. In **Hungary**, if a judge, public prosecutor, police or other investigating authorities identifies any fact or circumstance which they believe would initiate or facilitate a judicial, administrative or other procedure within the competence of the tax and customs administration, (including civil administrative proceedings and criminal investigations),

they must inform the tax and customs administration in order for this procedure to be conducted. In **Serbia**, all State authorities and organisations, bodies of territorial autonomy and local government are required to present to the tax administration facts detected performing operations in their competence which are important for assessing tax liabilities. In **Switzerland** the police must provide federal and cantonal tax administrations with any information they obtain that may be useful in the administration and assessment of taxes.

In 22 countries (**Australia, Austria, Burkina Faso, Canada, the Czech Republic, Denmark, Finland, France, India, Ireland, Japan, Lithuania, the Netherlands, New Zealand, Norway, Peru, Portugal, Singapore, Slovenia, South Africa, Sweden and the United Kingdom**), the police or public prosecutor may spontaneously provide information to the tax administration, but may exercise discretion in doing so. In **Australia**, legislation authorises the sharing of information by the Australian Federal Police and State Police for use in the administration and enforcement of tax law. In **Finland**, police may disclose to the tax administration information uncovered in the course of criminal investigations for use in the assessment of taxes. Broad legal gateways exist between the **Irish** tax administration and the Irish police (*An Garda Síochána*) which enable sharing of information. In **Lithuania**, the public prosecutor and police provide the tax administration with information obtained during intelligence gathering or pre-trial investigations which relates to possible tax arrears or non-compliance. Information may also be obtained on request. In **Portugal**, the public prosecutor is able to share information with the tax administration for the purposes of administering taxes and determining tax assessments. This normally happens at the end of a criminal investigation.

In eight countries (**Brazil, Korea, Ghana, Malaysia, Spain, Turkey, Uganda and the United States**) the police or public prosecutor are not able to provide information spontaneously, but the tax administration may request details relevant to the administration of taxes. In **Brazil**, information covered by judicial secrecy may only be provided where a court order is obtained.

In two countries (**Colombia and Mexico**) a prohibition applies to prevent the police or the public prosecutor from sharing information with the tax administration for the purpose of assessing taxes.

*(ii) Availability to agencies investigating tax offences*

Tax crimes often do not occur in isolation, but are connected to other offences. Police and public prosecutors investigating non-tax offences may obtain information that indicates a tax crime may have occurred, or is relevant to an ongoing tax investigation. This can prove a valuable source of intelligence for officials responsible for investigating suspected tax crimes. The table below shows the ability of the agency responsible for investigating tax crimes in each country to obtain information from the police or public prosecutor.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Colombia Czech Republic Denmark Estonia Finland Luxembourg Mexico Norway Slovenia United States	Azerbaijan Chile El Salvador Germany Greece Hungary Iceland Italy Korea Latvia Netherlands Portugal Serbia South Africa Spain Switzerland	Australia Austria Belgium Burkina Faso Canada France India Ireland Japan Lithuania New Zealand Peru Singapore Sweden Turkey United Kingdom	Brazil Ghana Malaysia Slovak Republic Uganda	
<b>10 countries</b>	<b>16 countries</b>	<b>16 countries</b>	<b>5 countries</b>	<b>0 countries</b>

In all countries, legal gateways exist to enable police or prosecutors to provide information to officials conducting tax crime investigations, or for these officials to access relevant information directly. This means that, on average, obligations to share information relevant to tax crimes is greater than the obligation to share information relevant to non-tax crime. To an extent this may be a result of the fact that in ten countries tax offences are investigated by the police or public prosecutor. Another reason could be the status accorded to tax crimes, as offences against the State.

In 10 countries (**Colombia, the Czech Republic, Denmark, Estonia, Finland, Luxembourg, Mexico, Norway, Slovenia and the United States**), officials conducting tax crime investigations have direct access to information held by the police or public prosecutor. In 16 countries (**Azerbaijan, Chile, El Slavador, Germany, Greece, Hungary, Iceland, Italy, Korea, Latvia, the Netherlands, Portugal, Serbia, South Africa, Spain and Switzerland**), the police or public prosecutor has an obligation to provide tax crime investigators spontaneously with information relevant to a suspected tax offence. In **Iceland**, this refers to the case where tax crimes are investigated by the Directorate of Tax Investigations. Police conducting tax crime investigations have direct access to information contained in police databases. In 16 countries (**Australia, Austria, Belgium, Burkina Faso, Canada, France, India, Ireland, Japan, Lithuania, New Zealand, Peru, Singapore, Sweden, Turkey and the United Kingdom**), where the police or public prosecutor obtains information relating to a possible tax offence it may share this spontaneously with tax crime investigators, but is not under an obligation to do so. In five countries (**Brazil, Ghana, Malaysia, the Slovak Republic and Uganda**), officials conducting tax crime investigations may only obtain information held by the police relating to other cases on request. In a number of countries tax crime investigators can request information in addition to that available through other gateways. No country prohibits the police or public prosecutor from sharing information relevant to a tax offence with tax crime investigators.

### Box 7: Matching Gateways with Models to Tackle Tax Crime

The report identifies four models for investigating and prosecuting tax crime and it may be interesting to match these models with the gateways identified above. Italy is not included in these four models. In **Italy**, the *Guardia di Finanza*, which has responsibility for carrying out investigations into tax crimes, has direct access to information held by other police agencies. In addition, where the police or public prosecutors, in the course of their duties, obtain information concerning possible tax evasion, they are obliged to share this information with the *Guardia di Finanza*. **Greece** applies a hybrid model, whereby tax investigations can be conducted by the tax administration or by SDOE, a separate agency under the Ministry of Finance.

#### Models where tax crime investigations are conducted within the tax administration

Twenty-seven countries were identified as applying Models 1 or 2 for investigating tax offences, which means that tax crime investigations are conducted by officials within the tax administration. Of these, **Estonia** and **the United States** are the only countries to allow direct access to police information for tax investigators. In **Estonia**, the police and the Tax and Customs Board share information through a common intelligence database. In **the United States**, IRS criminal investigators have direct access to all criminal history information held by law enforcement agencies, through the National Crime Information System. Where further information is required, tax crime investigators can request it from the originating law enforcement agency. Through various task forces and teams, investigators can also obtain trends and typologies from other law enforcement agencies upon request.

In 13 countries (**Azerbaijan, El Salvador, Germany, Greece, Hungary, Korea, Latvia, the Netherlands, Portugal, Serbia, South Africa, Spain** and **Switzerland**), the police or public prosecutor are obliged to share information relevant to a suspected tax offence. In **El Salvador**, this obligation does not cover information directly related to a current police investigation. In **Hungary**, if a judge, public prosecutor, police or other investigating authorities identifies any fact or circumstance which they believe would initiate or facilitate a judicial, administrative or other procedure within the competence of the tax and customs administration, (including tax crime investigations), they must inform the tax and customs administration in order for this procedure to be conducted. In **Korea**, the public prosecutor must provide the National Tax Service spontaneously with information relevant to a tax crime investigation, whereas the Korean police may only provide information on request. Where the **Portuguese** tax administration is conducting a criminal investigation into a tax offence, the official co-ordinating the investigation may also ask the FIU, which is part of the police force, to grant the tax administration real-time access to the police Integrated System for Criminal Investigation, which includes information held by the criminal police. In **Spain**, examining judges are obliged to share with tax crime investigators information relevant to suspected offences. Spanish police, on the other hand, may only provide information to tax crime investigators on request.

In a further 10 countries applying Models 1 or 2 (**Australia, Austria, Canada, India, Ireland, Japan, New Zealand, Singapore, Sweden** and **the United Kingdom**), information relating to a tax crime investigation may be provided spontaneously by the police or public prosecutor, but there is no obligation on the police to do so. In **Australia**, legislation authorises the sharing of information by the Australian Federal Police and State Police for use in the administration and enforcement of tax law. Broad legal gateways exist between the Irish tax administration and the **Irish** police (*An Garda Síochána*) which enable sharing of information. In **Sweden** the general position is that the police are able to share information spontaneously with tax crime investigators. However, tax crime investigators also have direct access to police registers which contain details of suspects and criminal records.

In two countries (**Malaysia** and **Uganda**), tax crime investigators within the tax administration may only obtain information from the police on request. In **Uganda**, information is not easily exchanged between the police and tax administration, due to the structural deficiencies and the absence of a shared platform. Information may be exchanged in request for the development of

tax crime investigations cases, evidence in courts of law and enforcement purposes.

#### **Models where tax crime investigations are conducted outside of the tax administration**

Of the four countries applying Model 3 (whereby investigations are conducted by agencies outside the tax administration but under the supervision of the Ministry of Finance), no country provides for tax crime investigators to have direct access to information held by the police or public prosecutor. In two countries (**Greece** and **Iceland**) where the police obtain information relevant to a tax crime investigation, it has obligation to provide this information spontaneously to the agency conducting the investigation. In **Turkey**, the police are able to provide tax crime investigators with information relevant to an investigation, but may exercise discretion. In **Ghana**, the police may only provide information to criminal tax investigators on request.

Model 4 for investigating tax crime investigations is applied in 19 countries (including **Iceland** which is included under both Model 3 and Model 4), and investigations are conducted by the police or directly by the public prosecutor. In eight countries where tax crimes are investigated by the general police force (**Colombia, the Czech Republic, Denmark, Finland, Luxembourg, Mexico, Norway** and **Slovenia**) officers investigating tax crimes have direct access to police records and databases. In **Chile**, prosecutors investigating tax crimes must be provided spontaneously with information relevant to the investigation, but do not have direct access to police information. In **Iceland**, where tax crime investigations are conducted by the Directorate of Tax Crime Investigations, the Icelandic police are under an obligation to provide relevant information to tax crime investigators. In five countries (**Belgium, Burkina Faso, France, Lithuania** and **Peru**) the police are able to provide information spontaneously to tax crime investigators, but are not obliged to do so. In **Lithuania**, tax crime investigations are conducted by investigators from the Financial Crime Investigation Service (FCIS). Police are able to provide the FCIS with information which relates to possible tax offences. Information may also be obtained on request. In **France**, tax offences may be conducted by a number of police forces acting as judicial police under the direction of a prosecutor. However, a number of forces are more specialised in financial investigations and in 2010 the *Brigade Nationale de Répression de la Délinquance Fiscale* ('BNRDF') was established as an agency with specific police and tax skills to combat serious tax offences. French police forces do not generally grant direct access to information for offices in other police forces. However, they are able to share information spontaneously where this is relevant to an offence under investigation by another force. In two countries (**Brazil** and **the Slovak Republic**), officers investigating tax crimes can only obtain information held by the police relating to other cases on request. In **Brazil**, any request for information covered by judicial secrecy must be supported by a court order.

#### **(iii) Availability to the customs administration**

Customs offences often occur in the context of wider criminal activity. In these circumstances, it is important that other agencies, including the police and law enforcement agencies, are able to share information with Customs in an efficient and effective manner. The table below contains details on the ability of customs officials to obtain information from police and the public prosecutor.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Czech Republic Estonia Finland Iceland	Belgium Denmark El Salvador France Germany Hungary Italy Korea Latvia Lithuania Serbia Slovak Republic Switzerland Turkey	Australia Austria Burkina Faso Canada Chile India Ireland Japan New Zealand Norway Peru Portugal Singapore Slovenia South Africa Sweden United Kingdom United States	Azerbaijan Brazil Ghana Luxembourg Malaysia Mexico Netherlands Spain Uganda	Colombia
<b>4 countries</b>	<b>14 countries</b>	<b>18 countries</b>	<b>9 countries</b>	<b>1 country</b>

In four countries (**the Czech Republic, Estonia, Finland and Iceland**), customs officials have direct access to certain information held by the police or public prosecutor. In **Estonia**, customs officials within the Tax and Customs Board have direct access to certain information held by the police through a common intelligence database. In **Finland**, in common with all pre-trial investigation authorities, police and customs share access to information systems for reporting, recording and investigating criminal offences. Only those customs officers whose tasks are related to preliminary investigations can access police information. Officials assigned to the joint PCB Crime Intelligence and Analysis units have direct access to multi-agency information held by PCB Crime Intelligence. In **Iceland**, certain officials within the customs administration have full access to police databases. Icelandic customs officials do not have access to databases held by public prosecutors.

In 14 countries (**Belgium, Denmark, El Salvador, France, Germany, Hungary, Italy, Korea, Latvia, Lithuania, Serbia, the Slovak Republic, Switzerland and Turkey**) the police or public prosecutor is obligated to provide relevant information spontaneously to customs officials. In **El Salvador**, this obligation relates to information about operations and closed cases but does not cover any information directly connected to an ongoing criminal investigation. In **Hungary**, if a judge, public prosecutor, police or other investigating authorities identifies any fact or circumstance which they believe would initiate or facilitate a judicial, administrative or other procedure within the competence of the tax and customs administration, they must inform the tax and customs administration in order for this procedure to be conducted. In **Lithuania**, the public prosecutor and police inform the customs administration about crimes and offences related to customs activities. Active co-operation and sharing of information is observed in investigations into crimes related to smuggling and the evasion of excise duties.

In a further 18 countries (**Australia, Austria, Burkina Faso, Canada, Chile, India, Ireland, Japan, New Zealand, Norway, Peru, Portugal, Singapore, Slovenia, South Africa, Sweden, the United Kingdom and the United States**) this information may

be provided spontaneously, but there is no obligation to do so. In **Canada**, the Border Services Agency may only use police information for the purposes of justifying the remedial seizure of non-declared currency (currency release upon payment of a monetary penalty). Customs may seize as forfeit any declared currency if there are reasonable grounds to suspect the currency are proceeds of crime or funds for use in the financing of terrorist activities. In **Chile**, there is no obligation on the Public Prosecutor or police to share information with the customs administration, but where an investigation is conducted into suspected customs offences, the Public Prosecutor's Office may provide information to enable Customs to pursue a criminal or civil action. Broad legal gateways exist between the **Irish** tax and customs administration and the Irish police (*An Garda Síochána*) which enable sharing of information. In Portugal, the public prosecutor is able to share information with the customs administration. This normally happens at the end of a criminal investigation. In **Slovenia**, co-operation between the police and customs is established under a memorandum of understanding and facilitated via a liaison officer who has direct access to both authorities' databases and systems. Information may also be exchanged directly without use of the liaison, both at central and local level.

In nine countries (**Azerbaijan, Brazil, Ghana, Luxembourg, Malaysia, Mexico, the Netherlands, Spain** and **Uganda**) customs officials may request information from police or the public prosecutor, but cannot be provided with information spontaneously. In seven of these countries (**Azerbaijan, Ghana, Luxembourg, Malaysia, the Netherlands, Spain** and **Uganda**), customs crimes investigations are conducted within the customs administration. In these countries it is not generally possible for the police or public prosecutor to spontaneously report suspicions of possible customs offences to the authority which investigates such crimes. In **Luxembourg**, the customs administration may request information from the police or public prosecutor to assist in the administration and enforcement of cash controls. In two countries (**Brazil** and **Mexico**), customs offences are conducted by the police. In **Brazil**, information covered by judicial secrecy may only be provided to the customs administration where a court order is obtained.

One country (**Colombia**) prohibits the police and public prosecutor sharing information with the customs administration.

*(iv) Availability to the Financial Intelligence Unit*

FIU are responsible for conducting analyses of possible money laundering and terrorist financing, which may be used by law enforcement agencies in combating crime. These analyses may themselves be informed by information obtained by the FIU from the police or prosecutors, either where any agency has obtained evidence of a possible predicate offence, or where it holds other information relevant to the FIU's work. The table below shows the availability to FIU of information held by the police or public prosecutor.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Austria Azerbaijan El Salvador Estonia Finland Greece Hungary Ireland Lithuania Luxembourg Netherlands Portugal Slovenia Sweden Switzerland	Colombia Denmark Germany Ghana Iceland Italy Latvia Norway Serbia Slovak Republic South Africa Spain United Kingdom	Australia Belgium Burkina Faso Canada France Japan New Zealand Singapore Turkey	Brazil Czech Republic India Korea Malaysia Mexico Peru United States	Chile
<b>15 countries</b>	<b>13 countries</b>	<b>9 countries</b>	<b>8 countries</b>	<b>1 country</b>

In all countries but one, legal gateways exist to enable the FIU to obtain information from the police for the purpose of their activities, but the mechanisms used vary widely. In 15 countries (**Austria, Azerbaijan, El Salvador, Estonia, Finland, Greece, Hungary, Ireland, Lithuania, Luxembourg, the Netherlands, Portugal, Slovenia, Sweden and Switzerland**), the FIU has direct access to information held by the police or public prosecutor relevant to its activities. In **Finland**, the FIU is a unit within the National Bureau of Investigation and has direct access to the police Suspects Register and Criminal Complaints Register. In **Greece**, the FIU has direct access to police information. The Greek public prosecutor is under an obligation to provide the FIU with information spontaneously, but does not give the FIU direct access to information. In **Hungary**, the FIU is a division of the tax and customs administration. The Hungarian FIU has direct access to police information and criminal records, and may also request information from the police. In **Luxembourg** the FIU is a division of the Public Prosecutor's Office. The Luxembourg FIU has direct access to information held by the public prosecutor, which will include information provided to the public prosecutor by the police. The FIU may also request additional specific information from the police. In **Switzerland**, the FIU has direct access to certain police databases. Other information is provided spontaneously where it is relevant to the Swiss FIU's work.

Where the police obtain information concerning possible money laundering or terrorist financing, in 12 countries (**Denmark, Germany, Ghana, Iceland, Italy, Latvia, Norway, Serbia, the Slovak Republic, South Africa, Spain and the United Kingdom**) they are obligated to provide this information spontaneously to the FIU. In one country (**Colombia**) the public prosecutor's office of required to provide relevant information spontaneously to the FIU, but the police may only share information on request. In a further nine countries (**Australia, Belgium, Burkina Faso, Canada, France, Japan, New Zealand, Singapore and Turkey**), the police are able to provide this information spontaneously, but are not under an obligation to do so. In **Turkey**, although the police may exercise discretion in providing information spontaneously to the FIU, the Public Prosecutor's Office must inform the FIU about results of court decisions related to money laundering and terrorist financing offences. In **Belgium**, since 16 April 2012 the Central Seizure and Confiscation

Office (OCSC), which is part of the public prosecutor’s office, and the FIU can share information concerning the proceeds of crime.

In eight countries (**Brazil, the Czech Republic, India, Korea, Malaysia, Mexico, Peru and the United States**), the FIU does not have access to police data and the police cannot provide information spontaneously, but the FIU can request information for the purposes of its analyses and other activities. In **Brazil**, information covered by judicial secrecy may only be provided where a court order is obtained. In **Peru**, the Public Prosecutor can share information with the FIU, to the extent this is not considered confidential because it is related to a current investigation. In one country (**Chile**), the police do not share information with FIU. However, a police officer posted within the FIU has the ability to share information spontaneously regarding police cases and migration issues. This law is currently under review and it has been proposed that in future all Chilean public authorities would be able to report suspicious transactions to the FIU.

### **Box 8: Matching Gateways with FIU Organisational Models**

The report identifies four organisational models for FIUs and it appears that the ability of an FIU to access police information, as set out in the table above, reflects the Model used for establishing the FIU, though exceptions do exist.

#### **FIU established as a division of the police or public prosecutor’s office**

Of the countries covered by this report, 21 applied Model 1 in setting up their FIU. Of these countries, 11 (**Austria, El Salvador, Estonia, Finland, Ireland, Lithuania, Luxembourg, the Netherlands, Portugal, Sweden and Switzerland**) provide for the FIU to have direct access to relevant information held by the police. In **El Salvador** and **Luxembourg** the FIU is a division of the public prosecutor’s office. The **El Salvador** and **Luxembourg** the FIU has direct access to information held by the public prosecutor, which will include information provided to the public prosecutor by the police. The FIU may also request additional specific information from the police.

In a further seven countries (**Denmark, Germany, Iceland, Latvia, Norway, the Slovak Republic and the United Kingdom**) the police are required to provide officers in the FIU with any information it obtains relevant to the FIU’s activities. In three countries (**Japan, New Zealand and Singapore**) the police are able to provide relevant information spontaneously to the FIU, but are not required to do so. That the police in a significant majority of countries adopting this model permit the FIU direct access to information, or are obligated to share information spontaneously, may reflect the fact that in these countries the FIU is seen as having a direct role in law enforcement.

#### **FIU established as an independent unit within the central bank, within or under the supervision of the Ministry of Finance or Ministry of Justice or within the tax administration**

Under Models 2 to 5, the FIU is established as an independent unit within a financial regulator, within or under the supervision of the Ministry of Finance or Ministry of Justice, or as a unit within the tax administration. A total of 26 countries apply one of these 4 models (**Belgium** applying a hybrid of Models 3 and 4). Of these 26, four countries (**Azerbaijan, Greece, Hungary and Slovenia**) provide for the FIU to have direct access to relevant information held by the police. In **Slovenia**, this is under an agreement on mutual co operation signed by the Slovenian police and the FIU, which sits under the Ministry of Finance. Under this agreement the Slovenian FIU has direct access to specific police records for the purposes of the FIU’s activities in preventing and detecting money laundering and terrorist financing. The police must inform the FIU about the results of any criminal investigation that commenced as a result of a referral. The FIU may also request information and documentation required for detecting or

investigating money laundering or terrorist financing. The Slovenian police must forward the information without delay and at the latest within 15 days of receipt of the request, or shall allow the FIU direct electronic access to data and information. In five countries (**Ghana, Italy, Serbia, South Africa and Spain**), the police have a reporting obligation to provide relevant information spontaneously to the FIU. In **Serbia**, government agencies are obligated to provide information to the FIU for the purposes of compiling and analysing data on offences related to money laundering, terrorism financing, and the recovery of the proceeds of crime. The FIU may also request information, which must be provided within eight days of the request, or the FIU must be given a direct electronic link to the relevant information at no cost. In one country (**Colombia**) the public prosecutor is required to provide relevant information to the FIU, but the police may only share information on request. In six countries (**Australia, Belgium, Burkina Faso, Canada, France and Turkey**), the police or public prosecutor may exercise discretion in providing information spontaneously to the FIU. In eight countries (**Brazil, the Czech Republic, India, Korea, Malaysia, Mexico, Peru and the United States**) the FIU may only obtain police information on request. In one country (**Chile**) a prohibition applies to prevent the police and public prosecutor from sharing information with the FIU.

## G. Information held by the Financial Intelligence Unit

### (i) Availability to the tax administration for the purpose of administering taxes

Under anti-money laundering legislation, designated businesses are required to submit Suspicious Transaction Reports to their country's FIU where they suspect or have reasonable grounds to suspect possible money laundering or terrorist financing. FIUs also conduct analyses of information obtained from Suspicious Transaction Reports and other agencies. Much of the FIU's work concerns the identification and analysis of assets, capital flows and financial transactions. FIUs may therefore hold significant information which may be relevant to a country's tax administration for the purpose of determining tax assessments. This is not related to whether tax crimes are included as predicate offences in a country.

The table below shows the availability of FIU information to the tax administrations for the purpose of administering and assessing taxes. Information for the purposes of tax crime investigations is considered separately.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Australia Ireland Malaysia United Kingdom United States	Azerbaijan Belgium Czech Republic Germany Ghana Iceland India Lithuania Serbia Spain	Austria Brazil Canada Denmark France Greece Korea Mexico Norway Peru Portugal Singapore Slovak Republic Turkey	Burkina Faso Costa Rica Latvia South Africa Sweden	Chile Colombia El Salvador Estonia Finland Hungary Italy Japan Luxembourg Netherlands New Zealand Slovenia Switzerland
<b>5 countries</b>	<b>10 countries</b>	<b>14 countries</b>	<b>5 countries</b>	<b>13 countries</b>

Tax administrations in five countries (**Australia, Ireland, Malaysia, the United Kingdom and the United States**) have direct access to information held by the FIU. In **Australia**, the tax administration has a right of access to all FIU information, including direct access to all Suspicious Transaction Reports, via a secure online connection for any purpose relating to the facilitation of the administration or enforcement of tax law. There are however restrictions on the use of FIU information by the Australian Taxation Office. For example, Suspicious Transaction Reports may be used by the tax administration for intelligence, but cannot be used or relied on for evidentiary purposes. The Australian FIU also provides the tax administration with complete data sets of STR information, which the tax administration uses in its automated data matching and data mining programmes. In **Ireland**, legislation provides for the Revenue to receive copies of all Suspicious Transaction Reports directly from regulated businesses. This means that the Irish tax administration directly and independently receives information that in most countries must be obtained from the FIU. Further information may be provided by the Irish FIU spontaneously or on request. In **Malaysia**, a limited number of officials within the tax administration have direct access to Suspicious Transaction Reports maintained by the FIU. **The United Kingdom** tax administration has direct access to Suspicious Transaction Reports held by the FIU, via a secure online facility, Moneyweb. Very sensitive reports, for example concerning police corruption and live terrorism investigations, are not available on Moneyweb, but can be obtained on request. Access to Moneyweb within the tax administration is restricted to authorised financial investigators, intelligence officers and confiscation officers that work across the tax compliance and criminal investigations divisions. Information obtained from the FIU can be used in determining civil tax assessments, but Suspicious Transaction Reports cannot be shared with unauthorised staff unless the reports are first sanitised to protect the source of information. In **the United States**, the tax administration also has direct and immediate access to FIU databases for the enforcement of both civil and criminal compliance. However, civil tax auditors may not access Suspicious Transaction Reports, which are considered law enforcement sensitive.

In ten countries (**Azerbaijan, Belgium, the Czech Republic, Germany, Ghana, Iceland, India, Lithuania, Serbia and Spain**), the FIU has an obligation to provide the tax administration with information relevant to determining tax assessments. In **Germany**, all information from Suspicious Transaction Reports regarding money laundering and related investigations and which may be relevant for civil or criminal tax purposes, must be sent to the relevant tax administration. Information may also be provided on request. In **Ghana**, where Suspicious Transaction Reports received by the FIU have possible tax or customs implications, they are automatically referred to the tax administration. In **Lithuania**, the tax administration receives relevant information from the FIU once a month concerning legal entities and once a year concerning individuals. Information may also be provided on request. In **Serbia**, all State authorities and organisations, bodies of territorial autonomy and local government are required to present to the tax administration facts detected performing operations in their competence which are important for assessing tax liabilities. In **Spain**, the FIU must spontaneously inform the tax administration if its analyses suggest that tax crime or other non-compliance exists, which may be used to conduct further investigations and also in the administration and assessment of taxes. The tax administration may also request further information on particular taxpayers.

In a further 14 countries (**Austria, Brazil, Canada, Denmark, France, Greece, Korea, Mexico, Norway, Peru, Portugal, Singapore, the Slovak Republic and Turkey**), the FIU is able to share information spontaneously with the tax administration, but is not

obliged to. The **Brazilian** FIU may send copies of Financial Intelligence Reports (based on its analysis of Suspicious Transaction Reports) to the tax administration where considered relevant. The tax administration may also request access to specific Suspicious Transaction Reports and Currency Transaction Reports. In **France**, TRACFIN sends monthly reports to the tax administration by email or mail. Reports of particular importance or urgency can be transmitted immediately without delay. In **Korea**, in July 2013, the Financial Transaction Report Act (FTRA) was revised to enable the tax administration to gain wider access to FIU information. Previously, the FIU disseminated FIU information to the tax administration only where it was required for conducting tax criminal investigations. Under the revised law, the FIU information can also be disseminated for the purposes of selecting and conducting tax audits and collecting tax debts. To control the privacy of information, an ‘Information Analysis Review Committee’ was introduced to monitor that FIU information is disseminated to law enforcement agencies in accordance with the law. A requirement was also introduced that, whenever the FIU refers a Currency Transaction Report to a law enforcement agency, the person filing the Report must be notified. In most cases, this notification must take place within 10 days of the Currency Transaction Report being referred to law enforcement, though in certain circumstances this notification may be suspended for a period. In **Peru**, the FIU may spontaneously share relevant information with the tax administration, but Suspicious Transaction Reports must remain confidential. In **the Slovak Republic**, the FIU may inform the tax administration of any information that the FIU believes may result in new civil tax proceedings, or would be relevant to ongoing civil tax proceedings. However, this obligation does not apply where informing the tax administration could endanger the success of the FIU’s activities. In Turkey, the police may exercise discretion in providing information spontaneously to the FIU. However, the Public Prosecutor’s Office must inform the FIU about results of court decisions related to money laundering and terrorist financing offences.

In five countries (**Burkina Faso, Costa Rica, Latvia, South Africa and Sweden**), the tax administration is only able to obtain information relevant to tax assessments from the FIU on request. In **Latvia**, the FIU provides information on request to the tax administration for the purpose of making civil tax assessments, so long as there are substantiated suspicions that the taxpayer in question has provided false information regarding their financial status or income.

Importantly, in 13 countries (**Chile, Colombia, El Salvador, Estonia, Finland, Hungary, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Slovenia and Switzerland**) the FIU is prohibited from sharing information with the tax administration for tax assessment purposes. In **Chile**, the FIU may not share operational information with any authority other than the Public Prosecutor. Therefore information may not be provided to the tax administration. In **Hungary**, as of the 1 July 2013 the FIU is authorised to forward data to administrative authorities (including the tax and customs administration) or supervisory authorities in order to initiate an administrative or supervisory procedure. The FIU may not otherwise share information for the purpose of assessing taxes or customs duties. In **Italy**, although the FIU cannot provide information directly to the Italian Revenue Agency, it does provide copies of all Suspicious Transaction Reports to the *Guardia di Finanza*, which carries out tax audits and investigates suspected tax offences. Following a tax audit, the *Guardia di Finanza* reports to the Italian Revenue Agency any information that would be relevant in the assessment of taxes, such as evidence of non-criminal tax avoidance. In **the Netherlands**, the tax administration has no access to Unusual Transaction Reports. Where the FIU determines that there is sufficient evidence of possible criminal activity for an Unusual Transaction Report to be categorised as a Suspicious

Transaction Report, this may be accessed directly by FIOD, which is the criminal investigations division of the Netherlands tax administration. FIOD may subsequently decide not to pursue a criminal investigation, but may share the Suspicious Transaction Report with the tax administration's civil division for use in assessing taxes. In **Estonia**, **New Zealand** and **Slovenia**, the FIU does not provide information to the tax administration for the purposes of making civil tax assessments. However, where the tax administration has received FIU information related to suspected tax offences, it may also use this information for the purposes of assessing taxes. In **Estonia**, this requires the consent of the public prosecutor.

*(ii) Availability to agencies investigating tax offences*

FIUs in all countries may receive Suspicious Transaction Reports which identify other predicate offences and lead the FIU to suspect that a tax offence may also have taken place. This is particularly the case in countries where tax crimes are predicate offences for money laundering purposes, where the FIU may receive Suspicious Transaction Reports specifically identifying possible tax offences. Other work and analyses conducted by an FIU may reveal information that could be directly relevant to the investigation of tax offences. All FIUs may therefore hold information which would be of interest to officials investigating tax offences. The table below shows the ability of the agency responsible for investigating tax crimes in a country to obtain relevant information from the FIU.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Australia Costa Rica Ireland Malaysia Netherlands United Kingdom United States	Belgium Brazil Chile Colombia Czech Republic Germany Ghana Iceland India Italy Korea Latvia Mexico Portugal Serbia Slovenia South Africa Spain	Austria Canada Denmark Estonia Finland France Greece Hungary Luxembourg New Zealand Norway Peru Singapore Slovak Republic Sweden Turkey	Azerbaijan Burkina Faso Lithuania	El Salvador Japan Switzerland
<b>7 countries</b>	<b>18 countries</b>	<b>16 countries</b>	<b>3 countries</b>	<b>3 countries</b>

In seven countries (**Australia**, **Costa Rica**, **Ireland**, **Malaysia**, **the Netherlands**, **the United Kingdom** and **the United States**), the agency responsible for tax investigations has direct access to FIU information. Of these seven, three (**Ireland**, **the Netherlands** and **the United Kingdom**) have FIUs established within the police or public prosecutor's office. In **Ireland**, the Revenue receives copies of all Suspicious Transaction Reports directly from regulated businesses. Specialists within the tax administration and FIU meet regularly to discuss their analyses of Reports and co-ordinate investigations where evidence of tax and non-tax offences exists. Broad legal gateways also allow the Irish FIU, which is

part of the police, to share information with respect to tax offences. In **the Netherlands**, the tax administration does not have access to Unusual Transaction Reports, which are received by the FIU from businesses. Where the FIU determines that there is sufficient evidence of possible criminal activity for the report to be categorised as a Suspicious Transaction Report, this may be accessed directly by FIOD. In **the United Kingdom**, the tax administration has direct access to Suspicious Activity Reports held by the FIU, via a secure online facility, Moneyweb. Very sensitive reports, for example concerning police corruption and live terrorism investigations, are not available on Moneyweb, but can be obtained on request. Access to Moneyweb within the tax administration is restricted to authorised financial investigators, intelligence officers and confiscation officers. One country (**Malaysia**) has an FIU established within the Central Bank. In **Malaysia**, a limited number of tax crime investigators have direct access to the FIU's Suspicious Transaction Reports database, while the FIU can also spontaneously provide information it considers relevant. The remaining three countries (**Australia, Costa Rica and the United States**) have FIU's established as separate agencies under the Attorney General's Office (**Australia**), Institute on Drugs (**Costa Rica**) or the Ministry of Finance (**the United States**). In **Australia**, the tax administration has a right of access to all FIU information, including direct access to all Suspicious Transaction Reports, via a secure online connection for any purpose relating to the facilitation of the administration or enforcement of tax law. There are however restrictions on the use of FIU information by the Australian Taxation Office. For example, Suspicious Transaction Reports may be used by the tax administration for intelligence, but cannot be used or relied on for evidentiary purposes. In **the United States**, the tax administration also has direct and immediate access to FIU databases for the enforcement of both civil and criminal compliance. The fact that tax crime investigators are granted direct access to FIU information under several different organisational structures indicates that there is no clear link between granting direct access to FIU information, and the model under which the FIU is established.

In 18 countries (**Belgium, Brazil, Chile, Colombia, the Czech Republic, Germany, Ghana, Iceland, India, Italy, Korea, Latvia, Mexico, Portugal, Serbia, Slovenia, South Africa and Spain**), the FIU has an obligation to report all information relating to possible tax offences to the agency responsible for conducting investigations. There is a clearer correlation between these countries and the model adopted for the FIU. In 14 of these countries (**Belgium, Brazil, Chile, Colombia, the Czech Republic, Ghana, India, Italy, Korea, Mexico, Serbia, Slovenia, South Africa and Spain**), the FIU is established as a separate agency, or as a division of a financial regulator. In **Brazil**, the FIU must inform the Federal Prosecution Service where evidence of a possible crime is discovered. It may also send the police (including criminal tax investigators) copies of Financial Intelligence Reports (based on its analysis of Suspicious Transaction Reports) where considered relevant. Access to specific Suspicious Transaction Reports and Currency Transaction Reports is available on request. In **Chile**, the FIU is obliged to report possible cases of money laundering to the Public Prosecutor's Office. This means that the Public Prosecutor's Office, which is responsible for investigating tax crimes, will also receive information of possible tax offences connected to money laundering. In **Ghana**, tax crime investigators can also request access to Suspicious Transaction Reports where relevant to an investigation. In **Italy**, the FIU is required to share all Suspicious Transaction Reports and its financial analyses with the *Nucleo Speciale di Polizia Valutaria* ('NSPV'), which is part of the *Guardia di Finanza*. In addition, a Memorandum of Understanding between the agencies provides that the FIU will provide to the *Guardia di Finanza* any information it obtains that is relevant to the agency's activities. In **Slovenia**, tax offences are investigated by the police. The Slovenian FIU must inform the tax administration and police if it obtains

information that leads it to suspect tax crime has been committed. Otherwise, the FIU does not provide any information to the tax administration, or to the police that is related to tax crimes. The FIU does not provide information to these agencies on request.

The **Spanish** tax administration does not have direct access to Suspicious Transaction Reports held by the FIU. However, under a memorandum of understanding signed in 2006, the FIU must spontaneously inform the tax administration if its analyses suggest that tax crime or other non-compliance exists, which may be used to conduct further investigations and also in the administration and assessment of taxes. The tax administration may also request further information on particular taxpayers. Where the FIU has previously sent reports on the same persons to the police or public prosecutor, the FIU will inform the tax administration, so the tax administration may seek information from the recipient of the report. The FIU must also inform the public prosecutor or judicial authority, which has responsibility for directing tax crime investigations in Spain, if it obtains any evidence or indications of criminal offences.

In four countries (**Germany, Iceland, Latvia and Portugal**) FIUs established within the police or public prosecutor's office have an obligation to report information concerning tax offences to criminal tax investigators. In **Germany**, all information from Suspicious Transaction Reports regarding money laundering and related investigations and which may be relevant for civil or criminal tax purposes, must be sent to the relevant tax administration. Information may also be provided on request. In **Latvia**, the FIU must provide information spontaneously to tax crime investigators where there are suspicions of money laundering connected to tax offences. Tax crime investigators may also request information concerning any tax offence via the Prosecutor General's Office, whether or not this is in connection with money laundering. Where the **Portuguese** tax administration is conducting a criminal investigation into a tax offence, the official co-ordinating the investigation may require the FIU to grant it real-time access to the police Integrated System for Criminal Investigation, which includes FIU information. Where the FIU receives Suspicious Transaction Reports that contain details of possible tax offences, the FIU may send a summary of the Report, but not the Suspicious Transaction Report itself, to the tax administration. This summary contains basic information regarding the financial transactions carried out and the parties to these transactions. If the referral results in a criminal investigation, the tax administration may then require the FIU to disclose further information.

In 16 countries (**Austria, Canada, Denmark, Estonia, Finland, France, Greece, Hungary Luxembourg, New Zealand, Norway, Peru, Singapore, the Slovak Republic, Sweden and Turkey**), the FIU is able to provide relevant information concerning tax offences to tax crime investigators, though is not under an obligation to do so. Out of these 16 FIUs, ten (**Austria, Denmark, Estonia, Finland, Luxembourg, New Zealand, Norway, Singapore, the Slovak Republic and Sweden**) are established as units of the police or public prosecutor's office. In **Finland**, the FIU may share information for the purpose of preventing and combating money laundering and terrorist financing, or investigating such claims that were committed to gain the proceeds of terrorist financing or crime subject to money laundering. A decision to disclose information must be made by a commanding officer within the FIU. In **New Zealand** processes are in place to ensure that any Suspicious Transaction Reports concerning possible tax evasion are forwarded to the tax administration by the FIU without requiring a request. The tax administration also makes extensive use of targeted information requests to obtain FIU data in relation to specific taxpayers, and high risk demographics and regions for use in detecting offshore tax

evasion. In **Norway**, the FIU may provide information spontaneously to the police, which is responsible for investigating tax offences, and also to the tax administration. The FIU is not obliged to provide information to either agency, and the Norwegian police and tax administration are not able to request information from the FIU. In **Singapore**, this follows the designation of tax crimes as predicate offences to money laundering, from 1 July 2013. The tax administration may also request information from the FIU.

In one country (**Peru**) the FIU sits within the financial regulator, In **Peru**, the FIU cannot provide Suspicious Transaction Reports directly to tax crime investigators, but may share its analyses and other information. Public prosecutors leading investigations may obtain Suspicious Transaction Reports that have been analysed by the FIU and referred for investigation. In four countries (**Canada, France, Greece and Turkey**) the FIU is an agency under the Ministry of Finance. In **Canada**, where FINTRAC has reasonable grounds to suspect the information would be relevant to investigating or prosecuting a money laundering offence or terrorist financing offence, it may then provide information to the CRA when this information is also relevant to an offence of evading or attempting to evade taxes or duties. In 2010/2011 CAD 27.9 million of additional federal tax revenue was raised following disclosures received directly from the FIU or via the police. In **Greece**, the FIU sends to criminal tax investigators and the tax administration information concerning suspicions of possible tax invasion for further tax investigation. In one country (**Hungary**) the FIU is a unit of the tax and customs administration. In **Hungary**, law enforcement authorities, including the police and criminal tax investigators within the tax and customs administration may be provided with Suspicious Transaction Reports at the discretion of the FIU. They may also request access to specific Suspicious Transaction Reports.

In three countries (**Azerbaijan, Burkina Faso and Lithuania**) the FIU is only able to share information with agencies investigating tax offences on request. In **Lithuania**, the FIU and tax crime investigations are both functions of the Financial Crime Investigation Service; however information held by the FIU for the purposes of money laundering prevention is available to tax crime investigators only on request.

In three countries (**El Salvador, Japan and Switzerland**), the FIU does not share information with agencies investigating tax crimes. In **Japan**, the FIU does not provide the tax administration with FIU information, including Suspicious Transaction Reports, for the purposes of investigating tax offences. Tax offences are not included in the definition of predicate offence for money laundering purposes under current Japanese law. In **Switzerland** the FIU is not authorised to share information it holds with the country's federal or cantonal tax administrations, which are responsible for investigating tax offences. The Swiss FIU is an administrative body within the Federal Office of Police.

### *(iii) Availability to the customs administration*

Information received by FIUs through Suspicious Transaction Reports and other sources may frequently contain information on the suspicious or illegal movement of funds across national boundaries. This and other information held by FIUs, including the results of its own analyses, could be directly relevant to the work of the customs administration. The table below shows the ability of the FIU to share information with Customs.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Ireland United Kingdom	Czech Republic Ghana India Korea Serbia Slovak Republic South Africa Spain	Australia Austria Belgium Brazil Canada Denmark Estonia Finland France Germany Greece Japan Malaysia New Zealand Norway Peru Portugal Singapore Slovenia Sweden Switzerland United States	Azerbaijan Burkina Faso Costa Rica Iceland Lithuania Luxembourg Mexico Netherlands Turkey	Chile Colombia El Salvador Hungary Italy Latvia
<b>2 countries</b>	<b>8 countries</b>	<b>22 countries</b>	<b>9 countries</b>	<b>6 countries</b>

In two countries (**Ireland** and **the United Kingdom**) customs officials have direct access to information held by the FIU. The **Irish** Revenue Commissioners receives copies of all Suspicious Transaction Reports directly from regulated businesses. Specialists within the tax administration and FIU meet regularly to discuss their analyses of Reports and co-ordinate investigations where evidence of tax and non-tax offences exists, to ensure there is no duplication in investigations. Broad legal gateways also allow the Irish FIU, which is part of the police, to share information with respect to tax and customs offences

In eight countries (**the Czech Republic, Ghana, India, Korea, Serbia, the Slovak Republic, South Africa** and **Spain**), the FIU must provide information relevant to the activities of the customs administration to customs officials. In **Ghana**, where Suspicious Transaction Reports received by the FIU have possible customs implications, they are automatically referred to the Ghana Revenue Authority. In **Korea**, the FIU provides the customs administration with access to all relevant Suspicious Transaction Reports.

In 22 countries, (**Australia, Austria, Belgium, Brazil, Canada, Denmark, Estonia, Finland, France, Germany, Greece, Japan, Malaysia, New Zealand, Norway, Peru, Portugal, Singapore, Slovenia, Sweden, Switzerland** and **the United States**), the FIU may exercise its discretion in providing information spontaneously to the customs administration. The **Brazilian** FIU may send copies of Financial Intelligence Reports (based on its analysis of Suspicious Transaction Reports) to the tax administration where considered relevant. The tax administration may also request access to specific Suspicious Transaction Reports and Currency Transaction Reports. In **Canada**, where FINTRAC has reasonable grounds to suspect the information would be relevant to investigating or prosecuting a money laundering offence or terrorist financing offence, it may then provide information to the CRA when this information is also relevant to an offence of evading or

attempting to evade taxes or duties. In **Finland**, the FIU may share information with customs only for the purpose of preventing and investigating money laundering and terrorist financing, and related crimes. A decision to disclose information is made by a commanding police officer working within the FIU. In **Peru**, the FIU may spontaneously share relevant information with the tax and customs administration, but Suspicious Transaction Reports must remain confidential. In **Slovenia**, the FIU provides customs with information where it considers in connection with a transaction or person that there are grounds to suspect that a specified criminal offence has been committed. In **Sweden**, the FIU is able to provide information spontaneously or on request, to the extent this is permitted under the Secrecy Act.

Nine countries (**Azerbaijan, Burkina Faso, Costa Rica, Iceland, Lithuania, Luxembourg, Mexico, the Netherlands and Turkey**) do not permit the FIU to provide any information spontaneously to the customs administration, but the FIU may provide information on request. In **Luxembourg**, the tax administration may request information concerning cash controls, orders for seizure of money, information on penalties, and final destination of seized money. In six countries (**Chile, Colombia, El Salvador, Hungary, Italy and Latvia**) rules do not permit the FIU to share information with Customs. In **Chile**, the FIU may not share operational information with any authority other than the Public Prosecutor. Therefore information may not be provided to the customs administration. In **Hungary**, as of the 1 July 2013 the FIU is authorised to forward data to administrative authorities (including the tax and customs administration) or supervisory authorities in order to initiate an administrative or supervisory procedure. The FIU may not otherwise share information for the purpose of assessing taxes or customs duties.

*(iv) Availability to the police or public prosecutor investigating non-tax offences*

With very few exceptions, FIUs are not responsible for conducting criminal investigations. Therefore, it is essential that robust gateways are in place to enable an FIU to provide information to law enforcement agencies which are competent to investigate offences identified through the FIU's activities. The table below shows the ability of police and public prosecutors to obtain this information from FIUs.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Australia Costa Rica Ireland Netherlands United Kingdom United States	Belgium Brazil Chile Colombia Czech Republic El Salvador Estonia France Germany Ghana Iceland India Italy Korea Latvia Mexico Portugal Serbia Slovak Republic Slovenia South Africa Spain Sweden Switzerland Turkey	Austria Canada Denmark Finland Greece Hungary Japan Luxembourg Malaysia New Zealand Norway Peru Singapore	Azerbaijan Burkina Faso Lithuania	
<b>6 countries</b>	<b>25 countries</b>	<b>13 countries</b>	<b>3 countries</b>	<b>0 countries</b>

In all countries included in this report, legal gateways exist to enable the FIU to provide information concerning criminal activities spontaneously to the police or public prosecutor, or for investigators to access FIU information directly.

In six countries (**Australia, Costa Rica, Ireland, the Netherlands, the United Kingdom** and **the United States**), the police have direct access to information held by the FIU. In **Ireland, the Netherlands** and **the United Kingdom**, the FIU is established within the police or public prosecutor's office. In **Costa Rica** the FIU is an agency under the Institute on Drugs. The **Australian** FIU is a separate agency under the Attorney-General's Department. In **the United States**, the FIU is an agency supervised by the Treasury Department. There does not seem to be any clear link between FIUs that permit direct access to information for the police and the model used to establish the FIU. However, all six countries also allowed direct access to FIU information for tax crime investigators, which in each case are based within the tax administration and not the police. This suggests that in these countries there is an emphasis on sharing FIU information with both tax and non-tax criminal investigators, regardless of the different organisational models applied.

In 25 countries (**Belgium, Brazil, Chile, Colombia, the Czech Republic, El Salvador, Estonia, France, Germany, Ghana, Iceland, India, Italy, Korea, Latvia, Mexico, Portugal, Serbia, the Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland** and **Turkey**), the FIU has an obligation to report information related to non-tax offences to the police or public prosecutor. In 16 of these (**Belgium, Brazil, Chile,**

**Colombia, the Czech Republic, France, Ghana, India, Italy, Korea, Mexico, Serbia, Slovenia, South Africa, Spain and Turkey**) the FIU is established as an agency under the Ministry of Finance or within a financial regulator. In **Belgium**, the FIU is established jointly under the Ministries of Finance and Justice. Since 16 April 2012 the Belgian Central Seizure and Confiscation Office (OCSC), which is part of the public prosecutor's office, and the FIU can share information concerning the proceeds of crime. In **Brazil**, the FIU must inform the Federal Prosecution Service where evidence of a possible crime is discovered. It may also send the police copies of Financial Intelligence Reports (based on its analysis of Suspicious Transaction Reports) where considered relevant. Access to specific Suspicious Transaction Reports and Currency Transaction Reports is available on request. In **Italy**, the FIU sends all Suspicious Transaction Reports, together with its analysis, to the *Guardia di Finanza* or the *Direzione Investigativa Antimafia* (DIA), a multi-agency body made up of personnel belonging to *Guardia di Finanza*, *Polizia di Stato* (Italian National Police) and *Carabinieri*, set up at Italy's *Ministero dell'Interno* (Ministry of the Interior). The FIU also co-operates with the DIA in judicial investigations, and secrecy rules cannot be invoked to hamper criminal investigations. In 2010, 97% of Suspicious Transaction Reports disseminated by the FIU were dealt with by the *Guardia di Finanza* and 3% by the DIA. Under Italian law, the *Guardia di Finanza*, the DIA and the FIU are the leading agencies in the fight against money laundering. The **Slovenian** FIU must inform police where, on the basis of its analyses, it believes there is reason to suspect money laundering or terrorist financing offences, or other specified offences carrying a possible prison sentence of at least five years, have taken place. In **Spain**, public prosecutors, examining judges and the police (with the authorisation of the public prosecutor or examining judge) may also request information held by the FIU, where this will be used for the purposes of preventing or suppressing money laundering or terrorist financing. In **Turkey**, the FIU is under an obligation to share information relevant to non-tax offences with the public prosecutor. The Turkish FIU may also share information with the police, but is not under an obligation to do so. In nine countries (**El Salvador, Estonia, Germany, Iceland, Latvia, Portugal, the Slovak Republic, Sweden and Switzerland**) the FIU is established within the police or public prosecutor's office. In **Germany**, where the FIU obtains information relating to possible money laundering or terrorist financing offences, it must without delay provide this to the appropriate federal and Länder police forces. In **Latvia**, the FIU must provide information to pre-trial criminal investigation units (such as the police and criminal tax investigators) where the information contains evidence of a possible criminal offence.

In the **Slovak Republic**, the FIU is required to provide the police with information relevant to criminal investigations, so long as providing this information does not jeopardise the FIU's own activities. In Sweden, information may also be requested via the Prosecutor General's Office. Information concerning suspected money laundering or any predicate offence is provided to the appropriate police or law enforcement authority. In ongoing investigations directed by a prosecutor, the prosecutor may also request information.

In 13 countries (**Austria, Canada, Denmark, Finland, Greece, Hungary, Japan, Luxembourg, Malaysia, New Zealand, Norway, Peru and Singapore**) the FIU is able to share information regarding possible criminal offences with the police or public prosecutor spontaneously, but is not under an obligation to do so. In eight of these countries (**Austria, Denmark, Finland, Japan, Luxembourg, New Zealand, Norway and Singapore**), the FIU is established as part of the police or public prosecutor's office. In **Finland**, the FIU may also conduct pre-trial investigations into possible money laundering offences. The FIU

may also share information for the purpose of preventing and combating money laundering and terrorist financing, or investigating such claims that were committed to gain the proceeds of terrorist financing or crime subject to money laundering. A decision to disclose information must be made by a commanding officer within the FIU. In **Luxembourg**, the FIU is established within the public prosecutor's office, thus allowing the close co-ordination of activities and information sharing between the FIU and prosecutors. In **Norway**, the FIU is able to provide information spontaneously to the police, but the police are not able to request information. This could act as an important restriction on an investigator's ability to obtain information held by the FIU, or to seek further details with respect to information already obtained. In **Singapore**, the FIU may provide information to the police for the investigation of offences. The FIU does not provide any information to the public prosecutor, as prosecutors in Singapore have no role in investigations. FIU information is only for use as intelligence and should not be used in court. In two countries (**Malaysia and Peru**) the FIU is established within the financial regulator or central bank. In **Peru**, the FIU may provide information relevant to current investigations. In two countries (**Canada and Greece**) the FIU is a separate agency under the Ministry of Finance. In **Canada**, disclosure will be made where FINTRAC has reasonable grounds to suspect the information would be relevant to investigating or prosecuting a money laundering offence or terrorist financing offence. In **Hungary**, the FIU is a unit of the tax and customs administration. Hungarian law enforcement authorities, including the police and criminal tax investigators within the tax and customs administration may be provided with Suspicious Transaction Reports at the discretion of the FIU. They may also request access to specific Suspicious Transaction Reports

In two countries (**Azerbaijan and Burkina Faso**), the FIU is only able to share information with the police or public prosecutor on request. In one country (**Lithuania**), information concerning possible non-tax offences is provided to the police on request. The FIU does not share information directly with prosecutors.

## H. Information held by the financial regulator

The principal functions of financial regulators include maintaining the stability of the financial system, and ensuring the competence of market participants and providers of financial services. They may also have direct responsibility for combating crime related to financial markets, such as insider trading and market manipulation and in the course of their supervisory and regulatory activities collect and hold information on individuals, institutions and transactions, which may contain evidence of other offences. In a number of countries, financial regulators also act as an anti-money laundering authority, monitoring compliance with legislation by regulated entities. The need for agencies to have access to this valuable intelligence must be weighed against the fact that regulators often process large volumes of commercially sensitive information.

### (i) *Availability to the tax administration for the purpose of administering taxes*

The table below shows the availability of information held by financial regulators to tax administrations for the purposes of administering or assessing taxes. Sharing information for the purposes of criminal investigations is considered separately.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
	Azerbaijan El Salvador Estonia Serbia	Australia Colombia Hungary India Latvia Luxembourg New Zealand Slovenia Sweden Switzerland Turkey United Kingdom United States	Brazil Canada Chile Czech Republic Ghana Iceland Japan Lithuania Malaysia Mexico Norway Peru Portugal Singapore Slovak Republic South Africa Spain Uganda	Austria Belgium Denmark Finland France Germany Greece Ireland Italy Korea Netherlands
<b>0 countries</b>	<b>4 countries</b>	<b>13 countries</b>	<b>18 countries</b>	<b>11 countries</b>

There are generally few obligations on regulators to share information with tax administrations for the purposes of determining assessments. No country allows the tax administration direct access to information held by regulators. Four countries (**Azerbaijan, El Salvador, Estonia and Serbia**) impose an obligation on regulators to report information that may be relevant to civil tax assessments to the tax administration in the absence of a suspected tax offence. In **Serbia**, all State authorities and organisations, bodies of territorial autonomy and local government are required to present to the tax administration facts detected performing operations in their competence which are important for assessing tax liabilities.

In 13 countries (**Australia, Colombia, Hungary, India, Latvia, Luxembourg, New Zealand, Slovenia, Sweden, Switzerland, Turkey, the United Kingdom and the United States**) regulators are able to provide information to the tax administration spontaneously. In **India**, this information is not provided directly, but through the Central Economic Intelligence Bureau.

In 18 countries (**Brazil, Canada, Chile, the Czech Republic, Ghana, Iceland, Japan, Lithuania, Malaysia, Mexico, Norway, Peru, Portugal, Singapore, the Slovak Republic, South Africa, Spain and Uganda**) information is available to the tax administration on request only. In **Brazil**, limited information is available on request if not covered by bank secrecy. In **Switzerland**, FINMA will also provide on request all information necessary for the execution of Swiss tax law.

In a further 11 countries (**Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Korea and the Netherlands**) there is a prohibition on financial regulators providing information to the tax administration for purposes of administering taxes. In **Greece**, in general information held by the Capital Markets Commission is not available to the tax administration for the purposes of administering taxes. However, information may be made available to the tax administration on request where the information was already included by the Capital Markets Commission in a decision to

impose sanctions. In **Ireland**, the central bank may only provide information to the tax administration where it suspects a criminal offence may have been committed. However, information received by the tax administration for criminal purposes may then be used in the determination of assessments. In **Italy**, official secrecy rules prevent the Bank of Italy from sharing any information related to its supervisory activities with the Italian tax administration for civil tax purposes.

(ii) *Availability to agencies investigating tax offences*

The table below shows the availability of information held by financial regulators to agencies responsible for investigating tax offences.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
	Azerbaijan Belgium Brazil Czech Republic El Salvador Estonia France Germany Greece Hungary Ireland Italy Japan Lithuania Luxembourg Serbia Slovenia South Africa Switzerland	Australia Finland Iceland India Latvia Netherlands New Zealand Norway Slovak Republic Sweden Turkey United Kingdom United States	Canada Chile Colombia Denmark Ghana Malaysia Mexico Peru Portugal Singapore Spain Uganda	Austria Korea
<b>0 countries</b>	<b>19 countries</b>	<b>13 countries</b>	<b>12 countries</b>	<b>2 countries</b>

In contrast to the position with respect to information relevant to determining tax assessments, 19 countries (**Azerbaijan, Belgium, Brazil, the Czech Republic, El Salvador, Estonia, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Lithuania, Luxembourg, Serbia, Slovenia, South Africa and Switzerland**) have legal gateways in place to require financial regulators to report information relevant to possible tax offences to tax crime investigators. The **Brazilian** central bank must inform the Federal Prosecution Service where evidence of a possible crime is discovered. The police may also request information directly, but information covered by bank secrecy is only available where a court order is obtained. In **France**, financial regulators are obliged to provide information spontaneously to the Public Prosecutor with respect to any sums or transactions that they suspect relate to criminal offences punishable by more than one year's imprisonment. In **Germany**, this obligation only applies where there is a compelling public interest in the prosecution of such crimes or when a person obliged to furnish information (for example in a tax procedure) intentionally provides false information. In **Greece**, where the Capital Markets Commission obtains information concerning possible criminal tax offences, it must report this to the Financial and Economic Crime Unit (SDOE). Other information is made available to SDOE only on request. In **Ireland**, where the central bank

comes into possession of information relevant to the tax administration that leads it to suspect that a criminal offence may have been committed by a supervised entity, this information must be provided to the tax administration. The Irish tax administration and central bank are currently in discussions to enhance the exchange of information mechanisms between the two entities, which is already grounded in legislation. Joint teams are in negotiations to develop a formal, mutual Memorandum of Understanding to streamline processes, which should result in more timely and focused data exchange. In **Italy**, where the Bank of Italy has reason to suspect a possible offence has taken place, it must inform the public prosecutor's office, which will generally direct an investigation through the appropriate police agency. Police may also request information relevant to investigations from the Bank of Italy, which will be provided so long as this does not breach confidentiality provisions.

In 13 countries (**Australia, Finland, Iceland, India, Latvia, the Netherlands, New Zealand, Norway, the Slovak Republic, Sweden, Turkey, the United Kingdom and the United States**), regulators are able to provide information spontaneously to tax crime investigators, or a public prosecutor responsible for directing investigations, at their discretion. In **Australia**, information may be disclosed for investigation, prosecution and other relevant purposes. In **France**, financial regulators are obliged to provide information spontaneously to the public prosecutor. In **the Netherlands**, secrecy laws governing information held by financial regulators are given priority over a general obligation to share information with other agencies, except where a strictly interpreted necessity condition is met. In practice this means that Dutch financial regulators are able to provide information concerning a suspected tax offence to the tax administration, so long as the information is to be used in specific law enforcement and not for general intelligence purposes. The Dutch Central Bank and the Financial Markets Authority may only provide information on criminal tax violations where there is a direct link to their role as supervisor.

In 12 countries (**Canada, Chile, Colombia, Denmark, Ghana, Malaysia, Mexico, Peru, Portugal, Singapore, Spain and Uganda**), agencies investigating suspected tax offences may only obtain relevant information from financial regulators on request. In two countries (**Austria and Korea**), a prohibition applies to prevent regulators sharing information related to possible tax offences with tax crime investigators.

*(iii) Availability to the customs administration*

The table below shows the availability of information held by financial regulators to the customs administration.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
	Czech Republic El Salvador Estonia Hungary Ireland Lithuania Serbia	Australia Colombia Finland India Korea Latvia New Zealand Norway Slovenia Sweden Turkey United Kingdom United States	Azerbaijan Brazil Denmark Ghana Iceland Japan Luxembourg Malaysia Mexico Netherlands Peru Portugal Singapore Slovak Republic Spain Switzerland Uganda	Austria Belgium Canada Chile France Germany Italy
<b>0 countries</b>	<b>7 countries</b>	<b>13 countries</b>	<b>17 countries</b>	<b>7 countries</b>

No countries allow customs officials direct access to information held by financial regulators. However, seven countries (**the Czech Republic, El Salvador, Estonia, Hungary, Ireland, Lithuania and Serbia**) require regulators to provide information spontaneously to the customs administration where relevant to their activities. In **Ireland**, a gateway exists between the central bank and the Revenue Commissioners, which includes customs, where the Central Bank comes into possession of information relevant to the Revenue Commissioners that leads it to suspect that a criminal offence may have been committed by a supervised entity. The Irish tax and customs administration and the central bank are currently in discussions to enhance the exchange of information mechanisms between the two entities, which is already grounded in legislation. Joint teams are in negotiations to develop a formal, mutual Memorandum of Understanding to streamline processes, which should result in more timely and focused data exchange.

Thirteen countries (**Australia, Colombia, Finland, India, Korea, Latvia, New Zealand, Norway, Slovenia, Sweden, Turkey, the United Kingdom and the United States**) allow the financial regulator to exercise discretion in providing this information. In **Australia**, information may be disclosed for investigation, prosecution and other relevant purposes. In **Finland**, the FSA has power to disclose information to customs for the prevention and investigation of offences.

A further 17 countries (**Azerbaijan, Brazil, Denmark, Ghana, Iceland, Japan, Luxembourg, Malaysia, Mexico, the Netherlands, Peru, Portugal, Singapore, the Slovak Republic, Spain, Switzerland and Uganda**) do not allow the financial regulator to provide information to the customs administration spontaneously, but it may do so on request. In **Brazil**, limited information is available on request if not covered by bank secrecy.

Seven countries (**Austria, Belgium, Canada, Chile, France, Germany and Italy**) do not allow the financial regulator to share any information with customs officials. In **Austria**, the financial regulator is specifically prevented under legislation from sharing information with the customs administration.

*(iv) Availability to the police or public prosecutor investigating non-tax offences*

The table below shows the availability of information held by financial regulators to the police and public prosecutors with responsibility for investigating non-tax offences.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
	Azerbaijan Belgium Brazil Czech Republic El Salvador Estonia France Germany Greece Hungary Ireland Italy Japan Korea Lithuania Luxembourg Peru Serbia South Africa Spain Sweden Switzerland Turkey	Australia Finland Iceland India Latvia Netherlands New Zealand Norway Slovak Republic Slovenia United Kingdom United States	Austria Canada Chile Colombia Denmark Ghana Malaysia Mexico Portugal Singapore Uganda	
<b>0 countries</b>	<b>23 countries</b>	<b>12 countries</b>	<b>11 countries</b>	<b>0 countries</b>

There are on average greater obligations on financial regulators to provide information to agencies investigating non-tax offences, than to those investigating tax offences. In 23 countries (**Azerbaijan, Belgium, Brazil, the Czech Republic, El Salvador, Estonia, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Korea, Lithuania, Luxembourg, Peru, Serbia, South Africa, Spain, Sweden, Switzerland and Turkey**), where a regulator holds information concerning a suspected non-tax offence, it is obliged to report this to the police or public prosecutor. In **Brazil**, the central bank must report evidence of possible crimes to the public prosecutor, and may also provide information directly to the police on request. However, requests for information covered by bank secrecy must be accompanied by a court order. In **France**, financial regulators are obliged to provide information spontaneously to the Public Prosecutor with respect to any sums or transactions that they suspect relate to criminal offences punishable by more than one year's imprisonment, or to the financing of terrorism. In **Greece**, the Capital Markets Commission must report to the public prosecutor any information it obtains which causes it to suspect a criminal offence may have been committed. Other information may be provided to the public prosecutor or court on request, subject to the condition that the information must be absolutely necessary for the detection or punishment of a criminal offence. In **Ireland**, the central bank must report to the police or other relevant criminal investigations authority, any information it obtains that leads it to suspect that a criminal offence may have been committed by a supervised entity. In **Italy**, where the central bank

has reason to suspect a possible offence has taken place, it must inform the public prosecutor's office, which will generally direct an investigation through the appropriate police agency. Police may also request information relevant to investigations from the Bank of Italy, which will be provided so long as this does not breach confidentiality provisions. In **Sweden**, financial regulators have an obligation to report suspicions of certain offences, such as insider dealing, to the public prosecutor. Other relevant information may be provided to the police or prosecution at the regulator's discretion.

In 12 countries (**Australia, Finland, Iceland, India, Latvia, the Netherlands, New Zealand, Norway, the Slovak Republic, Slovenia, the United Kingdom and the United States**) financial regulators are able to provide the police or public prosecutor with information relevant to a suspected non-tax offence, but are under no obligation to do so. In **Australia**, information may be disclosed for investigation, prosecution and other relevant purposes. In **the Netherlands**, information may be provided where it is relevant for criminal law enforcement, and not for intelligence purposes

In 11 countries, (**Austria, Canada, Chile, Colombia, Denmark, Ghana, Malaysia, Mexico, Portugal, Singapore and Uganda**) regulators may only provide information on request. In **Singapore**, this refers to sharing of information with the police. No country imposes a blanket prohibition on regulators providing information relevant to possible non-tax offences.

(v) *Availability to the Financial Intelligence Unit*

The table below shows the availability of information held by financial regulators to Financial Intelligence Units.

Direct access to information (4)	Obligation to share information spontaneously (3)	Ability to share information spontaneously (2)	Information shared on request only (1)	No sharing of information permitted (0)
Azerbaijan	Belgium Chile Colombia Czech Republic El Salvador Estonia Finland France Germany Greece Hungary Iceland Ireland Italy Lithuania Luxembourg Peru Serbia Slovenia South Africa Spain Switzerland United Kingdom	Australia Austria Brazil Canada Japan Latvia Netherlands New Zealand Norway Portugal Singapore Slovak Republic Sweden Turkey United States	Denmark Ghana India Malaysia Mexico	Korea
<b>1 country</b>	<b>23 countries</b>	<b>15 countries</b>	<b>5 countries</b>	<b>1 country</b>

Only one country (**Azerbaijan**) permits the FIU direct access to information held by the financial regulator. This close co-operation may be explained by the fact that the FIU is established under the national central bank.

Regulators in 23 countries (**Belgium, Chile, Colombia, the Czech Republic, El Salvador, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Lithuania, Luxembourg, Peru, Serbia, Slovenia, South Africa, Spain, Switzerland and the United Kingdom**) must inform the FIU if they obtain information that leads them to suspect money laundering concerning a regulated entity. In **Finland**, the Financial Supervisory Authority may also disclose any other information required by the FIU for the purposes of a pre-trial investigation. In **France**, the central bank must provide information relevant to suspected money laundering or terrorist financing activities directly to the FIU. Other French financial regulators must provide information to the public prosecutor's office with respect to any sums or transactions that they suspect relate to criminal offences punishable by more than one year's imprisonment, or to the financing of terrorism. In **Ireland**, the central bank must report to the police or other relevant criminal investigations authority, any information it obtains that leads it to suspect that a criminal offence may have been committed by a supervised entity. As the Irish FIU is part of the police, this obligation also extends to sharing information with the FIU. In **Italy** information held by the central bank and other Italian financial regulators typically cannot be shared with other agencies. However, specific legislation provides that secrecy restrictions cannot be imposed between the financial regulators and the FIU. Subsequently, the Italian FIU has signed memoranda of understanding with the Bank of Italy and the Insurance Supervisory Authority setting out obligations for the bodies to share information and to co-operate in combating money laundering and ensuring effective supervision. A

further memorandum of understanding between the FIU and Securities Supervisory Authority was signed on 7 June 2012. In **Peru**, the financial regulator may file Suspicious Transaction Reports, but cannot provide other banking information, which is covered by secrecy rules.

In 15 countries (**Australia, Austria, Brazil, Canada, Japan, Latvia, the Netherlands, New Zealand, Norway, Portugal, Singapore, the Slovak Republic, Sweden, Turkey and the United States**), regulators are able to inform the FIU if they obtain information relevant to the FIU's activities, but are not under an obligation to do so. Although under no obligation, the **Brazil** central bank regularly shares information with the FIU and no court order is required. In **the Netherlands**, the Dutch Central Bank, the Financial Markets Authority and the Dutch Competition Authority are able to provide information concerning suspected money laundering to the FIU. The Bureau of Financial Supervision ('BFT') is responsible for the supervision of lawyers, notaries and accountants, which benefit from greater secrecy and non-disclosure provisions under Netherlands law. In contrast to other regulators, the BFT is subject to greater restrictions on the types of information it may provide.

In five countries (**Denmark, Ghana, India, Malaysia and Mexico**), the FIU may only obtain information from regulators on request. Only one country (**Korea**) imposes a prohibition on regulators from sharing information with the FIU.



## CHAPTER 4

### MODELS FOR ENHANCED CO-OPERATION

#### Box 9: Key findings

Sharing information is a necessary condition for inter-agency co-operation in combating financial crime. In addition, certain countries have gone further and have developed different models for enhanced co-operation, which enable agencies to work together to their mutual benefit.

These models should not be viewed in isolation, but as forming part of a coherent strategy, which involves agencies moving in the same direction to a common goal. Although there is no limit to the ways in which agencies are capable of working together, and countries should consider new and innovative methods based on their needs and experiences, the report identifies several main models, namely:

- **Joint investigation teams:** these enable agencies with a common interest to work together in an investigation. In addition to sharing information, this enables an investigation team to draw on a wider range of skills and experience from investigators with different backgrounds and training. Joint investigations may avoid duplication arising from parallel investigations, and increase efficiency by enabling officials from each agency to focus on different aspects of an investigation, depending upon their experience and legal powers. In some cases, gateways for sharing information are wider when agencies are engaged in a joint investigation than they would be in other circumstances. Countries that make use of these strategies include **Australia, Austria, Azerbaijan, Brazil, Burkina Faso, Canada, the Czech Republic, Denmark, El Salvador, Finland, Ghana, Hungary, India, Japan, Luxembourg, Malaysia, the Netherlands, Portugal, Singapore, Slovenia, South Africa, Turkey and the United States.**
- **Inter-agency centres of intelligence:** these are typically established to centralise processes for operational and strategic information gathering and analysis for a number of agencies. They can focus on a specific geographic area or type of criminal activity, or have a wider role in information sharing. These centres conduct analyses based on primary research as well as information obtained from agencies. In some cases they access data through gateways available to participating agencies, while in other cases they have specific information gathering powers. By centralising these activities, officials within a centre gain experience of particular legal and practical issues, and specialised systems can be developed, which can increase their effectiveness. Cost savings may also be achieved, as the expense of collecting, processing and analysing data can be shared between participating agencies. Countries that make use of these strategies include **Australia, Finland, Hungary, India, Lithuania, the Netherlands, Sweden and the United States.**
- **Secondments and co-location of personnel:** these are an effective way of enabling skills to be transferred while allowing personnel to build contacts with their counterparts in another agency. Seconded officials share their skills, experience and specialist knowledge while participating directly in the work of the host agency. Countries report that arrangements to co-locate and second staff have wider benefits for inter-agency co-operation, by encouraging officials to be more proactive in engaging

with counterparts from other agencies and improving the effectiveness of co-operation that does take place. Countries that make use of these strategies include **Australia, Austria, Belgium, Canada, Finland, France, Ghana, Greece, Hungary, Ireland, Italy, Japan, Korea, the Netherlands, Norway, Portugal, Spain, the United Kingdom and the United States.**

- **Other models:** other strategies include the use of shared databases, dissemination of strategic intelligence products such as newsletters and intelligence briefs, joint committees to co-ordinate policy in areas of shared responsibility, and inter-agency meetings and training sessions to share information on trends in financial crime, guidance on investigative techniques and best practice in managing cases. Countries that make use of these strategies include **Austria, Azerbaijan, Brazil, Canada, the Czech Republic, Estonia, Finland, Germany, Ghana, India, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, the Netherlands, New Zealand, the Slovak Republic, South Africa, Turkey, Uganda and the United States.**

Sharing information is a necessary condition for inter-agency co-operation in combating financial crime. However, countries need to go further and develop operational models that make the most effective use of gateways. Several countries have done so and have developed models for enhanced co-operation which enable agencies to work together to their mutual benefit. These models should not be viewed in isolation, but as forming part of a coherent strategy, which involves agencies moving in the same direction to a common goal. They go beyond gateways for sharing information by adding mechanisms for co-operative working or sharing practical skills and experience. These models appear to have potential to also generate additional benefits in relation to cross-border inter-agency co-operation, *e.g.* by acting as a one-stop shop.

These models have been broken into four broad groups:

- i) joint investigation teams, which may be structured as a permanent task force or drawn together for the purposes of a specific case;
- ii) inter-agency centres of intelligence, which operate as centralised bodies for pooling information, skills and resources from different agencies;
- iii) secondments and co-location of personnel, which enable officials from different agencies to work together, share skills and develop contacts; and
- iv) other strategies, which include shared databases, inter-agency committees, circulars for sharing strategic intelligence and joint training programmes.

### **A. Joint investigation teams**

Financial crimes are complex. Criminal activity may include a number of connected crimes, or the individuals and organisations involved may be under investigation by different agencies for separate offences. Although legal gateways may be in place to enable agencies to share information, a number of countries have introduced mechanisms to allow agencies to co-operate directly in investigating offences through joint investigations teams. These allow for more direct and immediate sharing of information, and allow teams from different agencies to co-ordinate investigations to make best use of their technical skills and legal powers. Joint investigations can allow officials within different agencies to develop a network of contacts, increasing the level of understanding of each other's work and

improving the efficiency of other areas of co-operation. They may also enable cost savings to be achieved by reducing duplication which could arise if several investigations were run in parallel. Countries using joint investigation teams to enhance inter-agency co-operation include **Australia, Austria, Azerbaijan, Brazil, Burkina Faso, Canada, the Czech Republic, Denmark, El Salvador, Finland, Ghana, Hungary, India, Japan, Luxembourg, Malaysia, the Netherlands, Portugal, Singapore, Slovenia, South Africa, Turkey and the United States**. Details of the arrangements and experience in a number of these countries are outlined below.

### *Australia*

#### *Project Wickenby*

Project Wickenby is a multi-agency taskforce established in 2006 to protect the integrity of **Australia's** financial and regulatory systems by preventing people promoting or participating in the abusive use of secrecy havens. The Australian tax administration is the lead agency for the overall project, with other participating agencies being the Australian Crime Commission, the Australian Federal Police, the Australian Securities and Investments Commission, the Commonwealth Director of Public Prosecutions, the FIU, the Attorney-General's Department and the Australian Government Solicitor. Special legislation was enacted to enable agencies to share information more widely for the purposes of Project Wickenby investigations than is generally permitted. The taskforce works with both Australian and international bodies to prevent, detect and combat abusive arrangements involving: secrecy havens; international tax evasion; breaches of Australian financial laws and regulations; attempts to defraud the community, including investors and creditors; money laundering; or the concealment of income or assets. As at 30 June 2013, 70 people have been charged with serious offences as a result of Project Wickenby investigations, leading to 38 convictions with over AUD 1.838 billion in tax liabilities raised and AUD 428.20 million in cash collections.

Project Wickenby was the first multi-agency taskforce legislated to enable confidential tax information to be shared for the purposes of the taskforce. These purposes are broader than the general exemptions that allow tax information to be disclosed for the purpose of investigating a serious offence. This broader information sharing approach supported the development of joint strategic intelligence and decision making on the best treatment strategy for particular situations to optimise taskforce outcomes. This integrated joint agency approach has delivered unprecedented results and has been acknowledged by the Australian National Audit Office (ANAO) as setting the "template" for other taskforces in Australia. Subsequently, further taskforces have recently been established using a similar model to Wickenby, to tackle the organised crime threat - these are the National Criminal Intelligence Fusion Centre Taskforce and Criminal Assets Confiscation Taskforce.

In the experience of Australia, the advantages of legislating broader information sharing abilities include:

- a rigorous approval process dictated by Parliament for prescribing taskforces increases public confidence in that it has been established for a proper purpose;
- a taskforce has a shared focus and objective (rather than just working together);

- the fostering of cross-agency knowledge, intelligence sharing and capability development to better assist each other; and
- a whole-of-government approach to tackle risk, which results in efficiencies and better co-ordination and co-operation amongst taskforce agencies.

On the other hand, Australia has also encountered disadvantages from this approach, including:

- the legislation used only focuses on sharing of information from the tax administration to other taskforce agencies but does not consider the information flow from the taskforce agencies to the tax administration. Reliance is placed on current legal gateways to enable this to occur, but sometimes these gateways may be restrictive and hinder the smooth flow of information between taskforce agencies; and
- the establishment of a specialist taskforce may add additional and at times onerous reporting requirements. For example, where oral disclosures are to be captured and recorded for reporting to Parliament.

#### *The Australian Criminal Assets Confiscation Taskforce*

A co-ordinated approach to the confiscation of criminal proceeds in **Australia**: The Australian Criminal Assets Confiscation Taskforce (CACT) came into permanent operation in January 2012 with the aim of providing a co-ordinated and integrated approach to Commonwealth criminal asset confiscation. The CACT is a multi-agency taskforce led by the Australian Federal Police and includes the Australian Crime Commission and the Australian Taxation Office. The CACT is focussed on removing the proceeds and instruments of crime. Through its operations, it supports the key capabilities identified in the Commonwealth Organised Crime Strategic Framework, in particular targeting the criminal economy, and promoting a focus on intelligence, information sharing and interoperability. The purpose of the taskforce falls into four specific categories:

- to disrupt and deter serious and organised crime in Australia by removing the proceeds and instruments of crime;
- to build on initiatives from the Organised Crime Strategic Framework by providing a co-ordinated and integrated approach to criminal assets confiscation at the Commonwealth level;
- to maximise the effectiveness of confiscation efforts; and
- to protect the public finances of Australia from criminal abuse of the tax system, both through asset confiscation and through the identification of matters appropriate for referral to the ATO for taxation treatment.

Between 1 July 2011 and 30 June 2012, action undertaken by the CACT resulted in AUD 97 million in restrained assets and AUD 32 million in assets forfeited / pecuniary penalty orders.

*Austria*

In **Austria**, the public prosecutor may authorise joint police and tax investigations into major cases of corruption and social or economic fraud. Joint investigations may also be authorised between police and customs.

*Azerbaijan*

In accordance with the Criminal Procedure Code of the Republic of **Azerbaijan**, depending on the severity of the crime, a joint investigation team of investigators belonging to the different relevant executive authorities, including the Primary Investigation of Tax Crimes Department under the Ministry of Taxes and agencies under the Ministry of Internal Affairs and the Ministry of Finance, may be set up, with its leadership determined on a case by case basis by the executive authorities concerned.

*Brazil*

In **Brazil**, there are no clear legislative rules to establish joint task forces for performing investigations, but the use of such operations is supported by the superior court. Between 2003 and 2006 the public prosecutor's office, federal police, the tax administration and central bank worked together to investigate and prosecute hundreds of natural persons involved in a major scheme of tax evasion, capital flight and money laundering. In addition, joint task forces comprised of the federal police and federal and State prosecutors are regularly established. There are also permanent task forces consisting of members of numerous agencies, including federal police, public prosecutors, the Ministry of Social Services, the Brazilian Intelligence Agency, the General Comptroller, and the Department of Asset Recovery.

*Burkina Faso*

In **Burkina Faso**, a framework for joint investigations exists between the CNLF (responsible for investigating serious fraud) and BNAF (responsible for investigating fraud in the mining industry and in particular gold mining). These investigations often also include officials from the tax administration.

*Canada*

In **Canada**, joint working arrangements such as Joint Forces Operation and Combined Forces Special Enforcement Unit ('an integrated, multidisciplinary team that is tasked with investigating major crime in partnership with local, national and international agencies') provides the police with a means to share all information with CRA investigators, where such sharing would not otherwise be possible. For example, information obtained by police wiretap often provides invaluable tax and financial information that would not normally be shared with the CRA investigators if they were not participating in a Joint Forces Operation. Only once a court order is obtained or charges are laid can tax information be made available to the police. Thus, Joint Forces Operations allows for a legal gateway for the sharing of relevant information between the police and tax investigators.

*The Czech Republic*

In **the Czech Republic**, an inter-departmental agreement is in place between the Ministry of Finance and the police, to establish *ad hoc* joint investigation teams dealing

with the individual investigations, together with a permanent joint special unit responsible for the organisation and co-ordination of such inter-agency co-operation. To date, several joint investigations have been conducted involving the police and the customs administration. There have been no joint investigations including the tax administration, though these are in theory possible. This is partly because, since the inter-departmental agreement was signed, the most serious cases of tax evasion have been in the area of VAT and consumer taxes, which are under the responsibility of the customs administration. Another issue is that there remain greater restrictions on the sharing of tax information related to income and capital taxes, which are the main taxes administered by the tax administration.

### *El Salvador*

In **El Salvador**, since 2007 it has been possible to form Joint Investigation teams, consisting of the Criminal Tax Investigation Unit of the tax administration, the Organised Crime Unit and the Criminal Unit of the Attorney-General's Office, and the Police Department. This means that criminal investigations can be conducted more effectively and efficiently, in multidisciplinary teams with access to expertise in tax, financial investigations, police investigative techniques, strategic planning, and the use of intelligence. Joint investigations have been used in cases of national importance, including smuggling, organised crime and money laundering, demonstrating the ability of the State to prevent and fight complex financial crimes. This has had a very positive impact and taxpayers and society generally are supportive of the initiative.

### *Finland*

In **Finland**, law enforcement agencies including the police, customs administration and border guard establish joint investigations teams, or taskforces, to combat serious offences. These taskforces may also include tax officials and officers from the Enforcement Agency. Finland is also active in participating in multi-national joint investigations, including 32 joint investigations under the EU Convention on Mutual Legal Assistance.

### *Hungary*

In **Hungary**, legislation exists to allow agencies to establish joint investigation teams. This requires an agreement to be drawn up by the heads of the participating authorities, which should be approved by the public prosecutor. Secondments and assignments of officials between agencies are also often used where an official has skills or experience that would facilitate a successful investigation by another agency, but a joint investigation is not necessary.

### *India*

The **Indian** High Level Committee is headed by the Revenue Secretary and includes representatives of the central bank and all tax and major law enforcement and intelligence agencies, including the FIU. The High level Committee co-ordinates investigations under different areas of law and by different agencies into matters concerning the illicit generation of funds within the country and the illegal parking of funds in foreign jurisdictions.

*Luxembourg*

In **Luxembourg**, the Customs Administration, the Indirect Tax Administration and the Labour and Mines Inspectorate on a regular basis conduct joint investigations into the affairs of taxpayers, in accordance with the rules governing investigations by each participating agency.

*Malaysia*

The **Malaysian** national Special Task Force (STF), a joint inter agency co-operation in fighting tax crimes and other financial crimes, is headed by The Attorney General Chambers. STF members include Inland Revenue Board of Malaysia, the Company Commission Malaysia, Central Bank of Malaysia, Malaysian Anti-Corruption Commission and Royal Customs Department.

The role of the STF is to improve co-operation between law enforcement authorities to ensure a holistic approach on development, good governance and anti-corruption as well as to assist authorities in combating financial crimes, and in particular tax evasion and money laundering. The STF also monitors the sharing of information and the planning of joint operations between authorities.

*The Netherlands*

In **the Netherlands**, the National Police Squad and FIOD have two permanent joint investigation teams, both of which work on anti-money laundering cases. Of these two teams, one specialises in drug-related and violent offences, and is led by the National Police Squad. The other team specialises in financial investigations, and is led by FIOD. In addition to these two permanent teams, joint investigations teams may also be established where a case required specific expertise. The Dutch Police and FIOD work together closely in combating financial crime.

*Portugal*

In **Portugal**, the Tax and Customs Administration and criminal police are able to form joint investigation teams to work on complex investigations involving tax and non-tax offences. Typically, a team will include tax officials dealing with tax issues arising from the analysis of accounting and financial records and documents, and police officers dealing mainly with arrests, searches and phone tapping.

*Slovenia*

Since 2009, legislation in **Slovenia** has multi-agency teams to be brought together to work on investigations, under the direction of the State Prosecutor's Office. The composition of these teams varies depending on the demands of the case, and can include officials from the tax administration, customs administration, police, and other agencies as required.

*South Africa*

With the exception of the tax administration, **South African** law enforcement agencies frequently co-operate in investigating financial crimes through joint investigation teams, comprising specialists from each agency. In cases where the tax administration does assign

tax officials to joint investigation teams, the official is unable to use any special legislative powers held by virtue of their position as a tax administration employee. More often, where suspected criminal activities include both tax and non-tax offences, the tax administration does co-operate with other agencies, but by running its own parallel investigation and sharing information with the joint investigation team.

### *Turkey*

In **Turkey** the FIU and police are able to form joint investigation teams to work on complex money laundering cases. These teams include financial experts, who conduct analyses of accounts, assets, and financial records, and police officers, who carry out arrests, searches and phone taps with respect to the underlying predicate offence.

## **B. Inter-agency centres of intelligence**

Inter-agency centres of intelligence can be organised in different ways and for a range of purposes. The common theme is that they co-ordinate the sharing of information and, in some cases, practical skills between agencies. Inter-agency centres may be established to focus on operational information or strategic information. Operational information is that which is relevant to specific cases or investigations. Strategic information relates to the assessment of risks and threats, and is not specific to a particular case. In many cases the centres conduct analyses of data gathered directly or obtained from law enforcement agencies. In some cases, this information is obtained from agencies under legal gateways, while in others the centre itself has information gathering powers. As these centres provide benefits to a range of participating agencies, they can be a cost effective way of obtaining intelligence and analyses, with each agency gaining access to a wider range of experts than it would typically employ. By centralising the function of gathering and analysing data, inter-agency centres of intelligence can improve the effectiveness of existing gateways for providing information as officials within the centres gain experience in the legal and practical aspects of information sharing and develop contacts within other agencies. Inter-agency centres of intelligence may be established as a unit of an existing agency, or as a standalone body.

Eight countries reported that they have established inter-agency centres for analysing information and co-ordinating the work of different teams. These comprise those set out below.

<b>Australia</b>	The Australian Crime Commission
<b>Finland</b>	The Grey Economy Information Unit
	PCB Crime Intelligence and Analysis
<b>Hungary</b>	Counter-Organised Crime Co-ordination Centre
<b>India</b>	The Economic Intelligence Council
	The Central Economic Intelligence Bureau
<b>Lithuania</b>	Risk Analysis Centre

	Criminal Information Analysis Centre
<b>The Netherlands</b>	The Centre for Intelligence and Operational Excellence
	The Financial Expertise Centre
	Real Estate Intelligence Centre
	Regional Information and Expertise Centres
<b>Sweden</b>	National and Regional Intelligence Centres
<b>The United States</b>	The Organised Crime Drug Enforcement Task Force Fusion Centre
	Suspicious Activity Report Review Teams
	High Intensity Financial Crime Areas

The remainder of the section briefly summarises the key features of each of these centres.

### ***Australia***

#### *The Australian Crime Commission*

The Australian Crime Commission (‘ACC’) was established to combat serious and organised crime and is **Australia’s** national criminal intelligence agency. The ACC is governed by an inter-agency board, comprising members from the tax administration, federal police, state and territory police, the Customs and Border Protection Service, the Australian Securities and Investment Commission, the Australian Security Intelligence Organisation and the Attorney-General’s department. The ACC has coercive powers to enable it to source information that may be unavailable through traditional methods, and also maintains the national criminal intelligence database.

### ***Finland***

#### *The Grey Economy Information Unit*

The Grey Economy Information Unit (‘GEIU’) is a division of the **Finnish** tax administration specifically established to work closely with other government agencies. The GEIU was established in 2011 to promote the fight against the grey economy by producing and disseminating reports about grey economy activities and how they may be controlled. In preparing these reports, the GEIU has the right to receive, on request, necessary information held by other authorities even where that information would not normally be available to the tax administration due to secrecy provisions. For these purposes the grey economy is defined as any activities that result in the failure to meet legal obligations for payment of taxes, statutory pension, accident or unemployment insurances, or customs fees, or to obtain unjust repayment.

Another of the GEIU's key roles is the preparation of compliance reports at the request of another government agency. Compliance reports may be prepared with respect to any organisation, and include details concerning individuals and organisations directly or indirectly linked to such an organisation. Compliance reports may include details of business activities of individuals and organisations covered, their financial position and history and details of whether they have complied with legal obligations concerning tax and other payments, as well as other information necessary for the intended purpose of the report. Compliance reports may be requested for a number of purposes, including (among others): the levying and collection of taxes, and the enforcement of tax controls, by Customs; the prevention or investigation of an offence punishable by imprisonment of at least 12 months, by police, Customs or the Border Guard; the prevention or investigation of money laundering or terrorism; the monitoring of compliance with pensions law and collection of insurance premiums; and the determination of a forfeiture of criminal property. At the time a compliance report is requested, the requesting agency must inform the GEIU of the purpose of the report. In compiling a compliance report, the GEIU has access to all information from outside sources that would be available to the agency that requested the report, even where this would not normally be available to the tax administration. Where the information required for inclusion in the compliance report is held by an agency for the purpose of a pre-trial investigation, the GEIU must obtain specific consent from the agency holding the information in order for it to be used.

#### *PCB Crime Intelligence and Analysis*

The Police, Customs and Border Guard ('PCB') Crime Intelligence and Analysis Unit is a joint venture between the three of **Finland's** agencies. It has a National Intelligence and Analysis Centre, which is based in the Police National Bureau of Investigation headquarters, together with regional teams operating in each province. The purpose of PCB Crime Intelligence and Analysis is to promote joint operations between the three agencies, and to develop consistent policies to ensure that each agency conducts its own duties to prevent, detect and investigate offences effectively and efficiently. PCB Criminal Intelligence and Analysis is also responsible for maintaining status reports on serious crimes, including financial crimes.

#### *Hungary*

##### *The Counter-Organised Crime Co-ordination Centre*

The Counter-Organised Crime Co-ordination Centre sits directly under the **Hungarian** Ministry of Interior, and was formed in 2003 for the promotion of inter-agency information exchange in cases of organised crime. The National Police Service, the Prosecutor Service, civilian and military security services and other investigative and law enforcement agencies have seconded officials to the Centre. These agencies have a secure, permanent electronic connection with the Centre to ensure swift and confidential sharing of information.

#### *India*

##### *The Economic Intelligence Council*

In **India**, there are various mechanisms for sharing of information among various agencies involved in investigation or handling of financial crimes. The Economic Intelligence Council (EIC) acts as the main body to ensure co-ordination among various

agencies. The EIC has been established under the chairmanship of the Finance Minister of India and the CEIB acts as its Secretariat. The EIC meets twice a year and holds extraordinary meetings as and when considered necessary. The EIC is mandated to consider various aspects of intelligence relating to economic security and to develop strategy for the effective collection and collation of intelligence and its dissemination to various law enforcement agencies. The EIC reviews measures to combat economic offences and formulates a co-ordinated strategy of action by various law enforcement agencies. It reviews important cases involving inter-agency co-ordination and approves mechanisms for improving such co-ordination. The EIC also examines the changing dynamics of economic offences including new modus operandi for such offences, and approves measures for dealing with them effectively. So far as sharing of information among various agencies is concerned, the EIC generally performs this through the meetings of its Regional Economic Intelligence Councils (REICs).

The REICs are regional agencies which have been constituted for co-ordinating work among various enforcement and investigative agencies dealing with economic offences within the region. At present, there are 22 REICs functioning in different parts of the country. The REICs are headed by a Director General of Income Tax (Investigation), Chief Commissioner of Income Tax or Chief Commissioner of Customs & Central Excise. All major enforcement and investigative agencies including the Central and State Revenue Departments and EOW of State Police are represented in the REICs. The REICs also monitor joint co-ordinated action on specific issues having major ramifications. Specific requests made by member agencies in a REIC are addressed by the other member agencies through sharing information, documents and so on. The functioning of the REICs is co-ordinated by the CEIB.

#### *The Central Economic Intelligence Bureau*

The CEIB functions under the Ministry of Finance, Government of India and is headed by a Director General who is Member-Secretary of the EIC. The CEIB has the following main functions:

- to act as the Secretariat for the EIC, inter alia, by organising meetings at prescribed intervals and co-ordinating the progress of implementation of decisions taken by the EIC; and
- to act as the central agency for economic intelligence and ensure real time monitoring and co-ordination among the concerned regulatory agencies in the area of economic offences.

Intelligence having multi-agency ramifications is generally communicated to other agencies concerned through the CEIB. The CEIB is also mandated to convene meetings of Working Group on Intelligence Apparatus pertaining to the EIC which is held under the Chairmanship of the Secretary (Revenue).

Both these bodies are high powered inter-ministerial groups which keep an oversight on the emerging scenario of economic offences to evaluate and approve suitable co-ordinated responses including policy responses.

## *Lithuania*

### *Risk Analysis Centre*

In **Lithuania**, the Financial Crimes Investigations Service (FCIS) and the State Tax Inspectorate (STI) established the Risk Analysis Centre (RAC), including officials from both authorities. The RAC performs analyses of information received from both participating authorities, carries out operative activity and pre-trial investigations. The RAC can receive, via the officials appointed by the FCIS and STI, information needed for the implementation of its tasks and performance of its functions of the Centre. The main objectives of the RAC are:

- to analyse and exchange available information on tax violations and acts against the financial system, aiming to identify the threats to the State financial system and collection of taxes; and
- to co-ordinate co-operation between the FCIS and STI, organising and implementing targeted measure to, prevent, detect and investigate violations of tax law or those crimes that are assigned to the competence of the parties.

The RAC implements its objectives by monitoring and analysing the situation in different areas of the economic activity, to determine changes and trends in tax offences and crimes against the financial system, and the reasons for these. Upon the detection of possible tax evasion or other criminal activity, the RAC informs the relevant law enforcement authority, gives suggestions on priority actions, and conducts further enquiries with respect to the facts it has uncovered.

In 2012, 31 meetings of the RAC were held. During these meetings, the activities of 485 tax payers were analyzed. The main objects of the analysis were:

- international VAT fraud;
- illegal movement of goods from China;
- illegal trade of oil-products imported from non-EU countries;
- tax evasion in trade of scrap, food and other goods.
- money laundering schemes;
- illegal enrichment and non-declaration of income; and
- off-shore companies.

### *Criminal Information Analysis Centre*

In **Lithuania** in August 2010, the Financial Crime Investigation Service, the Customs Department, the State Boarder Guard Service, and the Police Department signed a co-operation agreement committing them to exchanging information on preventing, detecting and investigating crimes, and other co-ordination of actions at national and regional levels. In implementing this agreement, the parties established the Criminal Information Analysis Centre (CIAC), a permanent inter-agency working group targeted at

the development of co-operation specifically in the analysis of information related to different offences and to the social, legal and economic conditions of crimes and violations. On the basis of information analysis, the CIAC can provide recommendations on trends in operational and pre-trial investigation activities of the participating authorities

### *The Netherlands*

#### *The Centre for Intelligence and Operational Excellence*

In 2013, FIOD, the area of the **Netherlands** Tax and Customs Administration with responsibility for criminal investigations, announced its strategy for combating money laundering. One aspect of this strategy was the establishment of a new Centre for Intelligence and Operational Excellence. This Centre, which commenced operation on 9 September 2013, includes all national agencies involved in the fight against money laundering.

The four main goals of the new Centre are:

- to enhance and strengthen existing work on combating money laundering in the Netherlands, including the confiscation of criminal assets;
- to centralise the management and preparation of money laundering cases, and provide skills and expertise to support these cases;
- to improve the application and deployment of resources to money laundering investigation teams; and
- to identify ways to strengthen the process of combating money laundering through improved inter-agency and international co-operation.

To achieve these goals, the Centre's work focuses on five main areas:

- **Acting as a central point for managing cases** – This includes managing relatively simple cases that can be completed quickly, as well as those requiring larger and more complex investigations. Both types of case are important in changing behaviours and attitudes towards money laundering. The Centre also evaluates completed cases to identify ways to improve the detection and investigation of money laundering in the future.
- **Co-ordinating international co-operation** – The Centre has responsibility for developing the network of co-operation with similar centres and other agencies overseas, and sharing information on cases.
- **Public/private partnerships** – The Centre also works closely with private sector institutions and gatekeepers, such as banks, insurance companies and high value dealers, to enhance the prevention and detection of money laundering.
- **Intelligence** – This includes the sharing of information with authorities in the Netherlands and overseas, and also co-operating in the use of intelligence to improve processes to select cases and measure the impact of strategies.

- **Innovation** – The Centre is responsible for exploring new strategies and techniques for combating money laundering, including the use of social media and digital technology.

#### *The Financial Expertise Centre*

**The Netherlands** Financial Expertise Centre (FEC) is a joint project between supervisory, investigation, intelligence and prosecution authorities involved in regulating or monitoring activity in the financial sector. Partners in the FEC are the National Tax and Customs Administration, the Fiscal Intelligence and Investigation Service (FIOD, which is structurally part of the NTCA), the National Police, the General Intelligence and Security Service, the Public Prosecution Service, the Netherlands Financial Markets Authority and De Nederlandsche Bank, with the Ministry of Finance and Ministry of Security and Justice as observers. The mission of the FEC is to monitor and strengthen the integrity of the financial sector, and tackle issues of financial integrity through inter-agency co-operation. This entails sharing information and building a knowledge centre belonging to and for the benefit of participating agencies, containing the knowledge and expertise needed to safeguard the integrity of the financial sector. Risks that the FEC focuses on include money laundering, property fraud, identity fraud including skimming from bank accounts, mortgage fraud, investment fraud, and cyber crime including phishing scams.

#### *Real Estate Intelligence Centre*

In order to combat real estate fraud in **the Netherlands**, the Dutch public prosecution service, the tax administration, FIOD (the criminal investigations division of the tax administration) and the police work together in a collaborative approach through the Real Estate Intelligence Centre.

#### *Regional Information and Expertise Centres*

In **the Netherlands**, Regional Information and Expertise Centres serve as information points to provide specialist advice to municipalities and local authorities. They foster co-operation between local and provincial authorities, the public prosecution service, regional police and the tax administration in dealing with individuals and organisations that commit offences and regulatory breaches that have a particular impact at regional levels.

### *Sweden*

#### *National and Regional Intelligence Centres*

National and Regional Intelligence Centres were established in **Sweden** in 2009, as part of an inter-agency strategy to address serious organised crime, including financial crime.

The National Intelligence Centre ('NIC') includes representatives of the Police, the Economic Crimes Bureau, the Prison and Probation Service, the Enforcement Agency, the Coast Guard, the tax administration, the Social Security Service and Customs. The NIC has a strategic function for intelligence analysis and an operational function for intelligence co-ordination. One of the NIC's main tasks is to compile a common threat assessment, which is used as the basis for strategic decision making by the participating agencies. The NIC identifies and maintains databases of indicators of organised crime, and of factors that facilitate organised crime, to be used in preventing and detecting offences. The NIC also co-ordinates flows of information between the Regional Intelligence Centres ('RICs').

The eight RICs are located at the headquarters of the local police authority and are responsible for conducting intelligence work in their respective region. The composition of RICs varies, but typically they comprise officers from all collaborating agencies, as well as from the Immigration Service. Officers assigned to a RIC generally work together for three days a week, with the remaining time spent working within their own agency. Each agency must provide their agents with technology to allow them to access agency information directly from the RIC's office.

### *The United States*

#### *The Organised Crime Drug Enforcement Task Force Fusion Centre*

The OCDETF-FC was established in 2006 by **the United States** Department of Justice, Homeland Security and the Department of Treasury. The OCDETF-FC develops and utilises technologies to provide inter-agency co-operation and analysis of law enforcement and intelligence data that has previously been impossible due to organisational and technical boundaries. The OCDETF-FC collects, stores and analyzes information to support co-ordinated investigations focused on the disruption and dismantlement of significant drug trafficking and money laundering enterprises. All member agencies, which comprise IRS-CI, the Drug Enforcement Administration, the FBI, US Coast Guard, the Bureau of Alcohol, Tobacco, Firearms and Explosives and the US Marshals Service, as well as the National Drugs Intelligence Centre and FinCEN, are committed to sharing their law enforcement data through the OCDETF-FC. IRS-CI's involvement at the OCDETF-FC is focused on money laundering activities, and it does not provide tax information.

The OCDETF-FC is a comprehensive intelligence and data center containing all drug and drug related financial intelligence information from seven member investigative agencies, the Financial Crimes Enforcement Network (FinCEN), the National Drug Intelligence Center, and others. The OCDETF-FC is designed to conduct cross-agency integration and analysis of drug and drug related financial data to create comprehensive intelligence pictures of targeted organisations. The OCDETF-FC utilizes human analysis enhanced by sophisticated link analysis tools to conduct comprehensive analysis of the available information, produce investigative leads for investigators in the field, and support the co-ordination of multi-agency, multi-jurisdictional investigations targeting the most significant drug trafficking organisations threatening the United States. In addition, the system offers a means to identify the most effective and efficient use of limited federal drug investigative and intelligence resources, both foreign and domestic, against these organisations. IRS Criminal Investigation is a principal member of the OCDETF-FC and contributes resources and information for the purpose of producing analytical products, investigative leads, target profiles, strategic reports and field query reports. IRS Criminal Investigation has appointed one senior staff member to act as Section Director and two supervisory special agents to staff co-ordinator positions in the OCDETF-FC's Financial Section.

#### *Suspicious Activity Report Review Teams*

Suspicious Activity Report Review Teams ('SAR Review Teams') consist of US law enforcement agencies from the federal, state and local levels and operate in 80 of the 94 federal judicial districts in **the United States**. The Chairperson of the SAR Review Team is usually an Assistant United States Attorney, with the IRS Criminal Investigations playing a leading role. The primary purpose of a SAR Review Team is to systematically review all

SARs (or Suspicious Transaction Reports) that affect a specific geographic jurisdiction, identify individuals who may be engaged in criminal activities, and co-ordinate and disseminate leads to appropriate agencies for follow-up. The composition of these teams, while varying by location, generally include the US Attorney's Office, IRS Criminal Investigations, the Federal Bureau of Investigation, the Drug Enforcement Administration, the Bureau of Immigration and Customs Enforcement; the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the US Secret Service, and state and local law police. A small number of SAR Review Teams also include an official from the FIU.

#### *High Intensity Financial Crime Areas*

In the United States, High Intensity Financial Crime Areas ('HIFCA') were first announced in 1999 as a means of concentrating law enforcement efforts at the federal, state and local levels in high intensity money laundering zones. In order to implement this goal, a money-laundering action team was created or identified within each HIFCA to spearhead a co-ordinated inter-agency anti-money laundering effort. Each action team is composed of all relevant federal, state, and local enforcement authorities, prosecutors, and financial regulators. There are currently seven HIFCAs, including Northern California, Southern California, the Southwest Border, Chicago, New York, South Florida and Puerto Rico. The use of HIFCA, and also SAR Review Teams referred to above, have enhanced co-operation between agencies and, by pooling resources, have reduced the time spent on investigations.

### **C. Secondments of personnel between agencies**

In a number of countries, agencies make use of secondments and the co-location of personnel as mechanisms to improve co-working between agencies. These strategies enhance the effectiveness of other forms of inter-agency co-operation, by improving the ability of agencies to recognise opportunities for co-operation, and to increase the speed and efficiency of information sharing. By enabling officials to work in close proximity to one another, these strategies also promote the sharing of skills, and allow personal contacts to be made which often help to build further co-operation in the future. Several countries have reported arrangements for secondments of officials to the Financial Intelligence Unit, the police and the public prosecutor's office. These arrangements are briefly discussed below.

#### *Secondments to the Financial Intelligence Unit*

In **Korea**, a number of agencies have seconded a number of officials to the FIU. These secondees are responsible for leading the analysis of Suspicious Transaction Reports relating to their area of specialism, and identifying those which should be investigated by law enforcement agencies. In 2012 these comprised nine secondees from the public prosecutor's office, eight from the police, seven from the tax administration, seven from the customs administration, one from the Financial Supervisory Service and one from the Bank of Korea. For the period of their secondment to the FIU, these officials cannot directly access information held by their own agency, but must access information through the usual FIU gateway. The **Spanish** tax administration has also seconded six of its officers to the FIU, to assist in analysing Suspicious Transaction Reports. As in Korea, seconded officials in Spain may share their skills and experience, but are not able to access tax information which, if required, must be obtained through normal channels using the FIU's dedicated point of contact within the tax administration. FIOD, the criminal investigations division of **the Netherlands** tax administration, has seconded a number of its officials to work as

liaisons in the FIU. These staff work alongside FIU personnel in analysing Unusual Transaction Reports, but have direct access to tax administration databases to support them in this. In **Greece**, personnel are seconded to the FIU from each of the agencies represented on the FIU's Board. These trained and experienced specialists work in analysing Suspicious Transaction Reports, with access to their respective agencies' databases. The **Portuguese** tax and customs administration has personnel assigned to a liaison group located within the FIU. In **Ghana**, the governing body of the FIU includes representatives of various agencies involved in the combating of tax offences and other financial crimes. In **the United States**, all large federal agencies, including the tax administration, have officials posted to the FIU, to act as liaisons in facilitating the sharing of information, typologies and trends. **The United Kingdom** tax administration has a small team embedded in the FIU since the mid-1990s, in order to fully exploit Suspicious Transaction Report data in the execution of its tax administration, law enforcement and other functions. In **Belgium**, three officials from the police work as liaisons within the FIU. In **Austria**, a liaison tax officer is posted to the FIU for 2-3 weeks per year. In **Finland**, the Asset Recovery Office is located within the FIU. The Asset Recovery Office is mainly staffed by personnel from the Finnish police, but also includes one official from the tax administration and one from the Enforcement Authority. In addition, 17 multi-agency regional groups have been established across Finland to trace the proceeds of crime, comprising 38 officials from the police, 20 from the tax administration and 19 officials from the Enforcement Agency.

### *Secondments to the police*

The **Canadian** tax administration has investigators working directly with the police force out of police office in one of its provinces. In **France**, tax administration officials posted to work within the BNEE have direct access to tax administration databases, and facilitate wider sharing of information relevant to criminal investigations. The **Hungarian** National Tax and Customs Administration seconded qualified investigators to the Corruption and Counter Economic Crime Unit of the National Investigation Bureau of the Police and has liaison officers at the International Law Enforcement Co-operation Centre (ILECC). In **Norway**, a number of tax auditors from the tax administration are embedded within the police to assist in tax criminal investigations. In **the Netherlands**, FIOD, the criminal investigations division of the Netherlands Tax and Customs Administration, has investigators working within the Dutch police. In **Belgium**, tax administration officials may be assigned to work with the federal police, typically within the Central Office for the Prevention of Organised Economic and Financial Crime (OCDEFO), which is part of the General Directorate of Judicial Police. These tax officials are also qualified police officers, and are assigned to investigations including complex tax issues. The **Irish** tax administration has a specialist unit to manage interactions with the Criminal Assets Bureau, which is part of the Irish police force. In addition, Irish tax officials are seconded to the Criminal Assets Bureau, to ensure an effective multi-agency approach to recovering criminal property. In **Portugal**, secondments and co-location of personnel may be used as a method of facilitating joint investigations, for example through tax administration officials who are located within the offices of the criminal police or public prosecutor. **The United Kingdom** tax administration has tax crime investigation staff seconded to the criminal and civil asset recovery teams at Serious Organised Crime Agency. These staff can use tax information and tax powers to assist the Agency in tackling serious organised crime.

### *Secondments to the public prosecutor's office*

In **Italy**, the *Guardia di Finanza* has personnel seconded to a number of agencies, including the public prosecutor's office. This has led to two particular noticeable improvements. Firstly, the close working relationship between officials enables fast and effective sharing of information between agencies. Secondly, seconded *Guardia di Finanza* personnel are able to apply their specialist knowledge of tax and crimes, and a 'police approach' to cases, to add significant value to the work performed by prosecutors. The Italian Customs and Monopolies Agency also has customs officers seconded to the main Public Prosecutor's offices and since 2009 the Bank of Italy has also had a specialist team of experts permanently posted to the public prosecutor's office in Milan, to support investigations into financial and economic crimes. In **Belgium**, officials from the tax administration are made available to assist the public prosecutor in cases which have a tax component. Tax officials assisting the public prosecutor have the status of Judicial Police Officer. Where an investigation concerns possible tax evasion, these officials may be instructed to provide an analysis of the case file before the prosecutor decides whether to undertake a criminal investigation. In **Austria**, a co-operation agreement between the tax administration and federal prosecutor's office on economic crime and corruption provides for one person per year from the tax administration's large taxpayer's unit to be seconded to the prosecution service.

#### **D. Other strategies**

Countries have reported a number of further models for enhanced co-operation, including shared databases, intelligence briefs, inter-agency training sessions and joint committees, which are discussed below. These innovative approaches often supplement other models for sharing information or enhanced co-operation.

In **Austria**, a bribery and corruption working group has been established to facilitate co-operation and communication between the tax administration's large tax payers audit unit and the public prosecutor's office for economic crime and corruption. Furthermore due to an Agreement of the Minister of Finance and the Minister of Justice the prosecutor office has the right to call for one auditor's annual working capacity for complicated cases.

In **Austria**, regular meetings and training sessions are also held including officers from different agencies. This enables staff to develop and maintain personal contacts and have proved effective in improving the efficiency of joint working and information sharing. Inter-agency meetings to share strategic information relating to trends in financial crime, guidance on investigative techniques and best practice in managing cases, as well as cross-agency training sessions and conferences are also used in **Azerbaijan, the Czech Republic, Ghana, Latvia, Luxembourg, the Netherlands, New Zealand and the Slovak Republic**. In **New Zealand**, these practices have produced synergistic benefits for all participating agencies. From the perspective of the tax administration, these benefits are difficult to measure, but have improved the agency's knowledge base which, in the long run, is likely to have indirect positive effects on tax revenue and prosecutions.

In **Brazil**, the Fiscal Intelligence System (SIF) was established in 2009 as a co-operation network created by the individual State Revenue Secretariats. In 2012, the federal tax administration joined the system. The SIF network has proved to be an efficient means for the exchange of information, technical co-operation and execution of integrated actions.

Also in **Brazil**, the Integrated Management Cabinet for Prevention and Combating Corruption and Money Laundering (the GGI-LD) comprises approximately 60 agencies and meets once a year to discuss money laundering and terrorist financing issues and agree a national policy and joint actions for the following year. Responsibility for implementing this policy sits with the National Strategy Against Corruption and Money Laundering (ENCCLA), which brings together a broad range of ministries and agencies. Some of the key achievements from this system include:

- a. the development of centralised electronic information systems;
- b. the development of a system for collecting information and statistics on the amount, description, estimated value and location of seized assets;
- c. the implementation of a comprehensive AML/CFT training program for law enforcement prosecutors and the judiciary (the National Program of Qualification and Training for Combating Money Laundering (PNLD));
- d. the development of computerised systems to facilitate the analysis of large volumes of financial information (the Laboratories of Technology against Money Laundering (LAB-LD)); and
- e. the development of a standardised format for requesting and obtaining information resulting from the lifting of bank secrecy.

In addition, Co-ordinated Research and Investigation units (COPEI) are located in many of Brazil's major cities. The objective of these units is to co-ordinate money laundering investigations, usually employing task forces comprised of federal police and prosecutors. To facilitate this work, the tax administration and federal police have signed a Technical Co-operation Agreement to regulate the co-ordination and execution of integrated actions aimed at preventing and combating illicit criminal, tax and customs schemes. This initiative includes an action plan aimed at leveraging the human, intelligence and technical resources of both agencies, and allows them to conduct joint operations to combat organised crime, and related money laundering.

In **Canada**, the Partnerships and Workload Development Section is part of the CRA's Criminal Investigations Directorate (CID) and on a regular basis it receives information and strategic intelligence products from other agencies, including the FIU, the police, CBSA and the CISC. Regular face to face meetings to discuss strategic topics are also held between the Partnerships and Workload Development Section and other agencies.

In **the Czech Republic**, senior officials from the tax administration and FIU regularly meet to discuss trends in financial crime and the effectiveness of models for co-operation.

In **Estonia**, a co-operation agreement exists between the Tax and Customs Board and the Police and Border Guard board about information exchange, the use of the common intelligence database and sharing of technical resources. This database contains information on individuals (such as their employer's details, their salary and taxable income, and their tax position) and companies (including their employees' details, their tax position and VAT returns).

In **Germany**, liaisons in the tax investigation teams, customs investigation teams and in the criminal investigations departments work together and hold regular round tables to share intelligence and information, both in general and on specific cases.

In **India**, the National Economic Intelligence Network ('NEIN') was established by the Central Economic Intelligence Bureau in 2007 as a database of economic offenders. Cases under consideration by all major tax, police, law enforcement and intelligence agencies are fed into the database, which serves as a single entity storehouse. Reports generated from the database are shared with interested agencies and are used by the FIU for cross-checking with their own intelligence. The NEIN database is also used for carrying out risk assessments.

The **Irish** Money Laundering Steering Committee oversees the issuance of detailed guidance to ensure consistent implementation of anti-money laundering legislation. The Committee includes representatives of the Department of Finance, Department of Justice, the police, the Central Bank, the Attorney-General's Office and the tax administration, as well as representatives of the private sector and designated bodies. The Irish FIU and tax administration work closely together in co-ordinating investigations involving both tax and money laundering offences, and each attend feedback for a between the other agency and institutions that are required to submit Suspicious Transaction Reports under anti-money laundering legislation. This ensures that the agencies display a united front and consistent message in their dealings with the private sector.

In **Italy**, the Italian Revenue Agency, the Customs and Monopolies Agency and the *Guardia di Finanza* have formed a number of working groups to share information about tax evasion and criminal tax schemes, the persons involved, and methods of audit and investigation. These working groups develop common programmes for combating tax evasion and tax crimes and maximise the benefits from synergies between them.

In **Japan**, public prosecutors and criminal tax investigators from the tax administration hold joint seminars on real cases to discuss problems and areas of possible improvement in their examinations and investigations. These seminars are good opportunities for public prosecutors and criminal tax investigators to understand the perspective of each other in conducting investigations.

In **Lithuania**, at the beginning of 2013 the Commission for Co-ordination of Co-operation between State Financial Control and Law Enforcement Institutions approved the action plan for 2013–2014 to promote the fight against shadow economy. This action plan comprises activities in the area of smuggling of excise goods, undeclared work, illegal income and the avoidance of taxes. The action plan gives the right to the competent authority to receive necessary information held by other authorities. Competent authorities to perform activities approved by this plan are Prosecutor General's Office, Ministry of Finance, Ministry of Transport and Communications, Ministry of Justice, Ministry of Economy, Special Investigation Service, State Labour Inspectorate, State Border Guard Service, State Tax Inspectorate, Customs Department, Customs Criminal Service, Police Department, Lithuanian Criminal Police Bureau, Migration Department and the Financial Crime Investigation Service.

The **Luxembourg** *Comité de Prévention de la Corruption* was established in 2007 as an inter-agency committee to raise awareness within the public and private sectors of issues related to corruption, and to share related information. The Committee takes preventative

actions and advises the Government as to specific measures to be adopted in the field of corruption. A similar inter-agency committee was established in 2009 with respect to the prevention of money laundering and terrorist financing (the *Comité de Prévention du Blanchiment et du Financement du Terrorisme*).

In **South Africa**, mechanisms for joint working include inter-agency committees under the control of several government departments or ministries. These include the Multi-Agency Work Group, which seeks to improve compliance and identify systemic solutions to failures within the financial and procurement system, and the Anti-Corruption Task Team, which deals with prominent corruption cases.

In **Turkey**, the Co-ordination Board for Combating Financial Crimes was established in order to evaluate the draft laws on prevention of laundering proceeds of crime and the draft regulations which will be issued by Council of Ministers, and to co-ordinate relevant institutions and organisations regarding implementation. The Co-ordination Board is chaired by the Undersecretary of the Ministry of Finance and includes the Presidents and senior officials from agencies and bodies including the Financial Crimes Investigation Board, the Finance Inspection Board, the Tax Inspection Board, the Revenue Administration, the Ministry of the Interior, the Ministry of Justice, the Ministry of Foreign Affairs, the Board of Treasury Comptrollers, the Treasury, Customs, the Banking Regulation and Supervision Agency, the Capital Markets Board and the Central Bank.

In order to enhance inter-agency cooperation in **Uganda**, Memoranda of Understanding have been signed to facilitate sharing of information. In each of these MOUs an official contact person is identified at each participating agency who is then made responsible for ensuring that the agreements are effective.

In **the United States**, the Web Currency Banking Retrieval System (WebCBRS) is an on-line database that contains Bank Secrecy Act (BSA) information and is maintained by the IRS. Field agents involved in tax examinations, collections and criminal investigations, as well as federal law enforcement agencies, access this database to conduct research in tax cases, tracing money laundering activities, investigative leads, and intelligence for the tracking of currency flows, corroborating information, and probative evidence. Federal regulatory agencies, such as the Federal Reserve and Securities and Exchange Commission also use the WebCBRS for general examination, compliance and enforcement efforts. Users of this database must have the appropriate security authority. Users within the tax administration access the WebCBRS through a desktop application. External users access the WebCBRS through the FinCEN Secure Gateway application. Access to data is personalised, based on the role of the person requesting information and the data they require. The United States tax administration's criminal investigations division may also share information on trends and typologies with other agencies.



## *Chapter 5*

### **Country Information**

This Chapter contains a series of country-specific summaries, to complement the comparative information set out in Chapters 2 to 4. This will enable users to understand how different gateways for inter-agency co-operation interact within a country, as well as the tools used to combat tax crime and other financial crimes in a particular country.

Each country summary includes:

- a description of the key government agencies involved in preventing, detecting, investigating and prosecuting financial crime, including the tax administration, tax crime investigation, the customs administration, police and other law enforcement agencies, the public prosecution service, the Financial Intelligence Unit, and financial regulators;
- summaries of the different legal gateways for sharing information outlined in Part II, which allows a better overall understanding of the position in a country; and
- descriptions of models for enhanced co-operation, including co-operation between government agencies, co-operation with business, the tax profession, academic bodies and other organisations, as well as technologies and other processes used to enhance the effectiveness of co-operation.

The country summaries also include tables which compile all the information on the 21 gateways discussed in Chapter 3 concerning the relevant country. For ease of use, the table headings used in Chapter 3 have been shortened for use in this Chapter, as set out below. This shortening does not in any way change the meaning of these descriptions.

<b>Table headings used in Chapter 3</b>	<b>Terms used in Chapter 5</b>
Direct access to information	Direct access
Obligation to share information spontaneously	Reporting obligatory
Ability to share information spontaneously	Reporting permitted
Information shared on request only	On request
No sharing of information permitted	No sharing

## Australia

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Australian Taxation Office (ATO) is committed to deterring, detecting and dealing with tax evasion and fraud and takes action against taxpayers, intermediaries and others who engage in tax crime. The ATO undertakes compliance activities, including civil audits and criminal investigations to tackle tax evasion and fraud. These compliance activities occur across various areas within the ATO. Criminal investigations and more extreme elements of tax and excise evasion are dealt with by ‘Serious Non-Compliance’ (SNC), a business area within the ATO.

The ATO also has responsibility for the administration and enforcement of excise revenue and compliance and some elements of the superannuation system.

SNC undertakes civil audits and criminal investigations based on information referrals from within the ATO, from the community and from law enforcement agencies including the Australian Crime Commission, the Australian Federal Police and state and territory police. The ATO works with the broad law enforcement community at state, commonwealth and international levels to assist in the detection, deterrence and disruption of financial crime.

Whilst the Australian Federal Police have primary law enforcement responsibility for investigating serious or complex fraud against the Commonwealth, the ATO also conducts criminal investigations of serious or complex fraud relating to the taxation and superannuation systems. Where search warrants need to be executed, the ATO applies for the search warrant and Federal or State police execute it with the ATO accompanying when such assistance is necessary and reasonable.

The ATO is also a participant in multi-agency taskforces as part of the Commonwealth approach to dealing with serious and organised crime and fraud matters, such as proceeds of crime matters and Project Wickenby. SNC provides personnel for joint operations and investigations and facilitates the sharing of information and intelligence within the legislative framework.

The ATO is positioned under the Treasury portfolio.

#### *Tax crime investigation*

Tax criminal investigations are undertaken:

- by the ATO;
- by the Australian Federal Police;
- by the ATO jointly with Federal or State police; or
- by the ATO within multi-agency taskforces.

### *Customs administration*

The Australian Customs and Border Protection Service is a separate agency to the tax administration (ATO). It manages the security and integrity of Australia's borders. It works closely with other government and international agencies, in particular the Australian Federal Police, the Australian Quarantine and Inspection Service, the Department of Immigration and Citizenship and the Department of Defence, to detect and deter unlawful movement of goods and people across the border.

### *Police*

The Australian Federal Police (AFP) is the Australian Government's primary law enforcement agency. It is Australia's international law enforcement and policing representative and the chief source of advice to the Government on policing issues. The role of the AFP is to enforce Commonwealth criminal law, to contribute to combating organised crime, and to protect Commonwealth and national interests from criminal activity in Australia and overseas.

The AFP has primary responsibility for investigating a range of criminal offences under Commonwealth law, including serious and complex fraud against the Commonwealth.

The AFP offers a range of investigative services to other agencies, including the ATO, and undertakes, or assists with investigations including tax fraud and money laundering. The AFP has dedicated liaison officers attached to the ATO who assist by providing advice to SNC staff in relation to criminal matters. The AFP is positioned under the Attorney-General's portfolio.

Although AFP has the primary role in investigating Commonwealth tax crime, State Police can also be involved, particularly in multi agency taskforces.

Cooperation between the ATO and Federal and State Police and the establishment of multi-agency task forces are a key tool in disrupting organised crime.

### *Other key law enforcement agencies*

The Australian Crime Commission (ACC) is a statutory authority established to combat serious and organised crime and is Australia's national criminal intelligence agency. The ACC Board is one of the means by which the ACC is governed and is comprised of members from various agencies, including the ATO, the AFP, state and territory police, Australian Customs and Border Protection Service, Australian Securities and Investment Commission, Australian Security Intelligence Organisation and the Attorney-General's Department. The ACC Board approves the work priorities of the ACC, which currently includes 'Targeting Criminal Wealth Special Investigation'.

The ACC has coercive powers to enable it to source information which may be unavailable through traditional methods and it also maintains the national criminal intelligence database. The ACC is positioned under the Attorney-General's portfolio.

### ***Prosecution authority***

Prosecutions of taxation offences are undertaken both as part of the tax administration within the ATO and also by the Commonwealth Director of Public Prosecutions (CDPP), which is the independent commonwealth prosecutor.

Prosecutions by ATO are undertaken by ‘Administrative Prosecutions’, a unit within SNC. The majority of prosecutions undertaken by the ATO are breaches in relation to lodgement, provision of information, making false or misleading statements and failure to withhold offences. These administrative offences do not generally carry sentences of imprisonment. Prosecution is a criminal court sanction applied to serious disengaged behaviour and escalation of these serious matters to prosecution provides a deterrent to both the individual involved and the wider community.

In cases where a criminal prosecution is considered to be appropriate for fraud matters, SNC Investigations will investigate the criminal offence(s) and refer briefs of evidence to the CDPP who then determine whether to instigate criminal proceedings. The AFP refers briefs directly to the CDPP upon completion of investigations.

### ***Financial Intelligence Unit***

The Australian Transaction Reports and Analysis Centre (AUSTRAC) is Australia’s Financial Intelligence Unit; it assists Australian law enforcement, national security, social justice and revenue agencies and certain international counterparts in the investigation and prosecution of serious criminal activity, including terrorism financing, organised crime and tax evasion. It also receives information on the movement of cash and other forms of payments into and out of Australia

AUSTRAC regulates four main industry groups:

- banks and other lenders including credit unions, finance companies micro lenders specialist credit providers;
- gambling and bullion includes casinos, online gambling, bookmakers, bullion dealers;
- money services businesses including remittance services, foreign exchange dealers; and
- non-bank financial services including financial planning stockbroking, funds management, superannuation.

The role of AUSTRAC is to:

- ensure the integration of AUSTRAC information into partner agency operations and investigations;
- facilitate communications between AUSTRAC and partner agencies on intelligence-related matters; and
- provide high level on-site analytical support to other agencies.

AUSTRAC is positioned under the Attorney General’s Department.

### *Financial regulator*

The Australian Prudential Regulation Authority (APRA) is the prudential regulator of the Australian financial services industry. It oversees banks, credit unions, building societies, general insurance and reinsurance companies, life insurance, friendly societies and most members of the superannuation industry (with the exception of the self managed superannuation fund sector which is under the jurisdiction of the ATO).

The Australian Securities and Investments Commission (ASIC) enforces financial services and corporation laws. ASIC regulates Australian companies, financial markets, financial services organisations and professionals who deal and advise in investments, superannuation, insurance, deposit taking and credit.

APRA and ASIC are both positioned under the Treasury portfolio.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	Reporting permitted <sup>2</sup>	Reporting permitted <sup>3</sup>	No sharing <sup>4</sup>
	Customs administration	Reporting permitted <sup>5</sup>	Reporting permitted <sup>5</sup>		Reporting permitted <sup>3</sup>	Reporting permitted <sup>3</sup>
	Police or public prosecutor	Reporting permitted <sup>6</sup>	Reporting permitted <sup>6</sup>	Reporting permitted <sup>7</sup>		Reporting permitted
	Financial Intelligence Unit	Direct access <sup>8</sup>	Direct access <sup>8</sup>	Reporting permitted <sup>9</sup>	Direct access	
	Financial regulator	Reporting permitted	Reporting permitted <sup>10</sup>	Reporting permitted <sup>10</sup>	Reporting permitted <sup>10</sup>	Reporting permitted

<sup>1</sup> Where tax offences are under investigation by officials within the tax administration, these investigators have direct access to information held by the tax administration for other purposes. Where a tax offence is being investigated by another agency, such as the Australian Federal Police, or State Police, the tax administration does not grant direct access to tax information, but may share relevant information with investigators. This includes:

- disclosure to an authorised law enforcement agency officer (eg. to the AFP) for the purpose of investigating a serious offence, or enforcing a law, the contravention of which is a serious offence (a serious offence is an offence against an Australian law that is punishable by imprisonment for a period exceeding 12 months), or the making, or proposed or possible making, of a proceeds of crime order;
- disclosure to a Project Wickenby officer or to a court or tribunal is for, or in connection with, a purpose of the Project Wickenby taskforce; and is made before 1 July 2013, or a later prescribed day; and
- disclosure to a taskforce officer of a prescribed taskforce, or a court or tribunal and information is for or in connection with a purpose of the prescribed taskforce; and is made within the time limit, if any, prescribed by the regulations.

- <sup>2</sup> Information may be provided for the purposes of administering customs law.
- <sup>3</sup> The Australian Taxation Office is able to provide information spontaneously to law enforcement agencies, but only for the purposes of investigating serious offences punishable by imprisonment for a period exceeding 12 months, or in connection with the making of proceeds of crime orders. The police cannot obtain any taxpayer information relevant to less serious offences. In addition, under the Government Investigation Standards and Commonwealth Fraud Control Guidelines, the Australian Taxation Office must refer all instances of potentially serious or complex crimes to the Australian Federal Police, except where the tax administration itself has the capacity and the appropriate skills and resources needed to conduct the investigation.
- <sup>4</sup> In Australia, serious tax crimes are predicate offences to money laundering. However, as the FIU is established as a regulatory authority and not a criminal investigations agency, the tax administration is not able to share any taxpayer information, even where it is directly relevant to the FIU's activities.
- <sup>5</sup> Customs may provide information to Commonwealth agencies, state agencies, foreign countries and international organisations where certain criteria are satisfied. Permissible purposes include the administration or enforcement of a law of the Commonwealth that relates to criminal law or the protection of the public revenue of the Commonwealth, a Territory or another country.
- <sup>6</sup> Legislation authorises the sharing of information by the Australian Federal Police and State Police for use in the administration and enforcement of tax law.
- <sup>7</sup> The federal police may disclose information for law enforcement purposes.
- <sup>8</sup> The ATO has a right of access to all FIU information, including direct access to all Suspicious Transaction Reports, via a secure online connection for any purpose relating to the facilitation of the administration or enforcement of tax law. There are however restrictions on the use of FIU information by the Australian Taxation Office. For example, Suspicious Transaction Reports may be used by the tax administration for intelligence, but cannot be used or relied on for evidentiary purposes. The Australian FIU also provides the tax administration with complete data sets of STR information, which the tax administration uses in its automated data matching and data mining programmes.
- <sup>9</sup> The FIU may disclose information to designated agencies, including customs.
- <sup>10</sup> Information may be disclosed for investigation, prosecution and other relevant purposes.

## Models for enhanced co-operation

### *Co-operation between government agencies*

#### *Project Wickenby*

Project Wickenby is a multi-agency taskforce established in 2006 to protect the integrity of Australia's financial and regulatory systems by preventing people promoting or participating in the abusive use of secrecy havens. The Australian tax administration is the lead agency for the overall project, with other participating agencies being the Australian Crime Commission, the Australian Federal Police, the Australian Securities and Investments Commission, the Commonwealth Director of Public Prosecutions, the FIU, the Attorney-General's Department and the Australian Government Solicitor. The roles of these agencies varies, but include the following:

- The ATO will obtain information, conduct analysis, investigations and audits, while supporting prosecutions of criminal and civil matters arising from the initial promoter and other promoters. An initial risk assessment of the other international promoters will guide the selection of promoters and/or individuals for further investigation and/or review, and subsequently the involvements of multiple agencies where warranted.
- The ACC conducts criminal investigations and manages ensuing litigation. Additionally the ACC provides the deployment of an additional examinations team to assist AFP and the ATO by leveraging the use of coercive powers to accelerate the dismantling of organised syndicates. The ACC is also collecting and analysing intelligence that will improve the knowledge and understanding of how offshore organised tax fraud schemes operate and how these activities can be counteracted.

- The AFP conducts criminal investigations including other high risk international promoter schemes referred by the ATO. The AFP's focus includes key organisers and facilitators of tax fraud, as well as higher risk taxpayers involved in these schemes.
- The CDPP conducts prosecutions resulting from Project Wickenby and is involved in cases, where appropriate, as early as possible. Prosecutorial activity includes summary offences, proceeds of crime actions and complex criminal prosecutions.
- ASIC reviews international structures to advise on the application of corporations legislation, such as substantial shareholding provisions, market manipulation, takeover provisions or directors' duties. Subject to restrictions on dissemination of information, ASIC may take its own enforcement/regulatory action.
- The Australian Government Solicitor provides high level advice in relation to legal risks and potential civil proceedings taken by or against the Commonwealth or any joint agency. Where the Australian Government Solicitor is the legal services provider for such civil proceedings or for any of the joint agencies, it manages and coordinates those proceedings in line with Project Wickenby strategic objectives.
- AUSTRAC provides on-line access to its data holdings to the ATO, AFP, ACC and ASIC under the terms of the memorandum of understanding between AUSTRAC and these agencies. AUSTRAC has recently been funded to provide analytical support.
- The Attorney-General's Department manages mutual assistance requests for formal assistance from other national governments on criminal investigations and prosecutions.

Special legislation was enacted to enable agencies to share information more widely for the purposes of Project Wickenby investigations than is generally permitted. The taskforce works with both Australian and international bodies to prevent, detect and combat abusive arrangements involving: secrecy havens; international tax evasion; breaches of Australian financial laws and regulations; attempts to defraud the community, including investors and creditors; money laundering; or the concealment of income or assets. As at 30 June 2013, 70 people have been charged with serious offences as a result of Project Wickenby investigations, leading to 38 convictions with over AUD 1.838 billion in tax liabilities raised and AUD 428.20 million in cash collections.

Project Wickenby was the first multi-agency taskforce legislated to enable confidential tax information to be shared for the purposes of the taskforce. These purposes are broader than the general exemptions that allow tax information to be disclosed for the purpose of investigating a serious offence. This broader information sharing approach supported the development of joint strategic intelligence and decision making on the best treatment strategy for particular situations to optimise taskforce outcomes. This integrated joint agency approach has delivered unprecedented results and has been acknowledged by the Australian National Audit Office (ANAO) as setting the "template" for other taskforces in Australia. Subsequently, further taskforces have recently been established using a similar model to Wickenby, to tackle the organised crime threat - these are the National Criminal Intelligence Fusion Centre Taskforce and Criminal Assets Confiscation Taskforce.

In the experience of Australia, the advantages of legislating broader information sharing abilities include:

- a rigorous approval process dictated by Parliament for prescribing taskforces increases public confidence in that it has been established for a proper purpose;
- a taskforce has a shared focus and objective (rather than just working together);
- the fostering of cross-agency knowledge, intelligence sharing and capability development to better assist each other; and
- a whole-of-government approach to tackle risk, which results in efficiencies and better co-ordination and co-operation amongst taskforce agencies.

On the other hand, Australia has also encountered disadvantages from this approach, including:

- the legislation used only focuses on sharing of information from the tax administration to other taskforce agencies but does not consider the information flow from the taskforce agencies to the tax administration. Reliance is placed on current legal gateways to enable this to occur, but sometimes these gateways may be restrictive and hinder the smooth flow of information between taskforce agencies; and
- the establishment of a specialist taskforce may add additional and at times onerous reporting requirements. For example, where oral disclosures are to be captured and recorded for reporting to Parliament.

#### *The Criminal Assets Confiscation Taskforce*

The Criminal Assets Confiscation Taskforce (CACT) came into permanent operation in January 2012 with the aim of providing a co-ordinated and integrated approach to Commonwealth criminal asset confiscation. The CACT is a multi-agency taskforce led by the Australian Federal Police and includes the Australian Crime Commission and the Australian Taxation Office.

CACT is focussed on removing the proceeds and instruments of crime. Through its operations, it supports the key capabilities identified in the Commonwealth Organised Crime Strategic Framework, in particular targeting the criminal economy, and promoting a focus on intelligence, information sharing and interoperability.

The purpose of the taskforce falls into four specific categories:

- to disrupt and deter serious and organised crime in Australia by removing the proceeds and instruments of crime;
- to build on initiatives from the Organised Crime Strategic Framework by providing a co-ordinated and integrated approach to criminal assets confiscation at the Commonwealth level;
- to maximise the effectiveness of confiscation efforts; and
- to protect the public finances of Australia from criminal abuse of the tax system, both through asset confiscation and through the identification of matters appropriate for referral to the ATO for taxation treatment.

Between 1 July 2011 and 30 June 2012, action undertaken by the CACT resulted in AUD 97 million in restrained assets and AUD 32 million in assets forfeited / pecuniary penalty orders.

***Co-operation with business, the tax profession, academic bodies and other organisations***

The ATO engages with a number of industry and peak bodies such as the Australian Banking Association (ABA); Insurance Council of Australia (ICA) and the Tax Practitioner Board (Tax Practitioner Board represents registered tax agents).

## Austria

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Federal Ministry of Finance Anti-Fraud Unit is responsible for the detection of different patterns of tax fraud. Moreover this unit is in charge of developing strategies to prevent tax fraud including international cooperation and coordination.

The Centre for Risk Information and Analysis (RIA) supports this unit. Its main responsibilities are the development of risk analysis programmes, filtering out risk indicators, risk grading of enterprises and global analysis for detection of irregularities and tax evasion.

The financial police is a unit of the tax administration in charge of tax supervision conducted through on the spot controls, establishing the bases for tax collection, and assessing and collecting taxes. This unit also investigates cases of illegal employment.

Tax audits are carried out by officers of the tax administration, who are based in tax offices. If there is a suspicion that a tax offence was committed the tax official will submit the case to the fiscal penal authority which is part of the tax office responsible for the application of the Fiscal Penal Code. The fiscal penal authority works also as judicial police on behalf of the public prosecutor in criminal tax offences and can ask the federal tax investigation service for support.

#### *Tax crime investigation*

The federal tax investigation unit is competent for matters of investigation in cases of organised and systematic tax fraud under the supervision of the anti-fraud unit of the Federal Ministry of Finance. Within the federal tax investigation unit, the Central Liaison Office (CLO) is responsible for international mutual assistance in any tax matter.

The general benefit of a tax investigation service working as judicial police on behalf of the public prosecutor is the high qualification of its investigators having undergone a full tax auditor's training. Further advantages are that this federal organisation has budgetary and personal sovereignty, so it can allocate resources quickly when necessary, and that this unit is not involved in the day-to-day business of a tax office, so the teams can concentrate on investigations.

#### *Customs administration*

The Austrian customs administration is part of the joint tax and customs authority under the federal Ministry of Finance. There is one unit responsible for anti-fraud and enforcement regarding taxes, customs and excise, including international cooperation.

There are nine customs offices throughout the country. Each customs office includes at least one investigations team. These teams investigate all kinds of customs fraud, including: the smuggling of cigarettes and other goods; illegal cigarette manufacturing; and the illegal transportation of mineral oil, alcohol and other excise goods. Customs investigators serve as judicial officers for the public prosecutor in cases of criminal customs investigations.

The customs administration is also responsible for monitoring cross-border cash movements.

### ***Police***

The Federal Bureau of Criminal Investigation is located in the Federal Ministry of the Interior, and is responsible for investigating financial crimes other than tax crimes.

In cases of social fraud (economic fraud linked with evasion of payroll taxes and social contributions), investigations are carried out in close cooperation with the tax investigation service.

### ***Prosecution authority***

The public prosecutor's office is responsible for conducting prosecutions of criminal tax offences. Tax investigations are conducted by fiscal penal authorities within local tax offices on behalf of the public prosecutor. A tax offence is considered a criminal offence one if the evaded tax exceeds EUR 100 000.

From 1 September 2012 a special public prosecutor's office for corruption and economic fraud was established with responsibility for the investigation of fiscal law felonies concerning social fraud, companies with share capital exceeding EUR 5 000 000 or where the damage exceeds EUR 5 000 000.

With respect to non-criminal tax offences, the fiscal penal unit of the tax offices is competent to carry out investigations and apply penal sanctions.

### ***Financial Intelligence Unit***

The Austrian FIU is established within the Federal Bureau of Criminal Investigation, within the Federal Ministry of the Interior. Its main tasks comprise receiving suspicious transaction reports concerning possible money laundering or terrorist financing, analysing these reports and initiating investigations.

Being a unit within the federal police, the FIU is able to access various law enforcement databases, making its activities more speedy, efficient and effective.

The FIU co-operates closely with financial regulators.

### ***Financial regulator***

The job of supervising the financial markets is carried out by three institutions. In outline form, the tasks are as follows:

- The Federal Ministry of Finance (BMF) develops and defines the legislative framework, which is then adopted by the Austrian parliament (legislative process).
- The Oesterreichische Nationalbank (Central Bank of the Republic of Austria) monitors the stability of the financial market at a macro level. It is responsible for the supervision of payment systems, and is also involved in the supervision of banks.

- The Financial Market Authority (FMA) represents an integrated supervisory institution. The FMA supervises banks, insurance undertakings, Pensionskassen (pension companies), corporate provision funds, investment firms and investment service providers, investment funds, financial conglomerates and exchange operating companies. The FMA monitors and checks the individual financial institutions and participants in the financial markets (micro level). As supervisory authority the FMA supervises compliance with legal provisions and due diligence obligations in the area money laundering and terrorist financing and takes appropriate steps in case of violation of these responsibilities.

All three institutions cooperate closely, and form the Austrian system of supervision of the financial market.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access	Reporting obligatory <sup>1</sup>	On request	Reporting obligatory
	Customs administration	Reporting obligatory <sup>1</sup>	Reporting obligatory		Reporting obligatory <sup>2</sup>	Reporting obligatory
	Police or public prosecutor	Reporting permitted	Reporting permitted	Reporting permitted		Direct access
	Financial Intelligence Unit	Reporting permitted	Reporting permitted	Reporting permitted	Reporting permitted	
	Financial regulator	No sharing <sup>3</sup>	No sharing <sup>3</sup>	No sharing <sup>3</sup>	On request	Reporting permitted

<sup>1</sup> Direct access between the tax and customs divisions of the combined authority was used, but in practice it proved difficult for officials to use databases and conduct effective searches of databases held by the other division.

<sup>2</sup> This reporting obligation applies only where a criminal procedure has been launched. Otherwise, customs information is covered by tax secrecy laws.

<sup>3</sup> Sharing is prohibited by law.

### Models for enhanced co-operation

#### *Co-operation between government agencies*

A bribery and corruption working group has been established to facilitate co-operation and communication between the tax administration's large tax payers audit unit and the

public prosecutor's office for economic crime and corruption and the public prosecutor may authorise joint police and tax investigations into these cases. Furthermore due to an Agreement of the Minister of Finance and the Minister of Justice the prosecutor office has the right to call for one auditor's annual working capacity for complicated cases.

Joint investigations may also be authorised between police and customs.

In addition, regular meetings and training sessions are held including officers from different agencies. This enables staff to develop and maintain personal contacts and have proved effective in improving the efficiency of joint working and information sharing. A co-operation agreement with the federal prosecution office on economic crime and corruption provides for the tax administration's large tax payers unit to second one person per year to the prosecutor's office. The tax administration also posts a liaison officer to the FIU for two or three weeks per year.

#### ***Co-operation with business, the tax profession, academic bodies and other organisations***

To improve co-operation with business, the tax and customs administration has established a number compliance initiatives (known as Fair Play initiatives), round-table meetings, horizontal monitoring, advance rulings and a young entrepreneur programme. Quarterly meetings are held with representatives of the Chamber of Commerce.

The tax and customs administration has also conducted work with academia on topics of compliance, taxpayer psychology and criminal behavior.

## Azerbaijan

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

State tax agencies Azerbaijan are organised under the Ministry of Taxes and territorial tax authorities. These tax agencies are competent to carry out law enforcement independently of the police and other local State authorities.

The following tax agencies exist in Azerbaijan:

- the Ministry of Taxes of the Republic of Azerbaijan;
- the Ministry of Taxes of Nakhchivan Autonomous Republic;
- the Tax Audit Department, under the Ministry of Taxes;
- the Primary Investigation of Tax Crimes Department, under the Ministry of Taxes;
- the Special Regime Tax Service Department, under the Ministry of Taxes;
- the Training Centre of the Ministry of Taxes;
- the Baku City Tax Department;
- the regional Tax Departments; and
- the regional tax subdivisions.

#### *Tax crime investigation*

Under the Criminal Code of the Republic of Azerbaijan, the Ministry of Taxes is competent to conduct criminal investigations into a range of specified offences, including tax evasion, organising or holding illegal lotteries, and the manufacture, purchase or sale of forged excise marks. These criminal investigations are initiated and conducted by the tax administration. Where, in the course of conducting an investigation, evidence is uncovered of possible fraud, misappropriation, abuse of powers, bribery, neglect of duty or other economic crime, the tax administration is also competent to conduct preliminary investigations into these offences. Investigations of criminal cases are carried out under the supervision of the Public Prosecutor's Office.

Investigations of financial crimes are conducted by the Primary Investigation of Tax Crimes Department. The main function of the Department is to carry out research and intelligence activities, conduct investigative operations and co-ordinate international co-operation with overseas tax administrations and law enforcement authorities in fighting tax offences and other crimes within its competence. Co-operation with other domestic law enforcement agencies is carried out through the Legal Department of the Ministry of Taxes. The Primary Investigation of Tax Crimes Department has all the powers of the police within its area of competence.

***Customs administration***

For the provision of economic and national security, the State customs administration carries out the control and enforcement of customs regulations, and conducts preliminary criminal investigations into customs offences under the supervision of the Public Prosecutor's Office.

***Police***

The main activities of police agencies in Azerbaijan are the protection of public order, security and public safety, and the prevention and detection of crimes and other offences. In order to ensure the fulfillment of these duties, the structure of the national police includes the following areas.

- Head of Criminal Investigation Department
- General Investigation and Research Department
- General Department for Combating Organised Crime
- General Department for Combating Drugs
- Department of Internal Security
- Department for Criminal Investigations
- General Social Security Administration
- General Department of Internal Forces
- The National Central Bureau of Interpol (general authorised management)
- Department of Internal Investigations
- Department of International Cooperation
- Department for Combating Trafficking in Human Beings

Where, during the course of an investigation, indicators of possible corruption is uncovered, this must be reported to the Anti-Corruption Department of the Public Prosecutor's Office, in order to obtain assistance to ensure evidence is gathered in accordance with rules of criminal procedure.

***Prosecution authority***

Criminal prosecutions can be conducted by the Public Prosecutor's Office, the Ministry of Internal Affairs, the Ministry of Justice, the Ministry of National Security, the Ministry of Taxes, the Ministry of Emergency Situations, the State Border Service and the State Customs Committee, each operating within its area of competence. The Public Prosecutor's Office also supervises preliminary criminal investigations conducted by other agencies.

### *Financial Intelligence Unit*

The Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan was established to implement State policy in the prevention of money laundering and terrorist financing. The Service is also responsible for supervising financial institutions and other bodies required to file Suspicious Transaction Reports, and co-ordinating the activity of relevant government authorities.

### **Models for sharing information**

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Reporting obligatory	On request	Reporting obligatory	Direct access
	Customs administration	Reporting obligatory	On request		Reporting obligatory	Direct access
	Police or public prosecutor	Reporting obligatory	Reporting obligatory	On request		Direct access
	Financial Intelligence Unit	Reporting obligatory	On request	On request	On request	
	Financial regulator	Reporting obligatory	Reporting obligatory	On request	Reporting obligatory	Direct access

### **Models for enhanced co-operation**

#### *Co-operation between government agencies*

The Primary Investigation of Tax Crimes Department under the Ministry of Taxes engages in regular co-operation with State authorities such as the Public Prosecutor's Office and agencies under the Ministry of Internal Affairs and the Ministry of Finance. In accordance with the Criminal Procedure Code of the Republic of Azerbaijan, depending on the severity of the crime, a joint investigation team of investigators belonging to the different relevant executive authorities is set up, with its leadership determined on a case by case basis by the executive authorities concerned.

Co-operation between the Ministry of Taxes and the Ministry of Labour and the Social Protection of Population has revealed significant issues of illegal employment. Joint operations undertaken in 2012 identified 220 000 people working without an employment contract. Measures have now been taken by these agencies as a result of a major

government initiative to implement employment contracts for all workers and eliminate illegal working.

A series of training courses has been held to identify and resolve common issues, involving the Public Prosecutor's Office, the Ministry of Taxes, the Ministry of Finance and the Ministry of Economic Development.

***Technologies and other processes used to enhance the effectiveness of co-operation***

Azerbaijan has developed a national strategy on information and communications technology for the purposes of development within the country. This national programme is known as 'Electronic Azerbaijan'. Within this broader strategy, the 'E-Government Project' identifies opportunities for improvements in the effectiveness and operation of State bodies using modern technologies, and in particular the effectiveness of communication between people, business organisations and State departments and authorities.

## Belgium

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The *Administration Générale de la Fiscalité* (AGF) does not have law enforcement powers and does not investigate cases of financial crime. The tax administration does co-operate with police and the Public Prosecutor in the fight against financial and organised economic crime.

The AGF has a number of control centres, responsible for verifying the tax position of individuals and companies, and also a national research department composed of two anti-fraud divisions, dealing with “national and international research” and “local research”. The national and international research division is responsible for the prevention and detection of tax fraud schemes in income tax and VAT. This division also conducts international co-operation with overseas tax administrations. The local research division focuses on targeted research, including the audit of accounting records and frauds committed in specific industries. The local research division also assists the national and international research division in combating larger frauds at a local level.

#### *Tax crime investigation*

In Belgium, there is no authority outside the SPF Finances with competence to combat tax offences. However, there are two specialist tax services in this area.

The Special Tax Inspectorate (ISI) is responsible detecting, preventing and combating major tax fraud. The ISI only deals with important files and cases of organised and serious tax crime, whether it concerns income tax, VAT, taxes assimilated to stamp duties, registration and inheritance taxes or customs and excise duties.

As such, the ISI is responsible for:

- verifications and investigations carried out alone or in co-operation with other services of the Finance department;
- carrying out simultaneous controls in different regions of the country;
- carrying out controls which necessitate foreign investigations; and
- co-ordination of co-operation with other federal public services.

In addition to serious and organised tax fraud, the ISI also deals with cases of financial fraud, misuse of company assets and insolvencies. Requests for information by the FIU, concerning cases of money laundering connected to major and organised tax fraud, are dealt with by the central administration of the ISI.

The Anti-Fraud Co-operation Service (AFCOS) is responsible for, inter alia:

- acting as a single point of contact in the Ministry of Finance for all information concerning indications of tax fraud identified in judicial cases by public prosecutors,

according to Article 2 of the Law of 28/4/1999, as well by the FIU, according to the Law of 12/4/2004 (initial law of 11/1/1993);

- co-operating with the network of experts in economic, financial and fiscal material (ECOFINFISC) of the College of the General Prosecutors (AFCOS is the contact point in the Ministry of Finance as regards information exchange with this network of expertise ECOFINFISC, and more particularly within the framework of the law “una via”);
- the task force responsible for the Fight against Tax Havens;
- co-operation with the Belgium FIU;
- co-operation with the EU, and specifically OLAF, TAXUD and EUROPOL;
- co-operation with a range of public authorities;
- participation in the College against the tax and social fraud;
- collaboration within the framework of the PNS (National Plan of Security) regarding economic and financial criminality; and
- participation in the working groups on the Trafficking in Human Beings and Harmful Sectarian Organisations.

### ***Customs administration***

The Customs and Excise administration (DA) operates both within Belgium and at the Community’s external borders, such as Antwerps and Zaventem, in order to carry out controls and enforcement of regulations.

Customs inspections are coordinated and supervised by the national research division, which is also responsible for the detection of customs fraud. In particular, the national research division’s activities include:

- the analysis of fraud based domestic and international information;
- the participation in national preventive controls; and
- the participation and assistance, in investigations and prosecutions performed by authorities and bodies involved in the fight against tax or customs fraud; the federal police and Europol; EU anti-fraud services (OLAF) ; and foreign customs administrations.

### ***Police***

In Belgium, the police services of the Ministry of Interior are responsible for investigations dealing with financial crimes and are mainly gathered within the Federal Police’s Economic and Financial Crime Division.

Within this division, the following units exist.

- The central office combating economic and financial organised crime (OCDEFO), which is competent for combating complicated and major economic or tax crimes. Under a Memorandum of Understanding concluded between the Ministry of Justice, Ministry of the Interior and the Ministry of Finance, tax officers having the status of “judicial police officers” have joined the OCDEFO.
- The central office combating corruption (OCRC).
- The central office combating falsification (OCRF).
- The federal computer crime unit (FCCU).
- The federal unit against swindling and for economic and financial documentation (FUSE).

#### ***Other key law enforcement agencies***

The Criminal Policy Unit was established by a Royal Decree in 1994. The Criminal Policy Unit is responsible for co-ordinating all aspects of criminal policy, including prevention and detection of serious crime, investigation, prosecution and enforcement of sentences, as well as anti-money laundering and terrorist financing policy.

In practice, this covers at national and international level:

- the gathering of information necessary to the setting up of a criminal policy;
- the monitoring of criminal trends, and analysis of the causes of crime;
- developing guidance concerning the organisation and execution of criminal policy;
- providing advice on the co-ordination of preventative, investigative and sentencing policies; and
- contributing intelligence and information for use by prosecutors and police services.

The Criminal Policy Unit has a research and planning division which coordinates research within the different Government Departments in collaboration with universities, and plays a key role in the exchange of information between policy makers and academic researchers. It also monitors developments at national and international level and provides feedback to the Federal Department of Justice.

#### ***Prosecution authority***

The Federal Department of Justice (SPF Justice) is responsible for judicial investigations carried out, under the supervision of the local prosecution authorities and the federal prosecutor.

### *Financial Intelligence Unit*

The *Cellule de Traitement des Informations financières* (CTIF) is the Belgian Financial Intelligence Unit and is at the centre of Belgium's fight against money laundering and terrorist financing. The CTIF is an independent administrative authority, under the joint supervision of the Ministry of Justice and the Ministry of Finance. The CTIF is responsible for analysing Suspicious Transaction Reports provided by designated businesses and professionals under anti-money laundering legislation, and providing relevant information to government authorities.

### *Financial regulator*

The National Bank of Belgium (BNB) is responsible for the prudential supervision of financial institutions including banks and insurance companies.

The Financial Services and Markets Authority (FSMA) is responsible for monitoring and supervising financial markets and investment products.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access	Direct access	Reporting obligatory	Reporting obligatory
	Customs administration	Direct access	Direct access		Reporting obligatory	Reporting permitted
	Police or public prosecutor	Reporting obligatory <sup>1</sup>	Reporting permitted <sup>1</sup>	Reporting obligatory <sup>2</sup>		Reporting permitted
	Financial Intelligence Unit	Reporting obligatory <sup>1</sup>	Reporting obligatory <sup>1</sup>	Reporting permitted <sup>2</sup>	Reporting obligatory	
	Financial regulator	No sharing	Reporting obligatory	No sharing	Reporting obligatory	Reporting obligatory

<sup>1</sup> Public prosecutors and the CTIF send information relevant to the administration of taxes and tax crime investigators to the SCAF, which allocates cases and information to the competent tax authority. Information concerning tax crime investigations is allocated to the ISI. The central administration of the ISI then determines whether the case will be taken up by the agency or whether it should be on-referred to another authority such as the AGF.

<sup>2</sup> Public prosecutors and the CTIF send information relevant to the administration of customs and customs crime investigators to the CAF/AFCOS, which allocates cases and information to the competent tax authority. Information concerning customs crime investigations is allocated to the ISI. The central administration of the ISI then refers the information to the customs and

excise administration. The information may also be referred to the regional directorate of the ISI, in particular where it appears that the case may have both tax and customs aspects and require joint investigation.

## **Models for enhanced co-operation**

### *Co-operation between government agencies*

A protocol between the CAF and the CTIF is aimed at optimising the exchange of information between the tax authorities and the FIU. Where the FIU has referred cases or information to the CAF, it will receive feedback on the results of any subsequent investigation. An agreement setting out a framework for co-operation also exists between the Federal Police and the customs administration.

A protocol between the CAF, ISI and Transfer Pricing Unit is also under negotiation to optimize the exchange of information for the enforcement of transfer pricing rules.

## Brazil

### Key agencies in combating tax crimes and other financial crimes

#### *Tax and customs administration*

The Secretariat of the Federal Revenue of Brazil (RFB) is a government body subordinated to the Ministry of Finance. It is responsible for administration of the taxes that fall under Federal Government jurisdiction, including Social Security contributions and customs duties, plus a very significant share of the country's social contribution taxes. It is also responsible for customs administration. At the same time, it assists the executive branch of the government in formulating Brazilian tax policy, while working to prevent and combat tax evasion, contraband, smuggling, counterfeiting, commercial fraud, money laundering, trafficking of drugs and animals threatened with extinction, coupled with other international trade-related illicit acts.

The responsibilities of the Secretariat of the Federal Revenue of Brazil can be summarised as follows:

- administration of Federal domestic and foreign trade taxes;
- management and execution of the activities of tax collection, accounting, administrative charging, inspection, research and investigation and control of inflows subject to its administration;
- management and execution of customs administration, inspection and control;
- combating contraband, smuggling, counterfeiting, trade fraud, money laundering, and trafficking of drugs, within the limits of its jurisdiction;
- preparation and first level judgement of administrative processes involving the definition and charging of Federal Government tax credits;
- interpretation, application and elaboration of proposals for improving federal tax and customs legislation;
- assistance in the formulation of Brazilian tax and customs policy;
- assistance in the elaboration of the Federal Government revenue and tax benefit budget;
- interaction with the citizenry through personal or indirect channels of communication;
- tax education for the exercise of citizenship;
- formulation and management of economic-fiscal information policy;
- fostering of integration with like public and private entities through information exchange agreements, fiscal action methods and techniques and streamlining of activities, including delegation of authority; and

- involvement in international cooperation and negotiation and implementation of international agreements in tax and customs matters.

### ***Tax crime investigation***

The RFB is responsible only for the administrative investigation of possible tax crimes. Whenever sufficient evidence of possible crimes is found in such an investigation, RFB must present the case to the criminal investigation authorities: either the Federal Prosecution Service (MPF) or the Department of Federal Police (DPF).

Tax crimes investigations are usually conducted under a coordinated effort, in joint operations between the criminal authorities and the tax and customs administration.

### ***Police***

The Department of Federal Police (DPF) is directly subordinate to the Ministry of Justice and is responsible for preventing and investigating offences that violate federal law. The role of the Federal Police is broad and encompasses anti-money laundering. The Constitution provides that the role of the Federal Police is to:

- investigate criminal offences against the political and social order or to the detriment of property, services and interests of Brazil, its government entities and public companies, as well as other offences with interstate or international effects and those requiring a uniform national approach. This includes the authority to investigate terrorism offences, including terrorist financing;
- prevent and repress the illegal trafficking in narcotics and like drugs, as well as smuggling;
- exercise the functions of maritime, airport and border police; and
- be Brazil's national criminal police.

Further, the police authorities must, amongst other things: provide the judicial authorities with all information necessary for prosecutions and trials; and, take all necessary steps as requested by the public prosecutor or judge.

Within the Federal Police the following units are of special interest to this subject.

- The Board of Police Intelligence is responsible for planning, co-ordinating, managing, and guiding intelligence activities whenever they are related to issues under the interest and competence of the Federal Police. This Division is responsible for planning and implementing counter-intelligence and anti-terrorism actions.
- The Board for Combating Organised Crime is responsible for planning, co-ordinating, managing, controlling, and assessing activities to combat illicit traffic of weapons, crimes against property, financial crimes, illicit traffic of drugs and organised crimes.

The police can also start tax crime investigations of their own initiative, without a prior administrative investigation by RFB. At any moment during the criminal investigation they can request the support and co-operation of RFB.

At the State Level a similar structure exists. Each of the 26 States and the Federal District has their own tax administration authority, the State Revenue Secretariat, responsible for the state taxes and for their administrative investigation.

The Civil Police is the state-level police with law enforcement duties that include investigating crimes committed in violation of Brazilian criminal law. The Constitution provides that the role of the Civil Police is to exercise the functions of criminal police, as directed by the Police Commissioners, and to investigate criminal offences, with the exception of the military offences, which do not fall under the competence of the DPF. This means that the Civil Police in the relevant state are mandated to investigate ML only where it is an entirely local matter which is not considered to be “against the political and social order or to the detriment of property, services and interests of Brazil, its government entities and public companies, as well as other offences with interstate or international effects and those requiring a uniform national approach”. Determinations of jurisdiction between the DPF and Civil Police can thus be complicated and are made on a case-by-case basis. In practice, the Civil Police commonly conducts ML investigations in conjunction with their investigation into predicate offences. If it becomes evident that international or inter-state elements are involved, the investigation is passed from the Civil Police to the DPF.

#### ***Other key law enforcement agencies***

Regarding stolen asset recovery, the responsible unit is the Department of Assets Recovery and International Legal Co-operation (DRCI), directly subordinate to the Ministry of Justice and outside the structure of the Federal Police. This is the principal authority for international legal co-operation in Brazil. This department receives and examines requests for mutual legal assistance, including seizure and forfeiture requests. It also receives and analyses requests for assistance grounded on reciprocity, which are transmitted to the Ministry of Foreign Affairs, to be proceeded via diplomatic channels.

#### ***Prosecution authority***

The Federal Prosecution Service (MPF) is responsible for conducting criminal prosecutions and overseeing the activities of the police. It comprises a number of branches: Federal, Labor, Military, and the Public Prosecution Offices in the States and Federal District.

The Public Prosecution Offices in each of Brazil’s States are responsible for conducting criminal prosecutions at the state level. These offices are led by the State Attorney-Generals.

- The Special Action Group Against Organised Crime (GAECO) are special groups created by each state Public Prosecutor’s Office to deal with complex cases involving organised crime, money laundering and financial crimes.
- The members of the GAECO groups gather twice a year in a meeting of the National Group Against Organised Crime (GNCO). The GNCO has a working group to deal specifically with money laundering cases and typologies.

### ***Financial Intelligence Unit***

The Council for Financial Activities Control (COAF) is Brazil's financial intelligence unit. It is also a council that provides a multi-agency forum involving representatives of several government agencies responsible for aspects of Brazil's AML/CFT system. COAF is also responsible for regulating entities in the financial and Designated Non-Financial Businesses and Professions sectors that are not subject to regulation by other governmental institutions.

Within the COAF's structure, the Plenary is responsible for deliberating on issues related specifically to COAF's activities as an FIU and supervisor. The COAF Plenary meets monthly and comprises the President and representatives of several government bodies: Central Bank (Bacen); Securities and Exchange Commission (CVM); Superintendence of Private Insurance (Susep); the General Attorney Office of the National Treasury; Brazilian Agency of Intelligence (Abin); the Department of Federal Police (DPF); the Secretariat of Federal Revenue (RFB); the Ministry of Foreign Affairs (MRE), the Ministry of Justice (MJ); the Office of the Comptroller General (CGU); and the Security and Assistance Ministry (MPS). One of the objectives of structuring COAF as an inter-ministerial, collegiate decision-making body was to facilitate standardisation of the regulations, actions and measures applied to the reporting entities.

### ***Financial regulator***

The Central Bank of Brazil (BACEN) is responsible for:

- supervising financial institutions;
- monitoring the financial system; and
- administering the regular operation of the foreign exchange market.

BACEN monitors all segments of the financial market with the aim of preventing its abuse and ensuring compliance with relevant legislation, including the anti-money laundering law. Another key role of BACEN is to comply and enforce compliance with the relevant laws and the norms promulgated by the National Monetary Council (CMN).

### ***Other relevant agencies***

The Office of the Comptroller General (CGU) is the agency of the Federal Government in charge of assisting the President of the Republic in matters which, within the Executive Branch, are related to defending public assets and enhancing management transparency through internal control activities, public audits, corrective and disciplinary measures, corruption prevention and combat, and coordinating ombudsman's activities. As a central agency, CGU is also in charge of technically supervising all the departments making up the Internal Control System, the Disciplinary System, and the ombudsman's units of the Federal Executive Branch, providing normative guidance as required.

The Securities and Exchange Commission of Brazil (CVM) has the following objectives:

- to assure the proper functioning of the exchange and over-the-counter markets;

- to protect all securities holders against fraudulent issues and illegal actions performed by company managers, controlling shareholders, or mutual fund managers;
- to avoid or inhibit any kind of fraud or manipulation which may give rise to artificial price formation in the securities market;
- to assure public access to all relevant information about the securities traded and the companies which have issued them;
- to ensure that all market participants adopt fair trading practices;
- to stimulate the formation of savings and their investment in securities; and
- to promote the expansion and efficiency of the securities market and the capitalisation of Brazilian publicly held companies.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Reporting obligatory <sup>1</sup>	Direct access <sup>2</sup>	Reporting obligatory <sup>3</sup>	Reporting obligatory <sup>4</sup>
	Customs administration	Direct Access <sup>2</sup>	Reporting obligatory <sup>1</sup>		Reporting obligatory <sup>3</sup>	Reporting obligatory <sup>4</sup>
	Police or public prosecutor	On request <sup>5</sup>	On request <sup>5</sup>	On request <sup>5</sup>		On request <sup>5</sup>
	Financial Intelligence Unit	Reporting permitted <sup>6</sup>	Reporting obligatory <sup>7</sup>	Reporting permitted <sup>6</sup>	Reporting obligatory <sup>7</sup>	
	Financial regulator	On request <sup>8</sup>	Reporting obligatory <sup>9</sup>	On request <sup>8</sup>	Reporting obligatory <sup>9</sup>	Reporting permitted <sup>10</sup>

<sup>1</sup> The RFB must inform the Federal Prosecution Service where it discovers evidence of a possible tax offence, even where this information would be covered by tax secrecy rules. The tax administration may also provide information directly to the police, but may only provide the police with information covered by tax secrecy if a court order has been obtained.

<sup>2</sup> At federal level, tax and customs are part of a single administration and share access to information. Customs officials may also obtain information on request from State tax administrations.

<sup>3</sup> The RFB must inform the Federal Prosecution Service where it discovers evidence of a possible non-tax offence, even where this information would be covered by tax secrecy rules. The police may request information directly from the tax administration, but may only obtain information covered by tax secrecy where a court order is obtained.

- <sup>4</sup> The RFB must inform the FIU where it obtains evidence of possible money laundering, but may only provide information covered by tax secrecy where a court order is obtained.
- <sup>5</sup> Information covered by judicial secrecy may only be provided where a court order is obtained.
- <sup>6</sup> The FIU may send copies of Financial Intelligence Reports (based on its analysis of Suspicious Transaction Reports) to the tax administration where considered relevant. The tax administration may also request access to specific Suspicious Transaction Reports and Currency Transaction Reports.
- <sup>7</sup> The FIU must inform the Federal Prosecution Service where evidence of a possible crime is discovered. It may also send the police (including criminal tax investigators) copies of Financial Intelligence Reports (based on its analysis of Suspicious Transaction Reports) where considered relevant. Access to specific Suspicious Transaction Reports and Currency Transaction Reports is available on request.
- <sup>8</sup> Limited information is available on request. Information covered by bank secrecy rules cannot be shared.
- <sup>9</sup> The central bank must inform the Federal Prosecution Service where evidence of a possible crime is discovered. The police may also request information directly, but information covered by bank secrecy is only available where a court order is obtained.
- <sup>10</sup> BACEN regularly shares information with the FIU and no court order is required.

## Models for enhanced co-operation

### *Co-operation between government agencies*

#### *Regarding policy co-ordination:*

In 2003, the Ministry of Justice identified the fight against money laundering as one of its priority policies. The authorities involved in combating organised crime realised that the effectiveness of the AML national systems depended upon increasing the co-operation and interaction among the several levels of government. As a result, the National Strategy Against Corruption and Money Laundering (ENCCLA) was established and its first meeting was held in December 2003. Also, in 2004, the Integrated Management Cabinet for Prevention and Combat Against Money Laundering (GGI-LD) was created. It is responsible, at the strategic level, for defining public policy and macro-objectives in this area, tracking progress and trying to ensure regular co-ordination among the relevant authorities.

ENCCLA, co-ordinated by the Ministry of Justice, is the primary policy-co-ordination mechanism in Brazil with respect to money laundering, terrorist financing and corruption. The Integrated Management Cabinet for Prevention and Combat against Corruption and Money Laundering (GGI-LD), composed of approximately 60 agencies, meets once a year to identify money laundering and terrorist financing activities and review the effectiveness of the national system in order to determine the main objectives for the ENCCLA for the following year. The document that results from this meeting establishes joint actions for the GGI-LD members. ENCCLA is in charge of delivering this national policy and also seeks to enhance the co-ordination of relevant government institutions and the private sector. The full ENCCLA meets once per year, and a core group of ENCCLA's members meet every three months.

ENCCLA brings together a broad range of government ministries and agencies, including: the General Attorney's Office (AGU); Brazilian Intelligence Agency (ABIN); Brazilian Telecommunications Agency; Federal Judge Association; National Association of the Federal Prosecutors; Association of Magistrates of the State of Rio de Janeiro; National Association of State Attorneys; BACEN; Bank of Brazil; Chamber of Deputies; Republic Presidency's Civil House; Federal Savings Bank; CVM; Federal Justice Council; COAF;

National Council of Justice; National Council of Public Prosecution; National Council of the Attorneys-General of the Federal and State Public Prosecution; National Council of State Chief of Police; CGU; DPF; DRCI; Republic Presidency's Institutional Security Cabinet; National Social Security Office; Ministry of Defense; Ministry of Finance; Ministry of Justice; Ministry of Social Security; MRE; Ministry of Labor; Ministry of Planning, Budget and Management; Public Prosecutor's Office; the National Finance Attorney General; Secretariat of the Federal Revenue of Brazil; Legislative Issues Secretariat; Economic Rights Secretariat; SPC; Secretariat for the Reform of the Judiciary; National Treasury Secretariat; National Anti-drugs Secretariat; National Secretariat of Justice; National Public Security Secretariat; Federal Budget Secretariat; Federal Senate; Superintendence of Private Insurance (SUSEP); Superior Court of Justice; Federal Supreme Court; Federal Court of Audit; Brazilian Public Prosecutor Schools Board of Directors; National Collegiate of Correctors of Justice; Brazilian Federation of Banks Association; Government of the State of Bahia; National Group for the Combat against Organised Criminal Groups; State Public Prosecution of Bahia; State Public Prosecution of São Paulo; State Public Prosecution of Rio de Janeiro; Bahia Secretariat of Public Security; Bahia Court of Justice; and the Electoral Superior Court.

A key ENCCLA priority has been gaining reforms to Brazil's legislative framework. A recently approved law (July 2012) has enlarged the range of predicate offences to money laundering to encompass any offence under Brazilian law.

Through the ENCCLA mechanism, Brazil has developed a coherent AML/CFT strategy, set annual goals and systematically reviewed its progress to enhance implementation of AML/CFT measures. Some noteworthy outcomes of this approach have been:

- (a) the development of centralised electronic information systems, including:
  - (i) the National Financial System Client Reference Registry (CCS) which permits the authorities to confirm in which financial institutions customers maintain accounts (ENCCLA 2005 Goal 2);
  - (ii) the National Registration of Social Entities for non-profit organisations (NPOs) (ENCCLA 2007 Goal 27);
  - (iii) the National Registry of Civil Conviction for Acts of Administrative Improbity (ENCCLA 2008 Goal 21); and
  - (iv) the Databank of Criminal Types (ENCCLA 2009 Action 2).
- (b) the development of a system for collecting information and statistics on the amount, description, estimated value and location of seized assets (ENCCLA 2006 Goal 10);
- (c) the introduction of requirements to identify politically exposed persons (PEPs) (ENCCLA 2006 Goal 1);
- (d) the elaboration of more specific requirements to report suspicious transactions related to terrorist financing (ENCCLA 2007 Goal 3);
- (e) the implementation of a comprehensive AML/CFT training program for law enforcement and prosecutorial authorities, and the judiciary – the National

Program of Qualification and Training for Combating Money Laundering (PNLD) (ENCCLA 2004 Goal 25);

(f) the development of computerised systems to facilitate the analysis of large volumes of financial information—the Laboratories of Technology against Money Laundering (LAB-LD) (ENCCLA 2006 Goal 16); and

(g) the development of a standardised format for requesting and obtaining information resulting from the lifting of bank secrecy (ENCCLA 2008 Goal 4).

#### *Regarding operational co-ordination*

##### Specialised federal courts

The specialised federal courts facilitate the prosecution of money laundering cases by bringing together judges and prosecutors who are specialised in dealing with such cases. This approach has facilitated addressing the more complex legal issues generally associated with cases involving money laundering and other financial crimes, and has resulted in such cases being tried in a more timely manner.

##### COAF

In addition to playing an important role in policy co-ordination, COAF is responsible for co-ordinating information exchange among the agencies that comprise the COAF Plenary and applying administrative sanctions for breaches of the anti-money laundering Law.

##### GAECO, GEDEC and GNCOC

Each of Brazil's 27 states (including the Federal District) has established a specialised unit (Special Action Group Against Organised Crime – GAECO), to facilitate the investigation and prosecution of complex cases involving organised crime, money laundering and other financial crimes. A similar function is performed by the Special Group Against Organised Crime (GEDEC) which was recently created in São Paulo. The GEDEC was created within the Public Prosecutor's Office of the Brazilian Federative State of São Paulo, and supervises the work of the police in the investigation of money laundering cases. The GAECO groups meet biannually at the National Group Against Organised Crime (GNCOC) meeting which has a working group that specifically addresses emerging money laundering cases and typologies.

##### General co-ordination of research and investigation (COPEI) of the Secretariat of Federal Revenue (RFB)

COPEI units are located in Brazil's major cities. Their objective is to co-ordinate money laundering investigations across the country, usually employing task forces comprised of both Federal Police and Prosecutors. To facilitate this work, the RFB and Federal Police have signed a Technical Co-operation Agreement that regulates the co-ordination and execution of integrated actions aimed at preventing and combating illicit criminal, tax and customs schemes. This initiative includes an action plan aimed at leveraging the human, intelligence and technical resources of both agencies, and allowing them to conduct joint operations to combat organised crime, and related money laundering.

### The Fiscal Intelligence System

The Fiscal Intelligence System (SIF) was established in 2009 as a co-operation network created by the individual State Revenue Secretariats. In 2012, the federal tax administration joined the system. The SIF network has proved to be an efficient means for the exchange of information, technical co-operation and execution of integrated actions.

### Joint task forces

Brazilian law enforcement and prosecution agencies have been developing their capacities to work together by exchanging information and forming joint task forces. For example, from 2003 to 2006, the Federal Prosecution Service, Federal Police, RFB and BACEN worked together to investigate and prosecute hundreds of natural persons involved in a major scheme of tax evasion, capital flight and money laundering. Additionally, joint task forces comprised of the Federal Police, and Public Prosecutions (both federal and states) are regularly established. There are also some permanent task forces consisting of members of the following bodies: (i) Federal Police, Public Prosecution, Ministry of Social Security and ABIN; (ii) RFB, Federal Police and Public Prosecution; and (iii) General Comptroller of the Republic, Public Prosecution and Federal Police (specifically tasked to deal combat corruption); and (iv) Department of Assets Recovery and International Legal Cooperation – DRCI. Although Brazil lacks clear legislative rules for establishing and operating such task forces, the legitimacy of these operations has been confirmed by a decision of the superior court.

### Co-ordination between supervisory and enforcement authorities

The supervisory entities (BACEN, CVM, Superintendence of Private Insurance - SUSEP and Secretariat of Complementary Providence - SPC) are authorised to share information with COAF in the absence of a court order. Additionally, the supervisors may share information with each other for supervisory purposes.

### ***Co-operation with business, the tax profession, academic bodies and other organisations***

The National Council for Fighting Piracy and Crimes Against Intellectual Property (CNCP) was created in 2004. The CNCP is a governmental institution of the Ministry of Justice that comprises government bodies and civil entities representing sectors affected by piracy in the country. It is an innovative approach that combines the public and private sectors in the struggle against these crimes.

The CNCP's main directive is to develop and maintain the National Plan for Fighting Piracy, which seeks to contain the offer (through repressive measures) and the demand (with educational and economic measures) of pirated products. The CNCP has on its board, among others, representatives of RFB.

Another initiative is the creation, by RFB, of a post-graduation course in Fiscal Intelligence. The focus is to provide the intelligence agents of RFB with the knowledge and tools necessary to better interact with the criminal prosecution authorities. It is a partnership involving the Finance School of the Ministry of Finance (Esaf) and another university currently being selected. The first course is planned to begin in late 2013 or early 2014, for a duration of 18 months.

## Burkina Faso

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The *Direction Générale des Impôts* (DGI) is responsible for assessing and collecting taxes, and conducting civil tax audits. Where the DGI detects indications of possible tax evasion, it must compile a report based on the information available and send this report to the Public Prosecutor's Office directly or through the Ministry of Finance.

The DGI has specialists responsible for combating tax fraud in Burkina Faso, but has no competence to conduct criminal investigations itself.

#### *Tax crime investigation*

Tax crime investigations are conducted by the police, under the direction and supervision of an examining judge. The DGI provides to the examining judge on request all information it holds relevant to an investigation. Within the police, tax investigations are conducted by the Economic and Financial Police Division.

#### *Customs administration*

The *Direction Générale des Douanes* (DGD) is the national customs administration. Unlike the DGI, the DGD is competent to conduct its own criminal investigations into suspected customs offences.

#### *Police*

The National Police is headed by the Director General of the Ministry of Territorial Administration and Security. It is organised into regional and provincial offices, which oversee policing within a geographic region.

The police unit responsible for co-ordinating investigations into financial crimes including tax offences is the Economic and Financial Police Division within the Directorate of General Police. Investigations by judicial police, including all economic and financial crimes, are conducted under the direction of an examining judge.

#### *Other key law enforcement agencies*

The *Coordination Nationale de Lutte Contre la Fraude* (CNLF) is responsible for the implementation and co-ordination of Burkina Faso's national strategy for combating serious fraud.

The *Brigade Nationale Anti-Fraude de l'Or* (BNAF) is responsible for the fight against fraud in the mining sector and in particular in the gold mining industry.

#### *Prosecution authority*

The public prosecutor receives complaints of possible criminal activity from authorities including the DGI. The public prosecutor may then authorise a criminal investigation under the direction of an examining judge.

### ***Financial Intelligence Unit***

The *Cellule Nationale du Traitement de l'information Financière* (CENTIF) is the national FIU responsible for receiving and analyzing Suspicious Transaction Reports. CENTIF is established within the Ministry of Finance.

### ***Financial regulator***

The main securities regulator in Burkina Faso is the *Conseil Régional de l'Épargne Publique et des Marchés Financiers* (CREPMF). The CREPMF is a regional organisation of the West African Monetary Union (WAMU). It was established on 3 July 1996 by decision of the Council of Ministers of the WAMU, through the establishment of regional financial market which it supervises. CREPMF is responsible for overall mission of protecting savings invested in securities and other investments. The headquarters of CREPMF is in Abidjan in the Ivory Coast. Any transaction involving public offering, except by regional governments, must be approved by the CREPMF through the granting of a visa, which also approves the issue of new tradable financial products as well as the creation of new financial markets.

The Central Bank of West African States (BCEAO) serves as the central bank of the eight West African countries within the WAMU, including Burkina Faso. The Central Bank has the following basic tasks:

- defining and implementing the monetary policy in the WAMU;
- ensuring the stability of the banking and financial system of the WAMU;
- promoting the smooth operation and ensuring the safety and supervision of payment systems in the WAMU;
- implementing policy changes under the conditions adopted by the Council of Ministers; and
- managing the official foreign reserves of the Member States of the WAMU.

The BCEAO may conduct specific tasks or projects that contribute to improving the environment for monetary policy, diversification and strengthening of the financial system of the WAMU and technical and professional skills in the banking and financial sector.

The *Conference Inter-Africaine des Marchés d'Assurances* (CIMA) Treaty, signed on 10 July 1992 in Yaounde, was established to govern the integrated organisation of the Insurance Industry in the signatory countries including Burkina Faso. Established in 1995, the Insurance Code implemented under the Treaty regulates the exercise of the insurance industry in participating countries. At national level, the work of the *Direction des Assurances* includes:

- promotion of the insurance industry;
- safeguarding the interests of policyholders and beneficiaries of insurance and capitalisation contracts;
- protection of savings held by insurance companies; and

- supervision of the insurance market.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		On request	Reporting obligatory	On request	On request <sup>1</sup>
	Customs administration	Direct access	Reporting permitted		Reporting permitted	Reporting permitted
	Police or public prosecutor	Reporting permitted	Reporting permitted	Reporting permitted		Reporting permitted
	Financial Intelligence Unit	On request	On request	On request	On request	
	Financial regulator					

<sup>1</sup> The FIU has a contact based within the DGI, which is used to obtain information it requires.

### Models for enhanced co-operation

#### *Co-operation between government agencies*

There are no provisions to for joint criminal investigations in Burkina Faso. However, there are focal points within authorities to facilitate inter-agency co-operation. For example, the DGI has liaison officials posted within the CNLF and BNAF and there is regular co-operation between these agencies.

## Canada

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Canada Revenue Agency (CRA) has a distinct and separate programme which is responsible for the investigation of suspected cases of tax evasion and fraud (Criminal Investigations Program (CIP)). There are three sources that lead to a CIP investigation; those that are referred from other CRA programmes (e.g. Audit), those that are self-generated and those referred from external partners. The CIP investigation process begins either when a referral is received or when a case has been self-generated.

Another programme area within the tax administration that shares the responsibility for detecting suspected cases of tax evasion and fraud is the Tax Centres that receive the tax returns. Using their systems and programmes, they are able to identify possible cases and are responsible for making referrals to the CIP.

#### *Tax crime investigation*

The CRA's Criminal Investigations Program (CIP) was initially established in 1945 to combat war contract fraud. Today, the mandate of the CIP is to conduct criminal investigations into significant suspected cases of tax evasion and/or fraud with respect to the Acts administered by the CRA, to refer to the Public Prosecution Service of Canada (PPSC) cases where sufficient evidence is obtained to support a conviction of deliberate or willful evasion with respect to these Acts, and pursue public awareness in those cases. The major acts administered are the *Income Tax Act* and the *Excise Tax Act*.

The CIP objectives are to strategically investigate, assess, penalize, and recommend for prosecution significant cases of tax evasion and/or fraud under the *Income Tax Act* and the *Excise Tax Act* (Goods and Services Tax/Harmonised Sales Tax (GST/HST)) and, where appropriate, the *Criminal Code*. The objectives include providing public awareness of court convictions as a means of encouraging specific and voluntary compliance with the Acts administered.

The CIP constitutes a fundamental part of the CRA's enforcement presence and is essential to ensure a level playing field for all Canadians and Canadian businesses. It represents the strongest deterrence programme that the CRA can employ. It differs significantly from all other CRA programmes as it is the criminal enforcement arm of the CRA. The roles and responsibilities of CIP investigators are different from that of CRA auditors and are more similar to those of investigators in law enforcement agencies.

Since the CIP is tasked with gathering evidence of criminal tax offences such evidence is gathered in a manner consistent with the fundamental rights and freedoms guaranteed by the Canadian *Charter of Rights and Freedoms*. This approach ensures, for example, that the taxpayer's rights against self-incrimination and against unreasonable searches and seizures are protected. There is a strict separation of function between the CIP and other programmes within the CRA. For example, CIP investigators do not have the powers of a tax auditor to compel information (either verbal or written) from taxpayers or third parties and this separation helps to ensure that the rights and freedoms of the taxpayer are

respected and their expectations of privacy are not infringed. The CIP also benefits from this clear distinction as fewer cases are jeopardized under Charter infringements.

### ***Customs administration***

The Canada Border Services Agency (CBSA) is an entity separate from the CRA.

In addition to its customs and immigration programme responsibilities, the CBSA is responsible for performing the duties and functions of administering and enforcing Part 2 (the reporting of currency or monetary instruments) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and the *Cross Border Currency and Monetary Instruments Reporting Regulations*, enabled under the PCMLTFA.

All persons in possession of CAD 10 000 or over, or its equivalent in currency or prescribed monetary instruments, are required to report its export from or import into Canada to CBSA officials at Ports of Entry. Where individuals fail to declare their currency, the CBSA may seize forthright the currency or apply a remedial penalty as circumstances permit.

The CBSA does not conduct any criminal investigations relating to or prosecute cross border currency reporting infractions. The CBSA does not conduct criminal investigations into or prosecute money laundering, terrorist financing or tax evasion.

### ***Police***

The Royal Canadian Mounted Police (RCMP) is the Canadian national police service and an agency of the Ministry of Public Safety Canada. The RCMP is a national, federal, provincial and municipal policing body. The RCMP provides a total federal policing service to all Canadians and policing services under contract to the three territories, eight provinces (except Ontario and Quebec), more than 190 municipalities, 184 Aboriginal communities and three international airports.

The RCMP currently has three dedicated programmes that are utilized to combat financial crimes; the recently established Sensitive and International Investigations (which, inter alia combats commercial crimes), Integrated Market Enforcement (IMET) and the Financial Crime Units (that address all forms of financial crimes).

Along with investigating such serious offences as war crimes and corruption, the Sensitive and International Investigations programme is tasked with the reduction, control and prevention of business-related or white-collar crimes. These may include fraud and false pretences, offences against the Government of Canada, the corruption of public officials, the insolvency process, counterfeiting and numerous others.

IMET represents a relatively new Government of Canada initiative focusing on the most serious cases of corporate and market fraud. The teams include highly qualified RCMP financial investigators, lawyers and other investigative experts. The teams are jointly managed by the RCMP and partner departments and agencies.

There is no spontaneous sharing of information from the CRA to the RCMP. However, where the RCMP have agreed to assist the CRA with the enforcement of the Income Tax Act and the Excise Tax Act when the victim of tax evasion/tax fraud is the government of Canada, taxpayer information may be shared so long as it is done to further the CRA

investigation. Furthermore, as governed by a Memorandum of Understanding, the RCMP may share information, both civil and criminal in nature, with the CRA to the extent reasonably necessary to further its law enforcement mandate.

The RCMP has legal authority to spontaneously share information with the CRA based on the common law and as part of its statutory duties as set out in section 18 of the RCMP Act, section 17 of the RCMP Regulations, 1988 and section 6(1) of the Security Offences Act. Furthermore, Chapter 2 of the RCMP's national Operations Manual states "access to items seized under the authority of a search warrant may be provided to an investigator from a Canadian agency or department conducting a legitimate criminal investigation". In the past, this type of spontaneous sharing of information occurred often as a result of a strong liaison function between the CRA and the RCMP.

Finally, while taxpayer information is strictly protected under both the Income Tax Act and the Excise Tax Act, there are statutory exceptions which allow for the sharing of such information to further a RCMP investigation. For example, access to any CRA taxpayer information may be provided when law enforcement obtains a court order under the Criminal Code or when criminal charges are laid pursuant to an Act of Parliament.

In the past, most of the workload of the CRA's Special Enforcement Program (SEP) originated from the RCMP. Until November 2012, the SEP was CRA's programme under which audits were conducted and other civil enforcement actions were undertaken, such as enforcing the filing of outstanding tax returns, on individuals known or suspected of deriving income from illegal activities. One main outcome was to reduce the accumulation of unreported illicit wealth. The SEP was focused on taxpayers who earn or are suspected of earning income from the criminal economy (e.g., money laundering, drugs, and organized crime). The CRA has recently moved this compliance function to the Audit Program. It is anticipated that the RCMP will continue to be the major source of this workload.

Joint working arrangements such as Joint Forces Operation and Combined Forces Special Enforcement Unit ('an integrated, multidisciplinary team that is tasked with investigating major crime in partnership with local, national and international agencies') provides the police with a means to share all information with CRA investigators, where such sharing would not otherwise be possible. For example, information obtained by police wiretap often provides invaluable tax and financial information that would not normally be shared with the CRA investigators if they were not participating in a Joint Forces Operation.

Since tax evasion became a predicate offense to money laundering in July 2010, the RCMP has indicated an interest in participating in a Joint Forces Operation with the CRA where there is a tax crime under investigation. The only two conditions which must be present are that the persons under investigation are known members of an organized crime group and that there is indication of money laundering.

#### ***Other key law enforcement agencies***

The Criminal Intelligence Service Canada (CISC) is a strategically-focused organisation that facilitates the timely production and exchange of criminal information and intelligence within the Canadian law enforcement community. Its focus is not necessarily financial crime but rather organised crime.

The CISC supports the effort to reduce the harm caused by organised crime through the delivery of strategic intelligence products and services and by providing leadership and expertise to its member agencies.

The CISC comprises nearly 400 law enforcement agencies across Canada. Since its inception in 1970, CISC has been a leader in the development of an integrated and intelligence-led approach to tackling organised crime in Canada. Its fundamental purpose is to facilitate the timely production and exchange of criminal intelligence within the Canadian law enforcement community.

The Office of the Superintendent of Financial Institutions (OSFI) is a government agency that was created in 1987 to help promote and maintain public confidence in the Canadian financial system. It does so by regulating the activities of federally regulated deposit-taking institutions, insurance companies, and federally regulated private pension plans.” Most importantly, it is well placed to detect possible situations (namely, weak internal controls) where money laundering and terrorist financing could exist. The OSFI is not responsible for conducting investigations, but would refer cases to the RCMP.

Several provincial governments also have provincial law enforcement and tax administrations to examine financial crimes. For example, until recently the Ontario Ministry of Finance was responsible for investigating provincial retail sales tax crimes. The Quebec government is also responsible for investigating provincial retail sales tax crimes and administers the GST/HST in Quebec on behalf of the CRA.

### ***Prosecution authority***

The Public Prosecution Service of Canada (PPSC) is a federal government organisation, created on December 12, 2006, when the Director of Public Prosecutions Act, Part 3 of the Federal Accountability Act, came into force.

The PPSC fulfils the responsibilities of the Attorney General of Canada in the discharge of his/her criminal law mandate by prosecuting criminal offences under federal jurisdiction and by contributing to strengthening the criminal justice system. In Canada, prosecutors do not have the authority to direct investigations.

The PPSC is responsible for prosecuting offences under more than 50 federal statutes and for providing prosecution-related legal advice to law enforcement agencies. Cases prosecuted by the PPSC include those involving drugs, organised crime, terrorism, tax law, money laundering and proceeds of crime, crimes against humanity and war crimes, Criminal Code offences in the territories, and a large number of federal regulatory offences.

There is no special tax crime prosecutor office. However, specialised PPSC prosecutors may provide advice at the investigative stage, conduct prosecutions throughout Canada, and provide training to investigators.

The CRA and the PPSC are joint participants in the criminal process. The CRA conducts investigations into suspected tax evasion and fraud and the PPSC prosecutes the case on behalf of the CRA.

### *Financial Intelligence Unit*

The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), Canada's financial intelligence unit, was created in 2000. It is an independent agency, reporting to the Minister of Finance, who is accountable to Parliament for its activities. It was established and operates within the ambit of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and its Regulations.

FINTRAC's mandate is to facilitate the detection, prevention and deterrence of money laundering, terrorist activity financing and other threats to the security of Canada. FINTRAC fulfils its mandate through the following activities:

- gathering and analyzing information on suspect financial activities;
- ensuring those subject to the PCMLTFA comply with reporting, record keeping and other obligations;
- making case disclosures of financial intelligence to the appropriate law enforcement agency, CSIS, or other agencies designated by legislation in support of investigations and prosecutions;
- enhancing public awareness and understanding of matters related to money laundering; and
- ensuring that personal information under its control is protected from unauthorised disclosure.

Under the PCMLTFA, FINTRAC can only, and shall, provide the CRA with suspected cases of money laundering that it also suspects contains a tax evasion component.

FINTRAC was established as a separate agency outside the police as, under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, banks and other financial institutions are required to make reports to the FIU. However, in most cases and in accordance with the *Charter*, a police service can only access information from these entities where it has a judicial warrant. Therefore, it was considered that the best way to manage this potential conflict was by maintaining the separation between the police and FIU.

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	On request <sup>2</sup>	Reporting permitted <sup>3</sup>	Reporting permitted <sup>4</sup>
	Customs administration	On request <sup>2</sup>	Reporting permitted <sup>5</sup>		Reporting permitted <sup>6</sup>	Reporting obligatory <sup>7</sup>
	Police or public prosecutor	Reporting permitted <sup>8</sup>	Reporting permitted	Reporting permitted <sup>9</sup>		Reporting permitted <sup>10</sup>
	Financial Intelligence Unit	Reporting permitted <sup>11</sup>	Reporting permitted <sup>11</sup>	Reporting permitted <sup>11</sup>	Reporting permitted <sup>12</sup>	
	Financial regulator	On request	On request	No sharing	On request	Reporting permitted

<sup>1</sup> Tax crime investigators within the CRA have direct access to information held by the tax administration. Under tax legislation, the CRA also has the ability to share information with provincial tax administrations for specific purposes.

The CRA's compliance areas of Audit and Criminal Investigations have historically had a close and important relationship in regards to tax compliance. The Audit areas form by far the largest source of referrals to the CIP. Where warranted, audits lead to investigations. However, it is clear that auditors, who are mandated to determine civil tax liability and who have very strong powers to compel information from taxpayers and third parties, do not perform investigations or investigative steps to determine criminal or penal liability.

The CIP is also physically separated from other areas of the CRA. The main reason for this is to ensure the continuity of possession of seized evidence. Although CIP is physically located in the same buildings, the areas are only accessible by investigators and include vaults for seized evidence.

In terms of confidentiality, all CRA employees operate under a 'need to know' basis. Taxpayer information is only shared with other areas of the CRA if it is required in the furtherance of their actions, including an investigation. At the earlier stages of an investigation, very limited information is shared with other areas in order to protect the evidence. Given the fact that the CIP uses search warrants to secure evidence, the element of surprise is of great importance.

<sup>2</sup> The CRA and the CBSA may receive information from each other on request for the effective administration and enforcement of laws that provide for the imposition of a tax or a duty.

<sup>3</sup> If the conditions are met, the RCMP may obtain taxpayer information from the CRA when they are working together in Joint Forces Operations. The CRA may also provide information to police and law enforcement agencies where a court order has been obtained, criminal charges are laid or it has concerns related to threats against Canada's security. There is currently no obligation on the CRA to report suspicions of serious non-tax crime to the competent law enforcement agencies. The CRA may only spontaneously report taxpayer information relating to imminent danger of death or physical injury to any individual or where there are reasonable grounds to suspect that there is a threat to national security, including terrorism financing.

<sup>4</sup> The CRA may provide FINTRAC with certain taxpayer information where it has concerns related to threats against Canada's security. Furthermore, it is the policy of the Criminal Investigations Program to consider using a Voluntary Information Record (VIR) at the early stages of all CRA criminal investigation cases. A VIR, which includes taxpayer information, should be prepared in all cases where an investigator identifies transactions that a reporting entity would be required to report to FINTRAC. The existence of such a transaction would be an indication that FINTRAC would be in possession of information concerning the target of the investigation. In addition, an investigator may make a VIR if there are indications that a reporting entity has reported a suspicious transaction(s). Sharing such taxpayer information is permitted if it is reasonably regarded as necessary for the administration or enforcement of the applicable Act. Where the FIU has provided information to the CRA about possible tax offences, the CRA also provides feedback on any results.

- <sup>5</sup> The CBSA may provide tax crime investigators with Cross Border Currency Reporting information, or enforcement information, pursuant to judicial authorisation where the information is necessary for criminal proceedings as prosecuted by indictment for tax offences. Information may also be provided on request.
- <sup>6</sup> The CBSA may provide information to the RCMP where it has reasonable grounds to suspect that the information would be relevant to investigating money laundering or terrorist financing offences. Where a court order has been obtained, the customs administration may also provide information for the purpose of prosecuting under criminal proceedings that have already commenced.
- <sup>7</sup> The Canada Border Services Agency is required to provide Cross Border Currency Reporting and enforcement information to FINTRAC.
- <sup>8</sup> The RCMP and the CRA have a formal working relationship with respect to audits and cases related to recovering the proceeds of crime. The RCMP has, in the past, shared such information with the CRA's Special Enforcement Program. The information continues to be shared with the CIP, which now transfers the information to the CRA's Audit Program.
- <sup>9</sup> The CBSA may only use police information for the purposes of justifying the remedial seizure of non-declared currency (currency release upon payment of a monetary penalty). Customs may seize as forfeit any declared currency if there are reasonable grounds to suspect the currency is the proceeds of crime or funds for use in the financing of terrorist activities.
- <sup>10</sup> The RCMP may refer information to FINTRAC to prompt investigation specific disclosures.
- <sup>11</sup> Where FINTRAC has reasonable grounds to suspect the information would be relevant to investigating or prosecuting a money laundering offence or terrorist financing offence, it may then provide information to the CRA where it has reasonable grounds to suspect that the information is relevant to an offence of evading or attempting to evade taxes or duties.
- <sup>12</sup> Disclosure will be made where FINTRAC has reasonable grounds to suspect the information would be relevant to investigating or prosecuting a money laundering offence or terrorist financing offence.

## Models for enhanced co-operation

### *Co-operation between government agencies*

While it is not possible, under normal circumstances, for the police to share all information with the CRA, certain joint working arrangements (described under Police) provide the legal means to do so.

The Partnerships and Workload Development Section is part of the CRA's Criminal Investigations Directorate (CID) and on a regular basis it receives information and strategic intelligence products from other agencies, including the FIU, the police, CBSA and the CISC. Regular face to face meetings to discuss strategic topics are also held between the Partnerships and Workload Development Section and other agencies.

### *Co-operation with business, the tax profession, academic bodies and other organisations*

The CRA's CIP recently worked in concert with FINTRAC, to directly provide members of the banking sector with an overview of the relationship between tax evasion and money laundering. Together, the CIP and FINTRAC provided an overview of the two bodies and their roles in relation to tax evasion and money laundering, the 2010 legislative changes, which made tax evasion a designated offence to money laundering what that means from a reporting entity and suspicious transaction reports' point of view, and various tax evasion indicators related to money laundering.

The CIP also accepts various opportunities to present to private bodies including tax professionals, academic bodies and private business. At these presentations, CIP officials discuss such issues as its mandate, tax evasion and fraud, the referral process including the role of the Informant Leads Program and finally the roles of the Voluntary Disclosures Program. During these presentations, along with formal Q&A sessions, CIP representatives are happy to meet one-on-one with participants to discuss specific questions.

## Chile

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Chilean *Servicio de Impuestos Internos* (SII) is a government agency that reports directly to the Ministry of Finance.

The role of the SII is the exercise of the powers conferred by law, the Tax Code and in particular the implementation and enforcement of the tax provisions

The SII performs administrative investigations, if it suspects a tax offence has been committed. The Tax Administration Commissioner initiates a criminal complaint, and the public prosecutor, directs a criminal investigation and prosecution of the crime before the Chilean courts. The Public Prosecutor's Office is the only entity entitled to direct a criminal investigation in Chile.

#### *Tax crime investigation*

According to the Chilean Constitution, the Ministry of Public Prosecution is in charge of the exercise of public prosecution and the management of the investigation of events that constitute crimes. So, this is the only body empowered to conduct criminal investigations.

The Chilean Tax Code states that in case of detecting an infringement punishable by fines and imprisonment, the Tax Crime Department within the SII is responsible for the collection of 'background data', which will allow the Commissioner to decide whether to file a criminal complaint.

The SII is therefore empowered to gather background information showing the materiality of the facts that may constitute a tax crime, the possible participation of the people involved in its implementation, and the amount of the tax involved, if any.

The Tax Crime Department is a part of the SII Legal Directorate and its main functions are:

- to support, coordinate, supervise and develop guidelines regarding detection, background data collection and care of documentation collected in cases of tax irregularities punishable with imprisonment, which are carried out in the Regional Tax Offices, the Large Taxpayers Office and other offices of the SII, and to propose strategies for specific cases;
- to collect background data on suspected tax crimes;
- to collaborate in the generation of plans and programmes for the prevention, detection and control of activities indicative of tax crimes, including co-operation with corresponding internal units and external agencies; and
- to provide information on cases as requested by judges and public prosecutors.

***Customs administration***

The role of Customs is to facilitate and streamline import and export operations through the simplification of custom procedures and formalities. Likewise, it must both safeguard government interests by enforcing such operations on a timely and accurate basis, and collect associated duties and taxes. Moreover, the Customs Service has to produce foreign trade statistics for the Government.

***Police***

The role of the police is to enforce the law, and ensure public order and public safety through criminal investigation units in accordance with the instructions given by the Public Prosecutor's Office. The police also have responsibility for criminal intelligence, immigration control, international co-operation in combating crime, and to detect and prevent criminal activities.

***Other key law enforcement agencies***

The Under-Secretariat of Crime Prevention, under the supervision of the Ministry of the Interior, establishes co-ordination bodies at different territorial levels (local, regional, national), to ensure compliance with commitments under the National Security Strategy.

***Prosecution authority***

The Public Prosecutor's Office, is the only authority entitled by law to direct criminal investigations. A public prosecutor directs tax crime investigations, after receiving the information and criminal complaint from the SII.

***Financial Intelligence Unit***

The Chilean FIU is established as independent agency under Ministry of Finance, and its role is to analyse Suspicious Transaction Reports and forward the information relating to possible criminal offences to the public prosecutor's office. The FIU also develops national strategies to combat terrorist financing, drug trafficking, bribery and other predicate offences for money laundering.

***Financial regulator***

The Central Bank has a number of functions covering the following areas:

- the issue of bank notes and coins;
- the regulation of the amount of money in circulation;
- the regulation of the financial system and the capital markets;
- financial system stability;
- foreign currency operations; and
- generating statistical information.

The Central Bank provides information on criminal tax violations where there is a direct link to its role as supervisor.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	Reporting permitted <sup>2</sup>	Direct access <sup>3</sup>	Reporting permitted <sup>4</sup>
	Customs administration	Reporting permitted <sup>5</sup>	Reporting obligatory <sup>6</sup>		Reporting obligatory <sup>7</sup>	Reporting obligatory <sup>8</sup>
	Police or public prosecutor	Reporting obligatory	Reporting obligatory	Reporting permitted <sup>9</sup>		No sharing <sup>10</sup>
	Financial Intelligence Unit	No sharing <sup>11</sup>	Reporting obligatory	No sharing <sup>11</sup>	Reporting obligatory	
	Financial regulator	On request	On request	No sharing	On request	Reporting obligatory

Under Chilean law, all state authorities should comply with their commitments in a co-ordinated fashion, to assist each other, improve efficiency and avoid duplication.

<sup>1</sup> The SII has created an electronic platform accessed through a secure website, to which the public prosecutor's office has direct access. This provides instant access to tax information such as tax returns, while other information may be obtained from tax auditors on request.

<sup>2</sup> General information held by the SII and not covered by tax secrecy provisions may be made available to customs. The SII may also provide information covered by tax secrecy to the customs administration on request, to the extent it is used in customs audits. Information on VAT refunds on exports is shared in order to combat refund frauds.

<sup>3</sup> The public prosecutor has direct access to information held by the SII on a secure website, including tax information such as tax returns. The Chilean tax administration cannot share information covered by tax secrecy directly with the police, but may share non-tax information on request. There is a general provision that imposes on all public officials the obligation to report suspicions of crimes to report to the Public Prosecutor any crimes or irregular activities that comes to their knowledge in the exercise of their position. This must be done in the first 24 hours after they become suspicious of possible criminal activity. This obligation applies to individual officials and not to the tax authority as an agency.

<sup>4</sup> General information held by the SII is available on an electronic platform placed on a secure website. The tax administration may only share tax information with the FIU where consent has been obtained from a judge.

<sup>5</sup> The customs administration may provide information the Director of the SII on request, for the purpose of use in tax audits. Customs may also enter into agreements with other authorities, including the tax administration, to send information electronically to facilitate compliance with audits and other operations.

<sup>6</sup> All state authorities, including the customs administration, must provide as quickly as possible all information required by the Ministry of Public Prosecution and criminal courts. Specifically, under the Electronic Information Exchange Agreement, entered into between the Ministry of Public Prosecution and Customs, the customs administration is obliged to transmit electronically information about commercial operations relevant to active investigations.

<sup>7</sup> The customs administration must provide as quickly as possible all information required by the Ministry of Public Prosecution and criminal courts. Customs will also provide information to police on request.

<sup>8</sup> Customs receives reports of all movements of cash and bearer negotiable instruments exceeding USD 10 000 to and from Chile. This information is then provided by the customs administration to the FIU.

<sup>9</sup> There is no obligation on the Public Prosecutor or police to share information with the customs administration. However, where an investigation is conducted into suspected customs offences, the Ministry of Public Prosecution may provide information to enable Customs to pursue a criminal or civil action.

<sup>10</sup> The Police do not share information with FIU. However, a police officer posted within the FIU has the ability to share information spontaneously regarding police cases and migration issues.

<sup>11</sup> The FIU may not share operational information with any authority other than the Public Prosecutor. Therefore information may not be provided to the tax administration or customs administration.

## Models for enhanced co-operation

### *Co-operation between government agencies*

The SII provides support and co-operates with public prosecutors and police conducting a range of financial offences. The police and SII co-operate to share methodological experience in the detection and analysis of criminal cases, while the Ministry of Public Prosecutions and the SII work together in joint operations. The SII prepares documents summarising relevant investigative processes for use by public prosecutors leading investigations. The SII also runs capacity building workshops for public prosecutors and police to give law enforcement officials tools to better understand the nature of tax crimes.

The Chilean FIU has prepared E-learning classes to improve the awareness of tax officials in the detection of possible money laundering. In 2013, an entire tax crime department was trained using these facilities.

### *Co-operation with business, the tax profession, academic bodies and other organisations*

In 2010, the SII and the Chilean Association of Accountants signed an agreement in order to offer accountants regional workshops covering tax matters.

The SII has also participated in specific programmes including public and private institutions to target specific areas of crime, including the theft of copper electric cable, the smuggling of tobacco and a ‘Neighbourhood in Peace’ programme to address crime across the country.

## Colombia

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

By Decree 2117 of 1992 the Special Administrative Unit of the National Tax and Customs Administration (DIAN) was created, following the merger of the Directorate for National Taxes and the Directorate for National Customs. DIAN is attached to the Ministry of Treasury and Public Credit and is responsible for guaranteeing the fiscal security of the State and the protection of the economic public order. Among its functions are the administration of taxes, customs rights and other foreign trade taxes, monitoring of compliance with national regulations related to taxes, customs and foreign exchange, and also to prevent, investigate and penalize the violation of such regulations.

In its structure, the DIAN has a General Directorate and seven other Directorates. The Directorate of National taxes administers income and related taxes, sales taxes, national stamp duty and other national taxes which are not administered by any other State entity, as well as the assessment and collection of customs duties, foreign exchange taxes and foreign exchange penalties.

It is important to state that in Colombia fiscal avoidance is not categorised as a crime. Nevertheless, in tax matters the default by the withholding agent is penalised as a crime which is investigated by the Attorney General's Office. Besides this, where tax officials detect unusual or suspicious transactions which give rise to suspicions of money laundering, DIAN will refer these suspicions to the Colombian FIU.

#### *Tax crime investigation*

DIAN conducts investigations for administrative violations. Where, in the course of such an investigation, possible criminal activity is detected, the tax administration is required to report this to the Attorney-General's Office for investigation.

#### *Customs administration*

DIAN is responsible for the administration of customs duties and other taxes levied on foreign exchange. DIAN also directs and administers customs controls, including the apprehension, seizure or declaration of abandonment of merchandise in favour of the State, monitors compliance with the exchange regime on the import and export of goods and conducts administrative investigations into possible violations of customs and exchange regulations, imposing penalties for non-compliance.

In customs matters, crimes concerning contraband and export fraud are typified as criminal offences which, once detected by DIAN, are reported to the Attorney General's Office.

DIAN is supported by the Fiscal and Customs Police Force (POLFA) in exercising controls over merchandise entering the country and over individuals carrying large amounts of cash into or out of Colombia.

## ***Police***

Colombia has a permanent, armed, civil National Police. The mission of the National Police is to contribute to public security and peace through the prevention, detection and investigation of crimes and misdemeanors, which allows individuals to be able to exercise their public rights and liberties.

The National Police is a body under the National Defense Ministry. It has a General Directorate, a General Sub-Directorate and eight Operational Directorates: Citizen Security, *Carabinieri* and rural security, Criminal Investigation and Interpol, Intelligence, Drug Enforcement, Protection and Special Services, Anti-kidnapping and Anti-Extortion, Transit and Transportation.

## ***Other key law enforcement agencies***

The National Bureau of Intelligence is an administrative department conceived as a civil organism which performs intelligence and counter intelligence activities, reporting directly to the President of the Republic. The aim of these activities is to:

- protect the rights and liberties of citizens and people residing in Colombia; and
- detect and address internal and external threats against the enforcement of the democratic regime, the constitutional and legal order, the national security and defense.

The National Bureau of Intelligence comprises a General Directorate, together with three specialist Directorates. These are:

- the Intelligence and Counter-Intelligence Directorate;
- the Administrative Directorate; and
- the Data Protection and Information Directorate.

## ***Prosecution authority***

The Attorney General's Office is responsible for commencing criminal proceedings, conducting investigations and prosecuting all crimes. The work of the Attorney General's Office is aligned with the work of the judicial branch, though the judges of the Republic are responsible for passing judgments and imposing penalties on criminals.

The Head of the Attorney General's Office is the Attorney General of the Republic. Below this, there are three national Directorates.

- The National Prosecution Directorate, which comprises nine units which operate throughout the country.
- The National Technical Investigations Directorate, which comprises divisions responsible for investigations and criminal matters.
- The National Administration and Financial Directorate, which comprises divisions responsible for administration and financial matters.

In addition, the Attorney General's Office has a number of Special Task Groups and ascribed offices, which report directly to the Attorney General.

### ***Financial Intelligence Unit***

The Colombian FIU is the Unit for Intelligence and Financial Analysis (UIAF) UIAF is a special administrative unit under the Ministry of Treasury and Public Credit, which has the objective to prevent and detect money laundering operations in different economic sectors.

UIAF was created by Law 526 of 1999 with the objective to detect, prevent and combat money laundering in all economic activities, UIAF receives and analyses information on suspected money laundering from financial institutions and other bodies under anti-money laundering legislation, as well as from other government authorities, UIAF then shares the results of its analyses with the relevant law enforcement agency or competent authority.

Within its structure, UIAF has a General Directorate; two Offices (Legal Advisory and Internal Control) and four Sub-Directorates (Financial Analysis, Strategic Analysis, Information Systems, and Administrative and Financial). Its strategic objectives are to strengthen the systems and technologies for the fight against money launderings and terrorism financing; and develop mechanisms for the prevention and detection of crime.

### ***Financial regulator***

The Colombian Financia Superintendency resulted from the merger of the Banking Superintendency and the Stock Market Superintendency under article 1 of Decree 4327 of 2005. It is a technical organism under the Ministry of Treasury and Public Credit, has its own legal personality, administrative and financial autonomy and its own equity. It has as its objective, to supervise the Colombian financial system in order to preserve stability, security and confidence, as well as to promote, organize and develop the Colombian stock market and to protect investors, savers and the insured.

Through its eleven Delegates it investigates and penalizes administrative violations derived from the operations of the entities it controls. When it detects possible illegal financial acts, it reports these to the Attorney General's Office for investigation.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		On request	Direct access	On request	Reporting obligatory
	Customs administration	Direct access	On request		On request	Reporting obligatory
	Police or public prosecutor	No sharing	Direct access	No sharing		Reporting obligatory
	Financial Intelligence Unit	No sharing	Reporting obligatory	No sharing	Reporting obligatory	
	Financial regulator	Reporting permitted	On request	Reporting permitted	On request	Reporting obligatory

## Models for enhanced co-operation

### *Co-operation between government agencies*

Recently, DIAN, UIAF, the Attorney General's Office and the National Intelligence Bureau, signed an 'Inter-Administrative Association Agreement'. The aim of this Agreement is to enable these agencies and bodies to work more closely in the performance of their activities, and to encourage co-operation, information exchange, training, mutual technical assistance and support in the investigation of crimes such as tax evasion, smuggling, crimes against the financial system and offences against economic and social order. Currently, joint working sessions are being held to increase awareness of each agency's functions, the information they hold and the legal barriers that each agency faces.

### *Technologies and other processes used to enhance the effectiveness of co-operation*

Processes used to improve the efficiency of sharing information and reinforce co-operation between agencies include the following.

- The development of tools to identify and formalize processes for co-operation between government authorities, including models, procedures and protocols, to improve the sharing of information.
- The integration of investigation teams and centres of joint intelligence between agencies.

- The establishment of joint work sessions to enable officials to better understand the functions pertaining to each agency, the information each has and the legal limitations each one has with respect to co-operation and sharing information.

## Costa Rica

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

According to Costa Rica's legal framework regarding tax crime investigation, there are two State agencies involved: (i) the tax administration and (ii) the Prosecutor's Office.

The tax administration in the course of its activities may uncover indicators of possible tax crimes committed against the Treasury. In these circumstances, the tax administration must refer such cases to the Prosecutor's Office, which will analyze and evaluate the evidence that has been gathered to determine whether the case should be investigated and prosecuted as a possible tax crime.

In administering taxes, the tax administration has the authority to request any information required to determine whether the taxpayer is complying with its tax obligations. If as a result of such enquiries the tax administration discovers elements that suggest a tax crime may have been committed, articles 90 and 92 of the Costa Rican General Tax Code require the tax administration to stop the administrative inquiry and transfer the case to the criminal courts. For this purposes, the elements discovered that may be considered to constitute a tax crime against the Treasury must be detailed in a criminal complaint.

The Prosecutor's Office will assess the criminal complaint filed by the tax administration. It may then instruct the tax administration to extend the administrative examination in order to determine whether or not to take the case to the criminal courts. During criminal proceedings, the Prosecutor's Office may request technical support from the tax inspector who conducted the administrative inquiry.

#### *Tax crime investigation*

Tax crime investigations are handled by the Prosecutor's Office, which is the central prosecution authority in charge of directing and conducting criminal investigations. The Prosecutor's Office is part of the Judicial Authority and it is divided into several offices, according to region or specialisation. With respect to tax crimes, the relevant office is the *Fiscalía Adjunta de Delitos Económicos, Tributarios y Legitimación de Capitales* (the Tax Crimes Office). This is the only specialised office within the Prosecutor's Office that handles investigation of tax and customs crimes, as well as economic crimes and corruption.

In addition to the work performed by the Tax Crimes Office, there are other regional offices that investigate and analyze tax and customs crimes complaints. These cases must be studied by the specialised Tax Crimes Office before closing a case or taking it to trial.

Among others, the Tax Crimes Office performs the following functions.

- The investigation of tax crimes according to criminal complaints filed by the Ministry of Finance or any of its departments and, depending on the case, participation during the intermediary stages of the criminal process, during the trial and at appeals.

- Coordination with the Ministry of Finance to obtain technical input to criminal investigations improve their effectiveness.
- Analyze the facts and the evidence to determine if the specific case constitutes a tax crime according to national criminal legislation. The Tax Crimes Office develops an investigation plan to establish the proceedings for obtaining all the required evidence to support the case.
- Respond to inquiries from prosecutors from other specialised and regional offices.

The Tax Crimes Office not only works together with the Ministry of Finance, but also coordinates its work with the *Organismo de Investigación Judicial* (the Judicial Police), which is an agency in charge of the police investigation of crimes handled by the Prosecutor's Office.

### ***Customs administration***

In Costa Rica, there is a dual system for prevention, detection, investigation, and prosecution of fiscal evasion including customs crime. The key agencies for these purposes are the Judicial Power and the Ministry of Finance. Concerning the Ministry of Finance, it acts mainly through the General Directorate of Customs and the Fiscal Control Police.

The General Directorate of Customs is the highest national authority concerning customs matters. The General Directorate is composed of a General Director and a Deputy General Director, who work together with professional and auxiliary staff in order to comply with its tasks. The General Directorate may have additional advisors as considered appropriate. The administration and control of customs at a regional level is conducted through local Customs Offices.

The Ministry of Finance does not directly participate in the prosecution of financial or tax crimes, which is exclusively the responsibility of the Judicial Authority acting through the Prosecutor's Office and the Criminal Courts. Nevertheless, it should be clear that, as the competent administrative agency, the Ministry of Finance must examine every issue related to possible tax evasion as part of its functions, but this examination must cease once it considers that a tax crime was committed.

According to Costa Rican Customs Law, 'tax fraud' takes place when the amount of the taxes that were not paid exceeds USD 50 000. Additionally, 'smuggling' occurs when the facts are in accordance with the requirements found in the criminal law and the customs value of the goods exceeds USD 50 000. Therefore, where a violation does not exceed USD 50 000, it does not constitute a crime and will not be referred to the Prosecutor's Office. Instead, the customs administration will consider the case as an administrative tax infringement and impose an administrative fine. These fines may be appealed before the National Customs Court, which is an administrative structure under the Ministry of Finance.

### ***Police***

There are several police bodies. The '*Organismo de Investigación Judicial*' or Judicial Police is part of the Judicial Authority and is the auxiliary agency for the Prosecutor's Office and criminal courts. The Judicial Police is empowered to act throughout the country in the investigation of crimes. The Judicial Police is also responsible for the identification

and apprehension of suspects, it receives criminal complaints, takes responsibility for crime scenes, gathers and holds evidence according to chain of custody requirements, and produces technical evidence and reports.

With respect to its structure, the Judicial Police has a General Directorate, an Advisory Committee, and Departments responsible for criminal investigations, forensic medicine and forensic science.

### ***Other key law enforcement agencies***

The Fiscal Control Police (FCP) is the police body created to protect the State's fiscal interests and it is part of the Costa Rican Ministry of Finance. The FCP is a Directorate that reports to the Vice-Minister of Income and comprises a Director, Deputy Director, and four Divisions. These are:

- The Intelligence Division, formed by the Department of Analysis and the Department of Collection and Treatment of Information;
- The Operations Division, formed by the Department of Investigation, Department of Checkpoints and Department of Inspections;
- The Technical and Legal Division, formed by the Department of Legal Advice and Department of Technical Advice;
- and the Logistics and Planning Division.

The role of the FCP is the protection of the State's fiscal interests. To do so, it is responsible for the prevention and investigation of possible customs and tax offenses, and crimes against the Treasury, as an auxiliary agency for the respective judicial agencies: in addition to providing support to the Taxation, Finance, and Customs Directorates in their control and monitoring activities. To which, in addition to the powers granted by the General Police Act, the FCP will have the same powers, duties and prohibitions accorded to officials of the Tax Administration of the Ministry of Finance.”

Under the General Police Act, the activities of the FCP are to:

- ensure compliance with tax laws;
- assist the Ministry of Finance in controlling tax evasion;
- conduct inspections of commercial establishments;
- perform investigations with the court's approval, and in compliance with legal requirements; and
- enforce the the Constitution, international treaties, domestic laws and regulations.

### ***Prosecution authority***

The Prosecutor's Office is part of the Judicial Authority. In general terms, the Prosecutor's Office petition the criminal courts to apply the law, through the investigation and prosecution of crimes.

According to the Prosecutor’s Office Act, the Prosecutor’s Office is formed by the following bodies:

- Attorney General;
- Deputy Prosecutors;
- Prosecutors; and
- Assistant Prosecutors.

The Prosecutor’s Office is organised in several offices, with responsibility for a region or specialist area.

Tax offences are handled by the ‘*Fiscalía Adjunta de Delitos Económicos, Corrupción y Tributarios*’ or Tax Crimes Office. In case the tax crime was committed in a part of the country not covered by this office, the regional prosecutors will investigate and analyze the evidence to decide whether or not the case should be taken to trial. The decision of the regional prosecutor will then be reviewed by the Tax Crimes Office.

### ***Financial Intelligence Unit***

The Costa Rican Financial Intelligence Unit (FIU) is an agency of the Institute on Drugs, which sits directly under the Office of the President.

The FIU requests, collects, and analyzes information and Suspicious Transaction Reports submitted by supervisory authorities and agencies such as: General Superintendence of Financial Entities (GSFE), General Superintendence of Securities (GSS), General Superintendence of Pensions (GSP), and General Superintendence of Insurances (GSI). Furthermore, every entity or company that forms part of a financial group monitored by any of these agencies must comply with the obligations set forth in the Costa Rican Law on Narcotic Drugs, Psychotropic Substances, Unauthorised Drugs, Related Activities, Money Laundering and Terrorist Financing. This law applies to all individuals and entities involved in:

- regular or substantial money cashing or transfers through instruments such as cheques, bank drafts, bills of exchange or similar;
- regular or substantial issuance, sale, redemption or transfer of traveller’s checks or Money Orders;
- substantial regular transfers of funds, carried out by any means;
- the administration of trusts or any type of resource management, carried out by individuals or legal entities that are not financial intermediaries; or
- remittances of money from one country to another.

Individuals or entities carrying out any of these types of activities must be authorised and monitored by a supervisory agency. Individuals or entities conducting activities other than those above must inform the FIU and the Costa Rican Institute on Drugs about commercial operations valued over USD 10 000 or its equivalent in Costa Rican colones.

The objective of these regulations is to centralize information for the purposes of detecting and investigating money laundering and terrorist financing activities. In order to investigate these activities the FIU may request relevant information from every State agency, including the Ministry of Finance, Central Bank, Public Registry and any other public agency in charge of monitoring and control of regulated businesses.

Information collected by the FIU is strictly confidential and for exclusive use of the investigations handled by this Unit. It may be shared the Prosecutor's Office, judges, national or international police bodies, financial analysis units, and competent administrative and judicial authorities from other countries.

### *Financial regulator*

The Costa Rican financial regulator is the General Superintendence of Financial Entities (GSFE). The GSFE's main objective is to ensure stability, robustness and an efficient functioning of the financial system in accordance to standards, guidelines and resolutions issued by the institution itself. The GSFE does not have any specific responsibilities with respect to the detection or investigation of tax crime or other financial crimes.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Reporting permitted <sup>1</sup>	Reporting obligatory	Reporting permitted <sup>2</sup>	Reporting permitted
	Customs administration	Reporting permitted	Direct access		Direct access	On request
	Police or public prosecutor	n/a <sup>3</sup>	n/a <sup>3</sup>	n/a <sup>3</sup>		n/a <sup>3</sup>
	Financial Intelligence Unit	On request	Direct access <sup>4</sup>	On request	Direct access	
	Financial regulator	n/a <sup>3</sup>	n/a <sup>3</sup>	n/a <sup>3</sup>	n/a <sup>3</sup>	n/a <sup>3</sup>

<sup>1</sup> The tax administration may only provide taxpayer information where criminal proceedings are already in progress.

<sup>2</sup> The tax administration may provide taxpayer information to the Prosecutor's Office where criminal proceedings are already in place. The tax administration cannot provide taxpayer information directly to the police, but may provide general information on request.

<sup>3</sup> This information was not available at the time of the Report.

<sup>4</sup> The Prosecutor's Office has restricted access to Suspicious Transaction Reports when investigating tax crimes. Where this information is considered fundamental to a case, a court order may be granted.

## Models for enhanced co-operation

### *Co-operation between government agencies*

The Inter-Agency Agreement between UNODC, the Costa Rican Ministry of Finance, the Ministry of Public Security, and the Institute on Drugs for the implementation of the Containers' Control Program in Caldera Port and Limón Maritime Port Complex", signed on 21 August 2009, in an important framework in the fight against the smuggling of drugs and explosives, and possible terrorist activity. This is a major multi-agency initiative involving the National Coastguard, Customs, the Fiscal Control Police, the Directorate of National Intelligence and Security, the Drug Control Police and the Institute on Drugs. The objectives of this agreement are to:

- systematically fight against organised crime, smuggling, and tax evasion associated with international trade;
- provide an adequate security environment to the country's productive operations; and
- offer competitive and safe conditions for entry and exit of merchandise through Limón and Caldera ports.

As a result of this programme, in 2012 77 alerts were handled and 5.063 containers were inspected, from which 1 211 kg of drug were confiscated out of nine containers and more than 201.405 goods that were being illegally smuggled into the country were also confiscated from other 7 containers.

In addition, the Financial Intelligence Unit was responsible for designing the Drugs, Money Laundering, and Terrorist Financing National Plan 2013-2017. This Plan coordinates every national agency involved in combating the various crimes connected with money laundering and develops tools for co-operation and exchange of information relevant to each area.

### *Technologies and other processes used to enhance the effectiveness of co-operation*

The Financial Intelligence Unit has a computer application (UIF-DIRECTO), where requests for information from the Tax Administration and the corresponding responses are transferred securely and confidentially.

## Czech Republic

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The tax administration is responsible for assessment and collection of taxes and duties levied on behalf of the state and some other duties. The tax administration is also responsible for conducting tax audits. These audits are carried out by specialised units within the tax administration. The tax audit represents an administrative procedure aimed at the correct assessment of taxes or duties which are subject of the respective audit. During the tax audit, if information is uncovered indicating that a tax crime or another offence has been committed, the tax authority has an obligation to report this to the police. The tax administration itself does not have any competencies to conduct criminal investigations.

#### *Tax crime investigation*

In the Czech Republic, no single agency or authority has sole responsibility for conducting tax crime investigations.

Within the police, tax crimes may be investigated by the Unit for Combating Corruption and Financial Crime (UOKFK), which reports to the Deputy Police President for Criminal Proceedings. UOKFK comprises 385 police officers and 65 civil employees. UOKFK is headed by the Director and two Deputy Directors and is organised in Departments and Regional Branches. The Unit has its central office in Prague and branches in České Budějovice, Plzeň, Ústí nad Labem, Hradec Králové, Brno and Ostrava. Within the central office, there are six departments, listed below.

- Department of Corruption and EU Financial Interests Protection,
- Department of Serious Economic Crime,
- Department of Tax Fraud, Proceeds of Crime and Money Laundering,
- Department of Analyses and ICT,
- Department of International Cooperation and Methodology,
- Department of the Director's Office.

In addition, the police has 14 Regional Directorates. The territorial regions of the Regional Directorates are identical with the geographical areas of 14 administrative regions of the Czech Republic. The tasks of the Police are fulfilled by approximately 40 000 police officers and 11 000 civil employees. Each Regional Police Directorate has a department focused on economic crimes.

#### *Customs administration*

The customs administration is responsible for assessment and collection of customs and excise duties. It is also responsible for collection of some local taxes and some other duties levied by the local or other administrative bodies. With regard to these responsibilities the customs administration has the same legal status as the tax administration.

The customs administration can also act in a position of a criminal investigation authority with regard to the breach of the customs code and the tax law related to the taxes and duties for which the customs administration is responsible. These authorised customs units are organisationally separated from the tax administration units within the customs administration. Co-operation between them falls under the same secrecy rules as between the tax administration and the police.

However, the customs administration's criminal investigations powers are narrower than those of the police and they cannot forward cases directly to the public prosecutor's office. Instead, customs forward the results of their investigations to the police.

### ***Police***

The police are responsible for detection and investigation of criminal acts. The police, the prosecution and the courts are authorised to use state powers to carry out proceedings enabling them to gather evidence valid before the criminal court. Information obtained from the tax administration is not valid as evidence in criminal hearing unless verified by the police, the prosecution or the court. Police criminal investigations are carried out under the oversight of the public prosecutor. If in the view of the prosecutor there is sufficient evidence, a case may be brought before the criminal court.

### ***Prosecution authority***

The public prosecutor's office is responsible for preparation of criminal cases in cooperation with the police. It is up to the prosecution to decide whether enough evidence has been gathered to bring a case before the court. The prosecution is also obliged to carry out oversight over the police guaranteeing that evidence is gathered in a manner which is according to the law.

Where tax crimes are under investigation, the prosecution and criminal court have the right to ask tax authorities for information covered by tax secrecy rules.

### ***Financial Intelligence Unit***

The FIU is a department of the Ministry of Finance. FIU is responsible for receiving and analysing Suspicious Transaction Reports. After analysis the FIU may freeze financial transactions in accordance with anti-money laundering rules and share information with the police, tax administration, customs administration, or foreign FIUs. Furthermore, the FIU is responsible for national co-ordination of international sanctions and is a supervisory authority for most of the designated entities.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Reporting obligatory <sup>1</sup>	On request	On request <sup>2</sup>	Direct access <sup>3</sup>
	Customs administration	Reporting obligatory	Reporting obligatory		Direct access	Reporting obligatory
	Police or public prosecutor	Reporting permitted	Direct access	Direct access		On request
	Financial Intelligence Unit	Reporting obligatory	Reporting obligatory	Reporting obligatory	Reporting obligatory	
	Financial regulator	On request	Reporting obligatory	Reporting obligatory	Reporting obligatory	Reporting obligatory

<sup>1</sup> The tax administration must report suspected tax offences and spontaneously provide any information relevant to an offence it has reported. However, where a tax criminal investigation did not commence following the report of a suspicion by the tax administration, the tax administration may only provide information requested by the public prosecutor or judge.

<sup>2</sup> The tax administration is under an obligation to report specified criminal offences to the police or state prosecutor including facts indicating the commitment of such criminal offence. Beyond that, information obtained in the course of the tax administration's activities can be provided to the police only on request of the state prosecutor, court or specialised police unit authorised by the Police President. Moreover, in order to use information obtained by the tax administration as evidence in criminal proceedings, conditions of the Criminal Code regarding how the information has to be obtained must be fulfilled, for example interviews conducted by the tax administration cannot be used as evidence in criminal proceedings.

<sup>3</sup> The Czech FIU has direct access to the ADIS database, which contains taxpayer information including the location of business premises, bank account number, tax arrears, any risk assessment and relations to other natural and legal persons.

## Models for enhanced co-operation

### *Co-operation between government agencies*

An inter-departmental agreement is in place between the Ministry of Finance and the police, to establish *ad hoc* joint investigation teams dealing with the individual investigations, together with a permanent joint special unit responsible for the organisation and co-ordination of such inter-agency co-operation. To date, several joint investigations have been conducted involving the police and the customs administration. There have been no joint investigations including the tax administration, though these are in theory possible. This is partly because, since the inter-departmental agreement was signed, the most serious cases of tax evasion have been in the area of VAT and consumer taxes, which are under the responsibility of the customs administration. Another issue is that there remain greater restrictions on the sharing of tax information related to income and capital taxes, which are the main taxes administered by the tax administration.

In addition, senior officials from the tax administration and FIU regularly meet to discuss trends in financial crime and the effectiveness of models for co-operation.

## Denmark

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Danish Tax and Customs Administration is responsible for administering taxes (including VAT and excise duties) and conducting civil tax audits. The tax administration is an administrative authority with no criminal investigation powers.

The Danish Tax and Customs Administration has established an intelligence unit to detect possible tax offences, prevent new tax crimes, identify new forms of fraud and monitor known offenders. Where the tax administration uncovers evidence of possible tax offences, this evidence is passed to the police.

#### *Tax crime investigation*

Tax crime investigations are conducted by the Danish police.

#### *Customs administration*

The Danish tax and customs administration is a combined authority, with responsibility for administering direct and indirect taxes and excise duties.

#### *Police*

All kinds of criminal investigation are carried out by the police, including investigations into tax offences, money laundering and other financial crimes.

#### *Prosecution authority*

The prosecutor is situated in the police.

#### *Financial Intelligence Unit*

The FIU is situated in the police.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Reporting obligatory	Reporting obligatory	Reporting obligatory <sup>1</sup>	Reporting obligatory
	Customs administration	Reporting obligatory	Reporting obligatory		Reporting obligatory	Reporting obligatory
	Police or public prosecutor	Reporting permitted	Direct access	Reporting obligatory		Reporting obligatory
	Financial Intelligence Unit	Reporting permitted	Reporting permitted	Reporting permitted	Reporting permitted	
	Financial regulator	No sharing	On request	On request	On request	On request

<sup>1</sup> If in the course of his activities a tax auditor detects or becomes aware of suspected non-tax offences, internal guidelines require them to inform the Danish police.

## Models for enhanced co-operation

### *Co-operation between government agencies*

The Danish tax and customs administration has a very close co-operation with the police, including agreements for sharing information and a joint task force model.

### *Co-operation with business, the tax profession, academic bodies and other organisations*

The Danish Tax and Customs Administration works together with a range of other public bodies, semi-public bodies and other profession, including:

- the Danish Competition and Consumer Authority;
- the Danish Prison & Probation Service;
- the Danish Bankers Association;
- the Danish Security and Intelligence Service; and
- the Municipalities.

*Technologies and other processes used to enhance the effectiveness of co-operation*

The Danish government has decided that all communication between public authorities and citizens or businesses should if possible be digital.

Furthermore according to Danish law (Public Administration Law, article 28) a public body is under certain condition obligated to inform another public body if the public body held information where its assume that the information could be of substantially importance for another public body's work.

The Danish Tax and Customs Administration have in recent years implemented this approach and now receive regular information from third parties with respect to:

- salary;
- social security benefits;
- unemployment benefits;
- information from banks and other financial companies (Bank accounts, interest and deposit, trading in the stock market etc.); and
- information about assets, properties, cars etc.

Furthermore, the Danish Tax and Customs Administration has direct access to information held by others public bodies.

All information received by the tax administratin is used to search for potential tax crimes which have already been committed and, importantly, for indicators of possible future offences.

## El Salvador

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The tax administration under the Ministry of Finance is responsible for preventing, detecting and investigation cases related to tax evasion and other tax offences, and for reporting to the Attorney General's Office indications or evidence of other financial crimes such as money laundering.

#### *Tax crime investigation*

Within the tax administration, the Criminal Tax Investigation Unit (CTIU) is responsible for conducting tax audits and criminal investigations. The CTIU also co-ordinates the work of the tax administration with the Attorney General's Office, the Police Department, and the Financial Supervisor to prevent and combat tax evasion, including facilitating the sharing of information, conducting training on tax and other financial crimes for the police and other agencies, and providing specialists to assist in investigations into other financial crimes, for example with accounting expertise.

Under Constitutional law, all criminal investigations are led by the Attorney General's Office. Once the tax administration has conducted an administrative investigation and determined that there is evidence of possible tax evasion, it informs the Attorney General's Office, which will review the case and commence a criminal investigation. This investigation will be conducted by the CTIU and, in cases where other crimes may be involved, the Police Department, under the supervision of a Public Prosecutor.

#### *Customs administration*

The Customs Department is under the jurisdiction of the Ministry of Finance and is responsible for the assessment and collection of customs duties and VAT, and the prevention, detection and investigation of criminal offences including smuggling.

The Customs Department conducts administrative investigations and, if a potential financial crime is detected, it informs the Attorney General's Office to start the criminal investigation.

#### *Police*

The El Salvador Police Department is responsible for guaranteeing the free exercise of the rights and freedoms of individuals, security, peace and order, preventing and suppressing crime with strict respect for human rights, integrating and contributing to promoting the rule of law and development of the country.

Within the Police Department, the Organised Crime Division, the Financial Crime Department and the Central Research Division are all central to preventing and combating financial crime.

#### *Prosecution authority*

The Attorney General of the Republic is charged with defending, representing and protecting the interests of society and the State, acting with seriousness, efficiency and

responsibility. This is done in accordance with the principles of legality, justice, security and fairness.

Within the Attorney General's Office, the Organised Crime Unit, the Financial Investigation Unit, the Criminal Unit, the Unit Against Theft and Car Robbery and the Unit Against Corruption Offences are responsible for fighting financial crime and other serious offences.

### *Financial Intelligence Unit*

In El Salvador the FIU is a judicial-type, established within the Attorney General's Office. The FIU is responsible for carrying out financial intelligence work financial intelligence, including receiving, processing and analysing Suspicious Transaction Reports received from financial institutions and other designated businesses.

The FIU is responsible for the fight against money laundering and terrorist financing, and identifying and recovering the proceeds of crime. The FIU has the authority to conduct investigations.

### *Financial regulator*

The *Superintendencia del Sistema Financiero* is responsible for monitoring financial system and individual participants, to help preserve the stability, efficiency and transparency of the system, and for co-operating with other State agencies.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	Direct access <sup>1</sup>	Reporting obligatory <sup>2</sup>	Reporting obligatory <sup>3</sup>
	Customs administration	Direct access <sup>1</sup>	Direct access <sup>1</sup>		Reporting obligatory <sup>2</sup>	Reporting obligatory <sup>3</sup>
	Police or public prosecutor	Reporting obligatory <sup>4</sup>	Reporting obligatory <sup>4</sup>	Reporting obligatory <sup>4</sup>		Direct access <sup>5</sup>
	Financial Intelligence Unit	No access <sup>6</sup>	No access <sup>6</sup>	No access <sup>6</sup>	Reporting obligatory	
	Financial regulator	Reporting obligatory	Reporting obligatory	Reporting obligatory	Reporting obligatory	Reporting obligatory

- <sup>1</sup> The tax administration has responsibility for administering tax and customs, and conducting tax crime investigations. Officials within the administration have direct access to records held by other areas.
- <sup>2</sup> The tax administration has an obligation to provide all relevant information to the public prosecutor working within the Attorney General's Office. Tax secrecy rules mean that the tax administration cannot share any information directly with the police.
- <sup>3</sup> This obligation is contained in provisions that require relevant information to be provided to the Attorney-General's Office, which includes public prosecutors and the FIU.
- <sup>4</sup> This obligation relates to information about operations and closed cases but does not cover any information directly connected to an ongoing criminal investigation.
- <sup>5</sup> The FIU is a structural part of the Attorney General's Office, which also includes the public prosecution service.
- <sup>6</sup> Legislation does not provide for any information to be provided by the FIU.

## **Models for enhanced co-operation**

### ***Co-operation between government agencies***

Since 2007 it has been possible to form Joint Investigation teams, consisting of the CTIU, Attorney General's Office (Organised Crime Unit and the Criminal Unit), and the Police Department. This means that criminal investigations can be conducted more effectively and efficiently, in multidisciplinary teams with access to expertise in tax, financial investigations, police investigative techniques, strategic planning, and the use of intelligence. Joint investigations have been used in cases of national importance, including smuggling, organised crime and money laundering, demonstrating the ability of the State to prevent and fight complex financial crimes. This has had a very positive impact and taxpayers and society generally are supportive of the initiative.

### ***Co-operation with business, the tax profession, academic bodies and other organisations***

The tax administration holds regular training on issues relating to tax fraud for tax professionals, financial institutions, professional associations and other institutions.

## **Estonia**

### **Key agencies in combating tax crimes and other financial crimes**

#### ***Tax administration***

The Estonian Tax and Customs Board is a government agency within the area of government of the Ministry of Finance, which has a directing function and exercises state supervision and applies the enforcement powers of the state on the basis and to the extent prescribed by law. The area of activity of the Board shall include administration of state revenues, implementation of national taxation and customs policies and protection of the society and legal economic activities.

#### ***Tax crime investigation***

The Estonian Tax and Customs Board includes an Investigations Department. The main functions of this department are

- avoidance, prevention and detection of criminal offences related to violation of taxation laws and customs rules, conducting, if needed, surveillance activities for this on the basis of and pursuant to the procedure established by law; and
- pre-trial investigation of criminal offences related to violations of taxation laws and customs rules, under the direction of the Public Prosecutor's Office to ensure the legality of procedures.

The Investigations Department has access to all tax administrative databases.

#### ***Customs administration***

The Estonian Tax and Customs Board is a joint agency with responsibility for administering direct and indirect taxes and excise duties. Customs crime investigations are conducted by the tax and custom's administration's Investigations Department under the direction of the Public Prosecutor's Office.

#### ***Police***

The Estonian Police and Border Guard Board includes over 5 000 personnel working to ensure internal national security. This is therefore one of the largest state agencies in the country.

The main tasks of Police and Border Guard Board are the securing of the external border of the European Union; the determination of citizenship and issue of documents; security and public order in the state; and the investigation and prevention of offences.

These tasks are divided between four work areas: border guard, public order, criminal police, and citizenship and migration. The first contact points for people in their home town or village are sub-units of four regional prefectures - constable stations, border guard stations or service offices of Migration and Citizenship Bureau.

### ***Other key law enforcement agencies***

Under the Estonian Code of Criminal Procedure, pre-trial investigative proceedings are also conducted by:

- the Military Police, in the case of criminal offences relating to service in the Defence Forces and war crimes;
- the Competition Board, in the case of criminal offences relating to competition;
- the Environmental Inspectorate, in the case of criminal offences relating to violation of the requirements for the protection and use of the environment and the natural resource; and
- the Prisons Department of the Ministry of Justice and Prisons, in the case of criminal offences committed in prisons and criminal offences committed by imprisoned persons.

### ***Prosecution authority***

The Public Prosecutor's Office directs pre-trial criminal proceedings, ensuring lawfulness and effectiveness thereof; represents public prosecution in court, participates in planning surveillance activities necessary for prevention and identification of crimes, and performs other duties assigned to the Office by the law. As a body directing criminal proceedings, the Public Prosecutor's Office guides investigative bodies in gathering evidence and, according to identified circumstances, decides on bringing charges against a person.

### ***Financial Intelligence Unit***

The Estonian Financial Intelligence Unit (FIU) is an independent structural unit of the Estonian Police and Border Guard Board. The FIU analyses and verifies information about suspicions of money laundering or terrorist financing, takes measures for preservation of property where necessary and immediately forwards materials to the competent authorities upon detection of elements of a criminal offence.

All persons who suspect that a transaction may be connected with either money laundering or terrorist financing are encouraged to notify of suspicious transactions. Since January 2008 it is possible to send the notification to FIU electronically by using the digital format on the FIU's website.

### ***Financial regulator***

The Financial Supervision Authority (FSA) is a financial supervision institution with autonomous competence and a separate budget which conducts supervision in the name of the state and is independent in its activities and decisions. The FSA conducts state supervision over the banks, insurance companies, insurance intermediaries, investment firms, management companies, investment and pension funds as well as the payment service providers, e-money institutions and securities market that have been authorised by the FSA. The supervision authority of the domicile of a bank, an insurance company or an investment firm conducts primary supervision over the branches of the banks, insurance

companies and investment firms operating in Estonia. Leasing companies and small loan offices do not fall under the supervision of the Financial Supervision Authority.

The objective of financial supervision is to help ensure the stability and quality of services of the companies providing financial services and thereby promote the reliability of the Estonian monetary system. This is to ensure that financial institutions are able to meet their obligations to the customers in the future, such as to pay out deposits, insurance losses and pension contributions. An important task of the FSA is to help increase the efficiency of the Estonian financial sector, avoid systemic risks, and prevent the abuse of the financial sector for criminal purposes. The work of the Authority also involves explanation of which are the risks for the customers and provide information and support to them in choosing financial services.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	Direct access <sup>1</sup>	Direct access <sup>2</sup>	Direct access <sup>2</sup>
	Customs administration	Direct access <sup>1</sup>	Direct access <sup>1</sup>		Direct access	Reporting permitted
	Police or public prosecutor	Direct access <sup>2</sup>	Direct access <sup>2</sup>	Direct access <sup>2</sup>		Direct access <sup>3</sup>
	Financial Intelligence Unit	No sharing <sup>4</sup>	Reporting permitted <sup>4</sup>	Reporting permitted <sup>4</sup>	Reporting obligatory	
	Financial regulator	Reporting obligatory	Reporting obligatory	Reporting obligatory	Reporting obligatory	Reporting obligatory

<sup>1</sup> Tax administration, tax crime investigation and customs administration are all divisions of the Estonian Tax and Customs Board, and share access to information.

<sup>2</sup> The State Tax and Customs Board and police share access to a common intelligence database. As the FIU is part of the police authority, it can also access tax information through this database.

<sup>3</sup> The FIU is part of the police authority and has direct access to police information.

<sup>4</sup> The FIU may only provide information where there are suspicions of possible tax offences. Where there is a suspicion of a possible offence and information is shared with the tax administration, the information may also be used, with the consent of the public prosecutor, for the purposes of assessing taxes.

## **Models for enhanced co-operation**

### ***Co-operation between government agencies***

A co-operation agreement exists between the Estonian Tax and Customs Board and Estonian Police and Border Guard board about information exchange, the use of the common intelligence database and sharing of technical recourses. This database contains information on individuals (such as their employer's details, their salary and taxable income, and their tax position) and companies (including their employees' details, their tax position and VAT returns).

### ***Technologies and other processes used to enhance the effectiveness of co-operation***

A common electronic intelligence database is used to improve the efficiency and effectiveness of co-operation between the Tax and Customs Board and Estonian Police and Border Guard Board.

## Finland

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Finnish tax administration is an authority under the Ministry of Finance, with tasks which include the implementation and supervision of taxation, the collection and recording of taxes and payments, and the legal supervision of tax recipients. Thus the actual investigation of financial crime is not one of the tasks of the tax administration. However, one part of tax supervision is combating the grey economy and financial crime, and the tax administration's activities do detect the greater part of tax crime in Finland. The tax administration may discover tax and debt offences and accounting offences in its audits and reports to the police these suspected tax crimes and crimes relating to taxation. The tax administration also has the right to be heard in court proceedings concerning over mentioned crimes.

The tax administration can give information concerning other suspected offenses (including money laundering, bribery and corruption offences, and various abuses of aid and assistance payments) to other authorities and these authorities may consider reporting these suspected offenses to the police. The actual investigation of crimes is conducted by police and in the case of customs crime by the customs administration. There are also co-operative groups for tracing the proceeds of crime, which include representatives of the tax administration, police and enforcement authorities. These authorities may work in the same premises and have special working methods to detect and recover criminal proceeds.

#### *Customs administration*

The Finnish customs administration is an agency subordinate to the Ministry of Finance. The National Board of Customs and the five customs districts ceased to exist at the end of 2012 and were replaced by a single customs authority. The tasks undertaken by this authority have not changed from the previous structure. The Finnish customs administration is responsible for the customs supervision of imported and exported goods and international transport and for other customs matters, and also for customs and excise duties where they are separately imposed. The customs administration is also responsible for compiling statistics on foreign trade and for compiling other statistics connected with its area of activity, and for overseas trade services, and also carries out other activities appropriate to the agency as instructed by statute or by decision of the Council of State.

One part of customs supervision is combating the grey economy and financial crimes, and the customs administration's activities are therefore also aimed at detecting crimes relating to customs and excise duties in Finland. The customs administration may discover customs and excise duty and debt offences and accounting offences during its audits. Any suspected cases are reported to the Customs Investigation Service. The customs administration also has the right to be heard in court proceedings concerning said crimes.

At the beginning of 2011, the customs administration formed its own organisation to combat crime – the Customs Investigation Service. The fight against crime at the customs administration is now organised as a national procedural organisation, with four nationwide components: combating serious crime, combating financial crime, criminal intelligence and expert services.

As one of the pre-trial investigation authorities, the customs administration carries out pre-trial investigations of customs crimes. In investigating such cases, the provisions of the Customs Act are observed in addition to the separate provisions on pre-trial investigation and coercive measures. When carrying out pre-trial investigations for the customs administration, customs officers have the same right to launch investigative action and to use coercive measures as police officers in pre-trial investigations by the police authority.

According to Section 3 of the Customs Act, customs crime means any crime covered by the provisions of the Customs Act or other acts where supervision of compliance or implementation are tasks of Finnish customs administration, or the infringement of any rules or regulations laid down by virtue of those acts, as well as Chapter 46 of the Criminal Code on unlawful dealing in imported goods, such as the receiving offences referred to in Chapter 32 Section 1(2) of the Criminal Code and other such infringements of the rules which concern the import or export of property.

The component for combating financial crime brings together the financial crime investigation unit and the financial crime intelligence unit. The tasks of this component are to coordinate and direct financial crime investigation and intelligence for the customs administration, to detect particularly serious financial crime, and to carry out the related pre-trial investigation tasks.

Approximately 50 customs officials work in combating financial crime and/or combating other business-related crime, as their main area of activity.

In their own spheres of authority, the police and the customs administration have their own intelligence units, which cover also financial activities. The police, the customs administration and the Border Guard also have a joint crime intelligence and analysis structure (PCB Crime Intelligence). The PCB Crime Intelligence and Analysis Centre is located at the National Bureau of Investigation headquarters. This is responsible for centralised co-ordination and management of criminal intelligence. In each province there are provincial PCB Crime Intelligence and analysis Groups.

### ***Police***

The National Police Board, which comes under the Ministry of the Interior, directs and guides operational police activities in Finland. Working directly under the National Police Board are the local police departments, the national police units, the Police College of Finland and the Police Technical Centre. The National Police Board is responsible for performance guidance for those units. The mission of the National Police Board is to plan, develop, direct and monitor police activities and support activities. In addition, the National Police Board is responsible for performance guidance for the police units and decides on joint operations between them.

Finland has 24 police departments, of which 17 have financial crime investigation units or teams. In addition, the National Bureau of Investigation (NBI) carries out financial crime investigations. The financial crime investigation unit consist of four geographical networks: the southern, western, eastern and northern co-operation networks. The police departments operating in the network areas, under the guidance of their police chiefs, have reached agreement with other police departments in the area on joint action in investigating and combating financial crime.

In 2010, 499 police posts were allotted in Finland for the investigation of financial crime. The standard composition of the investigation units includes the head of the unit, plus chief investigators, investigators, secretaries and financial inspectors (such as forensic accountants and auditors). Every financial crime unit also has staff specialising in monitoring prohibitions on doing business, tracing the proceeds of crime, and intelligence and surveillance work. The units are mainly responsible for the investigation of financial crime in their own geographical area.

The NBI has a nationwide jurisdiction for the investigation of organised, international and serious crimes including financial crime.

The Unit for Assessment of Economic Crimes (UAEC) began its work in 2005 in the Helsinki region. Since 2010 its operations have been extended nationwide, and the UAEC's activities were continued as a project under the National Police Board. The UAEC does not carry out actual investigations of financial crime, but it provides a variety of support services for those investigating and combating financial crime.

### ***Other key law enforcement agencies***

#### *Enforcement authorities*

Enforcement of, for example, judgement debts, fines, unpaid taxes and insurance premiums are enforced by 22 district enforcement offices, employing a total of 1300 staff. Inter-agency co-operation is mainly carried out by Special Enforcement Units employing a total of 55 enforcement officers. If the judgment is not complied with voluntarily, it is carried out compulsorily, by way of enforcement. Some receivables, such as taxes and certain insurance premiums, can be enforced even in the absence of a judgment.

Enforcement officers dealing with special enforcement cases are oriented in intelligence and investigation. Exchange of information between the state authorities is guaranteed in the legal framework. A Finnish speciality is a remedy to artificial arrangements by a debtor. According to the Section 14 of Chapter 4 of the Enforcement Code a plea that property belongs to a third party does not prevent the attachment of the property if it is observed that the position of the third party is based on a financial or other arrangement that has been given a legal form that does not correspond to the actual nature or purpose of the matter.

Due to the fact that private and tax debts are collected by an independent state-run enforcement authority, a general principle that private and public creditors must be equally enforced does exist. Enforcement officers are having direct access to all the essential register information of debtor's assets including bank accounts.

#### *Centre for Pensions*

The Finnish Centre for Pensions co-operates closely with different authorities, systematically utilising the information made available through this co-operation. The real time supervision of the Finnish Centre for Pensions makes it possible to compare the information of the tax administration and the earnings-related pension scheme, which, in turn, enables swift intervention in cases of pension insurance neglect. A growing challenge is salaries that are not reported to the tax administration. Such cases are jointly investigated by the Finnish Centre for Pensions, the tax administration and the police. Payment of black market salaries may also result in charges of earnings-related insurance contribution fraud.

### *National Supervisory Authority for Welfare and Health*

The National Supervisory Authority for Welfare and Health (Valvira) is an agency under the Ministry of Social Affairs and Health. Licenses are required to sell alcohol in Finland and Valvira and the alcohol administration in the Regional State Administrative Agencies grant these licences and supervise the alcohol trade. To get an alcohol license the applicant has to be reliable and meet the financial requirements stated in the Alcohol Act. Information is gathered from the tax administration and police to prevent untrustworthy operators to enter the alcohol trade. When needed, information is also gathered from other authorities, including the enforcement authorities. When investigating whether an applicant for a license or a licensholder is reliable, trustworthy and meets the financial and other requirements that are stated in the Alcohol Act, both of these bodies have the right to receive, on request, necessary information held by other authorities, even where that information would not normally be available due to secrecy provisions.

The alcohol license holders report the alcohol they have sold to the national alcohol data system that is maintained by Valvira. The information of alcohol sales and purchases gathered in the data system is shared with the tax administration and also reviewed by Valvira and Regional State Administrative Agencies to find corrupted licence holders. Alcohol licences can be revoked if the operator is considered to be unreliable. The tax administration and police can use the gathered information of alcohol sales and purchases in their grey economy investigations.

### *Bankruptcy Ombudsman*

Attached to the Ministry of Justice, the Bankruptcy Ombudsman is an independent authority that principally supervises the administration of bankruptcy estates in Finland. However, combating financial crime is one of the main priorities of the Ombudsman.

The administrators of bankruptcy estates, who are typically private sector lawyers, have the duty to provide information to the Ombudsman. The Ombudsman has the right to inspect all documents and records belonging to the bankruptcy estate and relating to the bankrupt debtor. Regardless of the rules of confidentiality, the Ombudsman has the same right as the bankruptcy estate or the debtor himself to receive, free of charge, all information relating to the financial status of the debtor or the estate, as well as information on the bank accounts and payment transfers etc. of the debtor or the estate. The Ombudsman has the right to participate in meetings of creditors of the bankruptcy estates. The Ombudsman has the right to receive assistance by the police and other authorities.

The administrators under the supervision of the Ombudsman have duties that are solely aimed at combating financial crime. These administrators, who are usually attorneys, have a duty to report all negligence and wrongdoings of the bankrupt debtor to the Ombudsman who has the right and resources to carry out a special audit of the accounts and activities of the debtor. In every bankruptcy the administrator draws up a document, the ‘debtor description’, that must include information on the ownership and group relationships of the debtor, the main reasons for the bankruptcy and observations on the pre-bankruptcy activities of the debtor. If there is a reason to suspect that the debtor may have committed a crime against the creditors, an accounting offence or some other crime in his or her business activities, and that crime may have more than a minor significance to the disbursements to the creditors and to the scrutiny of the bankruptcy estate, the estate administrator shall, if necessary, report this suspicion to the police.

The Ombudsman may appoint an auditor to carry out a special audit of the administration, accounts and activities of the debtor. The initiative for the special audit may come for example from the administrator, a creditor or the police.

The Bankruptcy Ombudsman is responsible for the Public Receivership which is a method of scrutinising the pre-bankruptcy activities of the debtor. The costs of the Public Receivership are covered from public funds whenever the assets of the bankruptcy estate run out. Combating insolvency-related financial crime is a central objective of the Public Receivership.

### ***Prosecution authority***

The Finnish Prosecution Service consists of 13 local prosecution offices and the Office of the Prosecutor General, which acts as the central authority. In 2011, there are 36 prosecutors in the local prosecution offices who have financial crime as their main occupation. The Office of the Prosecutor General has one State Prosecutor responsible for cases of financial crime.

### ***Financial Intelligence Unit***

The Finnish Financial Intelligence Unit (formerly called Money Laundering Clearing House) is situated within the Criminal Intelligence Division of the NBI of the Finnish Police. The Finnish Police is under Ministry of Interior.

The duties of the FIU are laid down in the Act on Preventing and Clearing Money Laundering and Terrorist financing: These are:

- preventing and clearing money laundering and terrorist financing;
- promoting co-operation between authorities in the fight against money laundering and terrorist financing;
- co-operation and exchange of information with the authorities of a foreign State and international organisations that are responsible for preventing and clearing money laundering and terrorist financing;
- co-operation with parties subject to the reporting obligation;
- giving feedback on the effects of reports; and
- keeping statistics on the number of reports received and the number of transactions suspended.

The FIU is also responsible for the pre-trial investigation of money laundering offences and referring the cases to the prosecutor for the consideration of charges. Most of the Suspicious Transaction Reports referred for pre-trial investigation are related to financial crime and narcotics offences.

The Money Laundering Act affords the FIU certain powers which enable it to start the examination of Suspicious Transaction Reports before there are grounds to launch a pre-trial investigation. According to provisions concerning powers afforded to the FIU in both the Money Laundering Act as well as the Police Act, the FIU may, in addition to register checks, carry out interviews, surveillance, technical surveillance and monitoring as well as telecommunications monitoring and undercover activities and transactions. The FIU is also the only judicial authority that may give parties subject to the reporting obligation an order to refrain from conducting transactions for no more than five working days.

In 2011, the staff of the FIU numbered 24.

### ***Financial regulator***

The Financial Supervisory Authority (Fiva) operates in conjunction with the Bank of Finland but is an independent decision-making authority. Consideration by the government of matters concerning Fiva falls within the competence of the Ministry of Finance.

The activities of Fiva are aimed at promoting financial stability by the smooth operation of credit, insurance and pension institutions and other supervised entities. The objective is also to safeguard the interests of the insured and maintain confidence in the financial markets. Other tasks include fostering compliance with good practice in, and public awareness of, financial markets.

Fiva does not have any special units or individuals dealing with cases of financial crime as their main occupation. The various sections of Fiva supervise compliance with the law and if necessary look into suspected abuses. The tasks of the market supervision section expressly include the investigation of abuses in the securities market. For more minor abuses Fiva is able to impose administrative penalties. If suspicions of abuse arise where there are grounds to suspect crime, Fiva sends a request for investigation to the police authorities. In the past, these have chiefly involved suspected securities market offences, such as abuse of insider information, rate manipulation and reporting offences. The actual investigation of crimes is a matter for the police. If necessary Fiva works in cooperation with the police authorities.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Reporting permitted	Reporting permitted <sup>1</sup>	Reporting permitted <sup>2</sup>	Reporting permitted <sup>3</sup>
	Customs administration	Reporting permitted	Reporting permitted		Direct access <sup>4</sup>	Reporting permitted
	Police or public prosecutor	Reporting permitted <sup>6</sup>	Direct access	Direct access <sup>5</sup>		Direct access <sup>7</sup>
	Financial Intelligence Unit	No sharing	Reporting permitted <sup>8</sup>	Reporting permitted <sup>8</sup>	Reporting permitted <sup>8</sup>	
	Financial regulator	No sharing	Reporting permitted	Reporting permitted <sup>9</sup>	Reporting permitted	Reporting obligatory <sup>10</sup>

<sup>1</sup> The tax administration may provide information spontaneously where it has grounds to suspect a customs crime has taken place. Information may also be provided on request.

<sup>2</sup> There is no obligation on the tax administration to report suspicions of non-tax offences to the police, but the tax administration is able to do so and in practice suspicions are reported. Information may be sent to the police or public prosecutor when the tax administration is reporting suspicions of a possible crime. The police and public prosecutor may also request information required for an investigation.

<sup>3</sup> The tax administration may provide the FIU with information on suspicious transactions. Information may also be provided on request.

<sup>4</sup> In common with all pre-trial investigation authorities in Finland, police and customs share access to information systems for reporting, recording and investigating criminal offences. Other customs information may be obtained on request. The police may only access other customs information where a formal criminal procedure has been commenced to detect, prevent or investigate a crime. Officials assigned to the joint PCB Crime Intelligence and Analysis units have direct access to multi-agency information held by PCB Crime Intelligence.

<sup>5</sup> In common with all pre-trial investigation authorities in Finland, police and customs share access to information systems for reporting, recording and investigating criminal offences. Only those customs officers whose tasks are related to preliminary investigations can access police information. Officials assigned to the joint PCB Crime Intelligence and Analysis units have direct access to multi-agency information held by PCB Crime Intelligence.

<sup>6</sup> During criminal investigations, the police may disclose to the tax administration financial information for the purpose of enabling the assessment of taxes.

<sup>7</sup> The FIU is a unit within the National Bureau of Investigation, with wide powers to collect intelligence. It has direct access to the police Suspects Register and Criminal Complaints Register.

<sup>8</sup> The FIU may share information for the purpose of preventing and combating money laundering and terrorist financing, or investigating such claims that were committed to gain the proceeds of terrorist financing or crime subject to money laundering. A decision to disclose information must be made by a commanding officer within the FIU.

<sup>9</sup> The FSA has power to disclose information to customs for the prevention and investigation of offences.

<sup>10</sup> The FSA must inform the FIU if it obtains information that leads them to suspect money laundering concerning a regulated entity. It may also disclose any other information required by the FIU for the purposes of a pre-trial investigation.

## Models for enhanced co-operation

### *Co-operation between government agencies*

#### *PCB Crime Intelligence and Analysis*

The police, customs administration and Border Guard Services maintain a joint criminal intelligence function (PCB Crime Intelligence and Analysis) at national and regional levels. The national unit is located in the headquarters of the National Bureau of Investigation. The purpose of this function is to promote joint operations between the three authorities and the development of joint operational policies so that the tasks and individual measures assigned to these authorities for the prevention, detection and investigation of offences, surveillance and international co-operation, will be appropriately, effectively and efficiently performed. The PCB Joint Criminal Intelligence and Analysis function is tasked with maintaining operational awareness and status reports on serious crime including financial crimes. To combat serious offences, the police, customs administration and border guard establish joint investigations teams, or taskforces, which may also include tax officials and officers from the enforcement agency.

Selecting suitable cases to be brought within the PCB Crime Intelligence and Analysis structure is a process that can be either initiated by an investigative unit within one of the agencies, or by the PCB-Crime Intelligence and Analysis centre itself. Where it is identified that criminal activity stretches across regional or administrative boundaries, a motion is filed and the PCB Crime Intelligence and Analysis structure conducts a preliminary assessment on whether the proposed target meets the criteria of a ‘target for serious crime’.

Depending on the reach of the criminal activity, the target may be deemed as a regional or a national target for serious crime. If the effects of the crime stretch over regional boundaries, then the target may be considered a national target. Correspondingly, the responsible part of the PCB-Crime Intelligence and Analysis structure for preparation of the selection procedure is either a regional unit or the central unit. The final decision on selecting or rejecting the motion for a target for serious crime takes place in a national or regional selection meeting.

#### *Asset Recovery Office*

The Finnish Asset Recovery Office (ARO) is located in the financial crime intelligence office within the anti-money-laundering branch of the Criminal Intelligence Division at the National Bureau of Investigation. The main function of the ARO is to send and receive messages about asset recovery intelligence. In addition to police staff, personnel at the ARO include one contact person from the tax administration and one from the enforcement authority.

Seventeen joint regional groups have also been set up to trace the proceeds of crime, consisting of officials from the tax administration, enforcement authorities and police, who carry out financial investigation tasks. In total, the ARO and regional groups comprise 38 police officers, 20 tax officials 19 enforcement officials.

#### *Grey Economy Information Unit*

The Grey Economy Information Unit (GEIU) is a division of the Finnish tax administration specifically established to work closely with other government agencies. The

GEIU was established in 2011 to promote the fight against the grey economy by producing and disseminating reports about grey economy activities and how they may be controlled. In preparing these reports, the GEIU has the right to receive, on request, necessary information held by other authorities even where that information would not normally be available to the tax administration due to secrecy provisions. For these purposes the grey economy is defined as any activities that result in the failure to meet legal obligations for payment of taxes, statutory pension, accident or unemployment insurances, or customs fees, or to obtain unjust repayment.

Another of the GEIU's key roles is the preparation of compliance reports at the request of another government agency. Compliance reports may be prepared with respect to any organisation, and include details concerning individuals and organisations directly or indirectly linked to such an organisation. Compliance reports may include details of business activities of individuals and organisations covered, their financial position and history and details of whether they have complied with legal obligations concerning tax and other payments, as well as other information necessary for the intended purpose of the report. Compliance reports may be requested for a number of purposes, including (among others): the levying and collection of taxes, and the enforcement of tax controls, by Customs; the prevention or investigation of an offence punishable by imprisonment of at least 12 months, by police, the customs administration or the Border Guard; the prevention or investigation of money laundering or terrorism; the monitoring of compliance with pensions law and collection of insurance premiums; and the determination of a forfeiture of criminal property. At the time a compliance report is requested, the requesting agency must inform the GEIU of the purpose of the report. In compiling a compliance report, the GEIU has access to all information from outside sources that would be available to the agency that requested the report, even where this would not normally be available to the tax administration. Where the information required for inclusion in the compliance report is held by an agency for the purpose of a pre-trial investigation, the GEIU must obtain specific consent from the agency holding the information in order for it to be used.

### ***Co-operation with business, the tax profession, academic bodies and other organisations***

#### *Co-operation with members of the Finnish Hospitality Association*

The Finnish Hospitality Association (*Mara ry*) is a leading national trade and labour market association in the hospitality industry in Finland. It represents a wide range of companies in the hospitality sector: hotels, restaurants, tourism businesses etc.

In order to become a member of *Mara ry*, an applicant must be financially stable and have good credibility. Moreover an applicant is asked to give *Mara ry* a power of attorney in order to inspect tax liabilities and pension contributions. Furthermore the Alcohol Administration registers concerning the applicant will be checked.

*Mara ry* takes part in public debate. The association wants to raise discussion about promoting fair competition within the hospitality industry. The association is actively involved in legislative projects that aim to combat the black economy in Finland. Failure to comply with association rules, ethical standards or generally accepted practices can lead to expel from *Mara ry*.

*Technologies and other processes used to enhance the effectiveness of co-operation*

The National Supervisory Authority for Welfare and Health (Valvira) maintains a database and computer programme, ALLU, that the alcohol administrations in the Regional State Administrative Agencies use in their daily work. It contains information about licence-holders, their places of business, what alcohol is bought and how much is sold etc. Through this programme, information may be requested from tax authorities about the companies and the persons involved. For more extensive reports about a company's finances or responsible persons, the GEIU has constructed a technology based channel, through which information is requested. Also there is a joint programme with the police, through which information is requested from the police authorities. Using the same programme, the police has the possibility on their own initiative to report to the alcohol inspectors at the Regional State Administrative Agencies about observations they have made or inspections that they have performed. Some of these solutions gather information and respond automatically while others require the involvement of an official to process information.

## France

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The *Direction Générale des Finances Publiques* (DGFIP) is responsible for conducting tax audits aiming at detecting and combating serious tax frauds.

French judicial authorities cannot prosecute a tax crime without first receiving a formal complaint from the DGFIP. In order to file a complaint, the DGFIP must first establish both the criminal act and the criminal intent that make up the criminal offence. The complaint must also be approved by the *Commission des Infractions Fiscales*, which is an independent administrative authority.

#### *Tax crime investigation*

France has a number of judicial police forces, all of which are competent to investigate tax offences under the instruction of a Public Prosecutor or, in the most serious cases, an examining judge. However, some judicial police forces have particular expertise in investigating financial and fiscal offences.

The *Brigade Nationale d'Enquêtes Économiques* (BNEE) is composed of about fifty tax inspectors working within the judicial police. They assist police officers and detect tax frauds in criminal investigations.

The BNEE participates in the investigation and prosecution of financial and tax crimes. It also identifies risk areas for tax audits, which are reported to national and regional departments of the tax administration. The BNEE's main focus is on the fight against financial crimes such as the misappropriation of assets, fraud, breach of trust, corruption, favoritism, influence peddling, embezzlement, illegal workers and money laundering. The BNEE also acts as a liaison between the judicial police services and the DGFIP.

#### *Customs administration*

The Directorate General of Customs and Excise (DGDDI) is separate to the tax administration. It has a threefold mission:

#### *Tax administration and collection*

DGDDI collects:

- excise on tobacco and alcohol, and petroleum products, and also VAT on goods imported from third countries outside the European Union; and
- customs duties on imports into the European Union. It helps to control the collection of VAT inside the EU.

The DGDDI is a key participant in the fight against customs and excise fraud against the European Union and the smuggling of highly taxed goods such as alcohol and tobacco.

*Support for business competitiveness*

The DGDDI plays a key role in the functioning of the European single market and the national economy by:

- facilitating international trade and developing simplified procedures, as well as business advice;
- producing international trade statistics for use by governments and businesses;
- enforcing the rules of European Community trade and agricultural policies within the framework set by the World Trade Organisation, in particular through the organisation of certain markets (such as fruits and vegetables.), and control of certain sectors (such as viticulture); and
- protecting the economy against unfair practices such as dumping or counterfeiting.

*Protection and Security*

Within the area of the European market, the DGDDI provides protection and safety for citizens by:

- combating all kinds of trafficking, including drugs, weapons and explosives, and animal and plant species threatened with extinction;
- monitoring the movement of toxic and harmful waste within the European market;
- controlling the movement of civilians or military products, radioactive products and the strategic products of cultural property, and preventing the entry into France of hazardous or non-compliant products to European standards;
- contributing to some government missions at sea (Police navigation, fishing, rescue, fight against pollution, etc.);
- participating in the fight against illegal immigration and illegal employment; and
- detecting offences during the course of these activities.

The DGDDI contributes to consumer protection, ensuring compliance with regulations on the quality and safety of industrial products imported from countries outside the European Union. It shall carry out documentary and physical checks, supplemented by laboratory analysis.

***Police***

France has established two specialist authorities as a means to combat money laundering. The first is the Financial Intelligence Unit, TRACFIN, which is attached to the Ministry of the Economy, Finance and Industry and is primarily responsible for preventing and detecting money laundering. The second, the *Office Central pour la Répression de la Grande Délinquance Financière* (OCRGDF) is attached to the Central Directorate of the Judicial Police and is responsible for the investigation and supporting the prosecution of money laundering.

The OCRGDF deals with economic, commercial and financial crimes, and in particular professional crime or organised crime including terrorism or drug trafficking. Established alongside TRACFIN, the OCRGDF was the result of an inter-departmental initiative. As such, the different Ministries and authorities which co-signed the decree to establish the agency also work together to provide the OCRGDF with information relating to its field of activity. The main task of the OCRGDF is to co-ordinate the work of the police services and the gendarmerie, including the investigation of Suspicious Transaction Reports provided by TRACFIN and co-operation with Europol and Interpol.

### ***Other key law enforcement agencies***

The *Brigade Nationale de Répression de la Délinquance Fiscale* (BNRDF) is a new judicial police unit that was established in December 2010 and attached to the Central Department of the Judiciary Police. The BNRDF is responsible for investigating serious tax frauds such as undeclared foreign accounts in tax havens, and complex illegal structures.

Tax evasion can now be prosecuted on the basis of a presumption of tax crime by the DGFIP, after obtaining a favorable opinion from the *Commission des Infractions Fiscales*. Prosecutions are conducted without giving notice to the taxpayer and this new, discrete, approach is an effective approach to combating tax offences.

The BNRDF has two particular advantages. Firstly, the BNRDF combines the skills of judicial police officers in terms of financial crimes and criminal procedure and the tax skills of the DGFIP's officers. Secondly, tax offences are now at the centre of criminal investigations and prosecutions, while previously they were often only considered as a consequence of criminal investigations.

The differences between the BNRDF and other financial police forces are significant. The BNRDF is composed of officers of the DGFIP who became tax police officers and, as such, hold the same powers as judicial police officers. BNRDF officers are also able to work cases without the taxpayer having been notified of the DGFIP's complaint, thus reducing the risk of the suspect being able to dispose of evidence or organize their own insolvency.

### ***Prosecution authority***

In matter of tax fraud, the tax administration must lodge a complaint, establishing the act and intention elements of a suspected tax offence, supported by the exclusive advice of the *Commission des Infractions Fiscales*, before the Public Prosecutor may initiate public proceedings.

The Public Prosecutor receives complaints and denunciations and identifies cases for prosecution in accordance with the provisions of Article 40-1 of the Code of Criminal Procedure. The Public Prosecutor then directs investigations conducted by judicial police, with the exception of the most serious cases which are directed by an examining judge. There is no specific prosecutor's office dedicated to tax offences.

### ***Financial Intelligence Unit***

TRACFIN is the French national Financial Intelligence Unit, attached to the Ministry of the Economy, Finance and Industry financial departments. TRACFIN has no judicial powers and its task is to receive and analyse Suspicious Transaction Reports submitted

under anti-money laundering legislation, and then refer to the Public Prosecutor by means of an information note, facts concerning possible money laundering or terrorist financing. However, cases of suspected money laundering where the only underlying predicate offence is a tax crime are reported exclusively to the DGFIP.

TRACFIN is able to receive spontaneously or on request all information necessary to fulfil its tasks, from public authorities, bodies or persons. The FIU also communicates relevant information to the customs authority, the judicial police, specialised intelligence units and the DGFIP.

### ***Financial regulator***

The Prudential Supervisory Authority (ACP) is the French supervisory body for banking and insurance. Its creation in 2010 resulted from the merger of authorities aimed at establishing a strong supervisory body, with a comprehensive view of the financial sector. The ACP is responsible for the authorisation and supervision of banks and insurance agencies. Its main mission is to ensure the preservation of financial stability and the protection of bank customers, policyholders and beneficiaries of insurance contracts. The ACP is an independent authority, backed by the Bank of France.

The Financial Markets Authority (AMF) regulates participants and products in the French financial market. Its activities include regulation, monitoring, and, where necessary, implementing control and investigations. It also ensures that investors are properly informed and supported, if necessary, through the mediation device.

Due to the increasing overlap between the different activities of financial institutions, and in particular life insurance and investment funds, and the growth in banking and insurance products, a ‘common center’ between the AMF and the ACP was established in 2010. This collaboration allows the two authorities to strengthen control of the marketing of financial products in France to better protect consumers.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Reporting permitted <sup>1</sup>	Reporting permitted	Reporting obligatory	Reporting permitted
	Customs administration	Reporting permitted	Reporting permitted <sup>2</sup>		Reporting obligatory	Reporting permitted
	Police or public prosecutor	Reporting permitted	Reporting permitted <sup>2</sup>	Reporting obligatory		Reporting permitted
	Financial Intelligence Unit	Reporting permitted <sup>3</sup>	Reporting permitted	Reporting permitted	Reporting obligatory	
	Financial regulator	No sharing	Reporting obligatory <sup>4</sup>	No sharing	Reporting obligatory <sup>4</sup>	Reporting obligatory <sup>5</sup>

<sup>1</sup> The DGFIP has the ability to provide information spontaneously to police conducting tax investigations, but is not under an obligation to do so. Tax officials seconded to the *Brigade Nationale d'Enquetes Economiques* (BNEE), which is under the supervision of the Ministry of the Interior, have direct access to databases held by the DGFIP, including the national register of bank accounts (FICOBA). By working within the judicial police, BNEE officers facilitate sharing of information between the two agencies.

<sup>2</sup> Tax offences may be conducted by a number of police forces acting as judicial police under the direction of a Public Prosecutor or examining judge. However, a number of forces are more specialised in financial investigations and in 2010 the *Brigade National de Répression de la Délinquance Fiscale* was established as an agency with specific police and tax skills to combat serious tax offences. French police forces do not generally grant direct access to information for offices in other police forces. However, they are able to share information spontaneously where this is relevant to an offence under investigation by another force.

<sup>3</sup> TRACFIN sends monthly reports to DGFIP by email or mail. Reports of particular importance or urgency can be transmitted immediately without delay.

<sup>4</sup> Financial regulators are obliged to provide information spontaneously to the Public Prosecutor with respect to any sums or transactions that they suspect relate to criminal offences punishable by more than one year's imprisonment, or to the financing of terrorism.

<sup>5</sup> The central bank must provide information relevant to suspected money laundering or terrorist financing activities directly to TRACFIN.

## Models for enhanced co-operation

### *Co-operation between government agencies*

Co-operation between tax administration and customs plays a key role in the fight against tax evasion. It is based on a legislative framework which not only allows the receipt of information by the tax administration upon request, but also allows spontaneous communication by Customs to the tax authorities of all information and documents collected in the course of their duties.

This is conducted under a national agreement signed by the Commissioners of the two Directorates on 3 March 2011. This agreement was innovative in terms of establishing a partnership between the two authorities and developing access to computer applications for the benefit of both administrations.

The results of this partnership include the implementation of bilateral meetings of operational committees throughout the national territory (mainland and overseas Departments). These working groups have concluded local co-operation protocols and developed various tools and practices to promote awareness of the partner administration and encourage the detection and sharing of useful information.

***Technologies and other processes to enhance the effectiveness of co-operation***

The co-operation agreement between the tax administration and customs administration has led to a wider access to application data of the other administration which is a powerful tool in the fight against fraud. Since then, tax agents have access to the Customs database and can check customs declarations, providing greater opportunities for risk analysis.

## Germany

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The core role of German revenue authorities is to assess and collect taxes in accordance with the law. Any information collected (including personal data, company secrets and confidential data) is subject to tax secrecy, any breach of which is punishable by law. Any notification to third parties of data protected by tax secrecy requires corresponding statutory authorisation (section 30 subsections (4) and (5) of the Fiscal Code (*Abgabenordnung*)).

However, pursuant to section 30 subsection (4) number 2 in conjunction with section 31b of the Fiscal Code, disclosure of information subject to tax secrecy is permitted if it serves the implementation of criminal proceedings designated in section 261 of the Criminal Code (*Strafgesetzbuch*) (money laundering, hiding unlawfully obtained financial benefits), fighting terrorist financing within the meaning of section 1 subsection (2) of the Money Laundering Act (*Geldwäschegesetz*), or imposition of an administrative fine within the meaning of section 17 of the Money Laundering Act against those parties defined under section 2 subsection (1) numbers 9 to 12 of the Money Laundering Act. Where there are facts indicating that a criminal offence pursuant to section 261 of the Criminal Code or terrorist financing within the meaning of section 1 subsection (2) of the Money Laundering Act has been committed, that there has been an attempt to commit such offences, or that there will be an attempt to commit such offences, the revenue authorities must immediately inform the relevant enforcement authorities and send a copy to the Financial Intelligence Unit (FIU) of the Federal Criminal Police Office (*Bundeskriminalamt – “BKA”*). Facts indicating that an administrative offence within the meaning of section 17 of the Money Laundering Act has been or will be committed by a party defined under section 2 subsection (1) numbers 9 to 12 of the Money Laundering Act must immediately be notified to the administrative authority responsible for the administrative proceedings.

#### *Tax crime investigation*

The revenue authorities of the 16 German Länder are also responsible for the detection and prosecution of tax crimes and tax offences. In most Länder, tax crime investigation falls within the responsibility of the tax offices but some Länder also have independent tax offices for tax crimes and tax investigation.

The responsibilities of the revenue authorities include:

- investigating tax crimes and tax offences;
- determining the taxable amounts in this respect; and
- detecting and investigating unknown tax cases (section 208 of the Fiscal Code).

The duties of tax investigation offices include the investigation of facts concerning tax crime offences and determination of tax assessments. As the tax investigation officials (tax inspectors) also have the same rights and obligations as public officials in tax offices as part of the taxation assessment procedure, they have a dual legal function.

Tax investigation offices are the internal police of the revenue administration and have the same rights and obligations as police authorities pursuant to the provisions of the Code of Civil Procedure (*Strafprozessordnung*) (section 404 of the Fiscal Code). In particular, they have the right of access as well as the right to interview suspects, to interview witnesses and to carry out searches and seize evidence.

Where a revenue authority carries out the prosecution itself, it assumes the rights and obligations that a public prosecutor would have in investigatory proceedings (section 399 subsection (1) of the Fiscal Code). This is the case if the facts show the exclusive commission of a tax crime or a similar offence, and also breach other criminal laws and such breach affects church taxes (*Kirchensteuer*) or other public levies that are linked to the taxable amount, basic tax or tax amounts (section 386 subsection (2) of the Fiscal Code).

The independent investigative authority of the tax administration ceases as soon as an arrest warrant or a remand to a psychiatric hospital centre is issued against an accused person (section 386 subsection (2) of the Fiscal Code). Under such circumstances, the revenue authority only has the rights and obligations of a police authority.

### ***Customs administration***

The customs administration and tax administration are two Directorates in the Federal Ministry of Finance (Directorate-General III Customs excise duties, spirits monopoly and Directorate-General IV Taxation). The responsibility with respect to anti-fraud and enforcement regarding taxes belongs in Germany to the 16 Länder (so-called *Bundesländer*). The responsibility with respect to customs and excise including international co-operation belongs to the Federal administration (so-called *Bundesverwaltung*). Currently there are eight Custom Investigation Units in Germany. Tax Investigation Units exist in each of the 16 Länder.

The core responsibilities of the customs administration are any kind of customs fraud including smuggling of cigarettes and other goods, investigations of cases of illegal cigarette-factories, illegal transportation of mineral oil, alcoholics and other excise duty relevant goods. The customs investigators serve as judicial officers for the public prosecutor in cases of criminal customs offences. The customs administration is also responsible for cross-border cash control activities.

### ***Police***

The role of the police is to avert danger, maintain public order and detect and prosecute non-tax related crimes.

### ***Prosecution authority***

The Public Prosecutor's Office is an autonomous judicial authority that is independent of the courts. It is responsible for the prosecution and punishment of crimes. Within the tax administration, there is an independent criminal prosecution department for criminal and administrative fines. The department for criminal and administrative fines is responsible for carrying out criminal prosecutions and administrative fine proceedings. It works in close conjunction with the jurisdictional courts and public prosecutor's offices. In court proceedings for tax evasion, the department for criminal and administrative fines represents the interests of the revenue administration. The department for criminal and administrative fines is the internal public prosecutor's office of the tax administration.

### ***Financial Intelligence Unit***

The responsibilities of the Financial Intelligence Unit (FIU) include collecting and analysing Suspicious Transaction Reports that it receives, maintaining statistics, publishing an annual report, and regularly informing the persons obliged to report on types and methods of offences.

The legal basis for the Financial Intelligence Unit is laid down by the revised Money Laundering Act of 8 August 2002, which entered into force on 15 August 2002. Establishing the unit at the Federal Criminal Police Office on 15 August 2002 served to create an FIU with police powers. This ensures the smooth integration of information relevant for the enforcement of law and the prosecution of crimes – something that is indispensable in combating money laundering and especially terrorist financing. At the Federal Criminal Police Office, the FIU is located within the division responsible for combating serious and organised crime (Division SO). One of the groups in Division SO (SO 3, Economic and Financial Crimes) contains department SO 32, whose remit encompasses money laundering, the FIU, and the joint police/customs financial investigation group. The FIU forms a section within this department.

The FIU's offices and data enjoy special protection and are accessible only to FIU staff.

The Federal Ministry of the Interior is responsible for the technical supervision of the FIU.

### ***Financial regulator***

The Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht* – “BaFin”) is a federal institution with legal capacity headquartered in Frankfurt am Main and Bonn. It is subject to the legal and technical supervision of the Federal Finance Ministry. BaFin exercises bank supervisory, securities supervisory and insurance supervisory functions. The responsibilities of BaFin serve to counteract abuses in banking, to guarantee the transparency and the integrity of the financial markets and investor protection and to ensure and preserve the interests of insurance policy holders to the extent that obligations from insurance policies may be met at any time.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	Direct access <sup>2</sup>	No sharing <sup>3</sup>	Reporting obligatory <sup>4</sup>
	Customs administration	Direct access <sup>2</sup>	Direct access <sup>2</sup>		Reporting obligatory <sup>5</sup>	Reporting obligatory <sup>6</sup>
	Police or public prosecutor	Reporting obligatory	Reporting obligatory	Reporting obligatory <sup>7</sup>		Reporting obligatory
	Financial Intelligence Unit	Reporting obligatory <sup>8</sup>	Reporting obligatory <sup>8</sup>	Reporting permitted	Reporting obligatory <sup>9</sup>	
	Financial regulator	No sharing	Reporting obligatory <sup>10</sup>	No sharing	Reporting obligatory	Reporting obligatory

<sup>1</sup> There are no restrictions on the disclosure of information subject to tax secrecy if it serves the implementation of criminal tax proceedings. Tax crime investigators have regular direct access to tax databases and may request information from departments responsible for tax assessments.

<sup>2</sup> Tax and customs administrations share access to common risk analysis data, particularly concerning suspected VAT fraud. There is also a duty to share information concerning illegal employment. Information sharing is subject to tax secrecy rules.

<sup>3</sup> Disclosure by tax administrations of information protected by tax secrecy rules is only permitted in very exceptional circumstances. Indicators of possible money laundering or terrorist financing (or that there has been or will be an attempt to commit such offences) must be reported.

<sup>4</sup> Where there are indicators of possible money laundering or terrorist financing (or that there has been or will be an attempt to commit such offences), tax administrations must immediately inform the relevant law enforcement authority and send a copy of this report to the FIU.

<sup>5</sup> Information may be provided for criminal procedure or investigation matters.

<sup>6</sup> Customs must report information concerning possible money laundering or terrorist financing.

<sup>7</sup> Police and prosecutors must provide customs administrations with any relevant information arising out of criminal procedures.

<sup>8</sup> All information from Suspicious Transaction Reports regarding money laundering and related investigations and which may be relevant for civil or criminal tax purposes, must be sent to the relevant tax administration. Information may also be provided on request.

<sup>9</sup> Where the FIU obtains information relating to possible money laundering or terrorist financing offences, it must without delay provide this to the appropriate federal and Länder police forces.

<sup>10</sup> This obligation only applies where there is a compelling public interest in the prosecution of such crimes or when a person obliged to furnish information (for example in a tax procedure) intentionally provides false information.

## **Models for enhanced co-operation**

### ***Co-operation between government agencies***

As regards the exchange of information with the FIU and the departments of the criminal police offices of the Länder responsible for fighting money laundering, the tax administrations have mostly set up central co-ordinators or departments that are responsible for passing on the information. They act as a link between the public authorities and ensure a continual, effective and fast exchange of information. This has proven its worth, as the direct point of contact within the tax administration ensures a permanently high quality of information exchange.

Liaisons in the tax investigation teams, customs investigation teams and in the criminal investigations departments work together and hold regular round tables to share intelligence and information, both in general and on specific cases.

### ***Co-operation with business, the tax profession, academic bodies and other organisations***

To improve co-operation with business, the tax and customs administrations have established a number compliance initiatives, round-table meetings, horizontal and a young entrepreneurs programme. Meetings are also held with representatives of the Chamber of Commerce.

## Ghana

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

Ghana Revenue Authority is the body authorised to administer tax in the country

The Internal Revenue Act 2000, Act 592 sections 148 to 154 make the commission of certain acts with respect to the administration of tax in Ghana offences. The Act further provides penal sanctions for these offences.

The tax administration, in addition to its main functions of assessment and collection of taxes from persons liable to tax, is also empowered to prevent the commission of tax offences as described in the law.

The tax administration has broad investigative powers with respect to detecting tax evasion offences. The law authorises the tax administration to enter any premises or property and to seize any documents whether electronic or hard copy in pursuit of its functions of preventing, detecting or investigating tax evasion crime.

#### *Tax crime investigation*

Tax criminal investigation is handled by the Economic and Organised Crime Office and the Commercial Crime Unit of the Ghana Police Service

The Economic and Organised Crime office has primary responsibility in tax crime investigations but the Ghana Police Service also has broad powers in investigating crimes which may include tax crime.

#### *Customs administration*

The Customs Division of the Ghana Revenue Authority handles customs administration

The Preventive Unit of the Customs Division of the Tax administration handles customs crime investigations

#### *Police*

The Ghana Police Service is organised on National basis, with a unified command under the Inspector-General of Police (IGP). The IGP, subject to the direction of the Minister of Interior, is responsible for exercising general day-to-day supervision over the operation and administration of the service.

#### *Other key law enforcement agencies*

The Bureau of National Investigations (BNI) is the internal intelligence agency of Ghana. It has investigative jurisdiction over a wide range of criminal offenses. Among the duties of the BNI are dealing with organised crime and providing intelligence to counter threats to national security

The Narcotic Control Board (NCB) is the agency concerned with the enforcement of narcotics laws in the country. The NCB's work is aimed at preventing the use, import, and export of narcotics.

### *Prosecution authority*

The Attorney General's department has responsibility for conducting criminal prosecutions. However, it has the power to delegate the prosecution of certain crimes to other bodies such as the Police or tax administration.

### *Financial Intelligence Unit*

The Financial Intelligence Centre (FIC) assists in the identification of proceeds of lawful activity and the combat of money laundering activities. FIC makes information available to investigating authorities, the intelligence agencies and the revenue agencies to facilitate the administration and enforcement of national laws; and exchanges information with similar bodies in other countries as regards money laundering activities and similar offences.

### *Financial regulator*

The Bank of Ghana has overall supervisory and regulatory authority in all matters relating to financial business

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		On request	Direct access	On request	Reporting obligatory <sup>1</sup>
	Customs administration	Direct access	On request		On request	Reporting obligatory
	Police or public prosecutor	On request	On request	On request		Reporting obligatory
	Financial Intelligence Unit	Reporting obligatory <sup>2</sup>	Reporting obligatory <sup>3</sup>	Reporting obligatory <sup>2</sup>	Reporting obligatory	
	Financial regulator	On request	On request	On request	On request	On request

<sup>1</sup> Under the Anti-Money Laundering Act, the Ghana Revenue Authority must spontaneously provide all information concerning suspicious transactions to FIC.

<sup>2</sup> Where Suspicious Transaction Reports received by FIC have possible tax or customs implications, they are automatically referred to the Ghana Revenue Authority.

<sup>3</sup> Tax crime investigators may also request access to Suspicious Transaction Reports where relevant to an investigation.

## **Models for enhanced co-operation**

### *Co-operation between government agencies*

The framework for enhanced co-operation is encapsulated in the governing body of the Financial Intelligence centre which includes representatives from the various agencies involved in the combating of tax and financial crimes.

The National Security Council also consists of representatives of all security agencies in the country to insure cohesion in the procedures for combating crime generally

Secondment of specialised staff and joint investigations and taskforces are also used.

## Greece

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The General Directorate of Tax Audits is responsible for:

- monitoring the implementation of tax legislation and performing tax audits;
- collecting and analyzing the results of tax audits performed on all taxation objects, except taxation of capital; and
- planning, co-ordination and evaluation of the country's audit strategy.

Every three years the General Directorate of Tax Audits elaborates the National Operational Anti-Evasion Programme, which includes:

- a plan of action against tax evasion; and
- proposals for institutional changes and measures with the aim to enhance the effectiveness of the coordination between and operations of tax, judicial and combating economic crime authorities.

The first National Operational Anti-Evasion Programme was announced on 30 April 2011, and determines quarterly actions with specific quantitative goals, especially concerning local tax offices and inter-regional audit centers.

The General Directorate of Tax Audits supervises and controls the conduct of tax audits, based on specified audit procedures and audit techniques and participates in the audit process. The cases are selected by the General Directorate for Tax Audits, upon recommendation of the Head of the Auditing Authority, in cooperation with the General Secretariat of Information Systems.

#### *Tax crime investigation*

The Financial & Economic Crime Unit (SDOE) is established as an independent agency under the Ministry of Finance.

The mission of SDOE includes the following.

- Research, identification and combating of economic offences of particular significance, such as money laundering frauds, violations related to provisions, grants, illegal stocks trading and other financial transactions, as well as economic frauds against the interests of the Hellenic state and the E.U. regardless of the place of execution of the crime.
- Monitoring the implementation of tax legislation and performing tax audits, especially for withholding taxes focusing on V.A.T. and imposed taxes.
- Monitoring the implementation of customs legislation and regulations and performing custom controls, focusing on excise imposed on cigarettes, fuel, and alcohol.

- Prevention, disclosure and combat of illegal transactions, frauds and criminal activities also when conducted using electronic means, internet and other new technologies.
- Prevention, prosecution and combat of other offences, such as drugs trafficking, weapons and explosives, psychotropic substances, toxic and hazardous substances (radioactive and nuclear materials, toxic wastes etc), antiquities and objects of great cultural value.
- Performing on the spot controls for combating tax fraud and smuggling.
- Surveillance of coastal and marine areas and protection, in collaboration with other competent Authorities, of the coastline and beaches as well as exchangeable and public property, owned by the Ministry of Finance, from arbitrary violations and construction thereon.

SDOE powers include the following.

- Investigations of vehicles, sales and manufacturing premises, headquarters, and warehouses etc.
- Audits on company documentation and tax records.
- Investigations on residencies, with assistance from the public prosecutor.
- Ability to interrogate and arrest a suspected offender.
- Confiscations of books and elements, documents, goods, vehicles, and computer equipment.

In important cases, including major tax evasion and smuggling, SDOE is able to freeze bank accounts and other assets.

SDOE officials have authority to access all information and data concerning or related to the execution of their duties. SDOE officials have an autonomous right, without requiring any further permission or order, to lift bank, tax and business securities, only being compelled to hold the information strictly confidential.

### ***Customs administration***

The Greek General Directorate of Customs and Excise is separate to the tax administration, subordinate to the Ministry of Finance and reporting to the Secretary General of Public Revenue.

The General Directorate of Customs and Excise is responsible for:

- protecting public health and safety and intellectual property rights;
- monitoring the implementation of customs legislation and performing customs audits;
- assessing and collecting customs and excise duties;

- preventing the smuggling of goods, especially of cigarettes, mineral oil and alcohol, fighting the illicit trafficking of narcotic drugs, precursors, weapons, dual use goods and conducting criminal investigations regarding the breaches of the customs code;
- defining the policy of customs controls; and
- Monitoring the cross-border controls on cash couriers.

The General Directorate of Customs and Excise participates in the National Operational Anti-Evasion Programme and determines quarterly actions with specific quantitative goals, especially concerning local customs offices and Customs Auditing Departments.

In June 2010, a joint Police/Customs co-operation centre was established on the border between Greece and Bulgaria, at Promahonas.

### *Financial Intelligence Unit*

The Greek FIU is established as an independent agency under the Ministry of Finance. Since April 2010, tax evasion has been a predicate offence to money laundering.

Following evaluation of Suspicious Transaction Reports, the FIU conducts a thorough investigation in order to identify the location of criminal proceeds. Where criminal proceeds are located, the FIU proceeds to freeze the funds or property of equal value. Finally, the case is disseminated to the public prosecutor for a money laundering prosecution.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	Reporting obligatory	Reporting obligatory	Direct access <sup>2</sup>
	Customs administration	Reporting permitted	Reporting permitted		Reporting permitted	Reporting obligatory
	Police or public prosecutor	Reporting obligatory	Reporting obligatory	n/a <sup>3</sup>		Direct access <sup>4</sup>
	Financial Intelligence Unit	Reporting permitted <sup>5</sup>	Reporting permitted <sup>5</sup>	Reporting permitted	Reporting permitted	
	Financial regulator	No sharing <sup>6</sup>	Reporting obligatory <sup>7</sup>	n/a <sup>3</sup>	Reporting obligatory <sup>8</sup>	Reporting obligatory

- <sup>1</sup> The Financial and Economic Crime Unit (SDOE) has direct access to the TAXIS DATA tax information system.
- <sup>2</sup> Where, in the course of a tax audit conducted by a Local Tax Office or Audit Centre, evidence of possible money laundering or a predicate offence other tax evasion is discovered, the General Directorate of Tax Audits (GDTA) submits a Suspicious Transaction Report to the FIU. Where a Suspicious Transaction Report submitted by the GDTA, the FIU sends follow up reports and feedback on the results of any action taken.
- <sup>3</sup> This information was not available at the time the report was completed.
- <sup>4</sup> The FIU has direct access to police information. The Greek public prosecutor is under an obligation to provide the FIU with information spontaneously, but does not give the FIU direct access to information.
- <sup>5</sup> The FIU also sends to SDOE, the GDTA, Local Tax Offices and Audit Centers information concerning suspicions of possible tax invasion for further tax investigation.
- <sup>6</sup> In general information held by the Capital Markets Commission is not available to the GDTA for the purposes of administering taxes. However, information may be made available to the GDTA on request where the information was already included by the Capital Markets Commission in a decision to impose sanctions.
- <sup>7</sup> In Greece, where the Capital Markets Commission obtains information concerning possible criminal tax offences, it must report this to SDOE. Other information is made available to SDOE only on request.
- <sup>8</sup> The Capital Markets Commission must report to the public prosecutor any information it obtains which causes it to suspect a criminal offence may have been committed. Other information may be provided to the public prosecutor or court on request, subject to the condition that the information must be absolutely necessary for the detection or punishment of a criminal offence.

## Models for enhanced co-operation

### *Co-operation between government agencies*

In addition to the sharing of information, a working group was that has been established in the framework of the roadmap of the EU Task Force for Greece for combating money laundering in relation to tax evasion, where all the competent authorities participate. These include SDOE, the tax administration, the FIU, the Financial and Economic Police and the Public Prosecutor responsible for economic crimes. Furthermore, a Committee for the Elaboration of a Strategy and Policies to deal with Money Laundering and Terrorist Financing and a Coordination Committee for Combating Corruption have been established which also include representatives from all competent agencies.

### *Technologies and other processes used to enhance the effectiveness of co-operation*

The Ministry of Finance has developed “ELENXIS”, an Integrated Information System for all its Inspection Departments, including Taxation Auditing Services, Financial and Economic Crime Unit (SDOE), Customs Auditing Services and the Finance Inspectorate.

## Hungary

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The National Tax and Customs Administration of Hungary (NTCA) was established on 1 January 2011 with the merger of the Tax and Financial Control Administration (tax administration) and the Hungarian Customs and Finance Guard (the customs and excise administration). Within the framework of law enforcement and investigation capacity, NTCA shall carry out operations in accordance with the Code on Criminal Procedure (CPC) for the prevention, detection and investigation of criminal activities falling under its jurisdiction, and shall carry out the functions conferred upon it relating to the enforcement of the Act on the Prevention and Combating of Money Laundering and Terrorist Financing. The investigating function is carried out by the Directorate General for Criminal Affairs (DG-CA) as a central body and its regional directorates for criminal affairs.

The reasons for the merger were to unite the functions of the administrations in one entity eliminating duplication, to combine the professional knowledge of the organisations, to ensure fast and flexible flow of information, to reorganize a separate entity for tax investigations and with all these measures to protect and handle the widest scope of incomes from taxes and other duties on a higher level in the spirit of efficiency, professionalism and cost reduction. Communication and sharing of information within a single organisation has proved swifter and easier than under a multi-agency structure.

The role of the tax administration of the NTCA is to conduct audits within the scope of Act XCII of 2003 on the Rules of Taxation and in case of detection of financial crimes during an audit it informs the criminal investigation administration of the NTCA in the form of criminal notice or criminal report.

During the early stages of an audit where possible tax crime is suspected, there is a preliminary discussion and risk analysis between the professional branches of the NTCA in order to identify the fraudulent taxpayers, the real beneficiaries and their profits and assets from their fraudulent activities. Due to this process the NTCA has a complete picture on the assets that can be seized.

#### *Tax crime investigation*

The NTCA Directorate General for Criminal Affairs (DG-CA) has exclusive competence to conduct investigations into tax and budget related crimes. The police has no authority to investigate these offences.

The main tasks of the DG-CA are the prevention, detection and investigation of crimes determined by the Code on Criminal Procedure. Investigations are conducted under the direction of the Public Prosecutor's Office.

The DG-CA has a threefold structure. The Vice President for Criminal Affairs is responsible for the overall operation, supervision and control of the criminal investigations branch. Below the Vice President sits a central directorate and seven regional directorates, which operate across the country.

### ***Customs administration***

The NTCA is a combined tax and customs administration. The customs directorate of the NTCA is responsible for administering customs and excise duties.

Customs crime investigations are conducted by the investigative branch of the NTCA, which sits outside of the customs directorate. Investigations are conducted under the direction of a prosecutor.

### ***Police***

The Hungarian National Police consists of three main pillars: the General Police Service; the National Protective Service; and the Counter Terrorism Centre.

Hungarian law distinguishes between the criminal investigation and the criminal intelligence functions. According to current law, all three pillars of the National Police Service are entitled to collect criminal intelligence concerning their areas of responsibility. However, the National Protective Service and Counter Terrorism Centre are not entitled to perform ‘open investigations’, as their mandates are for undercover operations and covert criminal intelligence gathering solely.

Since 1 January, 2011 the National Protective Service became responsible for maintaining integrity and preventing internal corruption of public officials of the civilian security services, the law enforcement agencies and the administrative government agencies.

Investigations threatening Hungary’s economic security which are not investigated within the NTCA are handled by the Economic Protection Section of the Police Investigation Authority. In cases where both agencies have jurisdiction, the competent civil prosecutor decides and delegates the case to one of the authorities.

Since March 2009, the National Bureau of Investigation (NBI) of the Riot Police has been the dedicated body for criminal asset recovery. Although the responsible organisation for asset recovery is still the National Bureau of Investigation, a reorganisation in August, 2012 lifted the Criminal Asset Recovery Unit from the Department for Economic Security and no new dedicated structure has been formed for the particular function. NBI however maintains specialised investigators for asset recovery.

### ***Prosecution authority***

The Hungarian prosecution service is an independent and separate constitutional organisation. It is headed and directed by the Prosecutor General, and comprises four areas: the Office of the Prosecutor General; the chief prosecution offices of appeal; the chief prosecution offices; and the district prosecution offices.

The Prosecutor General and the prosecution service are responsible for enforcing the state’s right to punish crimes. The prosecution service prosecutes crimes and other unlawful acts or omissions, and also assists in the prevention of unlawful acts.

Under Hungarian law, the prosecution service’s responsibilities include:

- a) investigating criminal offences determined by the Code on Criminal Procedure (the investigation of criminal offences falling within the competence of the prosecution

- service);
- b) supervising investigating authorities conducting investigations;
  - c) exercising the public power of accusation, represent the prosecution in court proceedings, and exercise the right of appeal entrusted to the public prosecution service by the Code on Criminal Procedure;
  - d) supervision of the observance of the legal regulations concerning the execution of principal and supplementary punishments, corrective measures, coercive measures depriving or restricting the defendant's freedom, probation follow-up programs, the criminal, misdemeanour and warrant records, and it shall also contribute to court proceedings related to the execution of criminal punishments;
  - e) contributing to the proper application of law in court proceedings;
  - f) ensuring that authorities entrusted with special competences and organs settling disputes out of court observe the provisions of statutes;
  - g) taking special care of the prosecution of criminal offences committed by or against minors, and shall contribute to the protection of minors' rights and shall initiate proceedings so that necessary child protection measures are taken; and
  - h) performing duties entrusted to the prosecution service resulting from international agreements and treaties, particularly from those that concern requests for international legal assistance or the fulfilment of them.

The prosecution service supervises most criminal investigations in Hungary. However, tax fraud and other financial crimes violating budgetary interests fall within the exclusive competence of the NTCA. Prosecutors are only involved in the investigation as investigating authority in exceptional cases.

Structurally a part of the prosecution service, the National Institute of Criminology (OKRI) shall operate as an academic and research institute with the purpose of researching criminality, criminology, and developing the theory and practices of criminal sciences. OKRI was commissioned by the Ministry for National Economy to prepare the first ever national threat assessment, which was delivered in January 2013.

### ***Financial Intelligence Unit***

The Hungarian Financial Intelligence Unit (HFIU) receives, analyses and disseminates Suspicious Transaction Reports and carries out the exchange of information with counterpart FIUs on the basis of the Anti-Money Laundering Act.

The HFIU is established within the structure of the Central Office of the NTCA as an autonomous and independent department. The HFIU carries out its activities within the field of law enforcement, but it does not act as an investigative authority meaning it does not conduct criminal investigations, and does not apply coercive measures.

According to the Anti-Money Laundering Act, the HFIU is authorised to disseminate information to law enforcement authorities, foreign FIUs, prosecutors, the courts, national security services, the National Protective Service, the Counter-Terrorism Centre and

EUROPOL. The information that the HFIU is able to share is that in connection with anti-money laundering and terrorist financing issues or for the purpose of criminal offences of money laundering, terrorist acts, budgetary fraud, unauthorised financial activities, failure to comply with the reporting obligation related to money laundering, embezzlement, fraud or misappropriation of funds and other serious crimes, as well as criminal offenses related to organised crimes under to the amendment of the AML/CFT Act of Hungary, which entered into force on 1 July 2013. The supervisory authorities of obliged institutions must co-operate with the HFIU (itself a supervisor for certain types of service providers) when issuing or amending the model rules for supervised institutions, which serve as guidelines in their respective AML/CFT activities.

### *Financial regulator*

The Hungarian Financial Supervisory Authority (HFSA) is the single integrated supervisor of all financial services and markets in Hungary. The HFSA is obligated to report to law enforcement agencies about criminal activities detected during both off- and on-site inspections. The Anti-Money Laundering Act specifically provides for the HFSA to report suspicious transactions to the HFIU. Hungary has an all-crimes approach to money laundering, and so this obligation means that financial crimes including tax crimes are considered predicate offences to money laundering and dealt with accordingly.

Under the Act CXXXVI of 2007 on the Prevention and Combating of Money Laundering and Terrorist Financing the HFSA is the anti-money laundering and anti-terrorist financing supervisory authority of the financial service providers. Under the Act CLVIII the HFSA is the competent supervisory authority under Directive 2003/6/EC of 28 January 2003 on Insider Dealing and Market Manipulation (Market Abuse). Mandated by the AML/CFT Act, the HFSA issues – in co-operation with the HFIU and in agreement with the minister of the Ministry for National Economy – sector-specific model rules for supervised institutions to be implemented in their internal rules.

The HFSA concluded a Memorandum of Understanding with the Hungarian police on the prevention and containment of crimes compromising the financial system and the financial markets and a separate Memorandum of Understanding with the NTCA on data provision, the effective protection of financial markets and customers, as well as the prevention and impeding of money laundering and terrorist financing.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	Direct access	On request <sup>2</sup>	Direct access
	Customs administration	Direct access	Direct access		On request <sup>2</sup>	Direct access
	Police or public prosecutor	Reporting obligatory <sup>3</sup>	Reporting obligatory <sup>3</sup>	Reporting obligatory <sup>3</sup>		Direct access <sup>4</sup>
	Financial Intelligence Unit	No sharing <sup>5</sup>	Reporting permitted <sup>5</sup>	No sharing <sup>5</sup>	Reporting permitted <sup>6</sup>	
	Financial regulator	Reporting permitted	Reporting obligatory	Reporting obligatory	Reporting obligatory	Reporting obligatory

<sup>1</sup> Since May 2013, all tax information held by the NTCA has been directly accessible to tax crime investigators within the DG-CA. In addition, the NTCA must disclose information, including confidential tax information, to criminal tax investigators where this is for the purposes of detecting, preventing or investigating tax offences or prosecuting cases. The DG-CA may also obtain information on request.

<sup>2</sup> The court, Public Prosecutor and law enforcement agencies may request information, data or documents from the NTCA and prescribe a time limit of between eight and 30 days for these to be provided. However, all public officials, including tax officials, must file a report with the public prosecutor if they become aware of any criminal offence in the course of their duties, including the identity of the suspected offender. This report must include details of why the official is suspicious of criminal activity, including any evidence that has come to their attention.

<sup>3</sup> If a judge, public prosecutor, police or other investigating authorities identifies any fact or circumstance which they believe would initiate or facilitate a judicial, administrative or other procedure within the competence of the tax and customs administration, (including civil administrative proceedings and criminal investigations), they must inform the NTCA in order for this procedure to be conducted.

<sup>4</sup> The Hungarian FIU has direct access to police information and criminal records. The FIU may also request information from the police.

<sup>5</sup> As of the 1 July 2013 the HFIU is authorised to forward data to administrative authorities (including the tax and customs administration) or supervisory authorities in order to initiate an administrative/supervisory procedure. The FIU may not otherwise share information for the purpose of assessing taxes or customs duties.

<sup>6</sup> Law enforcement authorities, including the police and the DG-CA of the NTCA may be provided with Suspicious Transaction Reports at the discretion of the HFIU. They may also request access to specific Suspicious Transaction Reports.

## Models for enhanced co-operation

### *Co-operation between government agencies*

The Counter-Organised Crime Co-ordination Centre sits directly under the Ministry of Interior, and was formed in 2003 for the promotion of inter-agency information exchange in cases of organised crime. The National Police Service, the Prosecutor Service, civilian and

military security services and other investigative and law enforcement agencies have seconded officials to the Centre. These agencies have a secure, permanent electronic connection with the Centre to ensure swift and confidential sharing of information.

Rules for setting up a joint task force, and the agreements between participating authorities are stipulated by regulations under law. Generally, it is possible to set up a joint task force in cases where crimes are committed by the same offenders and fall under the competence of more than one investigating authorities, or where special knowledge or expertise from another investigative authority is required. The agreement is prepared by the heads of the participating investigating authorities, and should be approved by the prosecutor.

In cases where a joint task force is not appropriate, but an investigation conducted by one authority would be facilitated by access to the knowledge, experience or expertise of an official from another authority, the official may be seconded or reassigned to the investigating authority. This procedure is particularly common when a case is transferred between authorities in the course of an investigation.

The National Police and NTCA maintain a joint unit for International Law Enforcement Cooperation (ILECC). ILECC is a dedicated unit to manage all means of criminal information exchange between the national authorities and their foreign partners. On the basis of a multi-agency approach, ILECC sustains a Liaison Bureau at EUROPOL and has liaison officers in the Southeast European Law Enforcement Center (SELEC) as well as in several countries to foster international co-operation in criminal matters.

#### ***Co-operation with business, the tax profession, academic bodies and other organisations***

The HFIU, as part of the NTCA, functions as the supervisory body of certain designated non-financial businesses and professions, including accountants and tax advisers. The HFIU also serves as a link between the banking sector and the investigating branch of the NTCA when it comes to effective co-operation and sharing of best practices through mutual training, seminars, workshops, conferences. This also applies to academic bodies, and international organisations and arrangements such as CoE, OLAF, EUROPOL and CEPOL.

Senior officers from the criminal investigating service of the NTCA and the HFIU frequently participate in private sector consultations and fora.

#### ***Technologies and other processes used to enhance the effectiveness of co-operation***

Sharing information swiftly and directly is the most important condition of the effective cooperation. To fulfill this requirement the tax administration of the NTCA - in case of detection of financial crimes during an audit - inform the criminal investigation service of the NTCA in the form of criminal notice or criminal report and attach all available data and documents. Furthermore, the criminal investigation bodies of the NTCA have direct access to IT systems of the tax administration of the NTCA in order that they can get the information necessary for their investigations. As a result, gathering tax information became faster and easier for the investigators of NTCA, since the sharing of relevant information is essential for the combating tax fraud became easier under the umbrella of one organisation.

## Iceland

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Icelandic Directorate of Internal Revenue (DIR) is responsible for determining tax assessments and conducting tax audits. It implements advisory services for the public on tax matters and is competent authority in relation to all cases concerning double taxation, exchange of information and mutual agreement procedures under tax treaties.

#### *Tax crime investigation*

The Directorate of Tax Investigations (DTI) is an independent agency separate to the tax administration, under the Ministry of Finance.

The DTI is responsible for investigating cases where there are suspicions of tax fraud. The DTI represents the Icelandic State in cases where the penalty procedure takes place through a closed administrative action by the State Internal Revenue Board. The DTI is also competent authority for criminal tax investigations.

#### *Customs administration*

The Directorate of Customs has the task of collecting indirect taxes and customs duties, as well as direct taxes which have previously been assessed by the DIR.

The Directorate of Customs monitors the import and export of goods, as well as goods in transit within the country. The Directorate also handles customs control and customs clearance of travelling persons and vehicles transported to and from Iceland.

#### *Police*

The Minister of Interior is the overall head of the police in Iceland. The National Commissioner of the Icelandic Police administers police affairs under the Minister's authority. Iceland is divided into 15 police districts and each Police Commissioner is independently in charge of the execution of police tasks in his district. The Police Commissioners are responsible for the investigation and prosecution of all minor economic crimes, which are not subject to investigation and/or prosecution by the Director of Public Prosecutions and the Special Prosecutor's Office.

#### *Prosecution authority*

The Director of Public Prosecutions is in overall command of police investigations and is required to monitor their progress. He is the highest holder of prosecution authority. His role is to ensure that legally prescribed sanctions are applied against persons who have committed criminal violations, and to supervise the exercise of prosecution authority by Commissioners of Police and the Special Prosecutor's Office. The Director of Public Prosecutions prosecutes the more serious offences against the Criminal Code, including offences committed in official capacity and the office also prosecutes all cases before the Supreme Court.

The Special Prosecutor investigates and prosecutes cases involving economic violations, gainful offences and taxation infringements, including offences which have been investigated by the DTI, the Icelandic Competition Authority and the Icelandic Financial Supervisory Authority.

Specific provision is made in the Act for the Special Prosecutor to collaborate as necessary with the DTI, the Icelandic Financial Supervisory Authority, the Icelandic Competition Authority and other regulatory and supervisory institutions. Upon request, these institutions will provide the Special Prosecutor with information as to the status of cases which they have been handling. The Special Prosecutor is thereby offered the possibility of accessing cases at an earlier stage and, for example, expressing an opinion as to whether cases should be prosecuted publicly. This arrangement should encourage well-grounded and thoroughly prepared public prosecution.

### ***Financial Intelligence Unit***

The Icelandic FIU is established within the National Commissioner of the Icelandic Police.

### ***Financial regulator***

The following categories of financial enterprises and parties operating in the financial and insurance sectors are subject to supervision by the Financial Supervisory Authority (FSA):

- Commercial Banks
- Savings Banks
- Credit Undertakings (Investment Banks)
- Securities Companies
- Securities Brokerages
- Management Companies of UCITS
- Insurance companies
- Companies and individuals acting as Insurance Brokers
- Stock Exchanges and Other Regulated Markets
- Central Securities Depositories
- Pension Funds
- Depository Departments of Co-operative Societies

The FSA has also been entrusted with the supervision of the following parties, whose operations are governed by special laws: The Housing Financing Fund Housing Bonds Department; Iceland Post Postal Giro; the New Business Venture Fund; and two special insurance funds for deposit owners and investors and savings banks.

Supervision by the FSA is mainly implemented in three ways:

- Firstly, through regular gathering of various information concerning the operations and finances of parties subject to supervision. This information gives an overview of the situation and developments in specific areas of the financial market as well as serving as an indicator of the performance of individual financial firms.
- Secondly, through a range of specific supervisory measures. Special on-site investigations or inspections are conducted in the case of individual parties subject to supervision. The FSA also carries out inspections into more delimited areas in the operations of one or more parties at a time.
- Thirdly, through written enquires to parties subject to supervision on certain areas of their operations.

The FSA must take the initiative in its supervisory capacity. The FSA needs to have a clear overview of the situation in different areas of activity among parties subject to supervision and tailor its supervisory procedures accordingly. The FSA also deals with various communications and inquiries from parties subject to supervision regarding their operating licences and the interpretation of laws and regulations pertaining to their operations. The customers of financial firms also turn to the FSA with inquiries concerning their business transactions.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	Direct access <sup>2</sup>	Reporting obligatory	Reporting obligatory
	Customs administration	Direct access	Direct access		Direct access	On request
	Police or public prosecutor	Reporting obligatory	Reporting obligatory <sup>3</sup>	Direct access <sup>4</sup>		Reporting obligatory
	Financial Intelligence Unit	Reporting obligatory	Reporting obligatory	On request	Reporting obligatory	
	Financial regulator	On request	Reporting permitted	On request	Reporting permitted	Reporting obligatory

<sup>1</sup> This refers to the case where tax crime investigations are conducted by the Directorate of Tax Investigations. Police conducting tax crime investigations do not have direct access to tax databases, but the DIR is under an obligation to provide all relevant information to the police.

<sup>2</sup> The Directorate of Customs has restricted access to information held by tax authorities. It has access to the DIR Information Database and VAT Database, which are used for tax collection purposes. However, it does not have access to the DIR database of tax returns.

<sup>3</sup> This refers to the case where tax crime investigations are conducted by the Directorate of Tax Investigations. Police conducting tax crime investigations have direct access to relevant information held by the police.

<sup>4</sup> Certain officials within the Directorate of Customs have full access to police databases. Customs officials do not have access to databases held by public prosecutors.

## **Models for enhanced co-operation**

### ***Co-operation between government agencies***

A joint working arrangement is in place between DTI and the Special Prosecutor. No joint working arrangements between DTI and other agencies are in place, but agencies exchange information and co-operate on a case by case basis. That being said, the DTI has access to information collected and maintained by the DIR.

### ***Co-operation with business, the tax profession, academic bodies and other organisations***

No formal co-operation arrangements are in place but joint training courses, meetings and seminars are held. The DTI and the University of Reykjavik have entered into co-operation in the teaching of courses at the University and law students from the University of Reykjavik intern at the DTI.

## India

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The principle tax administration for direct taxes, including income tax, capital gains tax, corporate tax and wealth tax in India is the Central Board of Direct Taxes (CBDT), New Delhi which came into existence through the Central Board of Revenue Act, 1963.

The CBDT, consisting of a Chairperson and six Members, is part of the Department of Revenue, Ministry of Finance, Government of India. The Chairperson and Members are chosen from amongst the most senior officers of the Indian Revenue Service (IRS). CBDT plays pivotal role in formulation of policy with regard to the direct taxes in India and is also responsible for its administration through the Income Tax Department (ITD).

The ITD, while ensuring voluntary compliance through better taxpayer services, is also committed to creating an effective deterrence against tax evasion, mainly through the methods of investigation, assessment, penalties and prosecutions. Assessment leads to the determination of a taxpayer's total income and tax liabilities, levying of civil penalties in appropriate cases of defaults and launching of criminal prosecutions in the matters of wilful attempt to evade taxes and other offences specified in the Income Tax Act, 1961/Wealth Tax Act, 1957. The maximum punishment for wilful attempt to evade taxes is seven years of imprisonment plus a fine.

The Direct Tax Authorities have search and seizure powers to uncover evidence and seize undisclosed assets. Assessments of search and seizure cases and other key investigations are generally handled in specialised units called Central Charges which are followed by other consequences including penalties and prosecutions. Tax investigators use multiple ways and means to collect, collate and disseminate information from different sources.

To handle taxation issues arising from cross-border transactions and transfer pricing, a dedicated Directorate of International Taxation and Transfer Pricing has been established within the ITD. The Indian Competent Authority receives and sends information relating to tax evasion under the Double Tax Avoidance Agreements and Tax Information Exchange Agreements entered into by India with other jurisdictions. A dedicated Exchange of Information Cell has been created within CBDT to facilitate the exchange of information in a faster and more meaningful manner.

#### *Tax crime investigation*

In India, direct tax investigations including search and seizure are conducted mainly by specialised Investigation Directorates which function under the supervision and control of the Member (Investigation), CBDT. An Investigation Directorate is headed by a Director General of Income Tax (Investigation) (DGIT(Inv.)) and, at present, there are fourteen such DGIT(Inv.) across India. With a view to further augment the intelligence gathering and investigation capabilities, and to focus on criminal investigation, a separate Directorate of Income Tax (Criminal Investigation), (DCI), was set up on 30<sup>th</sup> May, 2011 which also functions under the supervision and control of the Member (Investigation), CBDT. The DCI is headed by a Director General of Income Tax (Intelligence and Criminal

Investigation) and has its regional offices across India. The DCI, in discharge of its responsibilities under direct tax laws, is required to perform various functions including:

- the seeking and collection of information about persons and transactions suspected to be involved in tax evasion,
- investigation of activities that have cross-border, inter-state or international ramifications, that pose a threat to national security and are punishable under direct tax laws;
- investigation of the source and use of funds involved in such activities; and
- filing prosecutions under direct tax laws relating to such activities.

### *Customs administration*

The Central Board of Excise and Customs (CBEC), consisting of a Chairperson and five Members, is a part of the Department of Revenue, Ministry of Finance, Government of India. CBEC deals with the tasks of formulating policy concerning the levying and collection of Customs & Central Excise duties and Service Tax, the prevention of smuggling and the administration of matters relating to Customs, Central Excise, Service Tax and Narcotics to the extent under they fall under the CBEC's purview. CBEC is the administrative authority for its subordinate organisations, including Custom Houses, Central Excise and Service Tax Commissionerates and the Central Revenues Control Laboratory.

The Directorate General of Central Excise Intelligence (DGCEI) is the primary intelligence organisation functioning under CBEC, entrusted with the detection of cases of evasion of duties of Central Excise and Service Tax. The Directorate General is headed by a Director General. The Directorate General develops intelligence, especially in new areas of tax evasion through its intelligence network across the country and disseminates information in this respect, by issuing Modus Operandi Circulars and Alert Circulars to appraise field formations of the latest trends in duty evasion. Wherever found necessary, this Directorate General on its own, or in co-ordination with field formations, organises operations to unearth evasion of central excise duty and service tax.

The Directorate of Revenue Intelligence (DRI) also functions under CBEC. It is entrusted with the responsibility of the collection of intelligence, its analysis, collation, interpretation and dissemination on matters relating to violations of customs laws, and to a lesser extent, anti-narcotics law. It also maintains close liaison with the World Customs Organisation; the Regional Intelligence Liaison Office at Tokyo; INTERPOL and foreign Customs Administrations. It is headed by a Director General and is divided into seven zones across India.

### *Police*

Under the Constitution of India, police and public order are State matters. Every State has its police force, which performs not only normal policing duties but also has specialised units to combat economic offences. The Economic Offences Wing (EOW) of the Police, functioning under the administrative control of each State, is entrusted with responsibility for investigating serious economic offences and offences having inter-State ramifications. The EOW is also mandated to interact, assist and guide district police on preventive and

detective measures related to financial crimes and develops intelligence regarding white collar crime.

Various divisions of EOW in different States typically include the following.

- Anti-Fraud & Cheating Section, dealing with company frauds, bank frauds, frauds by non-banking financial companies, Sales Tax frauds, and Income Tax related frauds;
- Anti-Land & Building Racket Section, dealing with co-operative group housing frauds, frauds by builders, land related bank frauds involving double mortgages or fake documents, frauds related to pre-launch schemes, and the illegal sale of government land;
- Anti-Forgery Section, dealing with the forgery of documents, wills admission related frauds, visa related frauds, job rackets, and manpower export rackets;
- Anti-Criminal Breach of Trust Section, dealing with multi-level marketing frauds, export/import related frauds, chit fund frauds, tax evasion frauds, share trade frauds, and corporate frauds involving criminal breach of trust;
- IPR & Trade Mark Section, dealing with infringement of copyrights, audio/video piracy, software piracy, spurious drugs, FMCG products, book piracy, trade mark offences, and violations of trademarks in manufacturing sector; and
- Anti-Cyber Crime Section, dealing with data theft, identify theft, credit card frauds, online obscenity and pornography, phishing, hacking and social networking related complaints.

### ***Other key law enforcement agencies***

#### *Central Bureau of Investigation (CBI)*

The CBI, functioning under Department of Personnel, Ministry of Personnel, Pension & Public Grievances, Government of India, is the premier investigating police agency in India. It is also the police agency responsible for co-ordinating investigations on behalf of Interpol Member countries. The following broad categories of criminal cases are handled by the CBI:

- Cases of corruption and fraud committed by public servants of all Central Government Departments, Central Public Sector Undertakings and Central Financial Institutions
- Economic crimes, including bank frauds, financial frauds, Import Export & Foreign Exchange violations, large-scale smuggling of narcotics, antiques, cultural property and smuggling of other contraband items.
- Special Crimes, such as cases of terrorism, bomb blasts, sensational homicides, kidnapping for ransom and crimes committed by the mafia/the underworld.

The CBI plays an important role in international co-operation, in particular mutual legal assistance and extradition matters.

*Directorate of Enforcement (ED)*

ED, established in 1956, is responsible for enforcement of the Foreign Exchange Management Act, 1999 (FEMA) and certain provisions under the Prevention of Money Laundering Act, 2002 (PMLA). ED has been entrusted with work relating to the investigation and prosecution of cases under PMLA, and undertakes multi-faceted functions of collection, collation and development of intelligence, investigation into suspected cases of money laundering, attachment/confiscation of the assets acquired from proceeds of crime under PMLA, and prosecution of offenders in the court of law. The ED also enforces provisions of FEMA which include the collection, development and dissemination of intelligence relating to violations of FEMA, investigation of suspected violations of the provisions of the FEMA relating to activities such as “hawala” foreign exchange racketeering, non-realisation of export proceeds, non-repatriation of foreign exchange and other forms of violations under FEMA.

*Narcotics Control Bureau (NCB)*

The NCB was established in 1986 under the Union Ministry of Home Affairs. Its function include: (i) co-ordination of actions by various offices, State Governments and other authorities under the N.D.P.S. Act, Customs Act, Drugs and Cosmetics Act and any other law for the time being in force in connection with the enforcement provisions of the NDPS Act; (ii) implementation of the obligation in respect of counter measures against illicit traffic under the various international conventions and protocols that are in force at present or which may be ratified or acceded to by India in future; (iii) assistance to concerned authorities in foreign countries and concerned international organisations to facilitate coordination and universal action for the prevention and suppression of illicit traffic in drugs; and (iv) co-ordination of actions taken by the other concerned Ministries, Departments and Organisations in respect of matters relating to drug abuse.

*Serious Frauds Investigation Office (SFIO)*

The SFIO functions under the Ministry of Corporate Affairs, Government of India, and it usually takes up investigation of only those cases which concern serious violations of the Companies Act 1956 (which is currently being replaced by new legislation) and are characterised by (i) complexity and having inter-departmental and multi-disciplinary ramifications (ii) substantial involvement of public interest to be judged by size, either in terms of monetary misappropriation or in terms of persons affected, and (iii) the possibility of investigation leading to or contributing towards a clear improvement in systems, laws or procedures.

*National Investigations Agency (NIA)*

Under the National Investigation Agency Act (the NIA Act), the Central Government has set up a federal, specialised and dedicated investigating agency, the NIA, to investigate and prosecute scheduled offences, in particular the offences under the Unlawful Activities (Prevention) Act, including Financing of Terrorism offences. The NIA has concurrent jurisdiction with the individual States, and this empowers the Central Government to probe terror attacks in any part of the country. Officers of the NIA have all powers, privileges and liabilities which police officers have in connection with investigation of any offence. The NIA Act empowers the Central Government to order the NIA to take over investigation of

any scheduled offence anywhere in the country. The NIA Act also provides for setting up of Special Courts.

### ***Prosecution authority***

In India, there is no single Central Prosecution Authority in respect of tax and customs related offences. The prosecution for such offences are launched by the law enforcement agencies working under respective statutes, and monitored by the senior bodies of the respective organisations. CBI has a separate Directorate of Prosecution for monitoring and co-ordination in respect of prosecution matters relating to offences investigated by them. In respect of offences investigated by State police authorities, each State has its own Directorate of Prosecution for monitoring and co-ordination in respect of prosecution matters.

### ***Financial Intelligence Unit***

The Financial Intelligence Unit-India (FIU-IND) was set up by the Government of India in 2004 to co-ordinate and strengthen the collection and sharing of financial intelligence through an effective national, regional and global network to combat money laundering and related crimes. FIU-IND acts as the central national agency responsible for receiving, processing, analyzing and disseminating information relating to suspect financial transactions. FIU-IND is an administrative FIU and does not investigate cases. FIU-IND is an independent body reporting directly to the Economic Intelligence Council (EIC) headed by the Finance Minister of India. For administrative purposes, FIU-IND is under Department of Revenue, Ministry of Finance.

The main function of FIU-IND is to receive Suspicious Transaction Reports, Cash Transaction Reports and other prescribed reports, analyse these reports and in appropriate cases disseminate the reports to relevant intelligence/law enforcement agencies and regulatory authorities.

The FIU-IND can disseminate information to a domestic agency which is either authorised or notified by the Central Government to receive information under the PMLA. Apart from spontaneously disseminating Suspicious Transaction Reports, FIU-IND also assists law enforcement agencies in providing information relating to financial transaction based on requests received. The partner agencies rely on information contained in FIU-IND databases not only for developing intelligence but also in on-going investigations. FIU-IND is a member of the Egmont Group, a group of 139 FIUs, which exchange information through a secure network. FIU-IND can seek information from its counterpart foreign FIUs based on specific requests made by law enforcement agencies in the prescribed form. The foreign FIUs respond based on data available to them and in accordance with their domestic laws.

FIU-IND has been receiving large number of Suspicious Transaction Report from reporting entities and disseminating these reports to law enforcement agencies, intelligence agencies, regulators and other authorities.

### ***Financial regulator***

The Reserve Bank of India (RBI) is the Central Bank and is overall responsible for the supervision of the financial sector comprising commercial banks, financial institutions and non-banking finance companies. The functions of RBI include: monetary policy; regulation

and supervision of the banking and non-banking financial institutions, including credit information companies; regulation of money, forex and government securities markets as well as certain financial derivatives; debt and cash management for Central and State Governments; management of foreign exchange reserves; and foreign exchange management. The RBI also acts as banker to banks and to the Central and State Governments. The RBI has oversight of the payment and settlement systems, currency management; and research and statistics.

The Securities and Exchange Board of India (SEBI) is a statutory body constituted under the SEBI Act and is the registering, supervisory and regulatory body for the securities sector. The primary functions of the SEBI consist of protecting the interests of investors in securities; promoting the development of the sector; and regulating the securities market for matters connected therewith. SEBI is also the regulator for related intermediaries, stock exchanges, depositories, credit rating agencies, foreign institutional investors (FIIs) and collective investment schemes, such as mutual funds.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access	Reporting permitted	Reporting permitted	On request
	Customs administration	Reporting permitted	Reporting permitted		Reporting permitted	On request
	Police or public prosecutor	Reporting permitted	Reporting permitted	Reporting permitted		On request
	Financial Intelligence Unit	Reporting obligatory	Reporting obligatory	Reporting obligatory	Reporting obligatory	
	Financial regulator	Reporting permitted	Reporting permitted	Reporting permitted	Reporting permitted	On request

**Note:** In India, information is shared through various mechanisms including through the platform of the Economic Intelligence Council (EIC) and the Central Economic Intelligence Bureau (CEIB). CEIB also acts as Secretariat for EIC.

### Models for enhanced co-operation

#### *Co-operation between government agencies*

In India, there are various mechanisms for sharing of information among various agencies involved in investigation or handling of financial crimes. The Economic Intelligence Council (EIC) acts as the main body to ensure co-ordination among various

agencies. The EIC has been established under the chairmanship of the Finance Minister of India and CEIB acts as its Secretariat. The EIC meets twice a year and holds extraordinary meetings as and when considered necessary. The EIC is mandated to consider various aspects of intelligence relating to economic security and to develop strategy for the effective collection and collation of intelligence and its dissemination to various law enforcement agencies. The EIC reviews measures to combat economic offences and formulates a co-ordinated strategy of action by various law enforcement agencies. It reviews important cases involving inter-agency co-ordination and approves mechanisms for improving such co-ordination. The EIC also examines the changing dynamics of economic offences including new modus operandi for such offences, and approves measures for dealing with them effectively. So far as sharing of information among various agencies is concerned, EIC generally performs this through the meetings of its Regional Economic Intelligence Councils (REICs).

REICs are regional agencies which have been constituted for co-ordinating work among various enforcement and investigative agencies dealing with economic offences within the region. At present, there are 22 REICs functioning in different parts of the country. REICs are headed by a Director General of Income Tax (Investigation), Chief Commissioner of Income Tax or Chief Commissioners of Customs & Central Excise. All major enforcement and investigative agencies including the Central and State Revenue Departments and EOW of State Police are represented in REICs. REICs also monitor joint co-ordinated action on specific issues having major ramifications. Specific requests made by member agencies in a REIC are addressed by the other member agencies through sharing information, documents and so on. The functioning of REICs is co-ordinated by CEIB.

CEIB functions under the Ministry of Finance, Government of India and is headed by a Director General who is Member-Secretary of EIC. CEIB has the following main functions

- to act as the Secretariat for EIC, inter alia, by organising meetings at prescribed intervals and co-ordinating the progress of implementation of decisions taken by the EIC; and
- to act as the central agency for economic intelligence and ensure real time monitoring and co-ordination among the concerned regulatory agencies in the area of economic offences.

Intelligence having multi-agency ramifications is generally communicated to other agencies concerned through CEIB. The CEIB is also mandated to convene meetings of Working Group on Intelligence Apparatus pertaining to EIC which is held under the Chairmanship of the Secretary (Revenue).

Both these bodies are high powered inter-ministerial groups which keep an oversight on the emerging scenario of economic offences to evaluate and approve suitable co-ordinated responses including policy responses.

Considering the need of a multi-disciplinary approach for a co-ordinated investigation into matters concerning illicit generation of funds within the country and illicit outflows to foreign jurisdictions, a High Level Committee was constituted in April, 2011 under the Chairmanship of the Secretary (Revenue) with representatives of the Reserve Bank of India, Intelligence Bureau, Enforcement Directorate, CBI, CBDT, NCB, DRI and FIU-IND.

The Joint Secretary, Foreign Tax and Tax Research Division of CBDT acts as its Member-Secretary.

***Co-operation with business, the tax profession, academic bodies and other organisations***

In order to reduce tax litigation and bring tax certainty in the area of international taxation and transfer pricing, an ‘Advisory Group for International Taxation and Transfer Pricing’ has been set up comprising officers of Tax Department and Representatives of Confederation of Indian Industries, Federation of Indian Chamber of Commerce and industries, Associated Chamber of Commerce and Industries in India and Institute of Chartered Accountants of India which is the national body of the accountants in India.

The Advisory Group consults on emerging issues of taxation in the area of international taxation and transfer pricing to understand each other’s view points and also with purpose to reduce litigation and bring in more tax certainty. The Group can also advise the government about legislative amendments and administrative measures, which can help reduce litigation and bring in more tax certainty.

Further, different business associations and professional bodies are consulted by the Ministry of Finance at the pre- and post-budget stage to invite their suggestions regarding legislative measures and Finance Bills outlining the fiscal policy of India. Different professional bodies and trade associations give their suggestions under this consultative mechanism.

***Technologies and other processes used to enhance the effectiveness of co-operation***

FIU-IND has in place an effective information exchange module (FINex) as part of its Information Technology modernisation project (Project FINnet) which ensures seamless exchange of information with domestic agencies and has also considerably enhanced its ability to respond more quickly to the requirements of agencies.

Separately, the Secure Information Exchange Network (SIEN) has been set-up for online exchange of intelligence and information. The member agencies under the SIEN project include various agencies under the Ministry of Finance, the Ministry of Home Affairs and other agencies dealing with economic offences. CEIB has set up a central server with a database connected to machines at the sites of member agencies. The network facilitates online exchange of intelligence inputs and information. Besides exchange of information in a secure network, SIEN also enables agencies to share details of cases booked by them and helps in building dossiers on significant economic offenders. The data warehouse is accessible to the member agencies by way of restricted and authorised access.

## Ireland

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Revenue Commissioners, as the Irish Tax and Customs Administration, plays a critical part in securing Ireland's fiscal, social and economic foundations.

A primary goal in the strategy policy of the Revenue Commissioners is to ensure that everyone complies with both their Tax and Customs/Excise responsibilities in meeting their obligations under Revenue law and that they pay the correct amount of both tax and duty when due. In the furtherance of this objective, specific audit and compliance areas have been set up and charged with the task of applying appropriate sanctions to detect, to punish and thus deter non-compliance. A specialist team, The Investigations & Prosecutions Division, have further responsibility for challenging and punishing serious tax and customs evasion by carrying out criminal investigations and forwarding completed files to the office of the Director of Prosecutions, who is the prosecuting authority in the State. Offenders are prosecuted pursuant to breaches of the statutory provisions of the Revenue Acts generally and exceptionally Common Law offences. In confronting tax crimes/offences the tax evaded is vigorously pursued and both interest and civil penalties are also recovered. Revenue criminal investigators are authorised with specific powers under Revenue legislation to apply to the Courts for production orders and search warrants and to so execute in order to obtain information and uplift evidence in the course of investigating customs and tax fraud/offences. The power for Revenue officers to search for cash, power of seizure, detention and forfeiture of cash is provided for in the Criminal Justice Act 1994 as amended by Proceeds of Crime (Amendment) Act 2005.

#### *Customs administration*

The Irish Revenue Commissioners is a joint tax and customs administration.

The core business of the Revenue Commissioners is the assessment and collection of taxes and duties. Revenue's mandate derives from obligations imposed by statute and by Government and as a result of Ireland's membership of the European Union. In broad terms the work includes inter alia:

- assessing, collecting and managing taxes and duties that account for over 93% of Exchequer Revenue; and
- administering the Customs regime for the control of imports and exports and collection of duties and levies on behalf of the EU.

#### *Police*

The Garda Bureau of Fraud Investigation (GBFI) is a unit within *An Garda Síochána*, (the Irish Police Force) which deals with financial investigations. The GBFI is responsible for the investigation of all types of financial crimes including commercial fraud, credit card and ATM frauds, internet frauds, money laundering and terrorist financing.

Financial crime investigations cover financial gains from robberies, burglaries, organised prostitution, people smuggling/trafficking, car rining etc., in effect all criminal conduct from which a monetary gain is derived. The Garda National Drugs Unit (GNDU) has two full time financial investigators dealing specifically with financial gains from drug crime. The Criminal Assets Bureau which was established under the Criminal Assets Bureau Act 1996 is a multi agency unit within *An Garda Síochána* and has a primary role in the investigation of financial crime principally in the area of asset tracing, freezing/confiscation of assets etc.

### ***Prosecution authority***

The Director of Public Prosecutions (DPP) is the sole prosecuting authority in Ireland in indictable matters, including tax evasion. The Revenue Commissioners, *An Garda Síochána* and other investigation agencies submit files to the Directing Division of the Office of the DPP for decision. If a prosecution is directed the case is conducted by the Office of the DPP in the courts. The Directing Division has Units specialising in the following areas of financial crime: company law, money laundering, revenue offences, people trafficking, competition cases and corruption. The Office of the Director of Public Prosecutions has no actual role in the investigation of crime but may from time to time request additional proofs (enquiries/investigation) subsequent to the receipt of an investigation file before determining whether or what criminal charges are to be preferred in any given instance. Note also in cases of less serious offences the Director of Public Prosecutions has given consent to *An Garda Síochána* (Police) without requiring an investigation file, to prosecute on behalf of the State in his name.

### ***Financial Intelligence Unit***

The Irish FIU is based in the Garda Bureau of Fraud Investigation (GBFI) which is part of *An Garda Síochána*, (the Irish Police Force). The FIU is a national unit with offices in Dublin and is the central reception point for the receipt of Suspicious Transaction Reports (STRs). The FIU has been a member of Egmont Group of FIUs since 2001.

The Irish Revenue Commissioners is not part of the FIU, but also receives directly and separately the same Suspicious Transaction Reports.

### ***Financial regulator***

One of the main roles of the Central Bank is the proper and effective regulation of credit and financial institutions. The Central Bank's supervisory departments investigate regulatory breaches or complaints about regulated entities and refer any criminal matter where relevant to the Gardaí (Police), Revenue Authorities, Director of Corporate Enforcement or Department of Social Protection.

### ***Other relevant agencies***

The Office of the Director of Corporate Enforcement was established under the Company Law Enforcement Act 2001. It is an Office attached to the Department of Jobs, Enterprise & Innovation (D/JEI) but the Director is statutorily independent. Among the ODCE's functions is the investigation of criminal offences under the Companies Acts. The Office has no prosecution powers in relation to non-Companies Acts offences but can provide cooperation to bodies such as the *Gardaí* (Police), Revenue Commissioners, the Central Bank and the Competition Authority.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	Direct access <sup>1</sup>	Reporting permitted <sup>2,5</sup>	Reporting permitted <sup>2,3</sup>
	Customs administration	Direct access <sup>1</sup>	Direct access <sup>1</sup>		Reporting permitted <sup>2,4</sup>	Reporting permitted <sup>2</sup>
	Police or public prosecutor	Reporting permitted <sup>2</sup>	Reporting permitted <sup>2</sup>	Reporting permitted <sup>2</sup>		Direct access
	Financial Intelligence Unit	Direct access <sup>5</sup>	Direct access <sup>5</sup>	Direct access <sup>5</sup>	Direct access	
	Financial regulator	No sharing <sup>6</sup>	Reporting obligatory <sup>6</sup>	Reporting obligatory <sup>6</sup>	Reporting obligatory <sup>7</sup>	Reporting obligatory <sup>7</sup>

<sup>1</sup> Civil tax compliance, criminal tax investigation and customs administration are all part of a unified tax and customs administration. There is no impediment to sharing information between these areas.

<sup>2</sup> Legal gateways exist between the tax administration and the Irish police (An Garda Síochána) which enable sharing of information. These gateways also permit information exchange between the tax administration and the FIU, which is part of the police. Tax officials within the Revenue are not obliged to report suspicions of non-tax crimes to the police, but reports can be made and there is an effective legal framework in place to facilitate this.

<sup>3</sup> Specialists from the FIU and the tax administration's Suspicious Transaction Reports Office meet approximately every four to six weeks to discuss their analyses of Suspicious Transaction Reports and to co-ordinate investigations where evidence exists of both tax and non-tax offences, as well as discuss broader operational issues related to money laundering investigations. Arrangements are also in place for the tax administration to provide the FIU with information relating to declarations of cash moving into or out of the EU through Ireland.

<sup>4</sup> The customs administration investigate cases where cash in excess of EUR 6,348 is encountered (usually at entry to or exit from the State) and is suspected of being derived from or was intended to be used in connection with criminal activity. Such cash is detained and an investigation is conducted by Revenue to identify and establish a link with criminality. Where such link is identified a file is prepared and sent to the Director of Public Prosecutions who will decide whether an application for forfeiture of the cash should be made in the Circuit Court

<sup>5</sup> The Revenue Commissioners receives copies of all Suspicious Transaction Reports directly from regulated businesses. Specialists within the tax administration and FIU meet regularly to discuss their analyses of Reports and co-ordinate investigations where evidence of tax and non-tax offences exists, to ensure there is no duplication in investigations. Broad legal gateways also allow the Irish FIU, which is part of the police, to share information with respect to tax offences.

<sup>6</sup> Mandatory gateways open between the Central Bank and the tax administration where the Central Bank comes into possession of information relevant to the tax administration that leads it to suspect that a criminal offence may have been committed by a supervised entity. This information may only be provided where there is a suspicion that a criminal offence may have taken place, but the tax administration may then use the information received for any purpose, including the making of civil tax assessments. The Revenue Commissioners and the Central Bank are currently in discussions to enhance the exchange of information mechanisms between the two entities, which is already grounded in legislation. Joint teams are in negotiations to develop a formal, mutual Memorandum of Understanding to streamline processes, which should result in more timely and focused data exchange.

<sup>7</sup> The central bank must report to the police or other relevant criminal investigations authority, any information it obtains that leads it to suspect that a criminal offence may have been committed by a supervised entity. As the Irish FIU is part of the police, this obligation also extends to sharing information with the FIU.

## Models for enhanced co-operation

### *Co-operation between government agencies*

In Ireland, Suspicious Transaction Reports are submitted to the Garda (Police), FIU and the Revenue Commissioners. Both agencies meet regularly to review and discuss operational issues related to money laundering, co-ordinate investigations involving both tax and money laundering offences and attend feedback fora between the other agency and institutions that are required to submit Suspicious Transaction Reports under anti-money laundering legislation. This ensures that the agencies display a united front and consistent message in their dealings with the private sector. A mechanism has also been arranged between Revenue and the FIU to exchange information received by Customs in respect of cash declarations. Furthermore both organisations are empowered under criminal justice legislation to seize and forfeit cash derived from or destined for criminal conduct. There are arrangements (including legal gateways) in place for the exchange information to assist each organisation in the performance of such investigations.

The Revenue Commissioners have a two way legal mechanism to share information with the Central Bank where a criminal offence may have been committed and meet occasionally to discuss operational issues. The Revenue Commissioners also share information with the Department of Social Protection (Social Welfare) via joint investigation units, have staff operating in the Criminal Assets Bureau (Police) and liaise with the Director of Corporate Enforcement on a case by case basis as appropriate.

The Irish Money Laundering Steering Committee oversees the issuance of detailed guidance to ensure consistent implementation of anti-money laundering legislation. The Committee includes representatives of the Department of Finance, Department of Justice, the police, the Central Bank, the Attorney-General's Office and the tax administration, as well as representatives of the private sector and designated bodies.

### *Co-operation with business, the tax profession, academic bodies and other organisations*

In addition to collecting and enforcing tax and customs laws, the Revenue Commissioners also have a wider role in contributing to Ireland's economic and social development, particularly in creating an environment that promotes economic growth, encourages investment and improves competitiveness. This is done by actively contributing to reform initiatives to improve the efficiency of the taxation system and to modernise, streamline and simplify both tax legislation and administrative frameworks. The Revenue Commissioners engages, both formally and informally, with representatives of tax practitioner bodies and others on a number of important legislative initiatives with a view to the speedy, smooth and effective introduction of these initiatives.

The Revenue Commissioners also uses a variety of formal and informal fora to engage with those likely to be most affected by the introduction of new legislative initiatives. These include the Tax Advisory Liaison Committee (TALC), which comprises representatives of the Revenue and various taxation bodies, and the Customs Consultative Committee.

## Italy

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The *Agenzia delle Entrate* carries out the strategic functions of tax collection, assessment and investigation aimed at countering tax evasion, in relation to direct taxes and value added tax.

The *Agenzia delle Entrate* manages the archives of income tax returns and tax collection operations, ascertains that the financial resources needed are paid properly and on time, and reimburses taxpayers. During these activities, should tax auditors uncover indications of possible tax crimes, they must report them to the public prosecutor. The public prosecutor may then start an investigation with the aid of the judicial police. If tax auditors uncover indications of suspicious financial operations, they must report this to the Financial Intelligence Unit (UIF).

Key areas within the organisational structure of the *Agenzia delle Entrate* include the Large Business Unit, which focuses on cases of serious tax avoidance and frauds put in place by large taxpayers and the Anti-fraud Central Office which is interested in serious and continuous tax fraud. In 2009, the *Agenzia delle Entrate* created a new team to challenge off-shore evasion, called the Central Office for the Fight Against International Tax Violations. One of the main activities of this new team is to detect wealth deposits and financial assets held by Italian resident individuals in a non-compliant manner, by working in close co-operation with experts from the *Guardia di Finanza* located in the Italian Embassies abroad.

#### *Tax crime investigation*

According to the Italian Criminal Law, the *Guardia di Finanza* is tasked with prevention, detection, and investigation of all kinds of tax crime violations, together with co-operation with the prosecutorial authorities. The *Guardia di Finanza* is the only organisation in Italy to take the role of both judicial police and tax police enabling it to conduct investigations of tax crimes using both judicial and civil powers. The *Guardia di Finanza* is also involved in other areas, for example the fight against money laundering. The *Guardia di Finanza* is headquartered in Rome with an inter-regional level providing services to local units, and a provincial level supervising all local offices. All operational activities are performed by these local units. Consequently the *Guardia di Finanza* is tasked with prevention, detection, investigation of all kinds of financial and economic violations both administrative and criminal, and co-operation with the prosecutorial authorities. To comply with these task, the *Guardia di Finanza* is considered an authorised competent authority in the field of exchange of information for tax matters (together with the *Agenzia delle Entrate*), as well as part of the police co-operation networks INTERPOL and EUROPOL.

Tax officials that in the course of their fiscal controls gain knowledge of facts being (suspected to be) crimes (both fiscal and other crimes such as money laundering and corruption) are obliged to inform promptly the Judicial Authority (art. 331 of the Italian Procedural Criminal Law)

Investigations into other financial offences, such as money laundering and corruption, can be delegated by the public prosecutor to the *Guardia di Finanza*, or to other police bodies.

During tax investigations, officials from the *Agenzia delle Entrate* may be appointed as consultants to the public prosecutors or as auxiliaries of the judicial police. This approach avoids possible overlaps between the roles of agencies and allows the prosecutor to have within the *Guardia di Finanza* a direct point of contact with all the powers necessary to carry out investigations on tax crimes.

### ***Customs administration***

The Italian Customs and Monopolies Agency (*Agenzia delle Dogane e dei Monopoli*) is a law enforcement tax administration, having the primary competence in controls that are carried out mainly in customs areas, with responsibility for clearance activities, customs controls, collecting customs duties (included VAT) and excise duties. In addition, the agency carries out controls on the spot all over the national territory at companies' premises involved in import-export operations and in intra-community trades and excise duties. The Italian Customs and Monopolies Agency, itself and in co-operation with the *Guardia di Finanza* and other law enforcement agencies, combats frauds related to the movements of goods, such as smuggling and undervaluation, evasion of anti dumping duties, VAT carousel frauds, counterfeit goods infringing industrial and intellectual property rights, unsafe goods and infringements of rules for establishing the origin of goods. The Italian Customs and Monopolies Agency also deals with the prevention of customs operations infringing dual-use rules, drug trafficking and illicit trade of waste products.

The Italian Customs and Monopolies Agency collects and holds information stored in several databases about individuals, corporations and financial transactions in order to prevent, detect, investigate and prosecute illicit crimes in the fields falling within the competences. It also uses the Customs Information System (AIDA) which manages data on goods being cleared online and enables a dialogue with economic operators, businesses, public Administrations and EU countries. The Customs Control Circuit is integrated in the AIDA system to collect and process information received from local and central customs offices, private and public databases, some law enforcement databases and all available international information. For the purpose of risk analysis, the Anti-fraud Central Office manages databases such as COGNOS, where data related to all customs operations carried in Italy are stored, and the Anti-fraud database (BDA), where civil and criminal offences falling within its own competence are stored. In addition, customs officials have direct access to the tax register database (*Anagrafe Tributaria*) and other databases maintained by the *Agenzia delle Entrate*, which hold fiscal information of Italian taxpayers.

Customs officers may act both as revenue and judicial police officers and carry civil and criminal investigations within their competencies. Investigations related to the civil implications of tax frauds that fall within the competence of the Italian Customs and Monopolies Agency are directed and conducted autonomously. Criminal investigations of tax frauds that fall within its competence are conducted under the direction of the Public Prosecutor.

To assist it in performing these functions, the Italian Customs and Monopolies Agency has established strong relationships and mechanisms for different forms of co-operation with relevant national authorities such as the *Guardia di Finanza*, *Agenzia delle Entrate*, *Carabinieri*

(an Italian military force which is also responsible for police duties), *Direzione Investigativa Antimafia* (Bureau of Anti-Mafia Investigations) and the National Anti-Mafia Directorate.

### ***Police***

The *Polizia di Stato* (Italian National Police) and *Carabinieri* do not deal directly with tax crimes and other financial crimes. According to Italian Law, the task of investigating any relevant economic and financial issue about revenues and expenditures of the national budget, including the control of taxes, is within the mandate of the *Guardia di Finanza*, as described above.

### ***Prosecution authority***

Under the Italian Constitution, there is an obligation to prosecute every fact or conduct alleged to constitute a crime. Prosecution is dealt with by the Public Prosecutor's Office which is an organ of the State attached to the Court of Cassation, the courts of appeal, the ordinary courts and the juvenile courts. The Public Prosecutor's Office ensures that the laws are observed that the administration of justice is swift and efficient and that the rights of the state, legal persons and those lacking legal capacity are protected.

In criminal cases, the principal functions of the Public Prosecutor's Office are to handle preliminary investigations, to supervise the judicial police investigations, to plead in court and to challenge or enforce the decisions of the judge.

Whilst there are no specialist tax prosecutor offices, in practice, where the size of the Prosecution Office of a court allows for it, specialised groups of prosecutors deal with particular matters such as terrorism, organised crime, drugs, corruption or economic crimes, including tax offences. Specialisation of prosecutors is somewhat encouraged also by the Superior Council of the Judiciary through the organisation of continuous training throughout the career of judges and prosecutors, which give special attention to economic crimes.

### ***Financial Intelligence Unit***

The *Unità di Informazione Finanziaria* (UIF) is the Italian Financial Intelligence Unit, appointed for the prevention and countering of money laundering and terrorist financing. In this capacity the UIF is the recipient of the Suspicious Transactions Reports from financial intermediaries and by all designated non-financial businesses and professions. These obliged entities send to the UIF a report "whenever they know, suspect or have reasonable grounds to suspect that money-laundering or terrorist financing is being or has been carried out or attempted". According to the Italian Criminal Code, all intentional crimes, including tax crimes, can constitute predicate offences for money laundering.

In order to prevent and counter money laundering and terrorist financing, the UIF analyses the Suspicious-Transaction Reports and, without delay, transmits them, together with the financial analyses performed, to the competent law enforcement agencies, which are the *Nucleo Speciale di Polizia Valutaria* (NSPV) of the *Guardia di Finanza* and the *Direzione Investigativa Antimafia* (Bureau of Anti-mafia Investigation or DIA).

In analysing Suspicious Transaction Reports, the UIF collects additional data from the financial intermediaries and other entities, and co-operates with law enforcement agencies and other competent authorities. In addition the UIF analyses and studies financial flows

and carries out statistical analysis of aggregate data transmitted on a monthly basis by entities subject to reporting requirement, it collaborates with the competent authorities in the issuing of secondary legislation, develops anomaly indicators and elaborates patterns of anomalous behaviour from the financial standpoint, and performs monitoring functions and inspections related to the respect of reporting obligations.

In order to support the recovery of the proceeds of crimes, the UIF may require the obliged entities to suspend suspicious transactions related to suspected money laundering or terrorist financing for up to five days, promptly informing the law enforcement agencies and the judicial authorities involved in the matter.

The UIF was established at the Bank of Italy on 1 January 2008 pursuant to Legislative Decree 231/2007 which, in implementation of the Third Anti-Money-Laundering Directive, abolished the Italian Foreign Exchange Office (UIC), where the Financial Intelligence Unit (FIU) was previously located. The UIF performs its functions independently using human, technical and financial resources and instrumental goods provided by the Bank of Italy. Synergies can thus be exploited among the UIF's functions (aimed also at protecting the integrity of the financial system) and the Bank of Italy's supervisory functions (on financial institutions and on payment systems).

The administrative status of the UIF has proven effective in providing incentives to reporting parties, by fostering their confidence. It also emphasizes the ability to elaborate analytical models capable of identifying potential crimes from a financial standpoint. The UIF can act effectively as a "buffer" between the financial institutions and the law enforcement agencies, thus encouraging the active cooperation of financial intermediaries and other entities subject to reporting requirements.

### *Financial regulator*

The Bank of Italy (BoI) is the Italian supervisory authority for banks, banking groups, investment firms, collective funds and other non-banking financial intermediaries. In this regard, it pursues the following objectives: the sound and prudent management of financial intermediaries; the overall stability and good functioning of the financial system; and the promotion of competition in the financial sector. With the entry into force of legislative decree 231/2007, the BoI has been entrusted with specific (regulatory, control and sanction) tasks in anti-money laundering area.

The BoI discharges its supervisory responsibilities through:

- the drafting and enacting of prudential rules for sound and prudent management of financial intermediaries;
- the authorisation of the establishment of financial intermediaries;
- the monitoring of the sound and prudent management of financial intermediaries through off-site analysis and on-site inspections; and
- the management of crises.

As a supervisory authority, the BoI is empowered by the Italian Banking Law (legislative decree 385/1993) and Italian Financial Law (legislative decree 58/1998) to request data and information, conduct on-site visits, impose prudential requirements as well

as pecuniary sanctions in case of breaches of legislative or regulatory provisions. If, in the performance of its supervisory functions, the BoI detects irregularities that appear to be criminal offences – including tax crimes -, these are reported to the judicial authorities.

All the information and figures possessed by the BoI by virtue of its supervisory activity are covered by official secrecy, including with respect to governmental authorities. The exceptions to this principle concern the other national authorities having supervisory responsibility in the financial sector, the UIF and criminal judicial authorities.

Other financial regulatory authorities in Italy are the *Istituto per la Vigilanza sulle Assicurazioni Private e di interesse collettivo* (Private Insurance Supervisory Authority or ISVAP) and the *Commissione Nazionale per le Società e la Borsa* (Italian Securities Supervisory Authority or CONSOB).

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access	Direct access <sup>1</sup>	Reporting obligatory <sup>2</sup>	Direct access <sup>3</sup>
	Customs administration	Direct access <sup>4</sup>	Direct access <sup>5</sup>		Reporting obligatory <sup>2</sup>	Reporting obligatory
	Police or public prosecutor	Reporting obligatory <sup>6</sup>	Reporting obligatory <sup>7</sup>	Reporting obligatory		Reporting obligatory
	Financial Intelligence Unit	No sharing <sup>8</sup>	Reporting obligatory <sup>9</sup>	No sharing <sup>8</sup>	Reporting obligatory <sup>10</sup>	
	Financial regulator	No sharing <sup>11</sup>	Reporting obligatory <sup>12</sup>	No sharing <sup>11</sup>	Reporting obligatory <sup>12</sup>	Reporting obligatory <sup>13</sup>

<sup>1</sup> The *Agenzia delle Entrate* has granted the Italian Customs Administration direct access to a system called SERPICO which holds a number of databases, including the *Anagrafe Tributaria* (Tax Register) and the VIES system containing information on intra-Community transactions within the EU. Other information is shared spontaneously or on request.

<sup>2</sup> If officials within the *Agenzia delle Entrate* or the *Agenzia delle Dogane e dei Monopoli* in the course of their tax or customs activities detect evidence of crimes, they have to suspend their investigations and without any delay report these suspicions to the Judicial Authority.

<sup>3</sup> The *Guardia di Finanza*, the UIF and the *Direzione Investigativa Antimafia* (the Bureau of Anti-Mafia Investigation) are the lead agencies in combating money laundering. The UIF has direct access to the *Anagrafe dei Conti* (Account and Deposit Register) maintained by the *Agenzia delle Entrate*, which includes information on accounts and financial transactions carried out by financial intermediaries, including banks, post-offices, trust companies and brokerage companies. Legislation has also been passed which allows the UIF direct access to the *Anagrafe Tributaria* (Tax Register), containing information on the tax information of Italian taxpayers, such as declared income, tax payments, real estate and other property, cross-border financial transactions, and information on the results of tax audits. Direct access for the UIF to the *Anagrafe Tributaria* has not yet been

implemented. Additionally, tax officials must report to the UIF any suspicious transactions they encounter in the course of their work.

- <sup>4</sup> The Italian Customs and Monopolies Agency has granted the *Agenzia delle Entrate* direct access to the software COGNOS, which contains information on customs transactions between Italian traders and third countries, and also on intra-Community transactions within the EU. The Customs anti-fraud database, BDA, is available on request. This database contains information on customs crime investigations carried out through customs offices. Other information is shared spontaneously or on request.
- <sup>5</sup> The Italian Customs Administration has granted the *Guardia di Finanza* direct access to the software COGNOS, which contains information on customs transactions between Italian traders and third countries, and also on intra-Community transactions within the EU.
- <sup>6</sup> The *Guardia di Finanza* has authority to carry out civil tax investigations and audits under its administrative powers. In particular, the *Guardia di Finanza* may conduct civil tax audits that follow on from a criminal tax investigation (subject to authorisation by the public prosecutor). The *Guardia di Finanza* has direct access to information held by other police agencies for the purpose of tax audits and administration of taxes. Although operating under the supervision of the Ministry of Finance, the *Guardia di Finanza* has broad powers to investigate financial crimes, including money laundering, smuggling, drug trafficking and illegal immigration. Under Italian law, any agency or public official who discovers information relating to possible tax evasion is obliged to share this information with the *Guardia di Finanza*, which may conduct an investigation.
- <sup>7</sup> The *Guardia di Finanza* has responsibility for carrying out investigations into tax crimes and has direct access to information held by other police agencies. In addition, where the police or public prosecutors, in the course of their duties, obtain information concerning possible tax evasion, they are obliged to share this information spontaneously with the *Guardia di Finanza*.
- <sup>8</sup> Although the UIF cannot provide information directly to the *Agenzia delle Entrate* or Italian Customs and Monopolies Agency, it does provide copies of all Suspicious Transaction Reports to the *Guardia di Finanza*, which carries out tax audits and investigates suspected tax offences. Following a tax audit, the *Guardia di Finanza* reports to the *Agenzia delle Entrate* or the Customs and Monopolies Agency any information that would be relevant in the assessment of taxes, such as evidence of non-criminal tax avoidance.
- <sup>9</sup> The UIF is required to share all Suspicious Transaction Reports and its financial analyses with the *Nucleo Speciale di Polizia Valutaria* (NSPV), which is part of the *Guardia di Finanza*. In addition, a Memorandum of Understanding between the agencies provides that the UIF will provide to the *Guardia di Finanza* any information it obtains that is relevant to the agency's activities.
- <sup>10</sup> The UIF sends all Suspicious Transaction Reports, together with its analysis, to both the *Guardia di Finanza* and the *Direzione Investigativa Antimafia* (DIA), a multi-agency body made up of personnel belonging to *Guardia di Finanza*, *Polizia di Stato* (Italian National Police) and *Carabinieri*, set up at Italy's *Ministero dell'Interno* (Ministry of the Interior). The UIF also co-operates with the DIA in judicial investigations, and secrecy rules cannot be invoked to hamper criminal investigations. In 2010, 97% of Suspicious Transaction Reports disseminated by the UIF were dealt with by the *Guardia di Finanza* and 3% by the DIA.
- <sup>11</sup> Official secrecy rules prevent the Bank of Italy from sharing any information related to its supervisory activities with the *Agenzia delle Entrate* for civil tax purposes or with the Italian Customs and Monopolies Agency.
- <sup>12</sup> Where the Bank of Italy has reason to suspect a possible offence has taken place, it must inform the public prosecutor's office, which will generally direct an investigation through the appropriate police agency. Police may also request information relevant to investigations from the Bank of Italy, which will be provided so long as this does not breach confidentiality provisions.
- <sup>13</sup> Information held by the Bank of Italy and other Italian financial regulators typically cannot be shared with other agencies. However, specific legislation provides that secrecy restrictions cannot be imposed between the financial regulators and the UIF. Subsequently, the UIF has signed memoranda of understanding with the Bank of Italy and the Insurance Supervisory Authority setting out obligations for the bodies to share information and to co-operate in combating money laundering and ensuring effective supervision. A memorandum of understanding between the UIF and the Securities Supervisory Authority was signed on 7 June 2012.

## Models for enhanced co-operation

### *Co-operation between government agencies*

In 2011 an internal directive was issued by the Central Assessment Directorate of the *Agenzia delle Entrate* in order to improve the effectiveness of investigations and to ensure the collection of evidence in accordance to the criminal law procedure in case of suspected tax crimes. The guidelines aim at promoting the coordination of further enquiries between the *Agenzia delle Entrate* and the public prosecutors, by taking into consideration the different nature of powers held by *Agenzia delle Entrate*'s tax officials and the *Guardia di Finanza*. These guidelines require *Agenzia delle Entrate* investigators to co-ordinate their

audit activity with judicial police in an early stage to reduce any risk of unlawful operation. This recommendation is aimed at ensuring evidence collected in sound and to avoid jeopardising the overall results of the enquiries.

The *Agenzia delle Entrate*, the *Agenzia delle Dogane e dei Monopoli* and the *Guardia di Finanza* have also formed several permanent working groups on the basis of which information about tax crimes schemes, persons involved and methods of investigations are continuously shared. These working groups develop common programs to counter tax crimes and achieve profitable synergies.

The *Guardia di Finanza* seconded personnel to other organisations, such as the public procurator's offices, with appreciable results in terms of co-operation amongst agencies. Experts from the *Guardia di Finanza* are also seconded to various Italian embassies all around the world. In addition since 2009 a specialised team of experts from the Bank of Italy is permanently posted to the Public Prosecutor's office in Milan, to support investigations on economic and financial crimes. Daily contact between the UIF and investigative bodies (DIA and NSPV) is intended to increase efficiency and improve co-operation and exchange of information.

#### ***Co-operation with business, the tax profession, academic bodies and other organisations***

The institutional activity of the *Guardia di Finanza* in the fight against tax crimes and other financial crimes, provides for a co-operation with non public entities and universities mainly throughout the Italian UIF and the Ministries involved, in particular the Ministry of Economy, Ministry of Interior and Ministry of Foreign Affairs.

On the 8th January 2013 the Ministry of Justice established a study group on the self laundering of money. This group is chaired by a public prosecutor and is made up of experts from the UIF, the *Guardia di Finanza*, the *Agenzia delle Entrate* and academia.

#### ***Technologies and other processes used to enhance the effectiveness of co-operation***

In 2010 the UIF signed Memoranda of Understanding with the *Nucleo Speciale di Polizia Valutaria* (NSPV) of the *Guardia di Finanza* and the *Direzione Investigativa Antimafia* (Bureau of Anti-mafia Investigation or DIA) concerning exchange of information on Suspicious Transaction Reports in order to ensure maximum secrecy concerning the identity of individuals who submit reports. The Memoranda establish that requests for information and the transmission of Suspicious Transaction Reports, indepth analyses and other details must be sent electronically in an encoded message with digital signature. Furthermore in May 2011 the UIF developed a new system for securely receiving, handling and disseminating Suspicious Transaction Reports in order to streamline the information exchange, improving the quality and the timeliness of information flows. In this context, the technological innovations will enhance the effectiveness of domestic inter-agency cooperation.

## Japan

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The National Tax Agency (NTA) is Japan's national tax administration. The NTA comprises the Head Office in Tokyo, 12 Regional Taxation Bureaus (including the Okinawa Regional Taxation Office) and 524 Tax Offices across the country. The NTA is an external organ of the Ministry of Finance. The NTA's mission is to "help taxpayers properly and smoothly fulfil their tax duties".

#### *Tax crime investigation*

The NTA has tax crime investigators, known as Sasatsukan, based in the Criminal Investigation Departments (CID) within the Regional Taxation Bureaus. The Criminal Investigations Division of the NTA Head Office supervises each CID in the Regional Taxation Bureau. Based on the National Tax Violations Control Act, tax crime investigators in CIDs may conduct non-compulsory measures (such as inquiries, inspections and retentions), and also may conduct compulsory measures (such as scrutiny, search and seizure) with warrants issued by a judge in a Court of Justice. Where these investigations reveal evidence of tax offences, tax crime investigators file an accusation with the public prosecutors. Then public prosecutors conduct further investigations to indict criminals in a court.

#### *Customs administration*

In Japan, the customs administration is separate from the tax administration.

The Japanese customs administration has special customs officers who are responsible for conducting investigations of criminal offences based on Customs Law. Special custom officers have the authority to require suspects or witnesses to attend Customs offices, to interview them and to examine their belongings and articles. Where necessary, they can also conduct compulsory measures (such as scrutiny, search and seizure) with warrants issued by a judge in a Court of Justice. They then file an accusation with public prosecutors along with details of evidence collected, and public prosecutors conduct further investigations to indict criminals in court.

#### *Police*

The National Police Agency, under the supervision of the National Public Safety Commission, has judicial police officials who investigate crimes. Prefectural police under the supervision of Prefectural Public Safety Commissions also have judicial police officials. Following their investigation, judicial police officials refer cases and evidence to the public prosecutors. When the police officials obtain information relevant to tax assessment or tax offences, they generally provide the tax administration with such information.

#### *Prosecution authority*

Only public prosecutors have the authority to institute criminal prosecutions in a court. Public prosecutors may give necessary general instructions regarding investigation to

judicial police officials. Public prosecutors also have authority to investigate crimes by themselves. Public prosecutors may issue orders to judicial police officials to have them cooperate with or assist public prosecutors in these investigations.

### ***Financial Intelligence Unit***

The Japanese FIU (the Japan Financial Intelligence Center or JAFIC) is established within the Organised Crime Department, the Criminal Investigation Bureau of the National Police Agency. JAFIC is an institution playing a central role in the enforcement of the Act on Prevention of Transfer of Criminal Proceeds mainly by collecting, arranging and analyzing Suspicious Transaction Reports (STRs) filed by specified business operators and providing such information to public prosecutors, assistant officers to public prosecutors, judicial police officials, customs officers and personnel of the Securities and Exchange Surveillance Commission.

### ***Financial regulator***

The Financial Services Agency (FSA) is responsible for ensuring facilitation of finance. Pursuant to relevant laws, the FSA has the authority to supervise and inspect financial institutions under its jurisdiction, with respect to matters such as whether these financial institutions have properly developed their management systems to confirm customers' identity, or to respond to suspicious transactions or anti-social groups. The FSA shall file an accusation with law enforcement authorities in the case where the FSA uncovers indications of criminal offences, including financial crimes.

Within the FSA, the Securities and Exchange Surveillance Commission (SESC) has the authority to conduct criminal investigations, including compulsory measures (such as searches and seizure) with warrants issued by a judge in a Court of Justice.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Reporting obligatory	On request	Reporting obligatory <sup>1</sup>	No sharing
	Customs administration	On request	Reporting obligatory		Reporting obligatory	No sharing
	Police or public prosecutor	Reporting permitted	Reporting permitted	Reporting permitted		Reporting permitted
	Financial Intelligence Unit	No sharing	No sharing <sup>2</sup>	Reporting permitted	Reporting permitted	
	Financial regulator	On request	Reporting obligatory	On request	Reporting obligatory	Reporting permitted

<sup>1</sup> Public officials, including tax authorities, are obligated to report suspicions of criminal activities to law enforcement agencies. When tax officials do so, they need to balance the public welfare benefit of protecting tax secrecy against the benefit of reporting possible offences.

<sup>2</sup> In Japan, the FIU does not provide the tax administration with FIU information, including Suspicious Transaction Reports, for the purpose of investigating tax offences. These offences are not included in the definition of predicate offence for money laundering purposes under current Japanese law.

## Models for enhanced co-operation

### *Co-operation between government agencies*

Following an investigation by the Criminal Investigation Departments of Regional Taxation Bureaus, a joint investigation may be conducted by the Criminal Investigation Department and Public Prosecutor's Office, under the public prosecutor's control and supervision. This approach has proved useful in detecting aggressive tax evasion.

Japanese agencies actively make use of secondments. For example, tax officials has been appointed as seconded staff to Customs, the FIU, police, financial regulators, and the prosecutors' office.

Public prosecutors and tax crime investigators of the NTA also hold joint seminars on cases to discuss problems and areas of possible improvement in their examinations and investigations. These seminars are good opportunities for public prosecutors and tax crime investigators to understand the perspective of each other in conducting investigations.

To keep pace with the development of information and communication technologies, knowledge and techniques concerning the digital forensics have also been developed and often shared among public prosecutors' office, the National Police Agency, SESC of the FSA, and criminal tax investigation departments of the NTA.

## Korea

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Korean National Tax Service includes a number of Regional Taxation Bureaus, each of which has a Criminal Investigation Department. These Departments are responsible for conducting criminal investigations into suspected tax offences. Based on the findings of these investigations, the Criminal Investigation Departments may submit cases to the Public Prosecutor's Office for prosecution.

#### *Tax crime investigation*

Tax crime investigations are conducted by Criminal Investigation Departments within the Regional Taxation Bureaus of the National Tax Service.

#### *Customs administration*

The roles of the Korea Customs Service (KCS) are as follows:

- imposing and collecting customs on imported goods;
- making exported and imported goods clear customs following the legal procedure; and
- cracking down on smuggling, illegitimate export and import activities, and the violation of the Foreign Trade Act and regulations on foreign exchange dealings.

Recently, as the Korean economy has developed and opened, and the global trade markets have been liberalised, the economic circumstances around the Korean peninsula have been changed. As a result, crackdowns on external transactions have expanded, covering fraudulent marking of origin, violation of intellectual property rights, illegal foreign exchange transactions and money laundering activities.

KCS endeavours to receive reports, conduct investigations and crack down on illegal activities, including customs evasion involved in trade; smuggling and customs evasion schemes committed by bringing goods to Korea without following a legal procedure; and illegitimate foreign exchange dealings such as foreign currency drain. In this process, as it obtains evidentiary proof of violations of the Foreign Exchange Transactions Act and other criminal activities, KCS collects unreported customs duties and prosecutes criminals.

#### *Police*

The police are responsible for the detection and investigation of criminal deeds including financial crimes and tax evasion.

#### *Prosecution authority*

Public Prosecutors have the authority to investigate crimes including tax evasion.

Public prosecutors investigate tax offences and financial crimes based on accusations by the National Tax Service or referrals from the police department. Investigations may

also be initiated where a public prosecutor directly discovers evidence of a possible offence.

All prosecutions of criminal offences, including tax offences, must be conducted by public prosecutors.

### *Financial Intelligence Unit*

Founded in November 2001, the Korea Financial Intelligence Unit (KoFIU) is located in the Financial Services Commission.

The KoFIU provides specific financial transaction information to the Prosecutor, the National Tax Service, the Korea Customs Service, the National Election Commission, or the Financial Services Commission when it is deemed necessary for the investigation of criminal cases involving illegal assets, money laundering, or financing for offences of public intimidation, investigation into the violation of laws or regulations regarding taxes, customs duties, or political funds, or for the supervision of the financial sector.

### *Financial regulator*

The Financial Supervisory Service ('FSS') is responsible for supervising and inspecting financial institutions and suspicious financial transactions.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access	On request	No sharing <sup>1</sup>	On request
	Customs administration	Reporting obligatory <sup>2</sup>	Reporting obligatory		No sharing	Reporting obligatory <sup>3</sup>
	Police or public prosecutor	On request	Reporting obligation <sup>4</sup>	Reporting obligation <sup>5</sup>		On request
	Financial Intelligence Unit	Reporting permitted <sup>6</sup>	Reporting obligatory	Reporting obligatory <sup>7</sup>	Reporting obligatory	
	Financial regulator	No sharing	No sharing	Reporting permitted	Reporting obligatory	No sharing

<sup>1</sup> There is a general prohibition on the National Tax Service reporting suspicions or sharing information with respect to non-tax offences, other than in exceptional circumstances.

- <sup>2</sup> The Korea Customs Service provides the National Tax Service with declared information on imports and exports and violations of the Foreign Exchange Transactions Act.
- <sup>3</sup> The Korea Customs Service provides the KoFIU with information on currency movements and transactions.
- <sup>4</sup> In Korea, the public prosecutor must provide the National Tax Service spontaneously with information relevant to a tax crime investigation, whereas the Korean police may only provide information on request.
- <sup>5</sup> Suspicions of customs crimes must be reported to the Korea Customs Service.
- <sup>6</sup> In July 2013, the Financial Transaction Report Act (FTRA) was revised to enable the National Tax Service to gain wider access to FIU information. Previously, the FIU disseminated FIU information to the tax administration only where it was required for conducting tax criminal investigations. Under the revised law, the FIU information can also be disseminated for the purposes of selecting and conducting tax audits and collecting tax debts. To control the privacy of information, an ‘Information Analysis Review Committee’ was introduced to monitor that FIU information is disseminated to law enforcement agencies in accordance with the law. A requirement was also introduced that, whenever the FIU refers a Currency Transaction Report to a law enforcement agency, the person filing the Report must be notified. In most cases, this notification must take place within 10 days of the Currency Transaction Report being referred to law enforcement, though in certain circumstances this notification may be suspended for a period.
- <sup>7</sup> The KoFIU provides the Korea Customs Service with access to relevant Suspicious Transaction Reports.

## Models for enhanced co-operation

### *Co-operation between government agencies*

Since KoFIU was established, the National Tax Service and law enforcement agencies have run active programmes of seconding personnel to the FIU. These seconded officials analyse Suspicious Transaction Reports to determine which should be referred to their home agencies for action or investigation. Currently, these secondees comprise nine officials from the Public Prosecutor’s Office, seven from the National Tax Service, seven from the Korea Customs Service, eight from Police, one from Financial Supervisory Service and one from the Bank of Korea.

Tax officials seconded to KoFIU are not allowed to access directly tax information held by the National Tax Service. As they are treated as KoFIU officials during their secondment, information must be obtained through normal inter-agency channels.

### *Co-operation with business, the tax profession, academic bodies and other organisations*

The second National Tax Administration Forum was held in 2012, with the object of having broad discussions on the current status and issues of Korean tax administration, appropriate policy direction and future challenges. This forum has been co-sponsored by the Korea Institute of Public Finance and the National Tax Administrative Committee, a top consultative body for the National Tax Service. This is an event where a wide range of experts from various communities including law-makers, government officers, news reporters, professors and legal professionals participate to discuss tax-related issues.

One of the four topics discussed in the 2012 forum was “how to expand taxation infrastructures based on financial transactions.” As a measure to address this issue, someone argued that the National Tax Service should have a broader access to the financial transaction data held by the KoFIU and other financial institutions, focusing on preventing tax evasion schemes committed through financial transactions. In this regard, other participants agreed on this opinion, saying that the current taxation infrastructures focusing on capturing income incurred from transactions in the real economy have shown clear limitations in effectively dealing with tax evasion, while increasing tax compliance cost and collection cost, and creating an economic environment where cash-based financial transactions are being expanded. Other discussion topics were: “the current status of tax

evasion and effective countermeasures”; “policy goals to bolster voluntary tax compliance”; and “how to impose effective sanctions on non-compliant taxpayers under procedural laws”.

In the first Forum, held in 2011, during a discussion on the topic “how to establish taxation infrastructures using financial information”, experts insisted that a verification system allowing the National Tax Service to compare financial information with data of transactions in the real economy should be built. As a way to address this issue, the following measures were suggested: setting an application system which monitors the financial data held by the KoFIU; establishing a system verifying transaction details by using the data held by other financial institutions; and introducing the US system, “Reporting of Cash Payments Received in a Trade or Business”.

## Latvia

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Tax Control Department of the State Revenue Service Tax (SRS-TCD) is responsible for:

- organising the collection, analysis and circulation of information necessary for tax control in the area of commercial and financial activities of natural and legal persons;
- controlling the accuracy of assessments and payments of taxes, fees, duties, other mandatory payments set by the state, and of the payments as set in the legislative acts of the European Union concerning customs area;
- making tax calculations (excluding excise duty calculations) at the request of officials conducting criminal proceedings; and
- dealing with administrative violations and taking decisions in these cases.

The SRS-TCD must inform the SRS Financial Police Department (SRS-FPD) in all cases when a taxpayer is suspected of committing a criminal violation of tax legislation. The SRS-TCD also informs the SRS-FPD of any other possible criminal activity uncovered in the course of its work. SRS-TCD must report these suspicions within 10 days of their detection.

The SRS-TCD is responsible for monitoring compliance with anti-money laundering legislation by designated non-financial businesses such as tax advisers, independent providers of legal services and real estate agents and brokers. Where they have a justified suspicion or information that a transaction may be for the purposes of money laundering or terrorist financing, these businesses have an obligation to abstain from the transaction and file a Suspicious Transaction Report to the Latvian FIU.

#### *Tax crime investigation*

The SRS-FPD is a structural unit of the State Revenue Service. One of the tasks of this unit is the detection and prevention of criminal activities in the area of state revenue. Within the Department there are investigation, operational, support and administrative units. Civil officials of the SRS-TCD may not take part in investigations and operational activities organised by the SRS-FPD. However, investigators of the SRS-FPD can participate in tax control activities carried out by the SRS-TCD and information on criminal proceedings conducted by the SRS-FPD is available on SRS information systems for use by the SRS-TCD in its work.

In conducting tax crime investigations the SRS Financial Police Department in accordance with Art 387 of the Criminal Procedure Code is an independent body supervised by the public prosecutor.

***Customs administration***

The SRS Customs Criminal Investigation Board (SRS-CCIB) is a structural unit of the State Revenue Service.

***Police***

The tasks of the Latvian State Police are:

- to guarantee the safety of persons and society;
- to prevent criminal offences and other violations of law;
- to disclose criminal offences and search for persons who have committed criminal offences;
- to provide assistance, in accordance with procedures prescribed by law, to institutions, private persons and unions of persons in the protection of their rights and the carrying out of tasks prescribed by law; and
- to implement, within the scope of its competence, administrative sanctions and criminal sentences.

The State Police comprises the following bodies:

- Central Headquarters;
- The Main Criminal Police Department;
- The Main Public Order Protection Police Department; and
- Five Regional Departments.

The Economic Crime Prevention Department (ECPD) is one of structural units of the Main Criminal Police Department. The ECPD comprises four sections.

- 1st section, responsible for prevention of criminal activities committed in credit institutions and combating money laundering;
- 2nd section, responsible for the fight against fraud, and production and distribution of counterfeit currency;
- 3rd section, responsible for combating the trafficking of illegal goods and environmental crimes; and
- 4th section, responsible for combating cybercrime and protection of intellectual property rights.

Financial crime is also dealt with by the five Regional Departments, under the supervision of the ECPD.

***Prosecution authority***

The functions of the Prosecution Office are provided for by the Section 2 of the Law on Prosecution Office, namely, the Prosecution Office:

- supervises preliminary investigation and intelligence activities, reconnaissance and counter-reconnaissance of the state security institutions and compliance by state secret protection system with laws;
- performs preliminary investigations;
- initiates and conducts criminal prosecutions;
- prosecutes on behalf of the State;
- supervises the execution of penalties;
- protects the rights and legitimate interests of persons and the State in accordance with the procedure prescribed by law;
- submits a complaint or a submission to the Court in cases provided for by law; and
- participates in court hearings in cases provided for by the law.

Arrangements for co-operation within the criminal procedure between institutions involved in criminal investigations are set out in the Criminal Procedure Law. The public prosecutor is central to criminal investigations from the outset, through supervision of investigations, co-operation with investigative authorities, directing the choice of procedure and directly performing investigative activities.

### ***Financial Intelligence Unit***

The Latvian Control Service is the national FIU and is a specially established State authority which exercises control over unusual and suspicious financial transactions, and acquires, receives, registers, processes, compiles, stores and analyses data and disseminates information to pre-trial investigative institutions, the Prosecutor's Office and the court. This information may then be used in the prevention, detection, investigation and prosecution of money laundering, terrorism financing or an attempt to carry out such actions or another associated criminal offence.

The Control Service is an administrative-type unit operating under the supervision of the Prosecutor's Office.

### ***Financial regulator***

The Financial and Capital Market Commission (FCMC) is an autonomous public institution, which carries out the supervision of Latvian banks, insurance companies and insurance brokerage companies, participants of financial instruments market, private pension funds, payment institutions and electronic money institutions. It is responsible for the stability and development of the financial market.

The FCMC was established in July 2001 and operates in compliance with the Law on Financial and Capital Market Commission. The Law on FCMC stipulates that the Commission shall enjoy full rights of an independent and autonomous public institution and, in compliance with its goals and objectives shall regulate and monitor the functioning of the financial and capital market and its participants. According to the provisions prescribed by the Law, the FCMC shall have the following functions:

- to issue binding rules and take decisions setting out requirements for the functioning of financial and capital market participants;

- to control compliance with laws, regulations, rules and decisions adopted by the Commission;
- to set the conformity requirement for financial and capital market participants and their officials;
- to establish the procedure for licensing and registration of financial and capital market participants; and
- to cooperate with foreign financial and capital market supervision authorities.

The FCMC is governed by its Board, which consists of five members, including Chairman and Deputy Chairman. There are 19 Divisions in the FCMC and it employs 127 staff. The Financial Integrity Division (FID) was established in 2006 within the Supervision Department, to deal with anti-money laundering and terrorist financing issues and to be responsible for overall supervision for this area. The FID comprises five officials, including the Head of Division.

Anti-money laundering and terrorist financing supervision of the financial sector is divided between the FCMC, the Bank of Latvia (which supervises currency exchange operators) and the Ministry of Transport (which supervises JSC Latvijas Pasts). However, only the FCMC is permitted to issue regulatory provisions for the supervision and control of the regime.

The FCMC conducts regular on-site examinations of market participants to determine, *inter alia*, their compliance with the Latvian anti-money laundering and terrorist financing legislation. Its key focus is on the efficiency of the internal control system of financial services providers. The FCMC can apply a wide range of sanctions to the credit and financial institutions for failure to comply with legislative requirements. Sanctions can vary from monetary fines up to LVL 100 000 or restrictions on the provision of certain financial services to the revoking of the license of the credit or financial institution. As regards the application of financial sanctions, the FCMC is the responsible authority. According to the “Law on Implementation of Sanctions of International Organisations”, all registered participants in financial and capital markets in Latvia are prohibited from performing any kind of operation with financial instruments and financial assets that are partly or completely, directly or indirectly owned by a State or by a person regarding whom financial restrictions have been established. It is a legal duty of the FCMC to take necessary measures for the introduction of sanctions imposed by International Organisations, in line with Cabinet of Ministers Regulations or European Council Regulations. In practice, FCMC informs participants in financial and capital markets on the applicable international financial sanctions and, if necessary, takes decisions on the application of sanctions. *Inter alia*, market participants are advised to apply enhanced due diligence to such transactions.

The Bank of Latvia oversees the cash foreign exchange market outside of the banking sector. This includes on-site and off-site inspections regarding anti-money laundering compliance.

### ***Other relevant agencies***

The Corruption Prevention and Combating Bureau (KNAB) is an independent institution with the primary goal to ensure an efficient, centralised and united fight against corruption within the public service of Latvia. The work of the KNAB is threefold:

prevention of corruption, combating of corruption and education of the society on anti-corruption issues.

Within the competence of the KNAB are the following tasks:

- to monitor the compliance of the activities of public officials with legislation “On Prevention of Conflict of Interest in Activities of Public Officials”. The KNAB is mandated to charge public officials with administrative liability and impose punishment in cases of violations in the area of conflict of interest;
- to monitor political parties’ compliance with party and pre-election financing regulations and, in cases provided by law, it is authorised to find liability and impose appropriate punishment;
- to carry out investigations and criminal intelligence actions to detect criminal offences in the area of corruption; and
- to educate the public, including public officials, in the areas of ethics and corruption prevention.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	Reporting permitted	On request	Reporting obligatory <sup>2</sup>
	Customs administration	Reporting permitted <sup>3</sup>	Direct access <sup>1</sup>		Reporting obligatory	Reporting obligatory <sup>2</sup>
	Police or public prosecutor	Reporting obligatory	Reporting obligatory	Reporting obligatory		Reporting obligatory <sup>2</sup>
	Financial Intelligence Unit	On request <sup>4</sup>	Reporting obligatory <sup>5</sup>	No sharing	Reporting obligatory <sup>6</sup>	
	Financial regulator	Reporting permitted	Reporting permitted	Reporting permitted	Reporting permitted	Reporting permitted

<sup>1</sup> As the SRS-FPD is a structural unit of the State Revenue Service, investigators have access to information available to tax officials in other departments of the service, including SRS-TCD and SRS-CCIB. This includes SRS-TCD databases holding information on the results of tax audits and desk audits, including decisions on audit results and audit reports. The database also contains information on transaction partners of the taxpayers who have been targeted by tax audits and to whom additional assessment was made or whose transactions with these taxpayers were declared non-existent. This information exchange is carried out in accordance with the SRS Internal Regulations. Granting direct access to this information significantly facilitates the co-operation between the SRS-FPD and other structural units of the State Revenue Service in achieving high quality of investigation of crime in the area of state revenues. In addition, SRS-TCD officials must report suspected tax offences to the SRS-FPD within 10 days of detection. Tax officials must also provide tax crime investigators within the SRS-FPD with information they obtain that may be used in the prevention or detection of tax crimes.

- <sup>2</sup> Officials from state authorities, such as the State Revenue Service, who detect suspicious or irregular transactions during the course of their work are obliged to report this to the FIU. Other information is available on request.
- <sup>3</sup> The SRS-CCIB can provide information on request to the SRS-TCD and also spontaneously following the detection of possible criminal activity.
- <sup>4</sup> The FIU provides information on request to the SRS-TCD for the purpose of making civil tax assessments, so long as there are substantiated suspicions that the taxpayer in question has provided false information regarding their financial status or income.
- <sup>5</sup> The FIU must provide information spontaneously to the SRS-FPD where there are suspicions of money laundering connected to tax offences. Tax crime investigators may also request information concerning any tax offence via the Prosecutor General's Office, whether or not this is in connection with money laundering.
- <sup>6</sup> The FIU must provide information to pre-trial criminal investigation units where the information contains evidence of a possible criminal offence. Information may also be requested via the Prosecutor General's Office.

## **Models for enhanced co-operation**

### *Co-operation between government agencies*

The SRS-FPD co-operates with all Latvian crime prevention and detection institutions and, where necessary, establishes joint investigation teams.

Co-operation partners of the SRS-CCIB include the State Police, State Border Guard Service and the Corruption Prevention and Combating Bureau.

Memoranda of Understanding and joint training sessions are used to improve sharing of information between governmental agencies.

### *Technologies and other processes used to enhance the effectiveness of co-operation*

Officers of the SRS FPD have access to the server of Common Use of SRS Documents developed by the SRS-TCD. This server contains information on the results of tax audits and desk audits, including the decisions on the audit results and tax audit reports. This information is available to the SRS-FPD officers on-line. The service also contains information on transaction partners of the taxpayers who have been targeted by tax audits or desk audits and to whom, as a result of tax control activities, additional assessment was made or whose transactions with these taxpayers were declared non-existent.

## Lithuania

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The State Tax Inspectorate under Ministry of Finance is the state institution responsible for the administration of taxes, with the exception of customs duties.

The State Tax Inspectorate (STI) is a public institution and is financed from the State budget. It consists of the State Tax Inspectorate under the Ministry of Finance and ten regional tax inspectorates, which are established as legal entities. The key units of the STI performing tax payers control functions are: the Control Department; the Large Taxpayer Monitoring and Consulting Department; and the Excise Duty Administration Department. Controls such as tax audits are also conducted by Control Departments in the regional tax inspectorates.

The main tasks of the STI are: to assist the taxpayers in exercising their rights and performing their obligations; to implement tax laws; and to ensure the payment of taxes to the budget.

#### *Tax crime investigation*

The Financial Crime Investigation Service (FCIS) is a law enforcement institution under the Ministry of Interior. The mission of the FCIS is to protect the State financial system through the prevention, detection and pre-trial investigation of crimes and other offences.

The areas of the FCIS with responsibility for financial and criminal investigations are:

- the Analysis and Prevention Board, which includes the Activity Analysis and Planning Unit, the Money Laundering Prevention Unit, the Illegal Use of Support Analysis and Prevention Unit, and the Information Systems Unit; and
- the Special Task Board, which includes the Tasks Unit, the Intelligence Unit, and the Criminal Investigation Unit.

The FCIS also has five regional boards (Vilnius, Kaunas, Klaipėda, Šiauliai and Panevėžys) which include Criminal Investigation Units and Economic-Financial Activity Inspection Units (which conduct financial audits).

The tasks of the FCIS are:

- to protect the state financial system against criminal impact;
- to ensure the detection and investigation of criminal acts and other violations of law associated with the receipt and use of financial assistance funds from the European Union and foreign states;

- to disclose and investigate crimes, other violations of law against the financial system, as well as associated crimes and other violations of law;
- to conduct work to prevent crimes and other violations of law against the financial system as well as associated violations of law;
- to implement other tasks assigned to the FCIS in other laws; and
- to act as the Financial Intelligence Unit (FIU).

The FCIS was appointed as the institution responsible for co-operation with the European Anti-Fraud Office (OLAF) and is responsible for the disclosure and investigation of the acts related to fraud and any other illegal activities detrimental to the financial interests of the European Community.

The FCIS works closely with both the State Tax Inspectorate and the police, both in conducting investigations and sharing information.

### ***Customs administration***

The Lithuanian Customs authorities consist of:

- the Customs Department under the Ministry of Finance;
- three regional Customs Offices (Vilnius, Kaunas, Klaipeda); and
- specialised Customs Offices, including the Customs Criminal Service, Customs Information Systems Centre, Customs Training Centre and Customs Laboratory.

The functions of the Lithuanian Customs authorities are:

- to ensure the implementation of Customs legislation;
- to administer import and export duties and other import and export taxes administered by the Customs authorities;
- to control the application of the Common Customs Tariff;
- to prevent and investigate violations of Customs legislation;
- to conduct criminal intelligence to ascertain criminal activities related to customs activities and to carry out pre-trial investigations of these activities;
- to maintain import and export statistics as well as statistics of trade with other EU Member States; and
- to inspect economic commercial activities of persons carrying out activities within the Customs territory of the Republic of Lithuania, their stocktaking and financial accountability related to the application of customs legislation.

The Lithuanian Customs authorities shall carry out other Customs functions laid down in legal provisions of the EU and the Republic of Lithuania, such as the monitoring of cross-border cash movements.

The Customs Criminal Service is a specialised customs agency. Its mission is to detect and investigate crimes and other violations of law related to customs activities.

### ***Police***

According to the Law on Police Activities, the police system consists of the following bodies:

- the Police Department under the Ministry of the Interior;
- regional police bodies;
- police professional training institutions; and
- specialised police bodies.

The institutions under the auspices of the Police Department have specialised subdivisions which have as their objective to suppress, disclose and investigate crimes against intellectual and industrial property, crimes against economy, business order and the financial system.

The mission of the police bodies is to combat, detect and investigate crimes against intellectual and industrial property, economy, business procedure and financial system relating to the manufacturing, possession or use of counterfeit money or securities, or disposal of fake or illegal payment instruments. Financial investigations in these units are conducted with an aim to identify the criminally acquired financial funds or property.

The Lithuanian Criminal Police Bureau (LCPB) is a specialised police institution under the Police Department. Operational investigations under the remit of the Police Department are assigned to either the national Criminal Police Bureau or one of ten regional bodies. These regional bodies deal primarily with crime committed within their area. The national Criminal Police Bureau investigates crimes that take place across more than one region or have an international element. The national Criminal Police Bureau has two main departments, each of which may investigate certain types of financial crime.

- The Organised Crime Investigation Board is responsible for pre-trial investigations in relation to organised criminal activity and terrorism.
- The Serious Crime Investigations Board is responsible for investigating serious offences such as currency counterfeiting, cyber-crime, trafficking in human beings, and theft of motor vehicles.

Where financial crimes are linked to other offences, these will be investigated together by the Board responsible for investigating the non-financial offence.

*Asset Recovery Office*

Under Lithuanian law, the functions of the national Asset Recovery Office (ARO) are shared between the the Prosecutor General’s Office and the Lithuanian Criminal Police Bureau.

The Prosecutor General’s Office is responsible for functions relating to co-operation with foreign competent authorities and international organisations as regards the temporary restriction of ownership rights, seizure and confiscation of the proceeds of crime.

The Asset Recovery Board within the Lithuanian Criminal Police Bureau is responsible for:

- gathering criminal intelligence and participating in investigative teams, where investigations of large-scale criminal businesses are conducted;
- implementing of a joint strategy of Asset Recovery Offices (AROs) and other institutions which cooperate in the search for and detection of proceeds of crime and other related assets;
- engaging in co-operation between AROs in the Republic of Lithuania and abroad regarding the detection, location and recovery of the proceeds of crime and other related assets, including following requests from foreign competent institutions; and
- developing mechanisms to facilitate the detection and recovery of assets, such as recommending legislative improvements, participating in working groups and drafting agreements.

*Other key law enforcement agencies**State Border Guard Service*

The State Border Guard Service under the Ministry of the Interior (SBGS) has the following major functions: to secure the country’s borders on land, in the sea and in frontier internal waters; to ensure control over persons and means of transport crossing the border; and to enforce the border regime and, within its scope of competence, the regime of the border crossing points.

The SBGS comprises six territorial bodies (frontier districts) implementing its functions within their respective territories, and five special bodies. Each territorial body has units of criminal intelligence and pre-trial investigation. The SBGS fights and investigates contraband smuggling between border crossing points, across the so-called ‘green border’. The item of contraband which the SBGS encounters most often is tobacco products smuggled illegally from the third countries. At border crossing points for local border traffic (at the border with Belarus) where there are no customs officials, the SBGS ensures that travellers obey the limitations imposed on the import and exports of items subject to duties.

The SBGS carries out pre-trial investigation of smuggling-related offences and performs criminal intelligence in this field.

### *Special Investigation Service*

The Special Investigation Service (STT) is an anti-corruption agency accountable to the President and the Parliament of the Republic of Lithuania. The mission of the STT is to reduce corruption as a threat to human rights and freedoms, the principles of the rule of law and economic development.

In pursuit of the aim to reduce the level of corruption, the STT acts in accordance with the laws of the Republic of Lithuania and international treaties, detects corruption-related offences, contributes to the development of the anti-corruption policy, carries out corruption prevention, co-ordinates anti-corruption activities of state and municipal institutions and agencies and encourages the public to show intolerance towards and engage in an active fight against corruption.

### ***Prosecution authority***

The mission of the Prosecutor's Office (PO) is to organize and direct pre-trial investigations, to uphold charges on behalf of the State in criminal cases, to protect public interest, to ensure justice and to assist the judiciary in the administration of justice.

The PO comprises the Prosecutor General's Office and territorial prosecutor's offices. The Prosecutor General is appointed by the President of the Republic, with the consent of the Seimas.

The functions of PO are:

- to organise and direct pre-trial investigations;
- to control the activities of pre-trial investigation officers in criminal proceedings;
- to conduct prosecutions on behalf of the State;
- to supervise the submission of the judgments for enforcement and the enforcement thereof;
- to co-ordinate the actions of the pre-trial investigation bodies pertaining to investigation of criminal acts;
- to defend the public interest;
- to examine, within its competence, petitions, applications and complaints submitted by individuals;
- to take part in the drawing up and implementation of national and international programmes for the prevention of crime; and
- to take part in the legislative process.

The prosecutor is responsible for a pre-trial investigation. The Code of Criminal Procedure (CCP) provides for the right of the prosecutor to carry out the whole pre-trial investigation or separate actions thereof alone. When the pre-trial investigation or the separate actions are carried out by the pre-trial investigation officers, the prosecutor

controls the pre-trial investigation. The prosecutor gives the pre-trial investigation officers obligatory directions, and can revoke illegal or unjustified actions. It is the sole responsibility of the prosecutor to take the decision to join or separate the investigations, discontinue, terminate, re-open, and complete the pre-trial investigation and draw up the indictment, and, if necessary, approach the pre-trial investigation judge regarding the performance of activities which are under the competences of the particular judge.

In some specific cases provided for in the CCP, the pre-trial investigation judge is empowered to approve the regulations of the prosecutor on the discontinuation or reopening of the discontinued pre-trial investigation.

There are specialised prosecutors in the Criminal Prosecution Department and the Organised Crimes and Corruption Investigation Department of the Prosecutor General's Office and in the territorial prosecutor's offices (regional and district prosecutor's offices).

The Criminal Prosecution Department and the Organised Crimes and Corruption Investigation Department of the Prosecutor General's Office are managed by the Chief Prosecutor and his deputy in line with the remit defined and fields of activity. The departments are structural elements of the Prosecutor General's Office and they include prosecutors, civil servants and other employees.

#### ***Financial Intelligence Unit***

The Lithuanian Financial Intelligence Unit, the Financial Crime Investigation Service under the Ministry of the Interior (FCIS), implements measures to prevent money laundering and terrorist financing aimed at creating an effective and national anti-money laundering system and ensure its proper functioning.

The Money Laundering Prevention Department is a special department within the FCIS, which performs the functions of the FIU, including:

- collecting and recording information about financial operations and transactions, and about the persons carrying out such operations and transactions;
- accumulate, analyse and publish information relating to the implementation of money laundering and terrorist financing prevention measures;
- communicate to law enforcement and other State institutions information about financial operations and transactions;
- provide to financial institutions and other entities the information on criteria for identifying possible money laundering and terrorist financing and suspicious or unusual monetary operations or transactions;
- notify financial institutions and other entities, law enforcement and other State institutions about the results of its analyses and its investigations into Suspicious Transaction Reports; and
- evaluate legislation and submit proposals for improvements based on international standards and recommendations.

The FCIS is the main State institution responsible for co-ordination of co-operation between institutions related to the implementation of money laundering prevention measures.

### *Financial regulator*

In 2012 Lithuania reformed its institutional structure for financial supervision. Following the recent international trend of integrating national supervisory structures, three authorities responsible for supervising separate financial market segments were merged into the Central Bank. As a result, the responsibility for supervising the whole financial market was shifted to the Bank of Lithuania. Besides institutional reforms, the functions of the Bank of Lithuania in the area of financial supervision were expanded to include the supervision of financial services and markets as well as prudential supervision. Where, in the course of its activities, the Bank of Lithuania identifies facts which indicate possible criminal activities, it must inform the responsible judicial authorities.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	Direct access <sup>2</sup>	On request	Direct access
	Customs administration	Direct access <sup>3</sup>	Reporting obligatory		Reporting obligatory <sup>4</sup>	Reporting obligatory <sup>5</sup>
	Police or public prosecutor	Reporting permitted <sup>6</sup>	Reporting permitted	Reporting obligatory <sup>7</sup>		Direct access <sup>8</sup>
	Financial Intelligence Unit	Reporting obligatory <sup>9</sup>	On request <sup>10</sup>	On request	On request <sup>11</sup>	
	Financial regulator	On request	Reporting obligatory	Reporting obligatory	Reporting obligatory	Reporting obligatory

<sup>1</sup> FCIS investigators have direct access to information in the Central Register of Bank Accounts, held by the State Tax Inspectorate. Investigators may also request information concerning possible tax violations and administrative liabilities of taxpayers. The STI provides information spontaneously regarding indicators of possible financial crime.

<sup>2</sup> The customs administration has direct access to information held by the STI concerning bank accounts in Lithuania, tobacco and alcohol products sold, business licenses granted, permanent establishments of foreign companies and information required for risk assessment purposes. The STI also provides information spontaneously which concerns possible violations under the competency of Customs. The customs administration may request information concerning possible tax violations and administrative liabilities of taxpayers.

<sup>3</sup> The customs administration is also obligated to provide information to the STI spontaneously, and on request.

<sup>4</sup> Information must be provided spontaneously to the police and public prosecutor's office. The police may also obtain information on request.

- <sup>5</sup> The FIU also has direct access to information concerning import and export customs declarations, transit declarations and cash declarations.
- <sup>6</sup> The public prosecutor and police provide the STI with information obtained during intelligence gathering or pre-trial investigations which relates to possible tax arrears or non-compliance. Information may also be obtained on request.
- <sup>7</sup> The public prosecutor and police inform the Customs Criminal Service about crimes and offences related to customs activities. Active co-operation and sharing of information is observed in investigations into crimes related to smuggling and the evasion of excise duties.
- <sup>8</sup> The FIU has direct access to police databases. Information may also be obtained on request.
- <sup>9</sup> The STI receives relevant information from the FIU once a month concerning legal entities and once a year concerning individuals. Information may also be provided on request.
- <sup>10</sup> Information held by the FIU for the purposes of money laundering prevention is available to the investigators of the FCIS by request only.
- <sup>11</sup> Information concerning possible non-tax offences must be provided to the police spontaneously and on request. The FIU does not share information directly with prosecutors.

## Models for enhanced co-operation

### *Co-operation between government agencies*

One of the key functions of the STI is co-operation with law enforcement services, seeking to exchange information about possible tax evasion or tax fraud. The main partner of STI in this area is the FCIS. STI and FCIS carry out co-operation in the following areas:

- exchange of information about taxpayers, including which have committed administrative violations or financial/economic crime and which activity was the object of inspections or investigations.
- determining the damage to the State budget identified during criminal investigations;
- bank information; and
- information about companies operating in the oil products market.

One of the main areas in STI and FCIS co-operation is joint information analysis or intelligence activity, and co-operation in investigations concerning unjust enrichment. The FCIS has direct electronic access to information concerning tax returns and taxes paid. The FCIS may also request that the STI carries out inspections of taxpayer activity. In turn, the FCIS provides the STI with necessary assistance during the inspections of the taxpayers' premises or other related places. FCIS also regularly provides to STI information about financial transactions received from financial institutions and other subjects for the money laundering and terrorist financing prevention purposes. The STI and FCIS also carry out co-operation in order to identify non-profit institutions which violate money laundering and terrorists financing prevention rules. Seeking to improve this activity, FCIS has created the list of special criteria for use during inspections.

The Financial Crimes Investigations Service and the State Tax Inspectorate established the Risk Analysis Centre (RAC), including officials from both authorities. The RAC performs analyses of information received from both participating authorities, carries out operative activity and pre-trial investigations. The RAC can receive, via the officials appointed by the FCIS and STI, information needed for the implementation of its tasks and performance of its functions of the Centre. The main objectives of the RAC are:

- to analyse and exchange available information on tax violations and acts against the financial system, aiming to identify the threats to the State financial system and collection of taxes; and
- to co-ordinate co-operation between the FCIS and STI, organising and implementing targeted measure to, prevent, detect and investigate violations of tax law or those crimes that are assigned to the competence of the parties.

The RAC implements its objectives by monitoring and analysing the situation in different areas of the economic activity, to determine changes and trends in tax offences and crimes against the financial system, and the reasons for these. Upon the detection of possible tax evasion or other criminal activity, the RAC informs the relevant law enforcement authority, gives suggestions on priority actions, and conducts further enquiries with respect to the facts it has uncovered.

The FCIS commences an investigation when it receives reports on possible tax offences from the STI. Additionally, where an investigation by the police into crimes including drug or human trafficking indicates that a suspect has possession of criminal property, the FCIS may conduct a parallel investigation into unjust enrichment.

In 2012, 31 meetings of the RAC were held. During these meetings, the activities of 485 tax payers were analyzed. The main objects of the analysis were:

- international VAT fraud;
- illegal movement of goods from China;
- illegal trade of oil-products imported from non-EU countries;
- tax evasion in trade of scrap, food and other goods.
- money laundering schemes;
- illegal enrichment and non-declaration of income; and
- off-shore companies.

In August 2010, the Financial Crime Investigation Service, the Customs Department, the State Boarder Guard Service, and the Police Department signed a co-operation agreement committing them to exchanging information on preventing, detecting and investigating crimes, and other co-ordination of actions at national and regional levels. In implementing this agreement, the parties established the Criminal Information Analysis Centre (CIAC), a permanent inter-agency working group targeted at the development of co-operation specifically in the analysis of information related to different offences and to the social, legal and economic conditions of crimes and violations. On the basis of information analysis, the CIAC can provide recommendations on trends in operational and pre-trial investigation activities of the participating authorities

At the beginning of 2013, the Commission for Co-ordination of Co-operation between State Financial Control and Law Enforcement Institutions approved the action plan for 2013–2014 to promote the fight against shadow economy in the Republic of Lithuania. This action plan comprises activities in the area of smuggling of excise goods, undeclared work,

illegal income and the avoidance of taxes. The action plan gives the right to the competent authority to receive necessary information held by other authorities. Competent authorities to perform activities approved by this plan are Prosecutor General's Office, Ministry of Finance, Ministry of Transport and Communications, Ministry of Justice, Ministry of Economy, Special Investigation Service, State Labour Inspectorate, State Border Guard Service, State Tax Inspectorate, Customs Department, Customs Criminal Service, Police Department, Lithuanian Criminal Police Bureau, Migration Department and the Financial Crime Investigation Service.

Since 2010, the Lithuanian customs administration was designated co-ordinating institution in the fight against the illegal possession and smuggling of excise goods. The main purpose of this co-ordination is to avoid duplication of efforts in operational investigations related to the smuggling and illegal turnover of excise goods. To achieve this, joint meetings of law enforcement institutions are organised where issues related to tactical intelligence and joint actions are discussed. In order to prevent contraband, institutions examine the entire business chain and the customs administration actively co-operates with national and foreign law enforcement agencies.

The State Border Guard Service at the Ministry of the Interior of the Republic of Lithuania has concluded agreements on data supply in order to obtain information from the State Tax Inspectorate. During the investigation of offences, information may be obtained via electronic requests submitted over the internet with respect to the income and property of individuals, as well their bank accounts.

#### ***Co-operation with business, the tax profession, academic bodies and other organisations***

A formal co-operation and co-ordination mechanism involving the State Tax Inspectorate has now been in place for many years, and numerous agreements exist to support effective co-operation. Agreements, memoranda of understanding, meetings with associations of taxpayers operating in industries including construction, metal processing, and the forestry sector, are all used to facilitate co-operation with business.

The Customs Consultation Committee was established in 2000 in order to improve the conditions of business environment and to strengthen the co-operation between the customs service and business community. The Customs Consultation Committee analyses customs legislation, its practical application and implementation, drafts of relevant legal acts and other matters of customs activity that are important for business.

#### ***Technologies and other processes used to enhance the effectiveness of co-operation***

The information systems of government institutions are currently integrated with state and departmental registers. For example, the information system of the Prosecution Service is integrated with: the information system of the Courts of Lithuania (LITEKO); the Registry of Events Registered by Police; the Registry of Suspects, Accused Persons and Sentenced Persons; and the Departmental Register of Criminal Acts. An initiative has been launched to design a single integrated information system of criminal procedure.

## Luxembourg

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The tax administration has a preventive role in fighting general crime, including financial and tax crimes and money laundering.

Article 16 of the Law of 19 December 2008 on inter-departmental and judicial co-operation and strengthening the powers of the Inland Revenue and the Land Registry and Estates Department and the Customs and Excise Office creates the legal framework, inter alia, for structured co-operation between the Inland Revenue and the judicial authorities.

Firstly, an obligation to respond to requests from the judicial authorities:

Article 16(1) LGI provides that: "*the Inland Revenue and the Land Registry and Estates Department shall forward to the courts, at their request, information which may be useful in criminal proceedings*". It is on this legal basis, inter alia, that the FIU requests from the Inland Revenue information that it considers necessary and essential for the inquiries it conducts.

Secondly, the obligation to report offences to the State Prosecutor:

Article 16(2) LGI provides that "*where it comes to the knowledge of the Inland Revenue or the Land Registry and Estates Department, in the course of their duties, that an offence has been committed, they shall be required to inform the State Prosecutor immediately and to forward to him all the information, reports and acts related to that offence*".

#### *Tax crime investigation*

Tax crime investigations in Luxembourg are conducted primarily by the Economic and Financial Department of the Grand Duchy Police, under the supervision of a public prosecutor.

#### *Customs administration*

The *Administration des Douanes et Accises* (ADA) is the Luxembourg Customs and Excise Administration. The ADA is a separate agency under the Ministry of Finance, with responsibility for implementing national and European cash controls for the prevention, detection, investigation and prosecution of financial crimes. Where in the course of its activities the ADA uncovers suspicions of possible VAT fraud (such as Carousel frauds), this information is provided immediately to the *Administration de l'Enregistrement et des Domaines* (AED), which is the Luxembourg Indirect Tax Administration.

The ADA is authorised under law to detect, investigate and, where appropriate, prosecute cases of fraud. Within the ADA, the Litigation and Co-operation Division (LCD) is the unit responsible for the combating of financial and economic crime. The LCD conducts investigations into cases of financial and economic fraud detected by external services, and adjudicates on them on behalf of the Head of the Administration. It co-ordinates and monitors cash controls to ensure proper implementation, and collection,

processing and forwarding of information to the Luxembourg FIU. The LCD is also responsible for domestic and international co-operation with outside agencies, collaboration with the European Anti-Fraud Office (OLAF), and is the competent authority for enforcement of Council Regulation (EURATOM, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections to protect the European Communities' financial interests against fraud and other irregularities. Officials within the LCD are authorised to participate in joint inspection teams under Council Regulation (EC) No 485/2008 of 26 May 2008 on scrutiny by Member States of transactions forming part of the system of financing by the European Agricultural Guarantee Fund.

Under the law of 27 October 2010, the ADA became the supervisory authority of categories of professionals, including real estate agents and merchants accepting cash over EUR 15 000 per operation. All categories of professionals have to respect obligations when dealing with clients. In case of breach of these obligations, the Customs and Excise Office can impose a penalty from EUR 250 to EUR 250 000. The ADA works closely with the FIU and both authorities can exchange information on cases dealing with money laundering or terrorist financing.

The Divisional Inspectorate at Luxembourg Airport and the Monitoring and Surveillance Unit responsible for checking passengers also have special responsibility for implementing cash controls.

### ***Police***

Within the Luxembourg Police, the Economic and Financial Department and the anti-money laundering section of the Criminal Investigation Service's (CIS) Organised Crime Department are specialised units in the fight against economic and financial crime. The Analysis and Support Cell of the CIS directorate provides them with back-up in some of their tasks by providing specialised and technical assistance.

There is at present no other unit within the Grand Duchy Police with exclusive responsibility for financial or tax crime investigations, although the Economic and Financial Department, CA2 and the anti-money laundering section have investigators capable of performing this role. Financial and tax crime investigations are the responsibility of investigators in these units.

The operational and strategic mission of all sections of the Economic and Financial Department as well as the Anti-Money Laundering Section and the Analysis and Support Cell is to combat economic and financial crime, including money laundering and tax crime, at both national and international level by performing the criminal investigation duties laid down by the Code of Criminal Procedure. All these units conduct investigations under the supervision of the Public Prosecutor.

### ***Other key law enforcement agencies***

At Luxembourg Airport, the Divisional Inspectorate and the Monitoring and Surveillance Unit responsible for checking passengers are the departments belonging to the executive that specialise particularly in cash controls.

### ***Prosecution authority***

The public prosecutor's office is responsible for public prosecution and enforces application of the law. In the event of a criminal offence, the aim of a criminal investigation is to gather sufficient evidence on the constituent elements of an offence and to find out who committed it. Once it is established that an offence has been committed and the perpetrator is identified, the aim of the investigation is to render the proceeds of the offence unavailable.

The public prosecutor's office supervises criminal investigations by law enforcement agencies, and conducts prosecutions before the court. The public prosecutor responsible for conducting investigations and prosecutions into economic and financial crimes also deals with tax offences.

### ***Financial Intelligence Unit***

The Financial Intelligence Unit (FIU) in Luxembourg is of a judicial nature and has national competence in combating money laundering and terrorist financing.

Since 1993 the functions of the FIU, in receiving and analysing reports of suspicions of possible money laundering or terrorist financing, have been performed by the prosecutors of the public prosecutor's office in charge of economic and financial affairs. Being an integral part of the public prosecutor's office of the Luxembourg court, the FIU has all the powers of a public prosecutor and is responsible for the prosecution of complex money laundering and terrorist financing cases.

### ***Financial regulator***

The Financial Sector Supervisory Commission (CSSF) is the prudential supervision body over the financial sector. The CSSF examines all applications made by undertakings or persons seeking to carry out a financial activity in the Grand Duchy of Luxembourg and requiring the authorisation of the Minister for Finance. It ensures that the laws and regulations on the financial sector are enforced and observed and that international agreements and European Directives in the fields for which it is responsible are implemented. The CSSF is required to inform the Luxembourg public prosecutor's office of any illicit or fraudulent activities that may have come to its knowledge as it exercises its activities, including money laundering and terrorist financing offences.

### ***Other relevant agencies***

The *Commissariat aux Assurances* (CAA) exercises supervision over the insurance sector and insurance intermediaries. The CAA is responsible for ensuring compliance with professional obligations with regard to combating money laundering and terrorist financing.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Reporting obligatory <sup>1</sup>	Reporting permitted <sup>2</sup>	Reporting obligatory <sup>1,3</sup>	Reporting obligatory <sup>3</sup>
	Customs administration	Reporting permitted <sup>4</sup>	Reporting permitted <sup>4</sup>		Direct access <sup>5</sup>	Direct access <sup>5</sup>
	Police or public prosecutor	Reporting obligatory	Direct access	On request <sup>6</sup>		Direct access <sup>7</sup>
	Financial Intelligence Unit	No sharing	Reporting permitted <sup>8</sup>	On request <sup>9</sup>	Reporting permitted <sup>10</sup>	
	Financial regulator	Reporting permitted	Reporting obligatory	On request	Reporting obligatory	Reporting obligatory

<sup>1</sup> Where it comes to the knowledge of the Inland Revenue in the course of its duties that a tax or non-tax offence has been committed, it must immediately inform the public prosecutor's office and forward all information, reports and acts related to that offence.

<sup>2</sup> This concerns information related to cash controls or suspected VAT fraud.

<sup>3</sup> The Inland Revenue must also forward to the courts on request any information which may be useful in criminal proceedings. As the FIU is a division of the public prosecutor's office, this mechanism also enables the FIU to obtain tax information.

<sup>4</sup> The customs administration may share information concerning the detection or investigation of VAT offences.

<sup>5</sup> The Public Prosecutor's Office, which includes the Luxembourg FIU, has direct access to information concerning tax controls or suspected VAT offences.

<sup>6</sup> The ADA may request information from the police or public prosecutor to assist in the administration and enforcement of cash controls.

<sup>7</sup> In Luxembourg the FIU is a division of the public prosecutor's office. The Luxembourg FIU has direct access to information held by the public prosecutor, which will include information provided to the public prosecutor by the police. The FIU may also request additional specific information from the police.

<sup>8</sup> Judicial authorities, including the FIU, regularly pass on information and other data on tax offences.

<sup>9</sup> The ADA may request information concerning cash controls, orders for seizure of money, information on penalties, and final destination of seized money.

<sup>10</sup> In Luxembourg, the FIU is established within the public prosecutor's office, thus allowing the close co-ordination of activities and information sharing between the FIU and prosecutors.

## Models for enhanced co-operation

### *Co-operation between government agencies*

The Direct Tax Administration, the Indirect Tax Administration and the Customs and Excise Administration regularly exchange information concerning commercial businesses,

traders and professional service providers with the Social Security Administration (*Centre commun de la sécurité sociale*). A similar system of exchange of information exists between the three tax administrations and the Ministry of Transports with respect to information regarding vehicle owners registered in Luxembourg and with the Ministry of Small Firms and Traders regarding the issue and withdrawal of business licences to traders and other independent professional services. In addition, the Customs and Excise Administration, the Indirect Tax Administration and the Labour and Mines Inspectorate regularly conduct joint investigations into the affairs of taxpayers, in accordance with the rules governing investigations by each participating agency.

A centralised database of official addresses in Luxembourg called the "National register of towns, villages and streets" has been set up by the Land Registry and Topography Office (ACT) and the Luxembourg Centre for Information Technologies (CTIE). This register is the reference database for Luxembourg addresses used by State authorities, and also supplies data to a large number of IT applications.

All agencies involved in combating financial crimes engage in common training and regular meetings to prepare common cases, discuss general guidelines and exchange their knowledge and experience.

#### ***Co-operation with business, the tax profession, academic bodies and other organisations***

The *Comité de Prévention de la Corruption* was established in 2007 as an inter-agency committee to raise awareness within the public and private sectors of issues related to corruption, and to share related information. The Committee takes preventative actions and advises the Government as to specific measures to be adopted in the field of corruption. The *Comité de Prévention du Blanchiment et du Financement du Terrorisme* is a similar inter-agency committee, established in 2009, concerned with the prevention of money laundering and terrorist financing (the). Both of these committees include representatives from the private sector, including banks, insurance companies, accountants and lawyers.

## Malaysia

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Inland Revenue Board, Malaysia (IRBM) is committed to deterring, detecting and dealing with tax evasion and fraud and takes action against taxpayers, intermediaries and others who engage in tax crime. The IRBM undertakes compliance activities, including civil audits and criminal investigation to tackle tax evasion and fraud.

There are 17 Investigation branches throughout Malaysia supervised by the Investigation Department. In addition, special cases of tax evasion and money laundering are dealt with by the ‘Special Investigation Division’ (SID). SID undertakes investigations based on information referrals from within the IRBM, from the public and directive from the top management of IRBM.

The IRBM is under the Ministry of Finance (Treasury).

#### *Tax crime investigation*

Criminal Tax Investigations are undertaken:

- by the IRBM; or
- by the IRBM together with other agencies in a with Special Task force (STF) where the IRBM takes the role of lead agency. STF’s are discussed below.

Investigations are directed and conducted by IRBM. Prosecution of taxation offences is undertaken by the IRBM’s Prosecution Division, under a sanction given by the Public Prosecutor Office at the Attorney General’s Chamber.

#### *Customs administration*

The Royal Custom Malaysia (JKDM) is the government agency that is responsible for administrating indirect taxes and conducts customs crime investigation.

The JKDM is under the Ministry of Finance (Treasury).

#### *Police*

The Royal Malaysia Police (RMP) is the main agency of security forces structure in Malaysia. The RMP’s main task is to maintain and enforce internal national security. This includes conducting criminal investigations, intelligence gathering, and combating organised crime, terrorism, and narcotics offences.

The RMP is responsible for investigating a range of criminal offences under the Penal Code (Act 574) including serious and complex fraud and most of the laws in Malaysia. The tasks of RMP is stated under Police Act 1967.

The RMP is under the Ministry of Home Affairs.

### ***Other key law enforcement agencies***

The Malaysian Anti-Corruption Commission (MACC) is a government agency that investigates and prosecutes corruption in the public and private sectors. There are five independent bodies that monitor the MACC to ensure its integrity and to protect citizens' rights. These bodies are managed separately from other government offices in order to provide an independent perspective. The five bodies are: the Anti-Corruption Advisory Board, the Special Committee on Corruption, the Complaints Committee, the Operations Review Panel, and the Corruption Consultation and Prevention Panel.

The MACC is under the Prime Minister's Department.

### ***Prosecution authority***

Criminal prosecutions are conducted by the Public Prosecutor's Office, which is part of the Attorney General's Chamber. The Public Prosecutor may also give sanction to other law enforcement authorities, such as IRMB, to prosecute cases directly.

### ***Financial Intelligence Unit***

*Bank Negara Malaysia* (Central Bank of Malaysia or BNM) is the competent authority appointed by the Minister of Finance under the Anti-Money Laundering and Anti-Terrorism Financing Act 2001 (AMLATFA). The Financial Intelligence and Enforcement Department (FIED) was established to carry out the functions of the competent authority under the AMLATFA and to facilitate the implementation of the AMLATFA through cooperation with its domestic and international partners, to safeguard the financial system's integrity against money laundering and terrorism financing threats and activities.

The core functions of FIED include:

- carrying out roles and functions set out in the AMLATFA;
- spearheading national efforts in combating money laundering, terrorist financing and other serious crimes through close collaboration with relevant agencies;
- formulating policies and strategies to reflect a comprehensive Anti-Money Laundering and Counter Financing of Terrorism regime;
- promoting awareness on money laundering and terrorist financing issues; and
- acting as the Secretariat to the National Co-ordinating Committee to Counter Money Laundering (NCC).

### ***Financial regulator***

*Bank Negara Malaysia* (Central Bank of Malaysia or BNM) is responsible for promoting monetary stability and financial stability conducive to the sustainable growth of the Malaysian economy. The Central Bank of Malaysia Act 2009 vests the BNM with the necessary powers and instruments to enable the central bank to carry out its functions and mandate in an effective manner.

The Labuan Financial Services Authority (Labuan FSA) is the statutory body responsible for the development and administration of the Labuan International Business

and Financial Centre (Labuan IBFC). The functions of the Labuan FSA are guided by the following three main objectives:

- to promote and develop Labuan as an international centre for business and financial services;
- to develop national objectives, policies and priorities for the orderly development and administration of the international business and financial services in Labuan; and
- to act as the central regulatory, supervisory and enforcement authority of the IBFC in Labuan.

BNM and LOFSA are both under the Ministry of Finance (Treasury).

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	On request <sup>2</sup>	On request <sup>2</sup>	On request <sup>2</sup>
	Customs administration	On request	On request		On request	On request
	Police or public prosecutor	On request	On request	On request		On request
	Financial Intelligence Unit	Direct access <sup>3</sup>	Direct access <sup>3</sup>	Reporting permitted	Reporting permitted	
	Financial regulator	On request	On request	On request	On request	On request

<sup>1</sup> Tax crime investigations are conducted by the Investigations Department of the IRBM, and have direct access to tax administration information.

<sup>2</sup> Disclosure of information by the tax administration is prohibited, except where authorised under the Dangerous Drug Act, Corruption Act or Anti-Money Laundering and Terrorist Financing Act.

<sup>3</sup> A limited number of officials within the IRBM, including some officials within the Investigations Department, have direct access to the Suspicious Transaction Reports database maintained by FIED. The FIU may also spontaneously provide information relevant to tax crime investigations or the activities of the IRBM.

## Models for enhanced co-operation

### *Co-operation between government agencies*

The national Special Task Force (STF) is an inter-agency initiative to fighting tax crimes and other financial crimes. The STF, is headed by the Attorney General Chambers and members include IRBM, Company Commission Malaysia, Central Bank of Malaysia, Malaysian Anti-Corruption Commission and Royal Customs Department.

The role of the STF is to improve co-operation between law enforcement agencies to ensure a holistic approach to development, good governance and anti-corruption as well as to assist agencies in combating financial crimes, and in particular money laundering and tax evasion. The STF also monitors the sharing of information and planning of joint operation among law enforcement agencies in some high profile cases.

### *Co-operation with business, the tax profession, academic bodies and other organisations*

The IRBM jointly organise series of national seminars on combating financial crime with professional bodies, such as the Chartered Tax Institute of Malaysia. The IRBM also holds annual talks and forums with professional bodies on various tax matters including tax and financial crimes.

### *Technologies and other processes used to enhance the effectiveness of co-operation*

MyGovXchange (MGX) functions as a Public Service Gateway, delivering government services through an integrated system based on the approach – ‘One Government, Many Agencies No Wrong Door’. A key benefit of MGX is that it enables the sharing by agencies of information such as data on individuals, applications and approval of loans, grants and incentives. It also facilitates agencies in their decision-making process by avoiding duplication of work to update information, and ensures that all agencies have access to the latest information. MGX has successfully brought together 33 government agencies in the effort to improve the government’s service delivery.

There are currently plans to further develop MGX, and 1Gov\*Net will be established as a centralised Network Operation Centre to coordinate, maintain and monitor the entire public sector network. This will make the monitoring and control of network activities easier, more comprehensive and better regulated. 1Gov\*Net will act as a platform for accessing ‘Electronic Government’ (EG) applications, each agency’s internal applications and also the internet. This platform will facilitate communications not only between government agencies but also between government agencies and private citizens.

## Mexico

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The *Servicio de Administración Tributaria* (SAT), a decentralised agency of the Ministry of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público*). The SAT is responsible for conducting tax audits, studying, analysing and investigating the behavior of the various sectors of national economy in order to identify those behaviors related to tax evasion, and suggesting to combat such conduct.

Where the SAT discovers indications of possible tax crime, it submits a report to the *Procuraduría Fiscal de la Federación* (Federal Fiscal Prosecution Office or PFF). The PFF considers these reports and may then present a complaint to the *Ministerio Público de la Federación* (Public Prosecution Office or MPF), which is attached to the *Procuraduría General de la República* (Attorney General's Office or PGR).

#### *Tax crime investigation*

The Attorney General's Office (PGR), through the Public Prosecution Office (MPF), is the authority competent to carry out a criminal investigation, since it can receive lawsuits and complaints about actions or omissions which may constitute a crime, and can then investigate and prosecute federal crimes. The PGR has a special unit known as the Special Unit for Investigation of Operations with Illicit Funds and Currency Forgery or Alteration, which deals with criminal investigation cases of money laundering. The PGR also has a Special Unit for Investigation of Fiscal and Financial Crimes, which conducts investigations concerning fraud crimes under the Federal Tax Code, Social Security Law and those specified in special laws regarding the Financial System Institutions.

The Federal District and all 31 states have state departments which conduct investigations into offences, including tax and financial crimes, which are federal crimes but which due to their size or circumstances do not represent the legal technical complexity for them to fall under the jurisdiction of the Special Units.

#### *Customs administration*

The customs administration is an administrative unit of the SAT, whose main functions are to control the entry and exit of goods from the country. The activities of the customs administration include:

- raising public revenue from foreign trade;
- participation in the implementation of the law for health care and public safety, the environment and cultural heritage of Mexico, through the control of goods subject to non-tariff barriers such as weapons, explosives, animal species, and narcotics; and
- facilitating the entry and exit of goods in international operations, protecting the national industry.

Following the agreement of the Bilateral Strategic Plan of Customs, between the United States and Mexico, the SAT established the Trade Transparency Unit, which aims to identify and eliminate practices of trade based fraud and money laundering. This uses

comparative customs information from both countries to identify possible irregularities in reported data on bilateral trade.

### ***Police***

The *Policía Federal Ministerial* (Federal Ministerial Police or PFM) was established in May 2009 to replace the existing *Agencia Federal de Investigación* (Federal Investigation Agency or AFI). The PFM is now the agency responsible for investigating and prosecuting federal crimes under the direction of the Attorney General's Office. Offences dealt with by the PFM include financial and tax crimes and other criminal activity that impacts national security.

### ***Prosecution authority***

The Attorney General's Office (PGR) is the authority competent to prosecute suspects of financial and tax crimes before the Federal Courts.

### ***Financial Intelligence Unit***

The *Unidad de Inteligencia Financiera* (Financial Intelligence Unit or UIF) of the Ministry of Finance and Public Credit, is a national central authority established for the reception, analysis and dissemination of Suspicious Transaction Reports and other financial information that could be useful for detecting possible money laundering or domestic and international terrorist financing. Its main tasks are to prevent any transactions with funds coming from money laundering and also prevent terrorist financing.

The UIF can also request and obtain from financial institutions, directly or through the appropriate authorities (SAT, CNBV, among others), the information and documentation related to Suspicious Transaction Reports and can also require and provide other national competent authorities with information and documentation required for their activities.

The UIF also makes reports to the Public Prosecution Office, attached to the Attorney General's Office, on criminal conducts which could encourage, assist or provide cooperation of any kind to offenders committing the crimes of terrorist financing or money laundering.

### ***Financial regulator***

The *Comisión Nacional Bancaria y de Valores* (National Banking and Securities Commission or CNBV) is a decentralised agency of the Ministry of Finance and Public Credit, with technical autonomy and executive faculties. The CNBV is responsible for supervising and regulating the financial institutions under its jurisdiction, in order to ensure their stability and proper operation, and maintaining and promoting the healthy and balanced development of the financial system as a whole, protecting the public interest.

The CNBV conducts inspection visits (regular, special or research) in order to verify compliance of financial laws and related provisions. The CNBV also responds to requests for information and documentation and executing orders issued by the judiciary, treasury and administrative competent authorities. Requests must be related to transactions conducted by customers and users of the financial services with those entities subject to the jurisdiction and supervision of the CNBV, taking into account the laws applicable to financial secrecy.

The CNBV also issues opinions to the Federal Fiscal Prosecution Office of the Ministry of Finance and Public Credit, regarding possible violations of financial laws.

The National Commission for the Protection and Defence of Financial Services Users (CONDUSEF) also serves as supervisor of individual financial institutions.

### *Other relevant agencies*

The *Procuraduría Fiscal de la Federación* (Federal Fiscal Prosecution Office or PFF) of the Ministry of Finance and Public Credit, through the *Subprocuraduría Fiscal Federal de Investigaciones* (Federal Fiscal Sub Prosecution Office for Investigations or SFFI), collects and studies evidence, records, documents and reports in respect of suspected tax offences and other financial crimes within its jurisdiction.

The PFF may then provide this information and the results of its analyses to the judicial authorities and to the Public Prosecution Office, attached to the Attorney General's Office, so this information can be integrated into criminal proceedings.

The PFF receives complaints from the CNBV regarding possible financial and market offences, and formulates and present petitions, lawsuits or complaints for the presumption of crimes provided in laws regarding credit, insurance and bonding institutions, credit organisations and auxiliary activities, the stock market, the saving retirement system and other institutions of the Mexican financial system.

The PFF also represents the Ministry of Finance and Public Credit in criminal proceedings.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		On request <sup>1</sup>	Direct access	On request <sup>2</sup>	Reporting obligatory <sup>3</sup>
	Customs administration	On request	On request <sup>1</sup>		On request <sup>2</sup>	On request
	Police or public prosecutor	No sharing	Direct access	On request		On request
	Financial Intelligence Unit	Reporting permitted	Reporting obligatory	On request	Reporting obligatory	
	Financial regulator	On request	On request	On request	On request	On request

<sup>1</sup> Where the SAT has grounds to suspect a tax offence has been committed, it is required to report this to the PFF. However, police officers conducting tax crime investigations in Mexico may only obtain information from the SAT on request, even where the investigation was commenced following a report by the tax administration.

<sup>2</sup> Information is provided on request via the PFF. Under the rules of tax secrecy, this information may only be used for the purposes for which it is requested, and the PFF must also observe the rules of tax secrecy. The SAT may not provide information directly to the police. Where the SAT has grounds to suspect non-tax offences may have been committed, it is also required to report these to the PFF.

<sup>3</sup> Where the SAT in the course of its activities uncovers any information relevant to possible money laundering or terrorist financing, it must report this information to the UIF).

## **Models for enhanced co-operation**

### ***Co-operation between government agencies***

In October 2012, the law on the Federal Prevention and Identification of Operations from Illicit Resources was published, which contains provisions to strengthen co-operation in preventing, detecting and combating money laundering and sharing of information between government agencies. This law took effect from July 2013.

### ***Co-operation with business, the tax profession, academic bodies and other organisations***

There are no agreements between the tax authorities and business organisations, tax consultants or academic institutions, to the fight against financial crime.

## Netherlands

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Netherlands Tax and Customs Administration (NTCA) is responsible for the levying and collecting of taxes and social insurance contributions. The NTCA also supervises the import, export and transit of goods. Also the NTCA is responsible for the payment of benefits towards the costs of childcare, rent and healthcare. A special unit of the NTCA supervises high value traders and estate agents with respect to the reporting of unusual transactions to the FIU.

#### *Tax crime investigation*

The Fiscal Information and Investigation Service (FIOD) is the investigation service of the NTCA. Financial crime is the responsibility of the FIOD. Tax fraud, money laundering and many other kinds of financial crimes are investigated by FIOD. Organised crime and terrorism are also combated by FIOD, in co-operation with the Police, through the mapping of criminal funds.

The FIOD handles so-called vertical fraud and related offences. This refers to fraud against the State (i.e. tax fraud, bankruptcy fraud, financial regulation of markets, insider trading, private sector corruption and money laundering). FIOD assists the National Police in large and complex organised crime cases that also involve financial crime.

#### *Customs administration*

The customs administration is part of the Tax and Customs Administration of the Netherlands. There is one National Office that has nine regional offices. The customs administration is responsible for the levying of customs duties and excises at the entrance of the EU through the Netherlands. It is also responsible for levying of excises on inland produced excise goods.

The customs administration supervises the correct application of European and national customs legislation at import and export and is responsible for preventing prohibited goods to enter or leave the territory of the EU through the Netherlands.

#### *Police*

The Netherlands has a single police organisation divided into twenty-five regions and the National Police Services Agency (KLPD) with various supporting divisions. A regional police force is responsible for policing in a given area known as a police region. The financial investigation activities of the Dutch Police concern money laundering, confiscating and seizing criminal gains and combating, mainly, horizontal fraud. The KLPD has specialised staff involved in financial investigations. Within the police region's criminal intelligence divisions there are financial investigation experts.

### *Other key law enforcement agencies*

Financial investigations are carried out by the police, under the direction of the public prosecutor. Besides that, there are provisions in certain special laws that - when breached - may trigger an investigation. Since special expertise and powers are required in those cases, there are four special investigation divisions in place that are responsible for investigations related to these special laws. The four special investigations divisions are:

- FIOD, which sits within the NTCA and is responsible for investigating crimes with respect to fiscal law and economic law.
- Inspectorate SZW, which was established on 1 January 2012 as a combination of the former Labour Inspectorate, the Work and Income Inspectorate and the Social and Intelligence Investigation Service of the Ministry of Social Affairs and Employment. The Inspectorate SZW works for fair, healthy and safe working conditions and socio-economic security for everyone., and investigates breaches of social security law.
- The Netherlands Food and Consumer Product Safety Authority, which aims to protect human and animal health. This Authority monitors food and consumer products to safeguard public health and animal health and welfare, and investigates breaches under agricultural law. The Authority controls the whole production chain, from raw materials and processing aids to end products and consumption.
- The Human Environment and Transport Inspectorate, which was formed in 2012 following a merger of the Inspectorate for Housing, Spatial Planning and the Environment and the Transport and Public Works Inspectorate, and investigates breaches of environmental and housing law.

### *Rijksrecherche*

The National Police Investigations Department (*Rijksrecherche*) investigations primarily focus on investigations against government officials and civil servants who are suspected of criminal offences, whereby the integrity of justice or that of the public administration is at issue. On the basis of its independent position towards the various police forces, the *rijksrecherche* may also conduct investigations into the actions of police officers who in the performance of their duties used violence or were in default, as a result of which injuries occurred. The *rijksrecherche* therefore contributes to the monitoring and upholding of an incorruptible government.

### *Prosecution authority*

The Public Prosecution Service is one of the main parties involved in dealing with criminal cases. In the first place, it decides whether or not a case should be brought to court. If so, it is represented by one of its officers - a public prosecutor or an advocate general - who asks the court to impose an appropriate sanction. The Public Prosecution Service can also decide on how to deal with certain categories of petty crime without having to apply to the courts. It is responsible, too, for protecting the rights of both victims and offenders throughout the judicial process.

The Public Prosecution Service is not a government department but, together with the courts, it forms the judiciary, responsible for the administration of justice. The Public Prosecution Service decides whether an offender must appear before the court and it

prepares the indictment. It has sole discretion to decide whether a case should be prosecuted. The Department only works in the field of criminal law. It cannot arbitrate if someone has been wrongfully dismissed from their job. Nor can it intervene between quarrelling neighbours. Disputes of this kind are heard by the civil courts. The Public Prosecution Service can only take action if a criminal offence has been committed.

There are 19 district courts in the Netherlands. The Public Prosecution Service has an office in every city with a district court. Districts have a special prosecutor for fraud cases as well as a specialised prosecutor for money laundering cases. Nationally, the prosecution service has a co-ordinating prosecution officer for money laundering cases, including FIU related cases.

The National Public Prosecutors' Office (Landelijk Parket, LP) and the Financial, Environmental and Food Safety Offences Office of the Public Prosecutor (Functioneel Parket, FP) in The Hague are both national organisations. The National Public Prosecutors' Office focuses on international forms of organised crime which are not confined to the jurisdiction of a district court or appeal court. One of its main tasks is to develop new methods for investigating financial offences such as money laundering. The Office is also in charge of a national investigation team that specialises in offences of this kind. Another of its responsibilities is to coordinate efforts to combat terrorism, human trafficking and similar offences.

The Financial, Environmental and Food Safety Offences Office (FP) is a centre of expertise and an office of the Public Prosecution Service with responsibility for economic or financial offences, social security fraud or agricultural or environmental offences. These are offences are brought to light by special investigative services such as FIOD and SIOD. The FP has a specific focus on tax fraud, corruption of the financial systems (investment fraud).

### ***Financial Intelligence Unit***

The Financial Intelligence Unit (FIU) is an autonomous unit that is organisationally located within the National Police Services Agency (KLPD). Its particular character is based on the fact that the FIU was established in January 2006 by a merger of two separate units, one of an administrative and one of a law-enforcement character. Due to the combination of administrative and law-enforcement tasks it is described as 'hybrid'. Although formally a part of the Police, the FIU has a separate building with its own special security measures.

The FIU's mission is to contribute to the tackling of organised crime, in particular concerning money laundering and the financing of terrorism. It does so through national as well as international efforts. Certain organisations are obliged under law to provide the FIU with information concerning unusual transactions. The FIU shares this information with investigations agencies, as well as with intelligence and security agencies.

### ***Financial regulator***

The Dutch Central Bank (DNB) safeguards financial stability and thus contributes to prosperity in the Netherlands. To this end, it pursues price stability, together with other national central banks within the Eurozone; It strives for smooth, reliable and efficient payment settlements; It ensures that financial institutions have sufficient funds to meet their

obligations and conduct controlled and sound operations; It provides economic advice in support of sound national and international decision making in the areas specified. DNB is responsible, in addition to its other tasks, for the supervision of banks in their duty to report unusual transactions and the obligation of banks to comply with UN sanctions.

The Netherlands Authority for the Financial Markets (AFM) has been responsible for supervising the operation of the financial markets since 1 March 2002. This means that AFM supervises the conduct of the entire financial market sector: savings, investment, insurance and loans. By supervising the conduct of the financial markets, AFM aims to make a contribution to the efficient operation of these markets.

The Bureau of Financial Supervision (BFT) is responsible for the supervision of lawyers, notaries and accountants. One of its duties is supervision of the obligation of these professionals to report unusual transactions.

#### *Other relevant agencies*

The Dutch Competition Authority (NMa) is a government agency charged with enforcing Dutch competition laws, including the Dutch Competition Act. The NMa seeks to protect the rights of Dutch consumers by promoting and safeguarding free competition in all industries of the Dutch economy, taking action against parties that participate in cartels, for example, by fixing prices, and taking action against parties that abuse a dominant position, reviewing mergers and acquisitions.

#### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	Direct access <sup>2</sup>	Reporting obligatory <sup>3</sup>	Reporting permitted <sup>4</sup>
	Customs administration	Reporting obligatory <sup>5</sup>	Reporting obligatory <sup>5</sup>		On request <sup>6</sup>	On request <sup>6</sup>
	Police or public prosecutor	Reporting permitted	Reporting obligatory	On request <sup>7</sup>		Direct access
	Financial Intelligence Unit	No sharing <sup>8</sup>	Direct access <sup>8</sup>	On request <sup>6</sup>	Direct access	
	Financial regulator	No sharing	Reporting permitted <sup>9</sup>	On request <sup>6</sup>	Reporting permitted <sup>10</sup>	Reporting permitted <sup>11</sup>

- <sup>1</sup> For tax crimes and investigations on tax and economic crimes together, FIOD has direct access to tax information. For investigations of other crimes (money laundering, economic crimes etc.) which do not include a tax crime element, the NTCA is able to provide on request and tax secrecy provisions are lifted.
- <sup>2</sup> Some tax databases are accessible directly by customs officials. Other information is available on request. The criminal investigations division of the NTCA (FIOD) may spontaneously provide information it thinks is relevant to customs, and may also provide information on request with the consent of the Public Prosecutor's Office.
- <sup>3</sup> Covenants in place between the police and NTCA act as permanent requests for information. This enables spontaneous sharing of information to take place. There are few legal obligations to report crimes to the domestic law enforcement authorities, including where there are suspicions of corruption by civil servants. However, officials are able to report suspected crimes and, to facilitate this, the Minister of Finance has waived tax secrecy rules in these specific circumstances. The Minister of Finance has also issued guidance on how tax officials should report suspected crimes, through the chain of command, to the police or public prosecutor. This guidance applies to specified crimes only, which include bribery, private-sector corruption (public corruption being covered by a legal obligation), money laundering of the proceeds of non-tax offences, and terrorist financing.
- <sup>4</sup> The NTCA has the right to report unusual transactions to the FIU, but there is no obligation for it to do so.
- <sup>5</sup> Information is also available on request.
- <sup>6</sup> Information is provided on request, so long as there is a legal basis for the request.
- <sup>7</sup> Information is provided on request with the consent of the Public Prosecutor's Office
- <sup>8</sup> The NTCA has no access to Unusual Transaction Reports. Where the FIU determines that there is sufficient evidence of possible criminal activity for an Unusual Transaction Report to be categorised as a Suspicious Transaction Report, this may be accessed directly by FIOD, which is the criminal investigations division of the NTCA. FIOD may subsequently decide not to pursue a criminal investigation, but may share the Suspicious Transaction Report with the NTCA's civil division for use in assessing taxes.
- <sup>9</sup> Secrecy laws governing information held by financial regulators are given priority over a general obligation to share information with other agencies, except where a strictly interpreted necessity condition is met. In practice this means that Dutch financial regulators are able to provide information concerning a suspected tax offence to the tax administration, so long as the information is to be used in specific law enforcement and not for general intelligence purposes. The Dutch Central Bank and the Financial Markets Authority may only provide information on criminal tax violations where there is a direct link to their role as supervisor.
- <sup>10</sup> Information may be provided where it is relevant for criminal law enforcement, and not for intelligence purposes.
- <sup>11</sup> The Dutch Central Bank, the Financial Markets Authority and the Dutch Competition Authority are able to provide information concerning suspected money laundering to the FIU. The Bureau of Financial Supervision (BFT) is responsible for the supervision of lawyers, notaries and accountants, which benefit from greater secrecy and non-disclosure provisions under Netherlands law. In contrast to other regulators, the BFT is subject to greater restrictions on the types of information it may provide.

## Models for enhanced co-operation

### *Co-operation between government agencies*

#### *Joint investigations teams*

The National Police Squad and FIOD have two permanent joint investigation teams, both of which work on anti-money laundering cases. Of these two teams, one specialises in drug-related and violent offences, and is led by the National Police Squad. The other team specialises in financial investigations, and is led by FIOD. In addition to these two permanent teams, joint investigations teams may also be established where a case required specific expertise. The Dutch Police and FIOD work together closely in combating financial crime.

#### *The Centre for Intelligence and Operational Excellence*

In 2013, FIOD, the area of the Netherlands Tax and Customs Administration with responsibility for criminal investigations, announced its strategy for combating money laundering. One aspect of this strategy was the establishment of a new Centre for Intelligence and Operational Excellence. This Centre, which commenced operation on

9 September 2013, includes all national agencies involved in the fight against money laundering.

The four main goals of the new Centre are:

- to enhance and strengthen existing work on combating money laundering in the Netherlands, including the confiscation of criminal assets;
- to centralise the management and preparation of money laundering cases, and provide skills and expertise to support these cases;
- to improve the application and deployment of resources to money laundering investigation teams; and
- to identify ways to strengthen the process of combating money laundering through improved inter-agency and international co-operation.

To achieve these goals, the Centre's work focuses on five main areas:

- **Acting as a central point for managing cases** – This includes managing relatively simple cases that can be completed quickly, as well as those requiring larger and more complex investigations. Both types of case are important in changing behaviours and attitudes towards money laundering. The Centre also evaluates completed cases to identify ways to improve the detection and investigation of money laundering in the future.
- **Co-ordinating international co-operation** – The Centre has responsibility for developing the network of co-operation with similar centres and other agencies overseas, and sharing information on cases.
- **Public/private partnerships** – The Centre also works closely with private sector institutions and gatekeepers, such as banks, insurance companies and high value dealers, to enhance the prevention and detection of money laundering.
- **Intelligence** – This includes the sharing of information with authorities in the Netherlands and overseas, and also co-operating in the use of intelligence to improve processes to select cases and measure the impact of strategies.
- **Innovation** – The Centre is responsible for exploring new strategies and techniques for combating money laundering, including the use of social media and digital technology.

#### *The Financial Expertise Centre*

The Dutch Financial Expertise Centre (FEC) is a joint project between supervisory, investigation, intelligence and prosecution authorities involved in regulating or monitoring activity in the financial sector. Partners in the FEC are the National Tax and Customs Administration, the Fiscal Intelligence and Investigation Service (FIOD, which is structurally part of the NTCA), the National Police, the General Intelligence and Security Service, the Public Prosecution Service, the Netherlands Financial Markets Authority and *De Nederlandsche Bank*, with the Ministry of Finance and Ministry of Security and Justice as observers. The mission of the FEC is to monitor and strengthen the integrity of the

financial sector, and tackle issues of financial integrity through inter-agency co-operation. This entails sharing information and building a knowledge centre belonging to and for the benefit of participating agencies, containing the knowledge and expertise needed to safeguard the integrity of the financial sector. Risks that the FEC focuses on include money laundering, property fraud, identity fraud including skimming from bank accounts, mortgage fraud, investment fraud, and cyber crime including phishing scams.

#### *Real Estate Intelligence Centre*

In order to combat real estate fraud in the Netherlands, the Dutch public prosecution service, the tax administration, FIOD (the criminal investigations division of the tax administration) and the police work together in a collaborative approach through the Real Estate Intelligence Centre.

#### *Regional Information and Expertise Centres*

In the Netherlands, Regional Information and Expertise Centres serve as information points to provide specialist advice to municipalities and local authorities. They foster cooperation between local and provincial authorities, the public prosecution service, regional police and the tax administration in dealing with individuals and organisations that commit offences and regulatory breaches that have a particular impact at regional levels. These regional bodies are co-ordinated by the National Information and Expertise Centre (LIEC).

#### *Co-operation with business, the tax profession, academic bodies and other organisations*

With the exception of horizontal monitoring and Authorised Economic Operator initiatives, there are no structural arrangements between the NTCA and business or the tax profession to combat financial crime. On a case by case basis, academic and other research institutions can be asked to undertake surveys or conduct research in relation to fighting crimes.

#### *Technologies and other processes used to enhance the effectiveness of co-operation*

With respect to technology there are different approaches used in the various co-ordinating bodies. For example, the FEC uses a Colleges Collaboration Tool (Cocoto), which supports a safer and more efficient way of exchanging information, compared to exchange on paper. It also supports the overview of information available for every co-operating agency and avoids cases being known by one person only.

Also important for effective co-operation between government agencies in combating financial crime is the availability of an efficient case management system.

## New Zealand

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Inland Revenue Department is the Government Department solely responsible for the detection, investigation and prosecution of tax evasion and other tax related crimes such as tax fraud.

*Risk Identification* - The Inland Revenue has nationally focussed fraud and evasion programmes which identify emerging and current issues, both at a case based and trend based level. The matters identified are then subject to further analysis using the data mining and analytics capability of the Compliance Analysis Centre. Once it has been decided that a risk exists, it is referred to the Investigations teams for further review.

*Investigative Phase* - Investigations teams, using a range of resources, progress the case to conclusion. However, during the progression of the case, as soon as it is determined that a criminal matter has been identified, a Solicitor from the Legal and Technical team (“LTS”) is assigned to the case. The Solicitor works alongside the investigator during the investigation and ensures that the matter follows the process for criminal litigation, for example, that evidential sufficiency exists and that procedural fairness is followed.

*Prosecution Phase* - A decision to prosecute is made by investigations managers. Once this decision is made, the case is managed by the LTS. However, if the case is complex, then it is referred to the Crown Solicitor who will take the case for the Commissioner of Inland Revenue. In limited cases, where the case is precedential or complex, it is referred to the Serious Fraud Office.

#### *Tax crime investigation*

The Inland Revenue is charged by statute with the detection, investigation and prosecution of revenue related offences, including fraud and evasion. The Tax Administration Act 1994 imposes secrecy on the tax administration for all but a few limited exceptions. Investigating tax crime is not a general exception. There is no other government agency in New Zealand with an over-arching mandate to prosecute all financial crime (including tax crime) except the Serious Fraud Office, which has a more limited scope and frame of reference. The capability, training, expertise and relevant skill set for prosecuting tax crimes is within Inland Revenue.

#### *Customs administration*

The New Zealand Customs Service is a separate agency to the tax administration. One of its roles is to detect, deter and deal with non-compliance in respect of the collection of customs duty, Goods and Services Tax and excise duty.

#### *Police*

The Organised and Financial Crime Agency of New Zealand (“OfCANZ”) is a branch of the New Zealand Police which is primarily responsible for detecting, investigating and prosecuting financial crime in New Zealand. OfCANZ works collaboratively across

government with a wide range of partner law enforcement agencies. Agencies will be involved to differing degrees depending on the issue and requirements.

The New Zealand Police is also responsible for prosecuting less serious financial crime and fraud.

The Asset Recovery Unit is a separate unit within the police responsible for administering civil forfeiture proceedings, which is often important in financial crime investigations.

### ***Other key law enforcement agencies***

The Serious Fraud Office (SFO) is a prosecuting authority for high value, complex or high impact fraud. Cases are referred in from other government agencies or identified by the SFO themselves. The SFO works closely and pro-actively with OfCANZ. The SFO has a multi-functional investigative team of investigators, Solicitors and forensic accountants.

The Crown Solicitor is an independent firm of Solicitors with a Crown mandate, responsible for the conduct of most of the prosecutions for the government.

### ***Prosecution authority***

New Zealand is characterised by specialisation of regulatory activity within the relevant agencies in line with the allocation of resources. For example, Inland Revenue is considered to have the specialist expertise in taxation matters, therefore it is authorised and resourced to conduct tax prosecutions (with the Crown Solicitor). This is replicated across the government (for example, social security legislation). More serious cases may be referred where appropriate to the Serious Fraud Office.

Advantages of this approach include:

- each agency has a high degree of specialised skill in relation to the regulatory framework administered;
- speed and agility of response;
- potentially greater resource allocated to enforcement;
- greater autonomy of decision-making;
- a greater ability for each agency to set its own strategic direction, directly supported by a strong regulatory response; and
- a streamlined referral system with minimal competition for resources.

Disadvantages of this approach include:

- potential replication of effort;
- potential inconsistency of approach between agencies; and
- the possibility that potentially precedential and important cases will not be taken.

### ***Financial Intelligence Unit***

The New Zealand FIU is based within the National Police Headquarters, but is a resource available across government. The Inland Revenue has a close relationship with the

FIU and is a frequent recipient of information both case based and trend based, where potential tax evasion is detected.

Even though the FIU is situated within Police premises, it is well known that it is an all-of-government resource. As such, it provides advice and assistance to a range of bodies. One of the main end-users of the FIU is the Police and their related bodies, such as OfCANZ. For this reason co-location has sound practical benefits in terms of ease of access, speed of response where relevant and to maximise information sharing opportunities where they exist.

### *Financial regulator*

The Financial Markets Authority (FMA) is responsible for regulating a range of investment related issues, including offers to the public. The FMA is jointly responsible for administering anti-money laundering legislation.

The Reserve Bank has a Banking regulation section which is also responsible at a high level for regulating financial markets.

### *Other relevant agencies*

The National Co-ordinating Committee is a body constituted by statute to supervise the anti-money laundering legislation. Members are the Reserve Bank, the Department of Justice, the FMA and the Department of Internal Affairs. Inland Revenue has observer status on the committee and regularly attends meetings.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	Reporting permitted <sup>2</sup>	No sharing <sup>3</sup>	No sharing <sup>4</sup>
	Customs administration	Reporting permitted	Reporting permitted		Reporting permitted	Reporting permitted
	Police or public prosecutor	Reporting permitted	Reporting permitted	Reporting permitted		Reporting permitted
	Financial Intelligence Unit	No sharing <sup>5</sup>	Reporting permitted <sup>6</sup>	Reporting permitted	Reporting permitted	
	Financial regulator	Reporting permitted	Reporting permitted	Reporting permitted	Reporting permitted	Reporting permitted

<sup>1</sup> Generally, due to the relatively small size of the tax administration and the functionally-based structure employed within this administration, a high level of co-operation exists between all the investigations and audit teams. This is supported by a national portfolio structure which assists in identifying risk, managing process and sharing information, shared legal and technical resources with common sign-off processes, information sharing special interest groups, regular co-ordinated national training, and co-location of resource. In one instance, there is a separate investigations group which addresses sensitive matters, but this group is included in all the activities described above save for dealing with particular issues.

<sup>2</sup> Reporting is restricted to Goods and Services Tax

<sup>3</sup> Legislation currently specifically prohibits the tax administration from providing taxpayer information to the police or other agencies except in cases related to the administration of taxation, investigation of tax crimes and the facilitation of asset recovery. Therefore, with the exception of asset recovery cases, the tax administration cannot share tax information with law enforcement agencies for the purposes of investigating non-tax offences. The legislation is currently under policy review with respect to the ability of Inland Revenue to broaden its powers to spontaneously share information, especially in relation to serious crime.

<sup>4</sup> This legislation is currently under review to determine whether the tax administration's powers to share information with other agencies may be widened.

<sup>5</sup> The FIU does not provide information to the tax administration for the purposes of making civil tax assessments. However, where the tax administration has received FIU information related to suspected tax offences, it may also use this information for the purposes of assessing taxes.

<sup>6</sup> Processes are in place to ensure that any Suspicious Transaction Reports concerning possible tax evasion are forwarded to the Inland Revenue by the FIU without requiring a request to be made. The Inland Revenue also makes extensive use of targeted information requests to obtain FIU data in relation to specific taxpayers, and high risk demographics and regions for use in detecting offshore tax evasion.

## **Models for enhanced co-operation**

### ***Co-operation between government agencies***

Much of the information exchange that takes place in New Zealand is case based and the method of transfer of the information depends on the nature and quantity of the data. However, work is being conducted towards increased automation, especially with the FIU where the flow of data is regular.

### ***Co-operation with business, the tax profession, academic bodies and other organisations***

The Inland Revenue engages with a number of business and professional bodies such as the New Zealand Bankers Association, New Zealand Institute of Chartered Accountants and the New Zealand Law Society. The Inland Revenue has also made presentations to various public seminars on anti-money laundering matters, explaining the tax implications.

### ***Technologies and other processes used to enhance the effectiveness of co-operation***

The New Zealand FIU has recently deployed “go AML” software which allows for a far richer analysis of suspicious transaction reports. The Inland Revenue is considering how its intelligence platform can interact effectively and in real-time with the FIU as a result of this technological development.

## Norway

### *Key agencies in combating tax crimes and other financial crimes*

#### *Tax administration*

The tax administration is responsible for detecting and reporting suspected tax crimes. Other crimes are reported to the police. The tax auditors function as advisers in criminal cases and some tax auditors are embedded within the police.

#### *Customs administration*

Norwegian Customs and Excise has two main tasks. One is to collect customs and excise duties to finance the national welfare society. Economic control and combating financial crime is part of this task. The other main task is to use its position at the border to protect society against the illegal import and export of goods. The fight against cross-border organised crime is the most important aspect of this.

Norwegian Customs and Excise is an enforcement agency, but its goal is that the business community and private individuals who comply with the regulations will also see a service-minded agency and a partner. This is reflected in the agency's main goals, which include border control, assessment and collection of customs and excise duties, and service. It is a positive challenge to strike the right balance between control, on the one hand, and simplification and service, on the other.

#### *Police*

The Norwegian police is responsible for investigating tax crimes and other financial crimes for prosecution.

#### *Prosecution authority*

The Public Prosecutor's Office prosecutes tax crimes and other crimes based on the outcome of police investigations.

#### *Financial Intelligence Unit*

The FIU is part of the Norwegian police force.

#### *Financial regulator*

Financial regulators are responsible for monitoring compliance with anti-money laundering legislation by the institutions that are obligated by law to file Suspicious Transaction Reports.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Reporting obligatory	Reporting obligatory	Reporting obligatory <sup>1</sup>	Reporting obligatory
	Customs administration	Reporting obligatory	Reporting obligatory		Reporting obligatory	Reporting obligatory
	Police or public prosecutor	Reporting permitted	Direct access	Reporting permitted		Reporting obligatory
	Financial Intelligence Unit	Reporting permitted	Reporting permitted	Reporting permitted	Reporting permitted <sup>2</sup>	
	Financial regulator	On request	Reporting permitted	Reporting permitted	Reporting permitted	Reporting permitted

<sup>1</sup> Any reasonable suspicion of crimes that may have a sentencing over six months must be reported by the tax administration to the Police

<sup>2</sup> The FIU is able to provide information spontaneously to the police, but the police are not able to request information. This could act as an important restriction on an investigator's ability to obtain information held by the FIU, or to seek further details with respect to information already obtained.

## Models for enhanced co-operation

### *Co-operation between government agencies*

Co-operation between government agencies is possible so long as the police have opened an investigation. The sharing of information is under the control of the investigator or attorney in charge.

## Peru

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The National Superintendence of Customs and Tax Administration (SUNAT) is in charge of the administration, collection and control of federal taxes and customs control. SUNAT also monitors people entering or leaving the country carrying cash. It is compulsory to make a cash declaration if they carry over USD 10 000, and it is prohibited to carry amounts over USD 30 000.

SUNAT also has an important role to play in combating money laundering and terrorist financing. Where in the course of its tax or customs activities it uncovers indications of these offences, SUNAT prepares a Suspicious Transaction Report (ROS) which it sends to the Financial Intelligence Unit of Peru (FIU).

#### *Tax crime investigation*

When the tax auditing units within SUNAT find indications of possible tax crime, they will gather available evidence and submit a report that is sent to the Public Prosecutor, which will continue the investigation process and, if it is necessary, will start a criminal prosecution. The Public Prosecutor then conducts the investigation and can ask the police for assistance if it is required. Once the investigation is finished and if there is enough evidence the Prosecutor sends the file to the Court to start a judicial process.

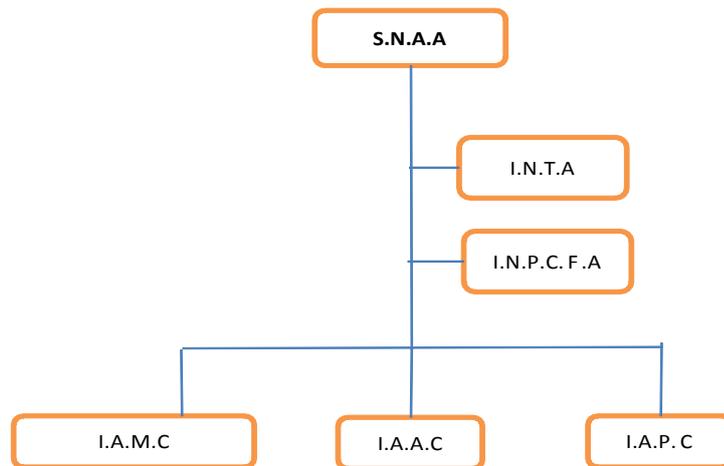
#### *Customs administration*

Within SUNAT, the National Adjunct Superintendence of Customs Administration (SNAA) is the country's customs administration which is responsible for monitoring international trade, transport and the movement of people within the customs territory. It has three Adjunct Superintendents, in charge of the internal taxes, customs and administrative support.

The National Adjunct Superintendence of Customs Administration (SNAA) has five main divisions:

- National Intendence of Customs Techniques (INTA),
- Contraband Prevention and Customs Auditing National Intendence (INPCFA),
- Maritime Customs Intendence (IAMC),
- Aerial Customs Intendence (IAAC) and
- Postal Customs Intendence (IAPC).

There other smaller operative units all around the country.



Source: National Superintendence of Customs and Tax Administration (SUNAT), Peru

### ***Police***

The National Police of Peru, among other duties, is responsible for maintaining security and public order to allow the free exercise of fundamental human rights enshrined in the Constitution of Peru. The Police detect, prevent, combat, investigate and report crimes and offences under the Penal Code and special laws and apply penalties provided by law. The Police include a number of specialist departments responsible for investigating financial crimes, under the supervision of the public prosecutor. These departments include: Department for the Fight against Terrorism; Anti-drugs Department; Criminal Investigation Department; Department for the Fight against Corruption; and the Fiscal Police Department.

### ***Prosecution authority***

The Public Prosecutor's Office is the institution that pursues financial crime with the aid of the National Police and other law enforcement agencies. The Public Prosecutor leads investigations and represents the State in prosecutions before the court. Public Prosecutor offices specialised in Organised Crime (FECOR) are responsible for dealing with crimes such as drug trafficking, money laundering and trafficking in human beings committed by criminal organisations.

Following the receipt of a report from SUNAT, the Public Prosecutor launches an investigation to determine the facts underlying the suspected offence, the circumstances and motives of the parties, the identity of the criminals as well as the damage caused. Once the investigation is finished, the prosecutor submits a Resolution to the Preparatory Investigation Judge, containing details of the investigation and all relevant facts.

### ***Financial Intelligence Unit***

The Financial Intelligence Unit (FIU) is a specialised unit incorporated within the Bank, Insurances and Private Pensions Funds Administrators Superintendence (SBS). It has functional, technical and administrative autonomy, and is responsible for preventing and detecting money laundering and terrorist financing. The budget for the FIU is allocated from the Ministry of Economy and Finances.

The FIU has three operative divisions, covering Prevention (DP), Analysis (DA) and Supervision (DS).

Although the FIU is incorporated within the SBS, due to bank secrecy rules, it does not have access to banking information. The FIU only has access to information regarding specific banking transactions which are reported in Suspicious Transaction Reports.

### *Financial regulator*

The Bank, Insurances and Private Pensions Funds Administrators Superintendence (SBS) is the institution which regulates and supervises the financial system. The SBS, through the FIU, supervises and prevents money laundering and the financing of terrorism.

The SBS files reports with the FIU if it encounters suspicious operations or indications of possible money laundering. It also imposes sanctions on financial institutions which do not comply with regulations.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		On request <sup>1</sup>	Direct access	On request <sup>1</sup>	Reporting permitted <sup>2</sup>
	Customs administration	Direct access	On request <sup>1</sup>		Reporting permitted <sup>1</sup>	Reporting permitted <sup>2</sup>
	Police or public prosecutor	Reporting permitted	Reporting permitted	Reporting permitted		On request <sup>6</sup>
	Financial Intelligence Unit	Reporting permitted <sup>3</sup>	Reporting permitted <sup>4</sup>	Reporting permitted <sup>3</sup>	Reporting permitted <sup>4</sup>	
	Financial regulator	On request	On request	On request	Reporting obligatory	Reporting obligatory

<sup>1</sup> SUNAT may only provide information to the police that is not covered by tax secrecy rules. Information covered by tax secrecy may be requested by the public prosecutor if accompanied by a court order.

<sup>2</sup> SUNAT may only provide information to the FIU that is not covered by tax secrecy rules. If during a tax audit, SUNAT finds indications of possible money laundering, it must report this to the FIU through an online ROS report.

<sup>3</sup> The FIU may spontaneously share relevant information, but Suspicious Transaction Reports must remain confidential.

<sup>4</sup> The Public Prosecutor may also access Suspicious Transaction Reports relevant to ongoing investigations.

<sup>5</sup> The SBS may file Suspicious Transaction Reports with the FIU but cannot provide other banking information, which is covered by bank secrecy rules.

<sup>6</sup> The Public Prosecutor can share information on request from the FIU, to the extent this is not considered confidential because it is related to a current investigation.

## **Models for enhanced co-operation**

### ***Co-operation between government agencies***

In 2011, the Council of Ministers approved the Anti-Money Laundering and Financing of Terrorism National Plan, to strengthen measures for the prevention, detection and repression of money laundering, as well as the protection of the integrity and stability of the economic-financial system, the reduction of organised crime and terrorism, and the fight against corruption. The National Plan establishes strategic objectives, and concrete actions to be adopted and specifies the responsibilities for each institution.

This National Plan was supported by a strong political commitment from the Government and involved the participation of a wide number of private and public institutions, led by the SBS and supported by the technical assistance of the International Monetary Fund.

Subsequently, SUNAT and the FIU have entered into agreements to undertake joint operations to fight money laundering and tax evasion. They are committed to the regular sharing of specific information and training of personnel.

### ***Co-operation with business, the tax profession, academic bodies and other organisations***

SUNAT receives information from public and private organisations through covenants which establish the exchange of information.

## Portugal

### Key agencies in combating tax crimes and other financial crimes

#### *Tax and customs administration*

The *Autoridade Tributária e Aduaneira* (Tax and Customs Administration or AT) was created in the beginning of 2012 as a result of the merger of the *Direcção Geral dos Impostos* (Directorate General for Taxation or DGCI) with the *Direcção Geral das Alfândegas e dos Impostos Especiais sobre o Consumo* (Directorate General for Customs and Excise Taxes or DGAIEC) and the *Direcção-Geral de Informática e Apoio aos Serviços Tributários e Aduaneiros* (Directorate General for Tax and Customs Information Technologies or DGITA). The AT is integrated into the Ministry of Finance and is responsible for managing taxes and custom duties, monitoring the common external borders of the European Community and the national customs territory for fiscal, economic and protection purposes, according to the policies defined by the Government and the Law of the European Union.

#### *Tax crime investigation*

According to the *Regime Geral das Infracções Tributárias* (General Tax Infractions Law or RGIT) tax crimes in broadly consist in (1) general crimes such as tax swindling or criminal association, (2) customs crimes such as smuggling, (3) tax crimes such as tax fraud and (4) crimes against social Security such as social security fraud.

The Tax and Customs Administration is competent to investigate (1) general crimes, (2) customs crimes and (3) tax crimes through central and regional departments, according to their mission and competences. These departments have divisions or units dedicated to criminal investigation.

The *Instituto da Segurança Social* (Social Security Authority) is competent to investigate crimes against social security.

#### *Police*

In the area of economic crimes, the main Portuguese police force is the *Polícia Judiciária* (Criminal Police). Under the terms of its establishment and the Portuguese Organisation of Criminal Investigation Act (LOIC), the mission of the *Polícia Judiciária* is to assist the judicial and prosecuting authorities in investigations, to develop and foster preventive, detection and investigative actions, falling within its jurisdiction or those it is entrusted with by the competent judicial and prosecuting authorities. It has exclusive competences for investigating serious crimes, as defined by LOIC, which includes most financial crimes.

The *Polícia de Segurança Pública* (Public Security Police) and the *Guarda Nacional Republicana* (National Republican Guard) are other Portuguese police forces that may assist the judicial and prosecuting authorities in investigations and may also carry out criminal investigations in the area of economic crimes.

### *Prosecution authority*

The Portuguese prosecution service (*Ministério Público*) is vested with the right to represent the State, to prosecute criminal cases, and to defend the rule of law. The role of the prosecution service in Portuguese society extends beyond mere prevention and penal repression. The Constitution endows the prosecution service with an essential role in defending democratic values and the rule of law.

According to the Portuguese Constitution, the Statute of the Prosecution Service, the Court Organisation Act, and the Code of Criminal Procedure, the Portuguese prosecution service has the following characteristics:

- the prosecution service is independent from political and judicial powers;
- the service is autonomous in its actions;
- the powers of the prosecution service are functionally circumscribed by the law;
- the prosecution service has a national competence and is led by the Procurador Geral da República (Procurator General of Republic);
- there exists a hierarchical structure; this implies that members of the prosecution service must obey directives, orders and instructions issued by their hierarchical superiors;
- The prosecution service is under a duty to present an indictment whenever sufficient information has been gathered to establish the commission of a crime and to identify a perpetrator; and
- in its actions, the service is bound by the principle of objectivity; this implies a duty to apply instruments of law to establish material truth, and not to apply them as instruments of accusation only.

The prosecution service is organised into judicial areas or counties, and, within those, into districts. Parallel to this territorial structure, there are main departments: the *Departamento de Investigação e Acção Penal* (Departments of Investigation and Penal Action or DIAP) and *Departamento Central de Investigação e Acção Penal* (Central Department of Investigation and Penal Action or DCIAP).

The powers of the DIAP departments are:

- to lead the inquiry and investigation on all crimes within the jurisdiction of the court;
- to lead the inquiry and investigation for the most important crimes occurring in more than one area of the same judicial district; and
- to lead the inquiry and investigation into very serious crimes in accordance with the instructions of the General District Prosecutor when the complexity or territorial dispersion ask for a centralisation of investigations.

The DCIAP department is a national body that has competence over the co-ordination and direction of investigation and crime prevention of highly violent, organised, and

particularly complex, crime. It has specific powers in terms of crime prevention for crimes such as: money laundering, corruption, criminal bankruptcy, deliberate public sector mismanagement, fraud in access to public funds, economic infractions made in organised manner or with resource to information technologies and economic and financial infraction of international or multinational dimensions. The DCIAP directs and co-ordinates the investigations regarding these crimes. It also supervises inquiries that deal with crimes that have occurred in different judicial areas. At the request of the Prosecutor-General, the DCIAP also leads inquiries in serious crimes, when their particular complexity and geographic dispersion justify the centralisation of investigations.

### ***Financial Intelligence Unit***

The *Unidade de Informação Financeira* (UIF) is the Portuguese Financial Intelligence Unit. The UIF was established in 2002 as a police-type FIU and operates independently as a department of the *Polícia Judiciária*.

The UIF's main functions are to gather, centralize, process, and publish information relevant to investigations of money laundering, tax crimes and terrorism financing.

According to the Law 25/2008, that establishes preventive and suppressive measures for combating money laundering and terrorism financing, obliged entities must submit Suspicious Transaction Reports to the UIF and simultaneously to the Portuguese prosecution service.

The co-operation between UIF and the Tax and Customs Administration, as established by law, aims mainly to guarantee access to information relevant for tax crimes investigations or money laundering investigations. The information may be tax-related or police-related and its access may be required solely for the purposes of officials carrying out criminal investigations. In practice, this model for a two-way flow of information is conducted through a liaison group of officials (the Grupo Permanente *de Ligação – GPL*) established within the UIF in 2003.

### ***Other relevant agencies***

The *Instituto da Segurança Social* (Social Security) is legally competent according to the *Regime Geral das Infracções Tributárias* (General Tax Infractions Law) to investigate tax crimes related to social security fraud, such as misappropriation of funds, breach of trust and breach of confidence.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access	Direct access	Reporting permitted <sup>1</sup>	Reporting permitted <sup>2</sup>
	Customs administration	Direct access	Direct access		Reporting permitted <sup>1</sup>	Reporting permitted <sup>2</sup>
	Police or public prosecutor	Reporting permitted <sup>3</sup>	Reporting obligatory <sup>4</sup>	Reporting permitted <sup>3</sup>		Direct access <sup>5</sup>
	Financial Intelligence Unit	Reporting permitted	Reporting obligatory <sup>6</sup>	Reporting permitted	Reporting obligatory <sup>7</sup>	
	Financial regulator	On request	On request	On request	On request	Reporting permitted

<sup>1</sup> The Portuguese Tax and Customs Administration may provide the public prosecutor with certain information relevant to criminal investigations spontaneously, and is also obliged to provide information on request where a prosecutor has determined that tax secrecy provisions should be lifted. Information may be shared between the *Polícia Judiciária* and the Tax and Customs Administration via a liaison group within the UIF, which is part of the police.

<sup>2</sup> The Tax and Customs Administration may share information with the UIF under the protocol established with the *Polícia Judiciária*, which the FIU forms part of.

<sup>3</sup> The prosecution service is able to share information with the Tax and Customs Administration for the purposes of administering taxes and determining tax assessments. This normally happens at the end of a criminal investigation.

<sup>4</sup> The UIF does not share Suspicious Transaction Reports with criminal tax investigators. However, where it discovers evidence of possible tax offences, the UIF will share basic information including the parties involved and financial transactions carried out. Where the Tax and Customs Administration is conducting a criminal investigation into a tax or customs offence, the official co-ordinating the investigation may also ask the UIF, which is part of the *Polícia Judiciária* to grant the Tax and Customs Administration real-time access to the police Integrated System for Criminal Investigation, which includes information held by the criminal police.

<sup>5</sup> The UIF is part of the *Polícia Judiciária* and has direct access to police databases.

<sup>6</sup> Where the Tax and Customs Administration is conducting a criminal investigation into a tax or customs offence, the official co-ordinating the investigation may require the UIF to grant it real-time access to the police Integrated System for Criminal Investigation, which includes UIF information. Where the UIF receives Suspicious Transaction Reports that contain details of possible tax or customs offences, the FIU may send a summary of the Report, but not the Suspicious Transaction Report itself, to the Tax and Customs Administration. This summary contains basic information regarding the financial transactions carried out and the parties to these transactions. If the referral results in a criminal investigation, the Tax and Customs Administration may then require the UIF to disclose further information.

<sup>7</sup> Although the UIF is part of the *Polícia Judiciária*, the police do not have access to UIF information. Where an investigation into money laundering or a predicate offence is being conducted by the *Polícia Judiciária*, the UIF may provide relevant information.

## Models for enhanced co-operation

### *Co-operation between government agencies*

Besides the cooperation between the FIU and Tax and Customs Administration aiming to guarantee the access to information relevant for tax and customs crimes investigations or money laundering investigations, there is a legal framework in place, comprising legislation and a supporting protocol, which enables the Tax and Customs Administration and the *Polícia Judiciária* to establish joint teams to carry out more complex investigations involving money laundering and tax or customs offences. The team assigned to a joint investigation typically includes a tax inspector, mainly dealing with tax and customs issues arising from the analysis of accounting and financial records and other documents, and a police inspector mainly dealing with arrests, house and companies searches, and phone tapping.

## Serbia

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Tax Administration is a body within the Ministry of Finance and Economy. The Tax Administration carries out the assessment, control and collection of public revenues, the issuing and revoking of licenses to carry out exchange activities and audit of these activities, as well as managing the public administration of games of chance. The structure and activities of the Tax Administration are set out in Article 1 of the Law on Tax Procedure and Tax Administration.

The activities of the Tax Administration, include

- conducting the registration of tax payers by assigning the Tax Identification Number and managing the register of tax payers;
- assessing tax in accordance to the Law;
- conducting tax control in accordance to the Law;
- conducting ordinary and enforced collection of taxes and secondary tax duties;
- detecting tax crimes and their perpetrators and regarding that undertakes measures prescribed by law;
- initiating and conducting the first instance tax crime proceedings and sentence penalties for tax offenses, except in cases where, according to the law governing offences, the first instance crime proceeding is in the exclusive jurisdiction of the of Magistrates Court;
- presenting requests for initiating infringement procedures for tax offences for which, according to the law governing offenses, the first instance crime proceeding is in the exclusive jurisdiction of the Magistrates Court;
- taking care of implementation of international agreements on avoidance of double taxation;
- developing and maintaining the tax information system;
- providing expert assistance to tax payers in implementation of tax regulations for taxes it administers; and
- raising awareness of its work.

The Head Office of the Tax Administration includes units responsible for:

- Tax and Legal Affairs;
- Tax Control;
- Tax Collection;
- Development and IT Support;
- Human and Material Resources; and
- Tax Police.

The Tax Administration also includes five Regional Centres, in Belgrade, Novi Sad, Kragujevac, Niš and Priština, as well as the Centre for Large Taxpayers.

### ***Tax crime investigation***

The Serbian Tax Police was established as a separate organisational unit within the Tax Administration on 1 January 2003. The Head of the Tax Police is the Chief Inspector, who is nominated by the Government on the Minister's recommendation. The Headquarters of the Tax Police comprises two Departments: The Department for Operational Activities, which includes the Division for Co-ordination of Operational Activities and the Division for Operative Actions and Fighting Organised Financial Crime; and the Department for Analysis and Risk Assessment, which includes Divisions for Analysis and for Risk Assessment. The Tax Police also has four regional departments, with 28 branches across the country.

The Tax Police is competent for detecting tax crimes and their perpetrators, and acts as the police authority in pre-trial proceedings authorised to undertake all activities with the exception of detention and arrest of suspects. During pre-trial proceedings the Tax Police is directed by the Public Prosecutor.

In accordance with the provisions of the law which regulates criminal procedure, the Tax Police shall summon and hear suspects, including bringing them by force. Where there are grounds to suspect that a criminal offence has been committed, it shall conduct searches of persons, vehicles, homes, offices and other facilities, and confiscate objects in order to use them as evidence. Searches of homes and other facilities can only be carried out based on a court order and in the presence of two witnesses. The Tax Police is authorised to conduct its activities independently, but where it anticipates resistance it will request the assistance of the Ministry of Interior.

### ***Customs administration***

The Customs Administration is responsible for customs monitoring and control of customs goods, and collection of import charges, excises and sale taxes, and import and export duties. The Customs Administration conducts procedures prescribed by law in order to detect customs offenses, controls the import, export and transit of local and foreign currency, and goods for which special measures are prescribed, such as pharmaceuticals, alcohol and tobacco products, animals and plants, items with national heritage, historical, artistic or archeological values, or those subject to intellectual and industrial rights.

The Customs Administration consists of the Headquarters in Belgrade and fifteen territorial units. Much of the work of the Customs Administration is performed through smaller organisational units, customs offices, customs posts and customs units.

### ***Police***

The Ministry of Interior is responsible for ensuring the security of the Republic of Serbia and its citizens, and the protection of citizens' rights and freedoms under the Constitution and the law. This includes:

- detection and suppression of activities aimed at undermining or overthrowing the constitutional order;
- protection of life, safety and property of citizens;

- prevention and detection of criminal offences; finding and apprehending perpetrators of criminal offences as well as bringing them to competent authorities;
- maintenance of public peace and order;
- securing public gatherings and other meetings of citizens;
- protection of certain persons and facilities;
- road traffic safety;
- border crossing checks;
- controlling the provision, possession and carrying of weapons and ammunition;
- controlling the production of and trade in explosive materials, flammable liquids and gases; and
- citizenship matters, including personal identification numbers and identity cards.

One of the main agencies of the Ministry of Interior to perform these duties is the Criminal Police, within which there is a specialist unit for combating organised crime.

### ***Prosecution authority***

The Public Prosecutor's Office is an independent State authority responsible for prosecuting perpetrators of crimes and other punishable activities and undertakes measures to protect Statute and Law. The Public Prosecutor's Office consists of:

- the Public Prosecutor's Office of the Republic;
- Appellate Public Prosecutions;
- Higher Public Prosecutions;
- Ordinary Public Prosecutions; and
- Ordinary Public Prosecutions with Special Jurisdiction (Special Prosecution for Organised Crime and the Special Prosecution for War Crimes).

For crimes prosecuted *ex officio*, the public prosecutor is competent to conduct the pre-trial proceedings, request investigations to be conducted by the competent authorities, and directing proceedings in the accordance to the Criminal Proceeding Code. After completion of an investigation, the public prosecutor issues and represents the indictment before the competent court and, where necessary, appeals against court decisions and submits legal remedies against final court decisions. All authorities participating in pre-trial proceedings, including the Criminal Police and the Tax Police, are obligated to inform the competent public prosecutor on every undertaken action. These authorities are also obligated to act on every request of the public prosecutor.

In accordance to the Law on Seizure and Confiscation of the Proceeds from Crime, the public prosecutor can initiate by order a financial investigation if the criminal proceeding is being conducted for crimes against economy, crime of organised crime, property crimes, crimes against official duty, health of people, public order and security and against humaneness and other goods protected by international law. When there is a danger that later seizure and confiscation of proceeds from crime would be difficult or impossible, the public prosecutor may submit to the court a request for seizure of assets. If there is a danger that the owner will dispose of proceeds from crime before the court decides on the request,

the public prosecutor may issue an order prohibiting disposal of property. The public prosecutor may submit a request to the court for confiscation of the proceeds from crime within three months from the date of receipt of the final court decision determining that the crime was committed.

### *Financial Intelligence Unit*

The Administration for the Prevention of Money Laundering (APML) is the Financial Intelligence Unit (FIU) of the Republic of Serbia. The APML was established in March 2012 as an administrative body under the Ministry of Finance. The structure of the APML includes the following departments.

- Department for Analysis, consisting of two sections: the Section for Pre-Analysis; and the Section for Financial Analysis.
- Department for International Co-operation and Legal Affairs.
- Department for Supervision, consisting of two teams: the Team for Supervising Accountants and Auditors; and the Team for Supervising Other Obligated Entities.

The APML's powers and responsibilities are provided for in the Law on the Prevention of Money Laundering and Terrorist Financing. Entities covered by this legislation are obligated to send to the APML reports on suspicious transactions and persons. The APML analyses these reports and collects any additional data required. If it finds reasonable grounds to suspect money laundering or terrorist financing in a specific case, the APML then discloses such data and related documentation to the relevant bodies, which are primarily the competent prosecutors' office and the Criminal Police.

If the APML suspects, based on its own analyses and assessment and without having received a Suspicious Transaction Report, that a person or group is undertaking money laundering or terrorist financing, the APML can request additional data from entities covered by legislation and state authorities. The APML can also collect and analyse data at the request of another state authority, such as the court, Public Prosecutor's Office, Security Information Agency, Privatisation Agency, Securities Commission, or Criminal Police.

### *Financial regulator*

The State Audit Institution (SAI) is the highest authority for auditing public funds in the Republic of Serbia. The Institution is an independent state authority, accountable to the National Assembly for conduct of its activities. The Council of the SAI is the highest collegial body with five members, namely: the President, the Vice-President and three other members. The Council members are chosen for the period of five years and can serve a maximum of two terms.

The SAI performs its work on basis of annual audit program, covering:

- the Budget of the Republic of Serbia;
- organisations of mandatory social insurance;
- local government authorities;
- operations of the National Bank of Serbia concerning the use of public funds; and

- public companies, business companies and other legal entities established by direct or indirect use of public funds and with participations in capital, managing.

The activities of the SAI include:

- planning and performing audits;
- enacting bylaws and other regulations for the purposes of implementing the Law on the State Audit Institution;
- submitting reports to the National Assembly of the Republic of Serbia and assemblies of local authorities;
- formulating attitudes and opinions, as well as other forms of public disclosures regarding application and implementation of specific provisions of the Law on the State Audit Institution;
- on as needed basis and in compliance with its capacities, providing expert assistance to the Assembly, the Government of the Republic of Serbia and other state authorities on certain significant measures and important projects, in such a manner that does not diminish the independence of the SAI;
- providing advice to public funds beneficiaries;
- giving suggestions to the draft proposals of laws and other regulations and may give opinions on issues in the area of public finances;
- issuing recommendations for amendments to applicable laws, based on information received over the course of audit, which produce or may produce negative consequences or lead to unplanned results;
- adopting and publishing audit standards relating to public funds, regarding exercise of the SAI's audit competence, audit manuals and other expert documents significant for development of the audit profession;
- determining the education and exam programs for acquiring the title of state auditor and certified state auditor, organising exams for acquisition of the titles state auditor and certified state auditor and keeping the Register of persons that acquired such titles;
- defining criteria and performing recognition of expert titles from the competence of the SAI, which were acquired abroad;
- co-operating with international auditing and accounting organisations in the area pertaining to accounting and auditing of public sector; and
- performing other matters stipulated by the Law on the State Audit Institution.

Where the SAI detects any indications of possible criminal activity, it must commence infringement proceedings and file a criminal complaint with the Public Prosecutor's Office. The SAI must also inform the Public Prosecutor where any audited entity, or legal entity doing business with an audited entity, has caused a loss to public funds. Where during an audit procedure the SAI detects materially significant actions indicating the presence of elements of a possible criminal offence, the SAI is obliged to submit immediately a request to initiate infringement proceedings and file criminal charges with the relevant competent authority. The SAI is obliged to inform the public prosecutor on cases where public property is damaged by activities of the subject of an audit or a legal entity operating with the subject of an audit,

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Reporting obligatory <sup>1</sup>	Reporting obligatory <sup>2</sup>	Reporting obligatory <sup>3</sup>	Reporting obligatory <sup>4</sup>
	Customs administration	Reporting obligatory <sup>2,5</sup>	Reporting obligatory <sup>5</sup>		Reporting obligatory	Reporting obligatory <sup>4</sup>
	Police or public prosecutor	Reporting obligatory <sup>5</sup>	Reporting obligatory <sup>5</sup>	Reporting obligatory		Reporting obligatory <sup>4</sup>
	Financial Intelligence Unit	Reporting obligatory <sup>5</sup>	Reporting obligatory <sup>5</sup>	Reporting obligatory	Reporting obligatory	
	Financial regulator	Reporting obligatory <sup>5</sup>	Reporting obligatory <sup>5</sup>	Reporting obligatory	Reporting obligatory <sup>6</sup>	Reporting obligatory

<sup>1</sup> Where a tax official in the course of their activities uncovers evidence of possible tax crimes, this information must be reported to relevant office within the Tax Administration. This report must be forwarded to the Tax Police within 24 hours.

<sup>2</sup> The Tax Administration and Customs Administrations have agreements in place to share information for the purpose of conducting tax and customs proceedings.

<sup>3</sup> Evidence of possible non-tax offences must be reported to the appropriate law enforcement agency.

<sup>4</sup> Government agencies, including courts, public prosecutors and other State bodies, are obligated to provide information to the APML for the purposes of compiling and analysing data on offences related to money laundering and terrorism financing, and the recovery of the proceeds of crime. In order to assess whether there are reasons for suspicion of money laundering or terrorism financing in relation to certain transactions or certain persons, the APML may also request data, information and documentation from State bodies, organisations and legal persons entrusted with public authority. This information must be provided within eight days of the request, or may provide the APML with a direct electronic link to the relevant information at no cost. In urgent cases, the APML may require the information to be provided in a shorter timescale.

<sup>5</sup> All State authorities and organisations, bodies of territorial autonomy and local government are required to present to the Tax Administration facts detected performing operations in their competence which are important for assessing tax liability.

<sup>6</sup> The SAI must report to the Public Prosecutor's Office and Criminal Police any information it obtains in the course of its work relevant to criminal investigations.

## Models for enhanced co-operation

### *Co-operation between government agencies*

The Serbian National Strategy for Combating Money Laundering and Terrorist Financing provides for the development and improvement of mechanisms for co-operation between agencies participating in the regime. In order to monitor implementation of the Strategy a Permanent Coordination Group has been established, including representatives of all participating agencies. The Strategy includes the establishment of a training centre, under the management of the APML, to hold seminars, courses and instruction for state

authorities and taxpayers on aspects of the anti-money laundering and terrorist financing law. Each participating state agency has also nominated a liaison officer to further improve the effectiveness and efficiency of inter-agency co-operation.

State authorities are able to set up joint bodies and project groups in order to perform actions that demand participation of several authorities.

## Singapore

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Inland Revenue Authority of Singapore (IRAS) acts as an agent of the government to assess, collect and enforce payment of taxes. IRAS also provides inputs to the Ministry of Finance in the formulation of tax policies and represents the government internationally on taxation related matters.

#### *Tax crime investigation*

Within IRAS, the Investigation and Forensics Division (IFD) carries out the investigation of fraud cases for all tax types administered by IRAS, so as to deter and penalise errant tax offenders. IFD is headed by an Assistant Commissioner and comprises of two branches, each led by a Director. In all, there are eight investigation teams and two specialised teams in the areas of Computer Forensics and Tactical Intelligence. Other tax management divisions in IRAS can refer potential evasion cases to IFD based on established referral criterion.

#### *Customs administration*

Singapore Customs (SC) regulates trade in Singapore. SC is a government department under the Ministry of Finance, and is headed by the Director-General.

#### *Police*

The Singapore Police Force's (SPF) mission is to prevent, deter and detect crime. As part of the SPF, the Commercial Affairs Department (CAD) is the principal white-collar crime investigation agency in Singapore. It investigates into a wide spectrum of commercial and financial crimes, including corporate fraud, securities market manipulation, insider trading, money laundering and terrorism financing. The Financial Intelligence Unit (FIU) of Singapore, the Suspicious Transaction Reporting Office (STRO), is a division within CAD.

#### *Other key law enforcement agencies*

The Corrupt Practices Investigation Bureau (CPIB) is an independent body within the Prime Minister's Office which investigates and aims to prevent corruption in the public and private sectors in Singapore. The CPIB is headed by a director who is directly responsible to the Prime Minister.

#### *Prosecution authority*

The Attorney-General's Chambers (AGC) is an independent Organ of State responsible for, amongst others, prosecution of offenders; making applications to prevent dissipation of proceeds of crime; and processing requests for mutual legal assistance and extradition. It also provides legal advice to government departments and law enforcement agencies on the interpretation of AML/CFT laws and issues. Criminal prosecutions are primarily handled by the Deputy Public Prosecutors (DPPs) and the Assistant Public Prosecutors (APPs) from the Crime Cluster. The Crime Cluster is the organisational extension of the Attorney-

General's role as the Public Prosecutor and is made up of three Divisions. These Divisions are the Economic Crimes and Governance Division, the State Prosecution Division and the Criminal Justice Division. Requests for mutual legal assistance in criminal matters and extradition are processed by the International Affairs Divisions (IAD). Officers from IAD also lead or assist in the negotiations of mutual legal assistance and extradition treaties.

IRAS, as the tax administration, can prosecute income tax offenders directly. Certain Goods and Services Tax (GST) offences, such as those relating to fraud or obtaining GST refunds improperly, will require the consent of the Public Prosecutor before the offenders are prosecuted.

### ***Financial Intelligence Unit***

The Suspicious Transaction Reporting Office (STRO) is Singapore's designated FIU. STRO was established formally on 10 January 2000 as an enforcement-style FIU under the Financial Investigation Division (FID) of the Commercial Affairs Department (CAD) in the Singapore Police Force.

STRO is the national specialist unit established to, amongst other things, to detect and prevent money laundering and terrorist financing activities through the receipt, analysis, and dissemination of Suspicious Transaction Reports. STRO also receives information relating to the cross-border transportation of currency and bearer negotiable instruments and cash transactions reports.

### ***Financial regulator***

The Monetary Authority of Singapore (MAS) is Singapore's central bank and financial services regulator. It has supervisory responsibilities, including AML/CFT issues, over banks, insurance companies, capital markets licensees, moneychangers and remittance agents etc. Please refer to section 27A(6) of the MAS Act for the full range of financial institutions (FIs) supervised by MAS for AML/CFT issues.

MAS has issued AML/CFT Notices to the regulated FIs, and these are available on the MAS website.<sup>6</sup> The Notices are consistent with the FATF Standards, and set out the relevant AML/CFT requirements which the FIs have to comply with. The requirements include the need to conduct customer due diligence, identification and verification of beneficial owners, conduct ongoing monitoring, and adopt appropriate risk management process and procedures.

On 1 Jul 2013, Singapore designated tax crimes as predicate offences for money laundering. With the designation, FIs reviewed whether their existing AML/CFT policies, controls and procedures were adequate, and fine-tuned them where necessary to ensure that they remain effective in detecting and deterring the proceeds of tax crimes. As directed by MAS, FIs also undertook a critical tax-risk review of their existing accounts to assess the tax legitimacy of assets booked. On an ongoing basis, MAS assesses the rigour and effectiveness of the FIs' ML/TF risk management systems, and controls in detecting and deterring criminal proceeds (including those arising from tax crimes).

<sup>6</sup> Please see: <http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulatory-and-Supervisory-Framework/Anti-Money-Laundering-and-Countering-the-Financing-of-Terrorism.aspx>

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access	Reporting permitted <sup>1</sup>	Reporting permitted	Reporting obligatory <sup>2</sup>
	Customs administration	Reporting permitted <sup>1</sup>	Reporting permitted <sup>1</sup>		Reporting permitted <sup>3</sup>	Reporting permitted
	Police or public prosecutor	Reporting permitted <sup>3</sup>	Reporting permitted <sup>3</sup>	Reporting permitted		Reporting permitted
	Financial Intelligence Unit	Reporting permitted	Reporting permitted <sup>2</sup>	Reporting permitted	Reporting permitted <sup>4</sup>	
	Financial regulator	On request	On request	On request	On request <sup>3</sup>	Reporting permitted

<sup>1</sup> This is only in respect to Goods and Services Tax matters, which is jointly administered by IRAS and SC.

<sup>2</sup> Sharing of information between IRAS and STRO follows the designation of tax crimes as predicate offences to money laundering, from 1 July 2013. The IRAS may also request information from the FIU.

<sup>3</sup> This refers to sharing with the police only.

<sup>4</sup> STRO may provide information to the police for the investigation of offences.

## Models for enhanced co-operation

### *Co-operation between government agencies*

A High-Level Steering Committee comprises the Permanent Secretaries of the Ministries of Home Affairs and Finance and the Managing Director of the MAS. The Steering Committee meets regularly to discuss and review money laundering and terrorism financing trends so as to provide direction to enhance Singapore's framework for combating money laundering and terrorist financing. The work of the Steering Committee is also supported by an inter-agency committee, comprising a number of government departments and operational agencies (including MAS, STRO, CAD, IRAS, SC etc.) to support it in its work of implementing and formulating Singapore's AML/CFT policies.

Also, during joint money laundering and tax crime investigations, IRAS will investigate into the tax predicate offences under its purview while CAD will look into the money laundering aspects of the case.

*Co-operation with business, the tax profession, academic bodies and other organisations*

The Tax Academy, which is IRAS' training arm, conducts regular courses and workshops for the private sector on managing tax compliance to enhance participants' understanding of the IRAS compliance approach, how they can better comply with their tax obligations, and how to report a mistake to qualify for zero or a lower penalty.

The STRO, in CAD, conducts regular outreach sessions to groups of between 50 to 200 participants throughout the year with relevant industry sectors and regulatory agencies such as the banks and other financial institutions, insurance companies and legal and accounting professionals. The purpose of these outreach sessions is to create greater awareness among the participants of the detrimental effects of money laundering and terrorism financing activities; educate participants on the reporting of suspicious transactions; obtain feedback on the reporting process; and address any related concerns or queries about the prevention, detection and reporting of money laundering and terrorism financing activities

## Slovak Republic

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

From 1 January 2012, the Slovak tax administration and customs administration were merged into a joint tax and customs administration. The tax and customs administration is responsible for the assessment and collection of taxes and duties levied on behalf of the state. It is also responsible for collection of some local taxes and other duties levied by regional or other administrative bodies.

The tax administration is responsible for conducting tax audits, which are carried out by specialised units. After a tax audit is concluded, if information has been uncovered indicating that a tax crime or other criminal offence has been committed, the tax administration has a general obligation to report this to the police. The Slovak tax administration has competency to conduct criminal investigations itself.

#### *Tax crime investigation*

The Criminal Office of the tax and customs administration has competency to conduct criminal investigations in the following areas:

- violations of customs regulations for importation, exportation and transit of goods;
- violations of tax legislation in the field of VAT on import;
- violations of rules on the excise duty;
- violations of rules on intellectual property rights, laws on waste management, or infringement of the protection of flora and fauna (CITES) during trade with third countries; and
- abuse of power and obstruction of the role by the public officials in relation to the above areas of crime.

Criminal investigation units in the Criminal Office work within regional branches.

Other cases of tax crime are investigated by the police.

#### *Customs administration*

The tax and customs administration is responsible for the assessment and collection of customs duties. It also holds information about cross-border flows of money and goods.

Within the tax and customs administration, the Criminal Office has limited competency to conduct criminal investigations.

#### *Police*

The Police Force performs tasks in matters of internal order, security and combating crime including the prevention, detection and investigation of criminal offences. The police

force co-operates with other agencies in the detection of tax evasion, illicit financial transactions, money laundering and terrorist financing.

Police investigations are carried out under the direction of the public prosecutor. The prosecution and courts are authorised to use powers to conduct investigations and gather evidence for presentation in the criminal court. Information obtained from the tax administration concerning the determination of damage following a tax audit is valid as evidence for use in the criminal court, but information obtained through the examination of witnesses by the tax administration is considered merely auxiliary evidence.

### ***Other key law enforcement agencies***

The Bureau for Combating Corruption detects and investigates financial crimes, including crimes against property and tax frauds, where damage caused or benefits obtained exceed EUR 6.65 million.

### ***Prosecution authority***

In the Slovak Republic, the public prosecutor has the exclusive right and duty to prosecute all criminal offences. Within the Public Prosecutor's Office, a special Department of Economic Crimes handles prosecutions of serious financial offences and crimes against property.

The prosecution is responsible for preparation of a criminal case in co-operation with the police. It is up to the prosecution to decide whether enough evidence has been gathered to submit the case before the court. The prosecution is also obliged to carry out oversight over the police guaranteeing that evidence was gathered in a manner which is according to the law.

The prosecution or the criminal court has the right to ask the tax and customs administration for information covered by tax secrecy rules, where this is relevant to the investigation of a tax offence.

### ***Financial Intelligence Unit***

The FIU is incorporated under the Ministry of Interior, Presidium of the Police Force, Bureau of Combating Organised Crime. The FIU serves as a national unit for the area of the prevention and detection of money laundering and terrorist financing.

The FIU receives, analyzes, evaluates and processes Suspicious Transaction Reports and other information related to money laundering or terrorist financing. After analysis of Suspicious Transaction Reports, where there are indications that a criminal offence has been committed, the FIU will refer this case to the relevant law enforcement agency for investigation. The FIU may also send information to the tax and customs administration, where the information would substantiate the commencement of tax proceedings or is essential for the ongoing tax proceedings, except where sharing this information would endanger the FIU's own activities.

The FIU also performs investigations to identify and locate the proceeds of crime, including the creation of asset profiles of criminal suspects.

### *Financial regulator*

The National Bank of Slovakia (NBS) is one of the financial regulators as regards the Act of Banks and the anti-money laundering and terrorist financing law.

The NBS Is responsible for monitoring compliance with anti-money laundering and terrorist financing legislation by credit institutions, payment institutions, and other supervised entities. In cases of non-compliance, the NBS has authority to take measures including the imposition of administrative sanctions.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Reporting permitted <sup>1</sup>	Reporting obligatory	Reporting permitted <sup>2</sup>	Reporting obligatory <sup>3</sup>
	Customs administration	Reporting obligatory	Reporting obligatory		Reporting obligatory	Reporting obligatory
	Police or public prosecutor	Reporting obligatory	On request <sup>4</sup>	Reporting obligatory		Reporting obligatory
	Financial Intelligence Unit	Reporting permitted <sup>5</sup>	Reporting permitted	Reporting obligatory	Reporting obligatory	
	Financial regulator	On request	Reporting permitted	On request	Reporting permitted	Reporting permitted

<sup>1</sup> The prosecutor or court may also request tax information covered by secrecy rules, for use in tax crime investigations.

<sup>2</sup> Information not covered by tax secrecy laws is also available to the public prosecutor on request. In addition, under the Code of Criminal Procedure, all entities and individuals are under an obligation to report to the police suspicions of all types of crime.

<sup>3</sup> This obligation is subject to tax secrecy laws.

<sup>4</sup> Police officials conducting tax crime investigations may only obtain information held by the police relating to other cases on request.

<sup>5</sup> The FIU may inform the tax administration of any information that the FIU believes may result in new civil tax proceedings, or would be relevant to ongoing civil tax proceedings. However, this obligation does not apply where informing the tax administration could endanger the success of the FIU's activities.

## **Models for enhanced co-operation**

### ***Co-operation between government agencies***

In July 2012, Project Tax Cobra was launched as a pilot for greater team working between the tax and customs administration and police, based on a Memorandum of Understanding between the two agencies, to detect and investigate the most serious tax offences. Specialist teams include investigators from the tax and customs administration's Criminal Office, the anti-fraud department, the National Criminal Agency and the FIU.

Project Tax Cobra has already been used to uncover and resolve a number of large tax and VAT cases, and has also been seen to have a preventative effect by encouraging a change in behavior.

In addition, four officials from the tax and customs administration are working with the Slovak Police Academy on a research project concerning tax evasion and fraud.

### ***Co-operation with business, the tax profession, academic bodies and other organisations***

Co-operation arrangements exist between the police and the chemical and pharmaceutical industry, the tobacco industry, express delivery services and airline transporters.

Officials from the tax and customs administration work closely with the tax profession.

## Slovenia

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The task of the Tax Administration is to ensure tax compliance through provision of services for taxpayers and to perform supervision over the legality, accuracy and timeliness of tax compliance, defined by taxation regulations, and the prevention and discovery of tax offences and other criminal acts, defined by regulations, and management of the offence procedure.

Tax audit supervision establishes accuracy and timeliness of tax assessment and collection. Tax audit supervision is directed mainly to taxpayers where suspicion exists of tax compliance avoidance or tax evasion. Risky taxpayers are identified by implementation of risk analysis techniques and the effectiveness of supervision is increased by project management of targeted tax audits. When irregularities are discovered inspectors issue tax assessment decisions and impose sanctions prescribed for offences committed. When irregularities discovered have characteristics of criminal acts, referrals may be made to the Public Prosecutor's Office. The Tax Administration in Slovenia has no criminal investigation powers.

#### *Tax crime investigation*

In Slovenia, tax and customs crime investigations are conducted by the police.

#### *Customs administration*

The role of the customs administration is to prevent and detect criminal activities related to goods entering or leaving the customs area, as well as to excisable products. A special Control and Investigation Division is established within the General Customs Directorate, which is responsible for international cooperation, intelligence and coordination of inspection and investigation. However, this comprises only an administrative investigation and the authority has no powers to conduct criminal investigations under the Criminal Procedure Act.

#### *Police*

The police are responsible for the prevention and detection of financial crime in Slovenia. The police, and in particular the criminal police, is the main authority for the investigation of financial crime including tax evasion.

#### *Prosecution authority*

In the Republic of Slovenia, the State Prosecutor has the exclusive right and duty to prosecute the perpetrators of all criminal offences that are prosecuted ex officio. These criminal offences include all financial crimes.

There is no special tax crime prosecutor office, although there is a special Group of State Prosecutors for the prosecution of organised crime, working as part of the Office of the State Prosecutor General. The Group is responsible for the prosecution of serious

criminal offences, for which the State Prosecutor requires special organisation and skills. These criminal offences include money laundering, corruption, financial crime, tax evasion and crimes with international elements. According to the recently passed State Prosecutor's Office Act (ZDT-1), the Group will receive a special status as a Specialised State Prosecutor's Office.

### ***Financial Intelligence Unit***

The Slovenian FIU, the Office for Money Laundering Prevention, was established in December 1994 as a constituent body of the Ministry of Finance, though is operationally independent and has a powerful central role in the anti-money laundering system. It performs tasks relating to the prevention and detection of money laundering and since 2007 also tasks in respect of terrorist financing. It performs the role of a clearing house between the institutions in the financial system, on the one hand, and the judicial bodies and the police on the other.

The FIU is the national centre for receiving, requesting and analysing and disseminating data and information received from legal and natural persons bound under the Prevention of Money Laundering and Terrorist Financing Act (PMLFTA) to report cash transactions exceeding EUR 30 000, transfers of cash and other negotiable instruments across the border exceeding EUR 10 000 and all suspicious transactions, irrespective of the amount. The FIU has the power to temporarily postpone transactions for no longer than 72 hours and has access, on a timely basis, to all relevant financial, administrative and law enforcement information that it requires. It can also request necessary additional information from reporting parties to properly undertake its functions.

If the FIU considers on the basis of data, information and documentation obtained under the PMLFTA that there exists reason for suspicion of money laundering or financing of terrorism in connection with a transaction or a certain person, it shall notify the Criminal Police Directorate and the State Prosecution Office in writing, accompanied by relevant documentation. The FIU is also obliged to forward written information to the competent authorities on certain specified offences, including tax evasion, for which the Criminal Code prescribes a prison sentence of five or more years, if it considers there are reasons to suspect the commission of such offences from information and documentation obtained under the PMLFTA.

### ***Financial regulator***

The Bank of Slovenia is the central bank of the Republic of Slovenia and is a legal entity governed by public law. As regards supervision the Bank of Slovenia is competent and responsible for the bank supervision in respect of all services and transactions performed by the bank in the territory of the Republic of Slovenia, in the territory of a Member State or in the territory of a third country. The Bank of Slovenia performs bank supervision in order to verify whether banks operate in line with the risk management rules and other rules laid down by the Banking Act and regulations issued on the basis thereof as well as with other acts governing the performance of financial services provided by the bank and regulations issued on the basis thereof. The Bank of Slovenia has the authority and responsibility to collect and process the information about facts and circumstances which are important to the performance of its tasks and responsibilities laid down by the Banking Act. The Bank of Slovenia's employees, auditors and other professionals who have acted under the authority of the Bank of Slovenia shall safeguard all information obtained

during the performance of supervision and other transactions for the Bank of Slovenia as confidential. Confidential information may not be disclosed to any other person or state authority except in the form of an extract from which one cannot identify individual banks to which such confidential information relates, unless such person is stated as an exception in Article 231 of the Banking Act.

The Bank of Slovenia is also responsible for supervision of credit institutions, payment institutions, e-money issuers and bureau de changes with respect to compliance with anti-money laundering legislation. This supervision is provided by off-site analysis and on-site visits. In the case of non-compliance with legal requirements Bank of Slovenia has power to issue adequate measures including imposing the administrative sanctions.

The Securities Market Agency is responsible for the inspection and supervision of potential market abuse actions on the financial market.

The Insurance Supervision Agency is responsible for issuing regulations and for supervision of insurance companies, insurance agencies and insurance brokerage companies, as well as insurance agents and brokers. The Agency also conducts supervision of legal persons related to insurance companies, if necessary for the purpose of supervising an insurance company's operation, as well as control of insurance companies within an insurance group, insurance holding companies and joint-venture insurance holding companies. It also performs supervision of the operations of the Nuclear Pool, and the Guarantee Fund and the Compensation Body within the Slovenian Insurance Association. The Agency is responsible for issuing authorisations to pension companies and for supervising their operations. The Agency also supervises the First Pension Fund of the Republic of Slovenia and conducts supplementary supervision of supervised persons based in the Republic of Slovenia on top of a financial conglomerate or being controlled by a financial holding company.

### ***Other relevant agencies***

The Budget Supervision Office is an independent body within the Ministry of Finance it has multiple functions regarding the prevention and detection of the public finance fraud: These include:

- co-ordination and harmonisation of risk management in the public sector, including the risk of fraud and corruption;
- the protection of EU financial interests by co-ordinating irregularities reporting to OLAF and heading the inter-institutional working party composed of Criminal Police, General Prosecutor, Tax and Customs Offices, Money Laundering Prevention Office and Corruption Prevention Commission to work on measures for the detection and prosecution of fraud on public including the EU funds;
- performing the independent control of the EU funds spending and reporting to the respective EC DG; and
- ensuring the compliance of the central budget execution with the applicable laws. If, during an inspection, non-compliance is detected, the budget inspector issues an order for corrective measures or, in case of suspicion of fraud, submits a report to the Criminal Police.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Reporting obligatory <sup>1</sup>	Reporting obligatory	Reporting permitted <sup>2</sup>	Reporting obligatory <sup>3</sup> <sub>4</sub>
	Customs administration	Reporting obligatory	Reporting permitted <sup>5</sup>		Reporting permitted <sup>5</sup>	Reporting permitted <sup>4</sup> <sub>6</sub>
	Police or public prosecutor	Reporting permitted	Direct access	Reporting permitted <sup>5</sup>		Direct access <sup>4,7</sup>
	Financial Intelligence Unit	No sharing <sup>8</sup>	Reporting obligatory <sup>9</sup>	Reporting permitted <sup>10</sup>	Reporting obligatory <sup>11</sup>	
	Financial regulator	Reporting permitted	Reporting obligatory	Reporting permitted	Reporting permitted	Reporting obligatory <sup>4</sup>

<sup>1</sup> The tax administration is obliged to provide information to the police where this is relevant to a tax crime investigation.

<sup>2</sup> In addition, the Criminal Procedure Act provides an obligation to report to the public prosecutor all criminal offences liable to public prosecution for all state agencies and organisations having public authority.

<sup>3</sup> The tax administration is obliged to provide information to the FIU where it is relevant to a possible money laundering investigation. The tax administration also provides information to the FIU on request. Under a recent protocol, these requests can now be made electronically.

<sup>4</sup> The FIU may request data, information and documentation required for detecting or investigating money laundering or terrorist financing from state authorities and holders of public authority. Authorities shall forward the data, information or documentation to the FIU without delay and at the latest within 15 days of receipt of the request, or shall allow the FIU direct electronic access to data and information.

<sup>5</sup> Co-operation between customs and the police (including tax crime investigators) is established under a memorandum of understanding and facilitated via a liaison officer who has direct access to both authorities' databases and systems. Information may also be exchanged directly without use of the liaison, both at central and local level.

<sup>6</sup> Customs may provide the FIU with information on cross-border currency movements and suspicious transactions.

<sup>7</sup> The Slovenian FIU has direct access to specific police records for the purposes of the FIU's activities in preventing and detecting money laundering and terrorist financing. The police must also inform the FIU about the results of any criminal investigation that commenced as a result of a referral.

<sup>8</sup> The FIU does not provide information to the tax administration for the purposes of making civil tax assessments. However, where the tax administration has received FIU information related to suspected tax offences, it may also use this information for the purposes of assessing taxes.

<sup>9</sup> In Slovenia, tax offences are investigated by the police. The FIU must inform the tax administration and police if it obtains information that leads it to suspect tax crime has been committed. Otherwise, the FIU does not provide any information to the tax administration, or to the police that is related to tax crimes. The FIU does not provide information to these agencies on request.

<sup>10</sup> The FIU provides customs with information where it considers in connection with a transaction or person that there are grounds to suspect that a specified criminal offence has been committed.

<sup>11</sup> The Slovenian FIU must inform police where, on the basis of its analyses, it believes there is reason to suspect money laundering or terrorist financing offences, or other specified offences carrying a possible prison sentence of at least five years, have taken place.

## **Models for enhanced co-operation**

### *Co-operation between government agencies*

Since 2009, legislation in Slovenia has multi-agency teams to be brought together to work on investigations, under the direction of the State Prosecutor's Office. The composition of these teams varies depending on the demands of the case, and can include officials from the tax administration, customs administration, police, and other agencies as required.

### *Co-operation with business, the tax profession, academic bodies and other organisations*

There are no agreements between the Slovenian tax administration and business, tax advisors or universities.

## South Africa

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The South African Revenue Service (SARS) is statutorily tasked to:

- collect revenue for government;
- enforce compliance with tax and customs legislation.

SARS is a separate, semi-autonomous state organ resorting under the executive control of the Minister of Finance and the National Treasury.

#### *Tax crime investigation*

Within SARS, a specific division exists that has as aim the combating of tax evasion, customs offences and assistance to general law enforcement agencies in efforts to combat crime, from a financial and customs perspective. Their activities are described below.

- Conducting preliminary investigations and enquiries where there is reason to believe that serious tax or customs offences have been committed. The aim is to determine the most suitable action to apply based on the circumstances of the case. It takes into account capacity and workload within the greater criminal justice system and seeks alternates, beyond criminal proceedings to bring about a deterrent effect.
- Conducting criminal investigations aimed at laying criminal charges and provide the assistance provided for in the Tax Administration Act under article 3(2)(f) that is required for the investigation and prosecution of the tax offence by the SA Police Service and National Prosecuting Authority.
- Conducting financial investigations as provided for in article 45 of the FIC Act.
- Conducting project driven criminal investigations involving tax offences in accordance with the provisions of Chapter 5 of the Tax Administration Act.
- Conducting expedited debt collection activities, i.e. liquidation or sequestration of taxpayers, agent appointments, pursuing third party liabilities and preservation of assets orders.

This component is a division housed within SARS under the control of the Commissioner for SARS.

#### *Customs administration*

South African Customs plays an integral role in the facilitation of movement of goods and persons entering or exiting the borders of South Africa. The core functions are to:

- enforce Customs as well as related trade laws;
- collect duties and taxes;

- ensure the social welfare of the citizens of South Africa by controlling the import and export of prohibited and restricted goods;
- ensure timely clearance of goods and facilitate the speedy movement of travellers through South African borders;
- support South Africa's integration into the global economy in a way that benefits all South Africans; and
- where elements of serious Duties/Levies evasion are identified, such matters are handed over to the Tax and Customs Investigations Unit for further investigation and enforcement activities.

### ***Police***

The South African Police Service (SAPS) is statutorily tasked to:

- prevent, combat and investigate crime;
- maintain public order;
- protect and secure the inhabitants of the Republic and their property; and
- uphold and enforce the law.

Within SAPS, a specific component exists that has as aim the combating of financial crimes, the Commercial Crime Unit.

SAPS is a separate state organ resorting under the control of the Minister of Police.

### ***Other key law enforcement agencies***

The Asset Forfeiture Unit (AFU) is statutorily empowered to seize criminal assets in particular, the proceeds or instruments of organised crime. The AFU is a division of the National Prosecuting Authority under the control of the National Director of Public Prosecutions.

The Special Investigating Unit (SIU) is statutorily empowered to combat and investigate serious malpractices or maladministration in connection with the administration of State institutions, State assets and public money as well as any conduct which may seriously harm the interests of the public. The SIU is accountable to the President and Parliament.

The Directorate for Priority Crime Investigations (DPCI) is statutorily required to investigate national priority offences (in particular serious organised crime, serious commercial crime and serious corruption) which in the opinion of the Head of the Directorate need to be addressed by the Directorate, subject to any policy guidelines issued by the Ministerial Committee. The DPCI also investigates any other offence or category of offences referred to it from time to time by the National Commissioner of Police, subject to any policy guidelines issued by the Ministerial Committee. The DPCI organisationally forms part of the South African Police as state organ, but sits under the control of the Ministry of Police, and not the National Commissioner of Police.

***Prosecution authority***

The National Prosecuting Authority (NPA) is statutorily required to:

- institute and conduct criminal proceedings on behalf of the State;
- carry out any necessary functions incidental to instituting and conducting such criminal proceedings (this includes investigation); and
- discontinue criminal proceedings.

The NPA is a separate state organ under the control of the Ministry of Justice.

***Financial Intelligence Unit***

The Financial Intelligence Centre (FIC) is statutorily required act as Money Laundering Advisory Council in order to:

- combat money laundering activities;
- combat financing of terrorist and related activities; and
- monitor compliance with obligations under anti-money laundering and terrorist financing legislation by financial institutions and other designated bodies.

***Financial regulator***

The Financial Services Board (FSB) is an independent regulatory institution established by statute to oversee the South African non-banking financial services industry. It governs South Africa's non-bank financial services sector, including securities firms, participation bond schemes, portfolio management, insurance companies, pension funds, and mutual funds. The FSB is a separate organ under the control of the Ministry of Finance.

The South African Reserve Bank (SARB) has, beyond its primary macro-fiscal responsibilities, a Bank Supervision Department to promote the soundness of the domestic banking system through the effective and efficient application of international regulatory and supervisory standards and best practice. In order to achieve this objective, the Bank Supervision Department participates in, and contributes to, various international forums. These include the Group of Twenty (G-20) Finance Ministers and Central Bank Governors, as well as the Basel Committee and its subgroups. SARB is a separate organ resorting under the control of the Ministry of Finance. The Bank Supervision Department is a component within the SARB resorting under the control of the Governor of the SARB.

The Johannesburg Stock Exchange (JSE) is licensed under the Securities Services Act as a securities exchange for trading, clearing and settlement in equities, financial and agricultural derivatives and other associated instruments and has extensive surveillance capabilities. The JSE is also a major provider of financial information. A component within the JSE, the Surveillance Department is statutorily required to:

- monitor compliance by members with the rules and the directives in law;

- the surveillance of any matter relevant for the purposes of the Act, the rules and the directives;
- supervising compliance by members with the Financial Intelligence Centre Act;
- investigate any JSE related activities of any person who at the relevant time was a member or an employee of a member;
- investigate whether that member or any of its employees complies with the Act, the rules, the directives and the Financial Intelligence Centre Act;
- investigate whether the member is trading in such a manner that there is a danger that such member may not be able to meet its commitments to clients, other members or a settlement system; and
- investigate whether such member is conducting its business in a manner which could be detrimental to the interest, good name or welfare of the JSE or its members.

The management and control of the JSE is exercised by a controlling body board of directors.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Reporting permitted	n/a <sup>1</sup>	Reporting permitted <sup>2</sup>	Reporting obligatory <sup>3</sup>
	Customs administration	n/a <sup>1</sup>	Reporting permitted		Reporting permitted	Reporting obligatory <sup>3</sup>
	Police or public prosecutor	Reporting permitted	Reporting obligatory <sup>4</sup>	Reporting permitted		Reporting obligatory <sup>3</sup>
	Financial Intelligence Unit	On request	Reporting obligatory <sup>4</sup>	Reporting obligatory <sup>3</sup>	Reporting obligatory <sup>3</sup>	
	Financial regulator	On request	Reporting obligatory <sup>4</sup>	n/a <sup>1</sup>	Reporting obligatory	Reporting obligatory <sup>3</sup>

Within the context of ongoing criminal investigations and prosecutions, the exchange of information occurs freely among agencies and is determined by the evidentiary or information requirements of the specific case. For this purpose, SARS is statutorily permitted to share information with financial regulatory agencies such as the FSB, FIC, SA Reserve Bank and the National Credit Regulator. This information disclosure is limited to information necessary for the purpose of exercising a power or performing a regulatory function or duty under the legislation administered by these agencies.

<sup>1</sup> This information was not available at the time the report was prepared.

<sup>2</sup> SAPS can generally only obtain information relevant to non-tax investigations from SARS through an *ex parte* court application or under specific legislation related to the prevention and investigation of serious organised crime. Information

requests under this legislation must be specific. SARS may also inform the police where it discovers evidence of a possible non-tax offence, but only if it first obtains specific consent from the court pursuant to an *ex parte* application.

<sup>3</sup> SARS is obliged to disclose certain information to the FIC under section 36(1) of the FIC Act, which disclosure is not limited by SARS statutory duty of confidentiality.

<sup>4</sup> In respect of the discovery of tax evasion, other law enforcement agencies may report such suspicions to SARS, but SARS has a discretion to lay criminal charges for the purposes of prosecution. When laying charges, SARS may only disclose information related to, or which constitutes material information for the proving of, a tax offence. If SARS imposes civil sanctions for tax evasion, such as administrative non-compliance or understatement penalties, this is generally not relevant to the criminal investigation and prosecution and not disclosed when SARS lays a criminal charge and prosecution is instituted.

## Models for enhanced co-operation

### *Co-operation between government agencies*

Mechanisms for joint working include inter-agency committees under the control of several government departments or ministries. These include the Multi-Agency Work Group, which seeks to improve compliance and identify systemic solutions to failures within the financial and procurement system, and the Anti-Corruption Task Team, which deals with prominent corruption cases.

Law enforcement agencies also co-operate by way of joint-investigations by assigning personnel from each agency to a team, with the exception of SARS. Where SARS officials are assigned to such joint-teams, their legislative powers under the Tax Acts may not be used and only their investigative and financial skills are utilised. SARS cooperates with joint investigation teams of other agencies, but in a parallel fashion. Only where a tax investigation becomes a criminal investigation can information be shared with such teams to the extent permitted by law.

Operational agreements exist between SARS and the police and prosecuting authority, which define the processes by which SARS should conduct criminal investigations to ensure compliance with criminal law.

### *Co-operation with business, the tax profession, academic bodies and other organisations*

Under the tax practitioner regulatory scheme, the tax profession through certain statutory bodies such as law societies and recognised controlling bodies of which tax practitioners are members, may report information regarding tax evasion to SARS. SARS may also to a limited extent disclose information to such bodies to assist with their regulatory functions.

## Spain

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

One of the functions of the *Agencia Tributaria* is to detect and investigate tax crimes and money laundering, whenever a tax crime is the predicate offence. Tax officers carry out enquiries aimed at checking the tax position of the examined person. At a certain point, when findings offer sufficient grounds, the cases are referred to the public prosecutor or directly to the courts. In this second stage the investigation is completed by an examining judge. His final decision will be either that the case should go for trial (presided by a different judge or a panel of judges) or, otherwise, waive criminal charges.

If indications of any other crime arise in the course of a tax enquiry, notice of such findings has to be conveyed to the appropriate authority so that criminal proceedings can be instituted. In the context of tax examinations, the more common type of crimes to be found are finance-related crimes.

Administrative investigations are initiated by ordinary tax auditors or tax examiners. In terms of direct taxes, there is no strict rule of assigning cases that might develop into tax crimes investigations to specialised units in preference to other units or teams. However, specialisation of tax auditing units and the growing weight of tax investigations has led to a situation where files that have the potential to become tax crime investigations are predominantly handled by some specific units distributed throughout the country.

Once sufficient grounds exist to consider that a tax crime has been committed, cases are forwarded to the court or the public prosecutor by the regional heads of the *Agencia Tributaria* or, where a case has been investigated nationwide, by national divisional directors. Then, tax officials will act as expert witnesses in criminal proceedings, explaining and upholding the findings of the administrative enquiry that were reported when the case was forwarded.

#### *Tax crime investigation*

Judges in charge of a criminal investigation can request the *Agencia Tributaria* to assist them with the investigation, contributing their specialist skills, knowledge and experience.

Within the Customs and Excises Department of the *Agencia Tributaria*, there is a Customs Surveillance Service subdivision, whose activities are mainly aimed at fighting contraband and money laundering. When investigating crimes officials from this subdivision are considered judicial police. These officials can also assist other *Agencia Tributaria* departments in conducting tax fraud enquiries, contributing their investigative skills concerning mainly premises surveillance, personal surveillance and assets and activities uncovering.

#### *Customs administration*

The *Agencia Tributaria* is a joint tax and customs agency.

## **Police**

The police have a general function of investigating and pursuing crimes. They have set up specialised units dealing with organised crime, drugs and economic or fiscal crimes. Among others are *Unidad Central de Delincuencia Económica y Fiscal de la Policía Nacional* and *Grupo de Delincuencia Económica de la Unidad Central Operativa de la Guardia Civil*.

Within the structure of the Ministry of Interior, two units of the *Guardia Civil* combat money laundering. Firstly, the Judicial Police comprises various units deployed throughout Spain in line with the country's judicial districts, and has task forces to combat economic crime on the national and regional levels. Secondly, the Fiscal Service is responsible for developing the *Guardia Civil's* mission as the fiscal investigative police of Spain. With regard to customs issues, the *Guardia Civil* monitors movements of persons and goods through customs gateways, such as airports, ports and land border-crossings and track physical movements of funds. The *Guardia Civil's* surveillance of the coasts and borders also helps to detect movements of funds, through mobile customs patrols and patrols of ports and the coastline.

## **Prosecution authority**

Prosecutors in Spain are under the authority of the Director of Public Prosecutions and as such they are independent of the *Agencia Tributaria*. There is no branch of the public prosecutor's office handling exclusively tax crimes charges.

The Special Prosecutor's Office for the Prevention and Repression of Illegal Drug Trafficking was created by Law 4/1988 of 4 April, to investigate and prosecute all offences having to do with illicit drug dealing, and to investigate criminal money laundering offences connected with such trafficking. The authority of the Special Prosecutor's Office extends to all parts of Spain, and proceedings may be brought against organised groups and in respect of crimes affecting more than one Spanish province. The Office may also prosecute drug trafficking and the laundering of money derived from trafficking committed abroad, when the perpetrators of such crimes are in Spain and their extradition has been neither granted nor requested.

The Special Prosecutor's Office for the Repression of Corruption-Related Economic Crimes was created by Law 10/1995 of 24 April and modelled on the Special Prosecutor's Office for the Prevention and Repression of Illegal Drug Trafficking. Its main functions are to carry out the proceedings and investigations and to intervene in trials on criminal matters concerning crimes under its competence, which are assigned to it by the State Prosecutor General when they are of particular importance. Thus it plays a part in important cases involving public finance, smuggling, fraud, and crimes against public administration, where those crimes are committed by officials exercising their functions, in addition to related offences such as money laundering.

Money laundering associated with financial crimes is a matter for the Public Prosecutor in general. In order to investigate and uncover crimes involving money laundering, both Special Prosecutors' Offices have access to the services of a criminal investigation unit made up of officers from the National Police Corps and the *Guardia Civil*. This office plays an important role in cases of economic crimes and organised crime. Tax crimes sit within

this category, and will be taken up provided that they are of sufficient importance, which in most cases will be determined by the amount of tax defaulted.

A few tax auditors are seconded to the Special Prosecutor's Office for the Repression of Corruption-Related Economic Crimes. They have access to tax databases to gather data on the cases they are working on.

### ***Financial Intelligence Unit***

The Executive Service of the Commission for the Prevention of Money Laundering (SEPBLAC) was established by Law 10/2010 and RD 925/1995. This agency is the Spanish financial intelligence unit (FIU), the primary mission of which is to receive and analyse reports of suspicious and unusual transactions from financial institutions and from other non-financial professions. It also carries out, in general terms, supervisory and inspection functions of the anti-money laundering and terrorist financing system.

SEPBLAC performs investigation and prevention of infringements of administrative law under the legal framework governing cross-border capital movements and financial transactions, along with its activities to prevent the financial system or businesses of any other kind from being used to launder money. The Monetary Offences Investigative Squad (BIDM) is a law enforcement unit of the Directorate General for the Police attached to SEPBLAC to support SEPBLAC activities. The Investigation Unit of the *Guardia Civil* has been granted similar responsibilities vis-à-vis SEPBLAC.

The staff of SEPBLAC includes employees of the Bank of Spain, the Ministry of the Economy and Finance (including tax administration and customs), the National Police Corps and the *Guardia Civil*. It also includes inspectors from the realms of government finance, tax and customs, the Bank of Spain and BIDM.

### ***Financial regulator***

Following the publication of RD No. 925/1995, the Bank of Spain determined that, as a central bank, it would pursue its own efforts in combating money laundering even though SEPBLAC had been assigned to oversee enforcement of anti-money laundering measures by financial institutions over which the Bank exercises prudential control. The Bank of Spain helps to bolster SEPBLAC's staffing and material resources. It applies in-house anti-laundering measures. It disseminates information and recommendations on laundering-related issues to credit institutions, takes part in working groups on money laundering, both at home and internationally, and participates in training activities for both the public and private sectors.

The National Securities Exchange Commission (CNMV) oversees and inspects securities exchanges and the activities of all natural and legal persons taking part therein, and is empowered to impose sanctions. As stipulated in Title II of the Securities Market Law 24/1988 the National Securities Market Commission is established and is entrusted with the supervision and surveillance of the securities markets and of the trading activities of all individuals and legal persons in these markets, the exercise of the power to sanction them, and other duties attributed to it by the mentioned Law. The CNMV seeks to ensure the transparency of the securities markets, the correct formation of the prices on these markets and the protection of investors by promoting disclosure of any information necessary in order to attain these ends. The CNMV also advises the Government and the

Ministry of Economy and Finance and, as appropriate, the equivalent bodies of the Autonomous Regional Governments on matters relating to securities markets, at the request of such bodies or on its own initiative. It may also propose to those entities such procedures or regulations relating to securities markets as it deems necessary. It draws up and publishes an annual report describing its activities and the general condition of the securities markets.

The CNMV is a public law entity with independent legal status and full public and private legal capacity. It is governed by a Board which exercises all the powers attributed to it by this Law and by the Government or the Minister of Economy and Finance in implementation of the Law 24/1988. Among these powers are:

- the imposition of penalties due to extremely serious infringements of Title VIII of Law 24/88;
- the authorisation and withdrawal of authorisation for corporate transactions of investment services firms and other persons or entities acting under the scope of Article 65.2, when so required by regulations, based on their importance from an economic and legal standpoint; and
- the authorisation and withdrawal of authorisation of branches of investment services firms from countries that are not members of the European Union, and other subjects in the securities market, when so required by regulation, based on the economic and legal significance of such subjects.

The Directorate General for Insurance and Pension Funds performs the functions attributed under current regulations to the Ministry of the Economy and Finance in respect of private insurance and reinsurance, capitalisation and retirement funds.

The CMNV and Directorate General for Insurance and Pension Funds have signed Memoranda of Understanding with SEPBLAC to provide mutual assistance in performing inspections

### ***Other relevant agencies***

Since 1995, efforts of the Spanish Private Banking Association (AEB) to prevent money laundering have led to the production and dissemination to its member banks of circulars regarding amendments on anti-money laundering legislation. The AEB has also sent banks regular letters and bulletins, and it is continuing to co-operate with the authorities in charge of the fight against money laundering. To this end, it regularly organises various types of meetings involving banks, savings and loan associations and government officials.

Since 1994, the Spanish Confederation of Savings Banks (CECA) has prepared and disseminated several circulars on the prevention of money laundering. By this means, this institution keeps their members informed on the amendments on anti money laundering legislation. Furthermore, the Audit Co-ordinating Committee discusses yearly the profiles of transactions that are reported to SEPBLAC, to ascertain whether any changes to auditing procedures are needed so as to detect suspicious transactions. The savings banks' auditing procedures are currently being updated in line with amendments to the FATF's Recommendations.

Non-financial businesses and professions are represented by individual professional bodies, including the Spanish Association of Jewellers, Silversmiths and Clock and Watchmakers, the *Consejo General de Colegios de Economistas de España*, *Consejo Superior de Colegios Oficiales de Titulares Mercantiles de España* and *Instituto de Censores Jurados de Cuentas*, the Accounting and Auditing Institute, the Spanish Casino Association, the General Council of Law and the General Council of Notaries.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access	Direct access	On request <sup>1</sup>	Reporting obligatory <sup>2</sup>
	Customs administration	Direct access	Direct access		On request <sup>1</sup>	Reporting obligatory <sup>2</sup>
	Police or public prosecutor	On request <sup>3</sup>	Reporting obligatory <sup>4</sup>	On request <sup>3</sup>		Reporting obligatory <sup>2</sup>
	Financial Intelligence Unit	Reporting obligatory <sup>3</sup>	Reporting obligatory <sup>5</sup>	Reporting obligatory <sup>5</sup>	Reporting obligatory <sup>6</sup>	
	Financial regulator	On request <sup>3</sup>	On request	On request <sup>3</sup>	Reporting obligatory	Reporting obligatory <sup>2</sup>

<sup>1</sup> Public prosecutors and examining judges may request information for use in the investigation of crimes. Judicial police may obtain information on request where the request has been ordered by a judge or public prosecutor. The law does not permit the *Agencia Tributaria* to provide information directly to the police outside these provisions. In addition, the Criminal Procedure Law establishes an obligation to report suspicions of public crimes immediately to the public prosecutor, competent tribunal or investigating magistrate. This obligation is developed in the General Regulation for Tax Management and Inspection Proceedings, to require tax officials to inform the criminal courts or State Prosecution Service, via the competent authority, of facts uncovered in the course of their activities which could constitute crimes.

<sup>2</sup> All public officials must report information relevant to money laundering investigations to SEPBLAC. SEPBLAC can request from the *Agencia Tributaria* any information held in tax databases that might be relevant for their investigations. SEPBLAC also has direct and immediate access to statistical information on movement of capital and overseas financial transactions from the Bank of Spain.

<sup>3</sup> All public authorities are obligated to provide the *Agencia Tributaria* on request with information directly or indirectly relevant to the assessment of taxes.

<sup>4</sup> Examining judges are obliged to share with tax crime investigators information relevant to suspected offences. Spanish police, on the other hand, may only provide information to tax crime investigators on request.

<sup>5</sup> The *Agencia Tributaria* does not have direct access to Suspicious Transaction Reports held by SEPBLAC. However, under a memorandum of understanding signed in 2006, SEPBLAC must spontaneously inform the *Agencia Tributaria* if its analyses suggest that tax crime or other non-compliance exists, which may be used to conduct further investigations and also in the administration and assessment of taxes. This information is sent by telematic means to guarantee speed of the process and confidentiality and integrity of the information transmitted. Reports on tax risk are made available to the *Agencia Tributaria* as soon as they are finalised by SEPBLAC. The *Agencia Tributaria* may also request further information on particular taxpayers. Where SEPBLAC has previously sent reports on the same persons to the police or public prosecutor, SEPBLAC will inform

the *Agencia Tributaria*, so the tax administration may seek information from the recipient of the report. SEPBLAC must also inform the public prosecutor or judicial authority, which has responsibility for directing tax crime investigations in Spain, if it obtains any evidence or indications of criminal offences.

<sup>6</sup> Public prosecutors, examining judges and the police (with the authorisation of the public prosecutor or examining judge) may also request information held by SEPBLAC, where this will be used for the purposes of preventing or suppressing money laundering or terrorist financing.

## Models for enhanced co-operation

### *Co-operation with business, the tax profession, academic bodies and other organisations*

Police officers may obtain financial information on suspects by making requests, supported by an order from the public prosecutor or examining judge, to the credit institution associations, such as the Spanish Banking Association, Spanish Confederation of Saving Banks, or National Association of Credit Cooperatives, which re-send the requests to each one of their affiliates.

Notaries are required to record in a database the information of the acts that they undertake. The Notaries Self Regulatory Organisation (SRO) maintains a database with the information recorded by all notaries. Law enforcement authorities and SEPBLAC can access automatically on-line all the information contained in the database. On request, further information and copies of documents are immediately provided by the SRO. From 2007 to 2009, the SRO received almost 25 000 requests of information from law enforcement authorities and a considerable number of requests for documents. The SRO is now planning to develop a database of beneficial owners which will be equally accessible to competent authorities.

SEPBLAC also has direct and immediate access to information held by the National Commission for Stock Market (CNMV) and to the Directorate General of Insurance and Pension Funds (DGSFP).

## Sweden

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Swedish tax administration is responsible for administering taxes, including the processing of income tax returns, managing tax collection and conducting tax audits. Under the Tax Fraud Act, the tax administration is obligated to report suspected tax offences to the public prosecutor.

#### *Tax crime investigation*

The tax administration, at regional level, comprises Tax Offices and Tax Fraud Investigation Units (TFIUs). The TFIUs are responsible for:

- carrying out criminal investigations, led by a prosecutor;
- preventive measures concerning tax fraud; and
- carrying out intelligence in the field of tax fraud.

The main duties of investigators are to conduct preliminary investigations into suspected tax fraud with respect to the Tax Penal Act and following the instructions of the prosecutor. This includes investigating the circumstances and conducting hearings with suspects and witnesses. When necessary, investigators also participate in the trial together with the prosecutor.

#### *Customs administration*

The Swedish customs administration is a separate agency to the tax administration and has a mandate from the Swedish Parliament and Government to collect customs duties, VAT and other charges to secure the financing of the public sector and to contribute to a well-functioning society for citizens and enterprise. Swedish Customs is also responsible for monitoring and checking international traffic across the Swedish borders to ensure compliance with regulations for import and export.

The customs administration combats crimes related to the revenue from customs duties, taxes and other charges. These crimes can be detected through audits or the checking of goods at border crossings. A common issue is the use of incorrect commodity codes to determine the duties and charges due. The customs administration's preventative work includes the provision of information and training courses tailored to companies and through participation in trade fairs. The customs administration also provides information to private individuals about import regulations relating to travel and internet purchases.

Criminal investigations are conducted by specially trained customs officer and are led by a public prosecutor.

#### *Police*

Pursuant to the Police Act, each county constitutes a police district. The police authority is in charge of the daily police activities within the police district under the management of

the County Police Commissioner. The local police boards decide the organisation of the police authority. For this reason the structure varies from authority to authority, but each has a Staff Department, Public Order Department and a Criminal Investigation Department. The regional Criminal Investigation Department generally has at least at least four units: Criminal Investigation Unit; Drugs Unit; Economic Crime Unit; and Technical Support Unit.

Besides the 21 police authorities there is the National Police Board (RPS) which is the central administrative and supervisory authority of the police service. One of the divisions under RPS is the National Bureau of Investigation (NBI), which provides investigation and criminal intelligence support in cases involving crimes with nationwide or international ramifications.

### ***Prosecution authority***

In Sweden there are two different prosecutor authorities handling financial crimes.

The Swedish Economic Crime Authority (SECA) is a prosecuting authority where prosecutors, police officers, economic auditors and other experts work together in investigation teams, co-operating with tax fraud investigators. The SECA is also responsible for ensuring co-operation between all authorities working to combat economic crime in Sweden. Previously, the work of the SECA was based in the big-city counties of Stockholm, Gothenburg and Malmö, but since 1 July 2013 it has handled cases in all counties throughout Sweden. Around 550 people work at the SECA, including police officers, prosecutors, economic auditors, economic administrators, financial specialists and analysts.

The public prosecution authority operates through 39 public prosecution offices. Of these, 32 are local offices operating in geographical areas that roughly correspond to a county. In the metropolitan areas there may be more than one local public prosecution office. The public prosecution authority handles cases which are not dealt with by the SECA, including bribery and corruption cases.

### ***Financial Intelligence Unit***

*Finanspolisen*, the Swedish Financial Intelligence Unit (FIU) is a central, national unit which, in order to combat money laundering and terrorist financing, is responsible for receiving and analysing Suspicious Transaction Reports, and disseminating information and the results of its analyses to the competent authorities.

The FIU is a unit under the National Criminal Intelligence Service, which is a division of the National Police Board.

### ***Financial regulator***

*Finansinspektionen* (FI) is the Swedish Financial Supervisory Authority. FI supervises and monitors companies operating in financial markets. Companies offering financial services in Sweden require permits issued by FI.

Both investment firms and a significant number of companies and other professionals outside the financial sector are obligated to prevent money laundering and financing of terrorism by complying with governing regulations, recommendations and general

guidelines. FI is tasked with ensuring that the financial companies adhere to these regulations. FI has no supervision over companies and professionals outside the financial sector.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	Direct access <sup>2</sup>	Reporting permitted <sup>3</sup>	On request <sup>4</sup>
	Customs administration	Reporting permitted	Reporting permitted		Direct access	Direct access
	Police or public prosecutor	Reporting permitted	Reporting permitted <sup>5</sup>	Reporting permitted		Direct access <sup>6</sup>
	Financial Intelligence Unit	On request	Reporting permitted <sup>5</sup>	Reporting permitted <sup>7</sup>	Reporting obligatory <sup>8</sup>	
	Financial regulator	Reporting permitted	Reporting permitted	Reporting permitted	Reporting obligatory <sup>9</sup>	Reporting permitted

<sup>1</sup> Investigators working within TFIU are part of the tax administration, but are treated separately for the purpose of legislation governing the sharing of information. TFIU may access directly certain information held by other parts of the tax administration. Other information may be provided by the tax administration spontaneously or made available on request.

<sup>2</sup> Since 1 January 2013 the customs administration has had direct access to the Excise Movement and Control System, which is held by the tax administration and contains information on movements of goods such as tobacco, ethyl alcohol, spirits and energy products. Other information may be obtained on request. Information covered by tax secrecy may only be shared where permitted by the Secrecy Act or other legislation.

<sup>3</sup> The tax administration may provide information that is required in a preliminary investigation. It may also provide information requested by the intelligence unit, so long as conditions are met. Suspicions of criminal activity must be reported to the public prosecutor. The Swedish Tax Agency is legally obliged to report suspicion of bribery to the public prosecutor. National legislation against money laundering and terrorism financing focuses on the sphere of private trade and business, where far-reaching obligations have been introduced. Notwithstanding an extensive tax secrecy legislation the Tax Agency may report suspicion of serious crimes, regardless of the character of the predicate offence.

<sup>4</sup> To obtain information from the tax administration, the FIU must demonstrate the specific facts and circumstances which may be confirmed by the information requested.

<sup>5</sup> Information may be provided to the TFIU Intelligence unit on request and spontaneously.

<sup>6</sup> The FIU is part of the National Criminal Intelligence Service, which is a division of the National Police Board, and has direct access to police information.

<sup>7</sup> The FIU is able to provide information spontaneously or on request, to the extent this is permitted under the Secrecy Act.

<sup>8</sup> Information concerning suspected money laundering or any predicate offence is provided to the appropriate police or law enforcement authority. In ongoing investigations directed by a prosecutor, the prosecutor may also request information.

<sup>9</sup> *Finansinspektionen* has an obligation to report suspicions of certain offences, such as insider dealing, to the public prosecutor. Other relevant information may be provided to the police or prosecution at the regulator's discretion.

## Models for enhanced co-operation

### *Co-operation between government agencies*

#### *Background*

During the autumn 2007, the government decided a national effort against serious organised crime. The Justice Department gave a number of experts the commission to submit proposals for a more effective and sustainable combat of this type of crime. Based on the expert proposals the government decided on how the work would go on.

#### *The Commission*

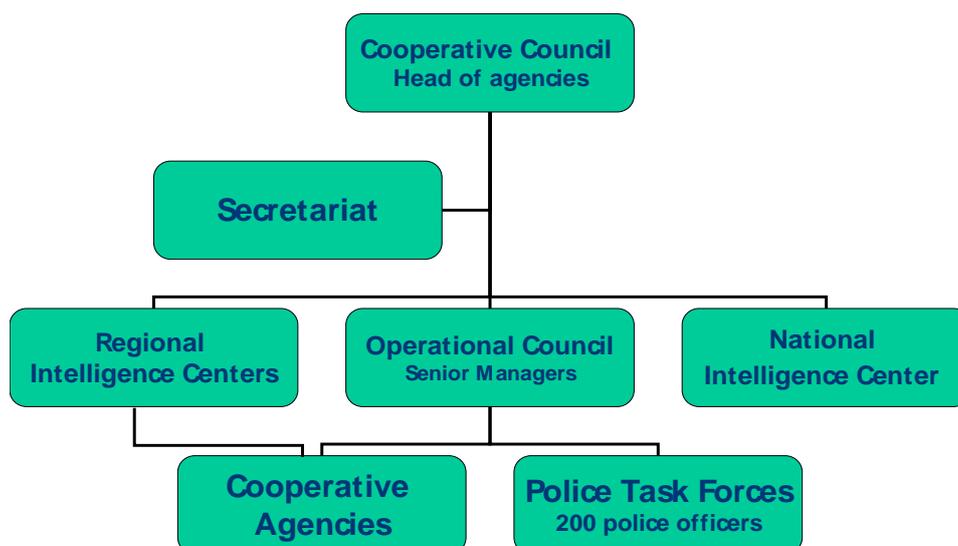
In July 2008, the National Police Board got the task of ensuring efficient and sustainable operations for combating serious organised crime. The work would be undertaken jointly with the Economic Crimes Bureau, the Prison and Probation Service, the Enforcement Agency, Swedish Coast Guard, the Swedish Tax Agency, Swedish Security Service, Swedish Customs and the Prosecutors Office. In 2010 the Social Insurance Office also joined the effort against serious organised crime

The commission included measures to:

- establish task forces at eight local police authorities and at the National Criminal Police;
- establish eight Regional Intelligence Centres (RIC) together with co-operating agencies;
- develop a National Intelligence Centre (NIC) together with co-operating agencies; and
- assure a broad representation from all cooperating agencies in the Operating Council (OC) to be able to make conclusive decisions.

The police was asked to be responsible for all coordination regarding the implementation of the mission. The government stated clearly that the starting point of the mission would be a jointly developed threat assessment, which should lead to a decision on a common national strategy. The assignment also included to report the results of the special efforts to combat serious organisational crime.

The authority joint effort against serious organised crime came into force on 1 July 2009. The organisation now consists of a Co-operative Council and an Operational Council, a secretariat, a National Intelligence Centre (NIC), eight Regional Intelligence Centres (RIC) and eight task forces. This common platform is described below.



Source: Skatteverket (Swedish Tax Agency)

### *The Co-operative Council*

Its main task is to decide on the strategic direction for the authority joint venture. Co-operative Council orders annually an authority common threat assessment, of the NIC, relating to serious organised crime (National OCTA). Based on this OCTA an annual strategic decision is made. The decision determined by the Co-operative Council is governing for activities in the Operating Council. Co-operative Council meets twice a year by the National Police Commissioner as Chairman and decisions are always in consensus.

### *The Operational Council*

Operational Council is composed of operational managers from the agencies represented on the Cooperative Council. The representatives of the Council has a mandate to its authority or police region take operational decisions, which, inter alia, means that the resource will be available when required.

Operational Council has the task of prioritising and to decide on the use of action groups and other multi-disciplinary resources. Operational Council meets every two weeks with the head of National Criminal Police as chairman and decisions are always in consensus.

### *Secretariat of Co-operative Council and the Operational Council*

The Secretariat's main task is to plan and prepare cases, make proposals for decisions, monitor Co-operative Council and the Operational Council meetings. In addition, the secretariat is responsible for the follow up and annually compiling a report to the government, regarding the outcome of the agency joint effort against serious organised crime.

### *The National Intelligence Centre (NIC)*

NIC consists of the collaborating authorities except from the Prosecution Authority. The center has a strategic function for intelligence analysis and an operational function for intelligence co-ordination.

One of the NIC main tasks is to compile an authority common threat assessment, which is the basis for strategic direction decisions. They shall also, in collaboration with the RIC, develop methods, clarify what intelligence needs are to be met, and ensure that the information flow between the eight RIC is co-ordinated. They will also run a systematic inventory on facilitating factors for serious organised crime in order to improve the fight against this crime. NIC has the primary responsibility for a performance report that measures the effect of the joint work on the current case summaries linked to strategic people and their networks.

### *Regional Intelligence Centres (RIC)*

The main task for RIC is to carry out inter-agency intelligence work in the region. RIC should comprise a steering committee with executives and a group with officers from the collaboration authorities and the Immigration Service. The centres are at eight locations in the country. The composition of groups and meeting frequency are varied, but generally officers work together about three days a week. All proposals for action to be decided on the Operational Council should have been processed by the RIC or NIC.

Guidelines concerning co-operation within each RIC provide the following.

- Officials must, during certain working hours, co-operate at the same working place
- To keep contact with their own authorities, and in order to collect and exchange information, it is important that participants work partly at their own authority.
- Officials must have high competence.
- The RIC is located in the building of the Police Authority.
- Participating authorities must install online links to the RIC.
- Intelligence officials must have access to their own authorities' information in the premises at the RIC.
- The steering committee of the RIC includes executives from all participating authorities.
- The steering body prioritizes and order projects.
- Officials can take decisions based on the resources in their own authority.
- Secret information can be provided to the RIC where it is clear that the interest in sharing the information has priority over the requirement for secrecy.
- Every authority is responsible for its own secrecy.

### *Task forces*

Task forces work with preliminary investigations, surveillance and intelligence and consist of altogether 200 police employees, spread over the seven police regions and the National Police. The groups consist of managers / leaders, investigators, analysts, registrars

and administrators. Task forces composition and size vary. The teams will work nationally and flexibly and almost exclusively in action decided by the Operating Council.

*Other co-operation*

The Swedish tax administration has wide collaboration with a number of authorities and organisations. These include the following.

- Swedish Companies Registration Office
- Social Security Office
- Customs
- Enforcement Agency
- Police
- Public Prosecutor
- Economic Crimes Bureau
- Swedish Work Environment Authority
- Swedish Prosecution Authority
- Swedish National Council for Crime Prevention
- Swedish Financial Supervisory Authority
- Swedish Migration Board
- The Swedish National Institute of Public Health
- Professional organisations

*Co-operation with business, the tax profession, academic bodies and other organisations*

There is wide collaboration between the Swedish tax administration and professional organisations.

## Switzerland

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

Taxation in Switzerland is levied at federal level and cantonal/communal level.

The Cantonal Tax Administrations are responsible for assessing and collecting federal and cantonal direct taxes; conducting tax audits of enterprises; and conducting investigations into minor cases of evasion of direct taxes, including reaching a decision on these cases.

The Federal Tax Administration is responsible for monitoring self-assessed indirect taxes, such as VAT and withholding taxes and conducting penal procedures related to indirect taxes. With respect to the administration of federal direct taxes, it supervises the Cantonal Tax Administrations and conducts investigations into serious evasion of direct taxes.

#### *Tax crime investigation*

Within the Federal Tax Administration, a separate and specialised Division of Penal Affairs and Investigation is responsible for conducting investigations into serious cases of evasion of direct taxes. Sentences in such cases are pronounced by the cantonal tax authorities. The Division of Penal Affairs and Investigation is also competent to conduct investigations and reach decisions regarding the evasion of withholding taxes and stamp duties. In all other penal tax cases, the Cantonal Tax Administrations are competent for both the procedure and the sentence.

Penal procedures on VAT matters are under the responsibility of the VAT Division within the Federal Tax Administration and (with respect to the importation of goods) the Swiss customs administration.

#### *Police*

The competency of the Cantonal Police and Federal Police reflect the competency of the respective Public Prosecutor's Offices.

The Cantonal Police are competent to investigate general financial crime, whereas the Federal Police investigates cases including money laundering, organised crime, terrorist financing and offences that were committed to a large part overseas or across several cantons. No police force has competence to investigate tax offences, as these fall within the mandate of the tax administrations.

#### *Prosecution authority*

Cantonal prosecutors are competent to prosecute most categories of crime, including general financial and economic crime. There are no specific tax crime prosecutors, and all prosecutors have a duty to prosecute tax crimes based on investigations conducted by the Cantonal Tax Administration.

Federal prosecutors are competent to deal with cases that are legally attributed to federal competence, such as money laundering, organised crime, terrorist financing and criminal activity that has been committed to a large part overseas or across several cantons.

### ***Financial Intelligence Unit***

The Money Laundering Reporting Office Switzerland (MROS) is Switzerland's central financial intelligence unit (FIU) and functions as a relay and filtration point between financial intermediaries and the prosecution authorities.

According to the Anti-Money Laundering Act (AMLA) MROS is responsible for receiving Suspicious Activity Reports from financial intermediaries (banks, investment societies, insurance companies, etc.) on activities that may constitute money laundering, underlying predicate offences or terrorism financing. MROS gathers and analyses this data, and forwards relevant information to the appropriate federal or cantonal prosecution authority if there is reasonable suspicion of money laundering, underlying predicate offences or terrorism financing.

MROS publishes annual statistics on developments in the fight against money laundering, organised crime and terrorist financing in Switzerland, and identifies typologies that are useful for training the financial intermediaries. MROS is organised as an independent section within the Federal Office of Police. It is not a law enforcement authority in itself, but an administrative unit with special tasks.

### ***Financial regulator***

As the financial market supervisory authority, FINMA supervises all local financial institutions with regard to prevention of money laundering and financing of terrorism. FINMA is responsible for the ongoing analysis of applicable anti-money laundering regulations, taking appropriate steps to amend these where necessary, and supervising respective compliance of financial institutions. It is also active internationally. Further, FINMA deals with issues relating to financial crime, such as the financing of terrorism, organised crime, corruption, proliferation financing, sanctions and embargos. This may include defining relevant regulatory requirements for and supervision of adherence by financial institutions as well as participating in national co-ordinating committees.

If FINMA identified indicators of a financial institution's failure to comply with legislation or regulations, it will take necessary action in order to restore a lawful and compliant situation. FINMA is not a law enforcement agency and does not investigate or prosecute financial crimes, but it may report suspected criminal offences to federal and cantonal prosecutors and will co-operate with them in a comprehensive manner.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Reporting obligatory <sup>1</sup>	Reporting obligatory	Reporting obligatory <sup>2</sup>	On request <sup>3</sup>
	Customs administration	Reporting obligatory	Reporting obligatory		Reporting obligatory	Reporting obligatory
	Police or public prosecutor	Reporting obligatory <sup>4</sup>	Reporting obligatory	Reporting obligatory		Direct access <sup>5</sup>
	Financial Intelligence Unit	No sharing <sup>6</sup>	No sharing <sup>6</sup>	Reporting permitted	Reporting obligatory	
	Financial regulator	Reporting permitted <sup>7</sup>	Reporting obligatory	On request	Reporting obligatory	Reporting obligatory

<sup>1</sup> Officials within the Federal Tax Administration and Cantonal Tax Administrations responsible for administering and assessing taxes are required to share with the agencies' criminal investigators any information that is required for the purposes of investigating a tax offence.

<sup>2</sup> Since 1 January 2011, the federal law has contained a duty of every federal civil servant, including tax officials, to report to the public prosecutor suspicions of all misdemeanours or felonies which they become aware of in the course of their professional activity. The Federal Tax Administration has nominated one of its units to assist tax officials in complying with this obligation and reporting offences.

<sup>3</sup> In order to obtain information from the Federal Tax Administration or Cantonal Tax Administrations, MROS must demonstrate the specific facts and circumstances which may be confirmed by the information requested.

<sup>4</sup> The police must provide Federal Tax Administration and Cantonal Tax Administrations with any information they obtain that may be useful in the administration and assessment of taxes.

<sup>5</sup> MROS has direct access to certain police databases. Other information is provided spontaneously where it is relevant to MROS's work.

<sup>6</sup> MROS is not authorised to share information it holds with the Federal Tax Administration or Cantonal Tax Administrations, which are also responsible for investigating tax offences. MROS is an administrative body within the Federal Office of Police.

<sup>7</sup> FINMA will also provide on request all information necessary for the execution of Swiss tax law.

## Turkey

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The *Gelir Idaresi Başkanlığı* (GIB) is the Turkish tax administration and has an important role to play in combating financial crimes, and in particular tax evasion and tax fraud. Tax Offices are responsible for assessing and collecting taxes and identify activities that include possible breaches of tax law. The GIB also assesses the data stored in the its databases so as to make it available for the use of units responsible for tax investigations, and makes reports and recommendations on possible tax offences.

In the past, the GIB did carry out tax crime investigations through revenue controllers in the administration's head office and tax auditors in regional offices. However, since the creation of the Tax Inspection Board (VDK), officials responsible for investigating offences have been incorporated in this new agency, although small-scale investigations are still carried out by the GIB through regional Tax Office Directors who report the conclusions of their investigations directly to the prosecution authorities.

The GIB tax database holds information about individuals and institutions and the GIB Tax Compliance and Analysis Centre conducts computer-assisted analyses for the detection of non-compliance. In this connection, several projects have been developed to encourage voluntary compliance and identify possible offences, including:

- risk analysis of VAT returns;
- taxpayer report-cards project,
- prior preparation of tax returns for income from immovable property by the GIB; and
- POS monitoring for voluntary compliance and assessment.

#### *Tax crime investigation*

Under a Decree-law dated 10 July 2011, the VDK was established under the Ministry of Finance, reporting directly to the Minister. The main responsibility of the VDK is to carry out tax investigations through Tax Inspectors, under the direction of the public prosecutor. While the VDK does not have prosecuting functions, it is the competent authority for the detection and investigation of tax crimes.

Where in the course of investigations a Tax Inspector finds evidence of non-tax financial offences, these are reported to the competent investigation authority.

#### *Customs administration*

The Customs Enforcement General Directorate is one of the main service units of the Ministry of Customs and Trade and carries out activities such as: the prevention of smuggling within the Customs Zone of The Republic of Turkey, in co-operation with relevant institutions as required; the tracking of persons, goods and vehicles in the Customs Zone of The Republic of Turkey for the purposes of combating smuggling; the carrying out

of necessary investigations, inquiries and operations, and co-operation with national and international institutions, with a view to combating smuggling; and the exchange of information and participation in joint operations as required.

In order to fight smuggling more effectively, the Customs Enforcement General Directorate also holds databases containing information obtained from national and international sources, which is processed and may be forwarded to the Risk Management and Control General Directorate, for the purposes of risk analysis.

### ***Police***

The Directorate General of Turkish National Police includes an Anti-Smuggling and Organised Crime Department, which is responsible for combating financial crimes, including smuggling, counterfeiting, aggravated fraud, usury, money laundering, swindling and IT crimes. The Anti-Smuggling and Organised Crime Department obtains intelligence, carries out evaluations, takes measures for the prohibition and prosecution of crimes and enforces the law as required.

### ***Other key law enforcement agencies***

The Gendarmerie General Command (GGC) operates in regions of Turkey that are outside of the areas assigned to the police. The duties of the GGC are to detect and investigate criminal activity, and to report the results of their investigations to judicial authorities for prosecution. Within the GGC, the Anti-Smuggling and Organised Crime Department deals with financial crimes. The GGC is structurally part of the Turkish Armed Forces, but with respect to its policing activities it is subject to the Ministry of Interior.

The Turkish Coast Guard Command undertakes activities to prevent and monitor suspected smuggling by sea.

### ***Prosecution authority***

Public prosecutors are responsible for conducting and prosecuting all crimes including tax offences. Where any suspicion of possible criminal activity is reported to the Public Prosecutor's Office, prosecutors review the case and may initiate a criminal investigation. Depending on the nature of the suspected offence, prosecutors could instruct the VDK, customs administration or Financial Crimes Investigation Board (the Turkish FIU) to conduct a financial audit, or commence a criminal investigation through the police or other law enforcement agency.

### ***Financial Intelligence Unit***

The Financial Crimes Investigation Board (MASAK) is Turkey's Financial Intelligence Unit. MASAK receives and analyses Suspicious Transaction Reports received from the financial sector and designated non-financial businesses. MASAK may also share intelligence with other authorities for analysis, for example with the GIB where there is a suspicion of possible tax offences. Where as a result of these analyses, MASAK concludes that there is evidence of possible money laundering or other offences, this information is provided to the Public Prosecutor's Office and may also be provided to the competent law enforcement agency.

MASAK may make an order to confiscate property where there are reasonable grounds to suspect possible money laundering. Such an order is also sent to the Public Prosecutor's Office.

### *Financial regulator*

The Banking Regulation and Supervision Agency (BRSA) is public legal entity with administrative and financial autonomy. The Agency is headquartered in Ankara and has an office in İstanbul. Its mission is; to provide confidence and stability in financial markets, to bring competition power to the financial system, to ensure active operating of the credit system, to safeguard the rights and benefits of depositors, and to take necessary measures in order to ensure the institutions subject to supervision operate healthy and orderly in a market discipline.

According to Banking Law (Nr. 5411), the responsibilities of BRSA are:

- to take necessary decisions and measures in order to protect the rights of depositors and ensure sound operating of the credit system and to implement them;
- to regulate, enforce and ensure the enforcement thereof, to monitor and supervise the implementation of establishment and activities, management and organisational structure, merger, disintegration, change of shares and liquidation of banks and financial holding companies as well as leasing, factoring and financing companies without prejudice to the provisions of other laws and related legislation;
- to become members of international financial, economic and professional organisations in which domestic and foreign equivalent agencies participate, to sign memorandum of understanding with the authorised bodies of foreign countries regarding the issues that fall under the BRSA's area of responsibility; and
- to fulfil other duties assigned by the Law.

The Capital Markets Board of Turkey (CMB) is the first regulatory and supervisory authority in charge of the securities and derivatives markets in Turkey. Empowered by the Capital Markets Law, which was enacted in 1981, the CMB has been making detailed regulations for organising the capital markets and developing market instruments and institutions. The CMB licenses, regulates and supervises capital markets and institutions in Turkey. Its remit is to:

- maintain fair, orderly and efficient capital markets;
- ensure that investors are protected and receive full, accurate and timely information; and
- safeguard investments in capital markets.

The CMB is organised in 12 departments, including the Department of Enforcement, which supervises public companies, brokerage houses and other financial institutions operating in securities markets. The Department also assists the CMB in enforcing securities regulations and investigates possible violations.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access	Reporting obligatory	Reporting permitted	Direct access
	Customs administration	Reporting obligatory	Reporting permitted		Reporting permitted	Reporting permitted
	Police or public prosecutor	On request	Reporting permitted <sup>1</sup>	Reporting obligatory		Reporting permitted <sup>2</sup>
	Financial Intelligence Unit	Reporting permitted	Reporting permitted <sup>3</sup>	On request <sup>4</sup>	Reporting obligatory <sup>5</sup>	
	Financial regulator	Reporting permitted	Reporting permitted	Reporting permitted	Reporting obligatory	Reporting permitted

<sup>1</sup> The police do not conduct investigations on tax crimes and so provide all information on these cases to the VDK, which carries out the investigation.

<sup>2</sup> Although the police may exercise discretion in providing information spontaneously to MASAK, the Public Prosecutor's Office must inform the FIU about results of court decisions related to money laundering and terrorist financing offences.

<sup>3</sup> Information on possible tax offences is reported to the VDK for investigation.

<sup>4</sup> MASAK may also share information with other authorities for analysis.

<sup>5</sup> MASAK is under an obligation to share information relevant to non-tax offences with the public prosecutor. MASAK may also share information with the police, but is not under an obligation to do so.

## Models for enhanced co-operation

### *Co-operation between government agencies*

The GIB has signed protocols for the sharing of information with approximately 50 public institutions and administrations. In particular, the GIB has implemented electronic mechanisms for sharing information concerning financial crimes with MASAK, the Ministry of Customs and Trade and the Under-Secretariat of the Treasury.

The Turkish National Police and MASAK are able to form joint investigation teams to work on complex money laundering cases. These teams include financial experts, who conduct analyses of accounts, assets, and financial records, and police officers, who carry out arrests, searches and phone taps with respect to the underlying predicate offence.

The Co-ordination Board for Combating Financial Crimes was established in order to evaluate the draft laws on prevention of laundering proceeds of crime and to co-

ordinate relevant institutions and organisations regarding their implementation. The Co-ordination Board is chaired by the Undersecretary of the Ministry of Finance and includes the Presidents and senior officials from agencies and bodies including MASAK, the Finance Inspection Board, the VDK, the GIB, the Ministry of the Interior, the Ministry of Justice, the Ministry of Foreign Affairs, the Board of Treasury Comptrollers, the Treasury, Customs, the Banking Regulation and Supervision Agency, the Capital Markets Board and the Central Bank.

***Co-operation with business, the tax profession, academic bodies and other organisations***

According to regulations, taxpayers must process payments over a designated amount through a bank, which must provide this information to the GIB. Therefore, tax auditors receive important information from banks for use in their work.

***Technologies and other processes used to enhance the effectiveness of co-operation***

The tax offices automation system, E-VDO, allows data exchange between the systems of public organisations and institutions. The GIB shares information, including tax identification number, ID card number, taxpayer addresses, taxpayer status, and work details and history, with forty four public institutions via web services.

## Uganda

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Tax administration is:

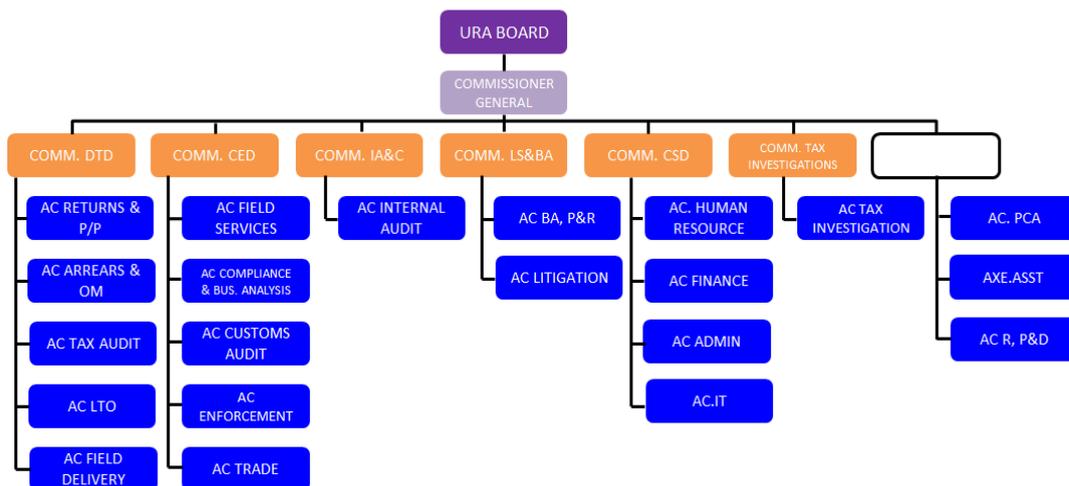
- a body corporate with perpetual succession;
- capable of suing and being sued in its corporate name; and,
- an agency of the government of Uganda and is under the supervision of the Ministry of Finance, Planning and Economic Development.

The Tax Administration is headed by the Commissioner General and has six commissioners who head the following Departments: Tax Investigations; Legal Services & Board Affairs; Corporate Services; Internal Audit & Compliance; Domestic Taxes; and Customs.

The role of the tax administration is:

- to Administer, assess, collect and account for all revenue to which the respective laws apply as highlighted in the first schedule of the Uganda Revenue Authority Act, Cap 196;
- to advise the Minister on revenue implications, tax administration and aspects of policy changes relating to all taxes referred to in the first schedule of the Uganda Revenue Authority Act, Cap 196; and,
- to perform other functions in relation to revenue as the Ministry of Finance, Planning and Economic Development may direct.

#### *Structure*



*Source:* Uganda Revenue Authority

*Notes:* **AC BA, P&R** – Assistant Commissioner Board Affairs, Policy and Ruling, **AC. IT** – Assistant Commissioner Information Technology, **AC. ADMIN** – Assistant Commissioner Administration, **AXE. ASST** – Executive Assistant Commissioner, **AC. PCA** – Assistant Commissioner Public and Corporate Affairs, **AC. R P&D** – Assistant Commissioner Research Planning & Development

### *Tax crime investigation*

The Tax Criminal investigations function is performed by a division within the Ugandan Tax Administration. The department carries out both criminal and civil tax investigations.

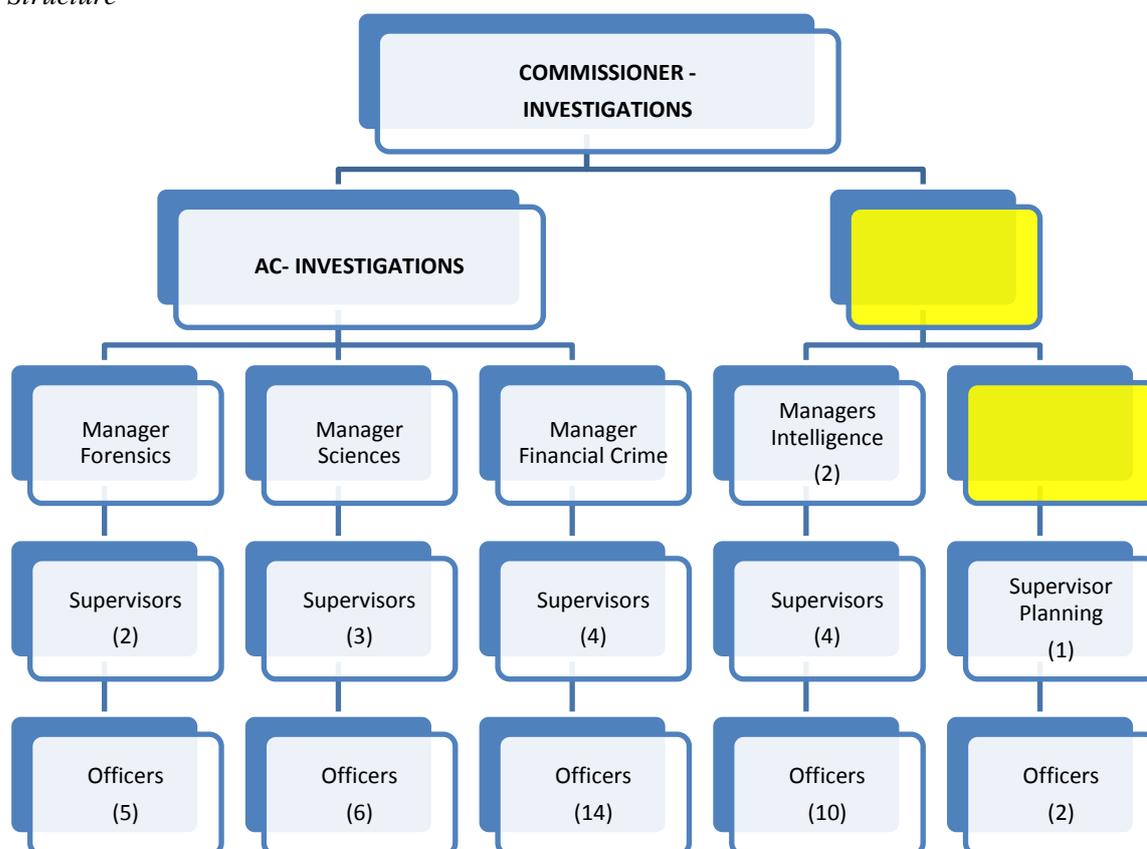
The role of the tax crimes investigations division is:

- to plan and manage the sourcing, storage, processing, risk-analysis and dissemination of the strategic and operational business intelligence and generate Tax Criminal Investigation cases; and,
- to collect and assemble information that shall support the litigation process in the organisation.

The core functions of the tax crimes investigations division are:

- to obtain evidence of wilful commission of an offence; prepare prosecution files; evidence assembling; graphical illustrations and testify in courts of law;
- to co-ordinate, monitor progress, analyze investigative approaches to ensure appropriateness and reconcile investigations findings with tax payers, case officers and management in line with the tax compliance guidelines and criminal procedures law; and
- to plan and coordinate the management and prosecution of cases of criminal nature in line with the Tax laws and penal code.

### *Structure*



Source: Uganda Revenue Authority

The criminal Tax Investigations function is organised alongside the following functions:

- Intelligence;
- Science;
- Forensics; and
- Financial crime investigation.

This structure has enabled the Department provide specialised support to both internal and external stakeholders in the pursuit of criminal Tax investigations

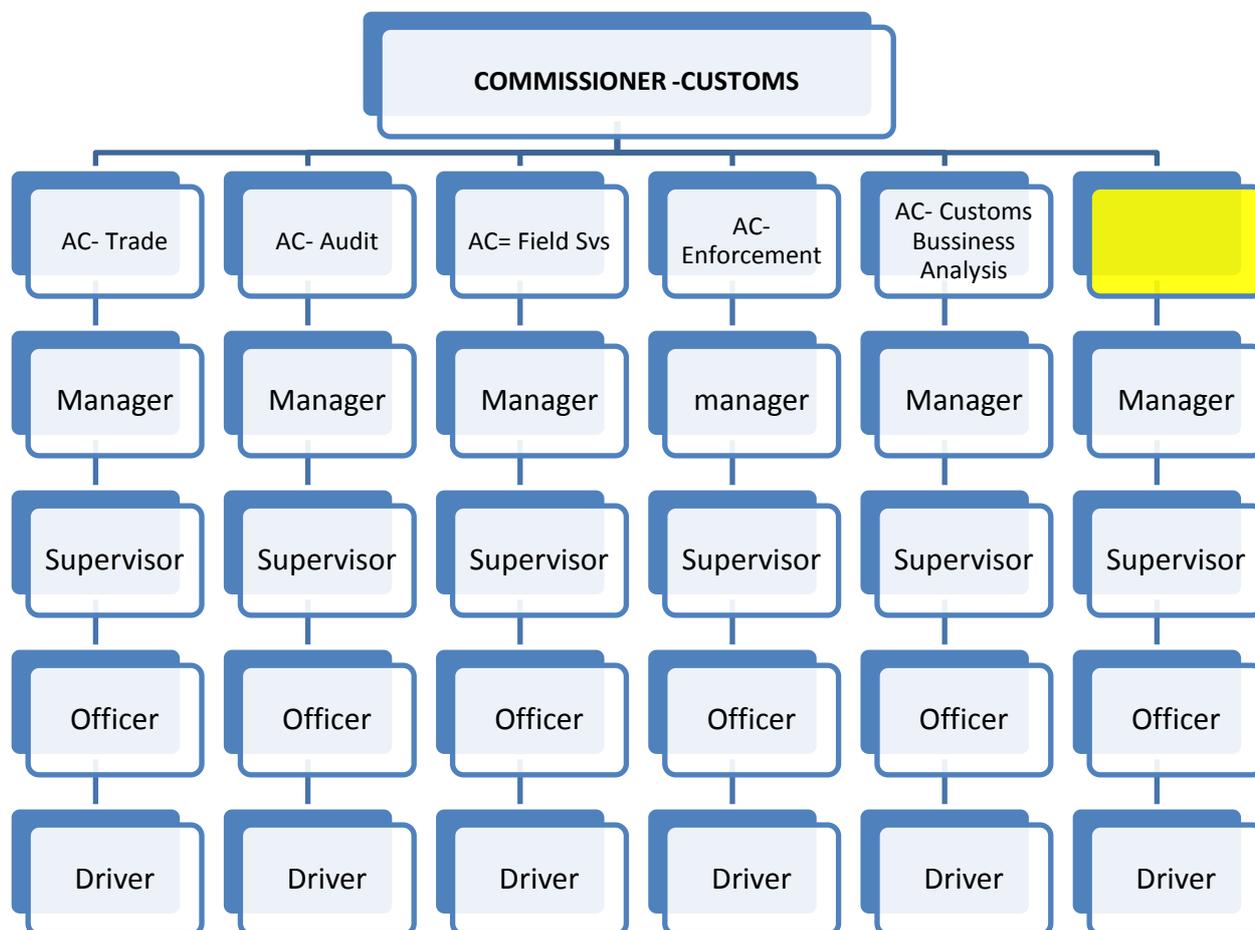
### *Customs administration*

The customs function is performed by a division within the Tax Administration that is organised along the following divisions:

- Customs Audit;
- Customs Enforcement;
- Field Services
- Trade; and,
- Compliance & Business analysis.

The role of customs division of the Tax Administration is:

- collection of revenue on behalf of the Government;
- collection of statistical data;
- protection of society through enforcement of prohibitions and restrictions and security; and,
- trade facilitation through harmonisation of procedures and removal of barriers to trade.

*Structure*

Source: Uganda Revenue Authority

All customs related criminal investigations are conducted by the Tax Investigations Department which is one of the Departments under the Uganda Revenue Authority. The Customs Department principally focuses on audit and enforcement using mainly civil administrative penalties as tools to enhance Tax compliance.

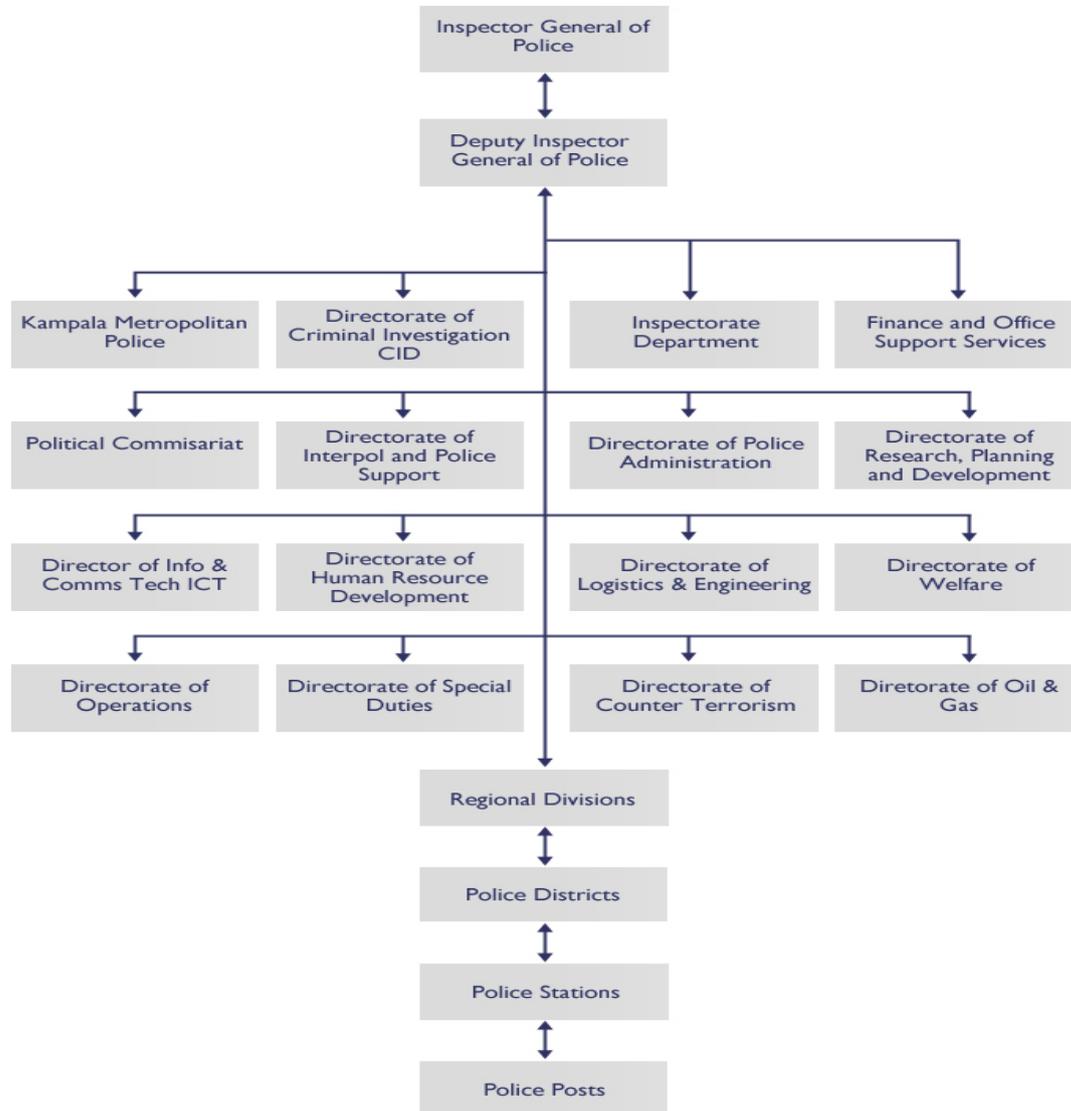
***Police***

Subject to the Constitution and the police Act, the role of the force is to:

- protect the life, property and other rights of the individual;
- maintain security within Uganda;
- enforce the laws of Uganda;
- ensure public safety and order;

- prevent and detect crime in the society;
- perform the services of a military force- Subject to Section 9 of the Police Act; and
- perform any other functions assigned to it under the Police Act.

### Structure



Source: Uganda Revenue Authority

### Prosecution authority

The Criminal prosecuting authority in Uganda is the Office of the Directorate of Public Prosecutions (DPP). The DPP exists to prosecute all criminal cases in the country on behalf of the state

Key outputs include:

- effective institution and control of criminal prosecutions in the country;

- prosecutions of suspected criminals which help deter crime and/or maintain confidence in the country's system of criminal justice;
- expeditiously detect crimes, investigate and prosecute suspected criminals;
- fair administration of justice in prosecution of criminal proceedings achieved;
- timely directives for specific investigations issued to police; and
- timely legal advice and clear requisite guidelines for comprehensive investigations and/or further inquiries to the relevant authorities issued.

The key functions of the DPP are:

- to direct police to investigate any information of a criminal nature;
- to institute criminal proceedings;
- to take over and continue such criminal proceedings that have been instituted or undertaken by any other person or authority;
- to discontinue at any stage before judgement is delivered any such criminal proceedings instituted or undertaken by the Director or with the consent of court, those instituted or undertaken by any other person or authority,;
- to give advice and guidance to the Criminal Investigation Department (CID) in particular and other Government departments in general, on the conduct of criminal investigations or decision to prosecute and what charges to prefer;
- to collaborate and pursue appropriate, prompt and successful investigation and prosecution of complaints of a criminal nature and cases with institutions involved in identifying, investigating and prosecuting criminal complaints and cases; and
- to institute criminal proceedings against any person or authority in any court with competent jurisdiction other than a court martial.

The DPP is divided into 2 main functional areas: the Division of Prosecutions and Quality Assurance; and the Division of Management Support Services. Each division is headed by a Deputy Director of Public Prosecutions reporting to the Director of Public Prosecutions. The two deputies are at the level of Registrars of the Courts of Judicature.

The top management consists of the following:

- The Director of Public Prosecutions;
- Deputy DPP (Director) for Prosecutions and Quality Assurance;
- Deputy DPP (Director) for Management Support Services;
- Assistant Director (Commissioner) for Inspection and Quality Assurance;
- Assistant Director (Commissioner) for Prosecutions;

- Under Secretary Finance and Administration;
- Assistant Director (Commissioner) for Field Operations and International Affairs; and
- Commissioner for Records, Information and Computer Services.

It is important to note that the DPP granted authority to the Tax Administration to prosecute Tax criminal offences directly. As a result of this authority, the Tax Administration created a legal arm-Department that principally carries out both civil and criminal prosecutions related to tax.

### ***Financial Intelligence Unit***

To date, Uganda has not criminalised money laundering and does not have a Financial Intelligence Unit. A comprehensive Anti-Money Laundering Bill was approved by the Cabinet in January 2005 but has not been passed into law by Parliament.

### ***Financial regulator***

The Bank of Uganda is the Central Bank of the Republic of Uganda. It was opened on the 15th August 1966. It is 100% owned by the Government of Uganda but it is not a government Department. The Bank of Uganda conducts all its activities in close association with the Ministry of Finance, Planning and Economic Development (MoFPED).

The Bank of Uganda conducts all its activities with the aim of fulfilling its Mission. These activities are carried out under the mandate of the Bank of Uganda Act, 2000 and other legislation.

The Bank's core activities are:

- issuance of Uganda's national currency/legal tender, the Uganda Shilling (UGX);
- regulation of money supply through Monetary Policy;
- act as banker to the Government of Uganda;
- act as banker to Commercial Banks;
- the supervision and regulation of Financial Institutions;
- management of the country's external and foreign reserves;
- management of Uganda's external debt; and
- act as adviser to the Government on financial and economic issues.

The Bank also has responsibility to the public and this is fulfilled through its corporate Social Responsibility programmes.

The Board of Directors is responsible for overall management of the Bank. It is appointed by the President of the Republic of Uganda and is composed of the Governor and

Chairman of the Board; the Deputy Governor and Deputy Chairman of the Board; and not more than five other members.

### Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	Direct access <sup>2</sup>	On request <sup>3</sup>	
	Customs administration	Direct access	Direct access <sup>1</sup>		On request <sup>3</sup>	
	Police or public prosecutor	On request <sup>4</sup>	On request <sup>4</sup>	On request <sup>4</sup>		
	Financial Intelligence Unit					
	Financial regulator	On request <sup>5</sup>	On request <sup>5</sup>	On request <sup>5</sup>	On request <sup>5</sup>	

<sup>1</sup> The Tax Crime Investigations department is one of the arms of the tax administration. Information is exchanged easily by all arms of the tax administration and is used by tax crimes investigation primarily for the generation and development of cases for criminal investigations and as evidence during the criminal prosecution of tax crime offenders.

<sup>2</sup> The customs administration is one of the arms of the tax administration. Information is exchanged easily by all arms of the tax administration and is used by customs primarily for the facilitation of trade, tax enforcement purposes and generation and development of cases for routine compliance purposes.

<sup>3</sup> Information may be provided to the police on request. This information may be used as evidence in courts of law, in the development of criminal cases, for enforcement purposes and in the generation of statistics. There is currently no direct information platform for sharing information between the tax administration and police, which has curtailed direct access to information held by the tax administration. Where the tax administration finds evidence of non-tax offences, it does report this to the police or public prosecutor.

<sup>4</sup> Information is not easily exchanged between the police and tax administration, due to the structural deficiencies and the absence of a shared platform. Information may be exchanged in request for the development of tax crime investigations cases, evidence in courts of law and enforcement purposes.

<sup>5</sup> Strict bank secrecy rules make sharing of information difficult.

### Models for enhanced co-operation

#### *Co-operation between government agencies*

In order to enhance inter-agency cooperation in Uganda, Memoranda of Understanding have been signed aimed at facilitating the sharing of information. The guiding principal in all of these memoranda is that official contact persons are identified in the agencies seeking to share information and these are then tasked to ensure that the agreements are effective.

***Co-operation with business, the tax profession, academic bodies and other organisations***

The computerisation of the registration, returns, payments, audit and investigations processes of the Tax Administration have greatly enhanced the turn-around time within which tax related services are being provided. This has led to increased confidence in the tax system that has encouraged the different stakeholders to provide information relevant to the combating of financial crime.

The use of compliance campaigns and tax education as tools for enhanced cooperation between the Tax Administration and business entities has proved successful.

***Technologies and other processes used to enhance the effectiveness of co-operation***

In order to enhance the effectiveness of any of the arrangements for information sharing, initiatives have been introduced to facilitate the computerisation of all Government departments, such as the lands registry; the registry of companies; and the registration, returns, audit, investigations and payments processes of the Tax Administration. Uganda has also introduced spontaneous information sharing platforms between the Tax administration and Social security Fund.

## United Kingdom

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

HM Revenue and Customs (HMRC) was formed in 2005 following the merger of the Inland Revenue (the tax administration) and HM Customs and Excise (the customs administration). HMRC administers all direct and indirect taxes and duties imposed by national government, including income tax, corporation tax, VAT, excise duties and stamp duties. HMRC is responsible for providing money for public services by maximising tax revenues to close the ‘tax gap’ and enabling all individuals and businesses to receive the payments and credits to which they are entitled.

#### *Tax crime investigation*

HMRC is responsible for investigating crime involving the taxes and other regimes it deals with. Within HMRC, the Criminal Investigation directorate is responsible for investigating criminal tax offences.

The decision to bring a criminal prosecution is made by an independent prosecuting authority. In England and Wales this is the Crown Prosecution Service. In Northern Ireland it is the Public Prosecution Service for Northern Ireland. In Scotland it is the Crown Office and Procurator Fiscal Service.

#### *Customs administration*

HMRC was formed in 2005, following the merger of the Inland Revenue (the direct tax administration) and HM Customs and Excise (the customs administration) so it is a joint tax and customs administration.

HMRC administers all direct and indirect taxes and duties imposed by national government, including income tax, corporation tax, VAT, excise duties and stamp duties.

HMRC’s Criminal Investigation directorate is responsible for investigating crime against the regimes that HMRC administers, including customs offences.

#### *Police*

Policing in the UK comprises 52 Territorial Police Forces with responsibility for policing a geographical region. The Metropolitan Police and the City of London Police have specific responsibility for policing London.

Within the Metropolitan Police, the Economic and Specialist Crime Unit (‘ESCU’) has responsibility for leading investigations in four main areas: Economic Crime; High Tech Crime; Proceeds of Crime, and Human Trafficking. ESCU has a number of teams working in specific areas, including money laundering investigations, asset recovery, e-crime, fraud and criminal intelligence.

The City of London Police Economic Crime Directorate (‘ECD’) comprises six specialist teams: Fraud Squad; Cheque and Credit Card Unit; Money Laundering

Investigation Unit; Dedicated Cheque and Plastic Crime Unit; Fraud Intelligence Development Team, and Overseas Anti-Corruption Unit.

### ***Other key law enforcement agencies***

In October 2013, the National Crime Agency (NCA) took over the work of the Serious Organised Crime Agency ('SOCA') in preventing, detecting and investigating serious organised crime, including drugs offences, human trafficking, major gun crime, fraud, computer crime and money laundering. NCA also includes the UK's Financial Intelligence Unit, and acts as the UK's single point of contact for Interpol, Europol and the Schengen Information System.

The Serious Fraud office (SFO) is an independent Government Department that employs expert forensic accountants, investigators and lawyers to investigate and prosecute serious or complex fraud, and corruption. The SFO has special legislative powers to obtain the evidence needed to build successful cases and bring criminals to justice and so help maintain confidence in the UK's business and financial institutions. The aim of the SFO is to protect society from extensive, deliberate criminal deception which could threaten public confidence in the financial system. SFO investigate fraud and corruption, obtaining and assessing evidence to successfully prosecute fraudsters, freeze assets and compensate victims. In 2010-11, the SFO had a workforce of 300 staff. It prosecuted 17 cases and secured 26 criminal convictions. The SFO also recovered around GBP 10 million in assets and returned over GBP 64 million to victims.

### ***Prosecution authority***

The Crown Prosecution Service is the Government Department responsible for prosecuting criminal cases investigated by the police in England and Wales. As the principal prosecuting authority in England and Wales, it is responsible for: advising the police on cases for possible prosecution, reviewing cases submitted by the police, determining any charges in all but minor cases, preparing cases for court, and presenting cases at court.

HMRC Revenue and Customs Prosecution office merged with the CPS in January 2010.

The SFO also has prosecution powers, and prosecutes serious fraud and corruption cases.

The Crown Office and Procurator Fiscal Service is responsible for the prosecution of crime in Scotland. In Northern Ireland it is the Public Prosecution Service for Northern Ireland.

### ***Financial Intelligence Unit***

The UK FIU follows the Egmont 'law enforcement' model and it is located in, and primarily staffed by, the National Crime Agency (NCA)

The FIU receives, analyses and disseminates data obtained from Suspicious Activity Reports. The FIU sits within a law enforcement agency (SOCA), but its role is to service all the UK Police Forces and other official agencies and bodies which have a legitimate need to access Suspicious Activity Report data. The United Kingdom does not operate a

Suspicious Transaction Report (STR) regime alongside its Suspicious Activity Report (SAR) regime. All reports submitted are on suspicious activity, regardless of whether it is a movement of money or an arrangement. The UK does not have a minimum or maximum threshold amount so there is no Currency Transaction Report (CTR); and there is no de-minimis limit on the value of the suspicion.

HMRC has a small SARs Team embedded in the FIU in order to fully exploit SAR data in the execution of its tax administration, law enforcement and other functions. HMRC has maintained a presence at the FIU since the mid-1990s. It has a very close and mutually supportive working relationship with the FIU.

HMRC is under the direction of HM Treasury (HMT). HMT and HO are each major Minister-led Departments. HMT is responsible for all UK taxation matters but anti-money laundering and terrorist financing responsibilities are shared between the two Departments.

### ***Financial regulator***

The Bank of England has a statutory objective to contribute to protecting and enhancing the stability of the financial systems of the United Kingdom. The Bank of England does this through its risk assessment and risk reduction work, market intelligence functions, payments systems oversight, banking and market operations, including, in exceptional circumstances by acting as lender of last resort, and resolution work to deal with distressed banks. The Bank of England has direct supervision for the whole of the banking system through its powerful Financial Policy Committee (FPC), which can instruct the two regulators.

The Financial Services Authority ('FSA') was replaced on 1 April 2013 by two bodies that regulate the financial services industry in the United Kingdom. The Prudential Regulation Authority (PRA) is part of the Bank of England and is responsible for the prudential regulation and supervision of banks, building societies, credit unions, insurers and major investment firms. In total the PRA regulates around 1,700 financial firms.

The PRA's role is defined in terms of two statutory objectives to promote the safety and soundness of these firms and, specifically for insurers, to contribute to the securing of an appropriate degree of protection for policyholders.

The Financial Conduct Authority (FCA) regulates the financial services industry in the UK. It is responsible for protecting consumers, maintaining stability and promoting healthy competition between financial services providers. It has rule-making, investigative and enforcement powers to protect and regulate the financial services industry.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	Direct access	Reporting permitted <sup>2</sup>	Reporting obligatory <sup>3</sup>
	Customs administration	Direct access	Direct access		Reporting permitted	Reporting obligatory
	Police or public prosecutor	Reporting permitted	Reporting permitted	Reporting permitted		Reporting obligatory
	Financial Intelligence Unit	Direct access <sup>4</sup>	Direct access <sup>4</sup>	Direct access <sup>4</sup>	Direct access	
	Financial regulator	Reporting permitted	Reporting permitted	Reporting permitted	Reporting permitted	Reporting obligatory

<sup>1</sup> Any information held by HMRC is available to be used by officers of HMRC for any other function. Therefore, HMRC Criminal Investigations is able to use any information held by HMRC for the purposes of a criminal investigation. Criminal investigators have direct access to HMRC databases containing taxpayer details, and may obtain other information on request to the relevant area.

<sup>2</sup> There is no legal obligation on tax officials to report suspicions of non-tax offences to law enforcement. However, legal gateways do exist to enable reporting to take place at the discretion of HMRC, and a specialist team has been established within the tax administration to receive reports of suspicions from individual officials.

<sup>3</sup> The FIU has no direct access to tax administration information. HMRC supervises compliance with anti-money laundering regulations by certain industry sectors, including money service businesses, high value dealers, trust or company service providers and accountancy service providers. Where, in this capacity, HMRC obtains information concerning possible money laundering, it is obliged to inform the FIU. However, the FIU is not permitted under law to receive information held by HMRC in its capacity as tax administration unless authorised by an HMRC Commissioner.

<sup>4</sup> HMRC (Criminal Intelligence directorate) has direct access to Suspicious Activity Reports held by the FIU, via a secure online facility, Moneyweb. Very sensitive reports, for example concerning police corruption and live terrorism investigations, are not available on Moneyweb, but can be obtained on request. Access to Moneyweb within HMRC is restricted to financial investigators, intelligence officers and confiscation officers that work across the tax compliance and criminal investigations divisions of HMRC; with a solid firewall between the investigatory and supervisory functions of HMRC (the supervisory function does not have access). Information obtained from the FIU can be used in determining civil tax assessments, but Suspicious Activity Reports cannot be shared with unauthorised staff unless the reports are first sanitised to protect the source of information. In addition, the FIU refers almost all cases involving tax matters to the tax administration.

## Models for enhanced co-operation

### *Co-operation with business, the tax profession, academic bodies and other organisations*

HMRC currently chairs the UK Criminal Finance Threat Reduction Board, which is multi-agency and includes engagement with the private sector to discuss risks to law enforcement from technology enabled financial services (such as prepaid cards, mobile

banking products etc) and professional enablers. The chair of the CFTRB is moving to the National Crime Agency in 2013

HMRC is a member of the Money Laundering Advisory Committee, which is a forum for Government, industry representatives (accountancy bodies, the British Bankers Association and UK Payment Services) and law enforcement agencies to develop a strategic approach to tackling money laundering in the UK.

HMRC is a member of the Suspicious Activity Report (SAR) Regime Committee which brings together law enforcement and industry representatives involved in the SARs regime. It also ensures developments in the regime are effectively reported back to the Treasury Money Laundering Advisory Committee (MLAC).

HMRC works with the cross-law enforcement agency Economic Crime Command which is tasked with drawing together and coordinating the UK's efforts to combat economic crime.

## United States

### Key agencies in combating tax crimes and other financial crimes

#### *Tax administration*

The Internal Revenue Service (IRS) is the sole agency responsible for federal tax administration. However, for those states that have state income tax, there is also a state agency that handles tax administration for their particular state.

The mission of the IRS is to provide America's taxpayers top quality service by helping them to understand and meet their tax responsibilities and enforce the law with integrity and fairness to all. The IRS role is to help the large majority of compliant taxpayers with the tax law, while ensuring that the minority who are unwilling to comply pay their fair share.

#### *Tax crime investigation*

IRS-Criminal Investigation (IRS-CI) serves the American public by investigating potential criminal violations of US tax law and related financial crimes, including tax evasion. IRS-CI also investigates illegal source financial crimes, narcotics-related financial crimes and counter-terrorism financing.

IRS-CI is the only federal agency that has statutory authority to investigate criminal violations of the Internal Revenue Code, and to refer these cases for prosecution.

#### *Customs administration*

U.S. Immigration and Customs Enforcement (ICE) is the principal investigative arm of the U.S. Department of Homeland Security (DHS), which was created in 2003 through a merger of the investigative and interior enforcement elements of the U.S. Customs Service and the Immigration and Naturalisation Service. Homeland Security investigations (HSI) is a department under ICE.

ICE-HSI is responsible for investigating a wide range of domestic and international activities. ICE-HSI investigates immigration crime, human rights violations, narcotics smuggling, financial crimes, cybercrime and export enforcement issues. As the United States principal border enforcement investigative agency, ICE-HSI is uniquely positioned to investigate all incidents of transnational and cross-border financial crimes

ICE-HSI is the only law enforcement investigative agency that has border search authority, full access to Bank Secrecy Act reports and exclusive access to trade data. ICE-HSI Special Agents are granted broad authorities to investigate violations of federal law at and away from the border.

#### *Police*

There are many law enforcement agencies in the United States at the local, state and federal levels of government. Local police agencies are responsible for investigating crime within their jurisdiction. These crimes range from petty theft to more violent crimes. Local

Police are also responsible for providing safety, security and protection to citizens within their jurisdiction.

### *Other key law enforcement agencies*

The United States has many law enforcement agencies that are specialised. Some of the key agencies that are involved in the prevention, detection and prosecution of financial crimes are set out below.

#### *Federal Bureau of investigation (FBI)*

The mission of the FBI is to protect and defend the United States against terrorist and foreign intelligence threats, to uphold and enforce the criminal laws of the United States, and to provide leadership and criminal justice services to federal, state, municipal, and international agencies and partners. The FBI has jurisdiction of a majority of the US Statutory Code, but they do not have authority to work and recommend the prosecution of tax cases. Only the IRS-CI has statutory authority to work tax.

#### *US Secret Service*

The mission of the United States Secret Service is to safeguard the nation's financial infrastructure and payment systems to preserve the integrity of the economy, and to protect national leaders, visiting heads of state and government, designated sites and National Special Security Events.

#### *Department of Justice (DOJ)*

The DOJ consists of 42 separate components, several of which play a key role in the prevention, detection, investigation and prosecution of financial crimes. These include the United States Attorneys, who prosecute offenders and represent the United States Government in court and the National Security Division, which coordinates the Department's highest priority of combating terrorism and protecting national security. In addition, the following are other key DOJ agencies and departments that play a major role in the prevention, detection, investigation and prosecution of financial crimes.

- DOJ Criminal Division - The mission of the Criminal Division is to serve the public interest through the enforcement of criminal statutes in a vigorous, fair, and effective manner; and to exercise general supervision over the enforcement of all federal criminal laws, with the exception of those statutes specifically assigned to the Antitrust, Civil Rights, Environment and Natural Resources, or Tax Divisions.
- DOJ-Tax Division - The Tax Division's mission is to enforce the nation's tax laws fully, fairly, and consistently, through both criminal and civil litigation, in order to promote voluntary compliance with the tax laws, maintain public confidence in the integrity of the tax system, and promote the sound development of the law.

#### *Drug Enforcement Agency (DEA)*

The mission of the DEA is to enforce the controlled substance laws and regulations of the United States and to bring to the criminal and civil justice systems those organisations and principal members of organisations involved in the growing, manufacture, or distribution of controlled substances.

### *Office of Terrorist and Financial Crimes (TFFC)*

The TFFC is an agency of the United States Department of the Treasury. TFFC is the policy development and outreach office for the Under Secretary and works across all elements of the national security community, including the law enforcement, regulatory, policy, diplomatic and intelligence communities, and with the private sector and foreign governments to identify and address the threats presented by all forms of illicit finance to the international financial system. The TFFC advances this mission by developing initiatives and strategies to deploy the full range of financial authorities to combat money laundering, terrorist financing, proliferation of weapons of mass destruction, and other criminal and illicit activities both at home and abroad.

### ***Prosecution authority***

IRS-CI has dedicated attorneys who advise special agents on legal issues and review cases before they are forwarded for criminal prosecution. These attorneys are assigned to the IRS Chief Counsel's office, Criminal Tax Section.

After IRS-CI completes a case for criminal prosecution, the case is forwarded to the Department of Justice Tax Division (DOJ Tax), which has sole authority for approving tax prosecutions. Although DOJ Tax can also prosecute tax cases, the United States Attorney's office has the primary responsibility for prosecuting tax crimes after receiving authorisation from DOJ Tax.

### ***Financial Intelligence Unit***

The US Department of the Treasury established the Financial Crimes Enforcement Network (FinCEN) in 1990 to provide a government-wide multisource financial intelligence and analysis network. The organisation's operation was broadened in 1994 to include regulatory responsibilities for administering the Bank Secrecy Act, one of the nation's most potent weapons for preventing corruption of the U.S. financial system.

The Director of FinCEN reports to Treasury's Under Secretary for Terrorism and Financial Intelligence (TFI). TFI is the lead office in the Treasury Department for fighting the financial war on terror, combating financial crime, and enforcing economic sanctions against rogue nations.

The mission of FinCEN is to enhance U.S. national security, deter and detect criminal activity, and safeguard financial systems from abuse by promoting transparency in the U.S. and international financial systems. FinCen achieves this mission by:

- administering the Bank Secrecy Act;
- supporting law enforcement, intelligence, and regulatory agencies through sharing and analysis of financial intelligence;
- building global cooperation with our counterpart financial intelligence units; and
- networking people, ideas, and information.

Each large federal agency in the United States has a full time FinCEN liaison posted at FinCEN Headquarters. This facilitates an exchange of information, typologies and trends from each agency to the FIU.

### ***Financial regulator***

The US has many financial regulatory agencies, a number of which are set out below.

#### *Securities and Exchange Commission (SEC)*

The mission of the SEC is to protect investors, maintain fair, orderly and efficient markets and facilitate capital formation.

#### *Financial Industry Regulatory Authority (FINRA)*

FINRA is the largest independent regulator of securities firms doing business with the public in the United States. FINRA's core mission is to pursue investor protection and market integrity by overseeing virtually every aspect of the brokerage industry. FINRA oversees more than 4,200 brokerage firms and approximately 633,620 brokers.

#### *U.S. Commodities Futures Trading Commission (CFTC)*

The CFTC was created as an independent agency charged with regulating commodity futures and option markets in the United States. The mission of the CFTC is to protect market users and the public from fraud, manipulations, abusive practices and systemic risk related to derivatives that are subject to the commodity exchange act, and to foster open, competitive and financially sound markets.

#### *Federal Reserve (FED)*

The FED is responsible for the US monetary policies, supervising and regulating banking institutions, maintaining the stability of the financial system, and providing financial services to depository institutions, the US government, and foreign official institutions.

#### *Federal Deposit Insurance Corporation (FDIC)*

FDIC is an independent agency created by the US congress to maintain stability and public confidence in the nation's financial system.

#### *Office of the Comptroller (OCC)*

The OCC's mission is to charter, regulate, and supervise all national banks and federal savings associations, in addition to the federal branches and agencies of foreign banks, to insure they operate in a sound manner and are in compliance with laws.

## Models for sharing information

		Authority receiving information				
		Tax administration for civil tax assessments	Agencies investigating tax offences	Customs administration	Police or public prosecutor investigating non-tax offences	Financial Intelligence Unit
Authority providing information	Tax administration		Direct access <sup>1</sup>	On request <sup>2</sup>	Reporting permitted <sup>3</sup>	No sharing
	Customs administration	Reporting permitted	Reporting permitted		Reporting permitted	Reporting permitted
	Police or public prosecutor	On request	Direct access <sup>4</sup>	Reporting permitted		On request
	Financial Intelligence Unit	Direct access <sup>5</sup>	Direct access <sup>6</sup>	Reporting permitted	Direct access	
	Financial regulator	Reporting permitted	Reporting permitted	Reporting permitted	Reporting permitted	Reporting permitted

<sup>1</sup> The IRS-CI has complete access to tax information where the investigation concerns tax charges and it is the sole investigating agency. If the investigation concerns non-tax charges or involves other agencies, then the rules for sharing information with the other agency will also apply to IRS-CI. In these cases, the IRS can also provide information on trends and typologies to IRS-CI, so long as no taxpayer data is included.

<sup>2</sup> Return information regarding taxpayers is confidential by statute and cannot be disclosed except as authorised by the U.S. Internal Revenue Code. The customs administration, through the DOJ, can seek a court order for access to specified return information to assist it with investigation of non-tax crimes provided certain statutory prerequisites are met. The IRS can also disclose limited return information to the customs administration, but only to the extent it must do so in order to obtain information it needs from the customs administration for use in tax investigations or examinations.

<sup>3</sup> The IRS may share information with law enforcement agencies that are conducting a joint investigation with IRS-CI and the investigation has been approved by the DOJ Tax. Otherwise, the IRS may only provide taxpayer information on request under an ex parte order that has been signed by a federal judge. IRS officials are under an obligation to report suspicions of non-tax offences, but only where a Treasury employee, former employee, contractor, subcontractor, or potential contractor is engaged in criminal conduct; or the violation involves foreign intelligence or national security.

<sup>4</sup> IRS-CI investigators have direct access to all criminal history information held by law enforcement agencies, through the National Crime Information System. Where further information is required, tax crime investigators can request it from the originating law enforcement agency. Through various task forces and teams, investigators can also obtain trends and typologies from other law enforcement agencies upon request.

<sup>5</sup> The IRS civil division has direct and immediate access to all FIU information except Suspicious Transaction Reports, which are considered law enforcement sensitive. The FIU frequently writes reports on trends, typologies and statistics and are published on their website for the public to view.

<sup>6</sup> FinCEN provides Federal, State, and local law enforcement and regulatory authorities with different methods of direct access to reports that financial institutions submit. FinCEN also combines this data with other sources of information to produce analytic products supporting the needs of law enforcement, intelligence, regulatory, and other financial intelligence unit customers. Products range in complexity from traditional subject-related research to more advanced analytic work including geographic assessments of money laundering threats.

## Models for enhanced co-operation

### *Co-operation between government agencies*

#### *The Web Currency Banking Retrieval System (WebCBRS)*

The WebCBRS is an on-line database that contains Bank Secrecy Act (BSA) information and is maintained by the IRS. Field agents in Examination, Collection and Criminal Investigation, as well as federal law enforcement, access the database for research in tax cases, tracking money laundering activities, investigative leads, and intelligence for the tracking of currency flows, corroborating information, and probative evidence. Federal regulatory agencies (Federal Reserve, Securities and Exchange Commission, etc) also use WebCBRS for general examination, compliance and enforcement efforts. Users of this database must have the appropriate security authority. IRS users access WebCBRS through a desktop application. External users must access WebCBRS through the FinCEN Secure Gateway application. Data access permissions are based on the need to know and job responsibilities for each person/agency requesting access. Once access is approved, each person/agency is further limited as to which form(s) they have access to.

#### *Suspicious Activity Report Review Teams (SAR-RT)*

SAR-RTs operate in 80 of the 94 federal judicial districts in the United States. The primary purpose of a SAR-RT is to systematically review all SARs (or Suspicious Transaction Reports) that affect a specific geographic jurisdiction, identify individuals who may be engaged in criminal activities, and co-ordinate and disseminate leads to appropriate agencies for follow-up. The composition of these teams, while varying by location, generally include the US Attorney's Office, IRS-CI, the FBI, the Drug Enforcement Administration, the Bureau of Immigration and Customs Enforcement; the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the US Secret Service, and state and local law police. A small number of SAR Review Teams also include an official from FinCEN. The Chairperson of the SAR-RT is usually an Assistant United States Attorney. IRS CI is the lead agency who reviews each SAR filed in the judicial district and brings a small number of the SARs which appear to be viable criminal investigations to the team. Law enforcement investigators from each agency review those selected SARs and follow up with them accordingly

#### *High Intensity Financial Crime Areas (HIFCA)*

HIFCA were first announced in the 1999 National Money Laundering Strategy and were conceived in the Money Laundering and Financial Crimes Strategy Act of 1998 as a means of concentrating law enforcement efforts at the federal, state and local levels in high intensity money laundering zones. In order to implement this goal, a money-laundering action team was created or identified within each HIFCA to spearhead a co-ordinated inter-agency anti-money laundering effort. Each action team is composed of all relevant federal, state, and local enforcement authorities, prosecutors, and financial regulators. There are currently seven HIFCAs, including Northern California, Southern California, the Southwest Border, Chicago, New York, South Florida and Puerto Rico. The use of HIFCA, and also SAR Review Teams referred to above, have enhanced co-operation between agencies and, by pooling resources, have reduced the time spent on investigations.

### *The Organised Crime Drug Enforcement Task Force Fusion Centre (OFC)*

The OCDETF-FC was established in 2006 by the United States Department of Justice, Homeland Security and the Department of Treasury. The OCDETF-FC develops and utilises technologies to provide inter-agency co-operation and analysis of law enforcement and intelligence data that has previously been impossible due to organisational and technical boundaries. The OCDETF-FC collects, stores and analyzes information to support co-ordinated investigations focused on the disruption and dismantlement of significant drug trafficking and money laundering enterprises. All member agencies, which comprise IRS-CI, the Drug Enforcement Administration, the FBI, US Coast Guard, the Bureau of Alcohol, Tobacco, Firearms and Explosives and the US Marshals Service, as well as the National Drugs Intelligence Centre and FinCEN, are committed to sharing their law enforcement data through the OCDETF-FC. IRS-CI's involvement at the OCDETF-FC is focused on money laundering activities, and it does not provide tax information.

The OCDETF-FC is a comprehensive intelligence and data center containing all drug and drug related financial intelligence information from seven member investigative agencies, the Financial Crimes Enforcement Network (FinCEN), the National Drug Intelligence Center, and others. The OCDETF-FC is designed to conduct cross-agency integration and analysis of drug and drug related financial data to create comprehensive intelligence pictures of targeted organisations. The OCDETF-FC utilizes human analysis enhanced by sophisticated link analysis tools to conduct comprehensive analysis of the available information, produce investigative leads for investigators in the field, and support the co-ordination of multi-agency, multi-jurisdictional investigations targeting the most significant drug trafficking organisations threatening the United States. In addition, the system offers a means to identify the most effective and efficient use of limited federal drug investigative and intelligence resources, both foreign and domestic, against these organisations. IRS Criminal Investigation is a principal member of the OCDETF-FC and contributes resources and information for the purpose of producing analytical products, investigative leads, target profiles, strategic reports and field query reports. IRS Criminal Investigation has appointed one senior staff member to act as Section Director and two supervisory special agents to staff co-ordinator positions in the OCDETF-FC's Financial Section.

### *Co-operation with business, the tax profession, academic bodies and other organisations*

IRS-CI has increased its focus on comprehensive outreach activities. Outreach is directed at national and regional audiences and market segments through print, broadcast, and various types of social media. In partnership with other IRS operating divisions, government agencies and law enforcement, IRS-CI reaches out to various market segments (such as the tax practitioner community) to enhance the transparency of IRS-CI operations and educate individuals, businesses, and return preparers about the types of fraud committed in their industries. Outreach activities are addressed to attorneys, business and civic organisations, financial institutions, educational institutions, governmental organisations, legislative partners, and media outlets.

Immigration and Custom Enforcement Homeland Security Investigation's (HSI's) Cornerstone Outreach Initiative (Cornerstone) aims to build strong partnerships with the private sector. Together, HSI and private industry can work to systematically and strategically identify vulnerabilities in domestic and foreign financial and trade systems which makes them vulnerable to exploitation by criminals and terrorists. Cornerstone

leverages HSI's expansive investigative authorities to identify methods used by criminal organisations to earn, move, launder, and store their illicit funds. HSI shares case studies and red flag indicators with industry members at conferences and training sessions throughout the world and works with private sector partners and regulators to close down identified vulnerabilities.

# EFFECTIVE INTER-AGENCY CO-OPERATION IN FIGHTING TAX CRIMES AND OTHER FINANCIAL CRIMES

Second Edition

Financial crimes are increasingly growing in sophistication. Criminals accumulate significant sums through offences including drug trafficking, fraud, extortion, corruption and tax evasion. Different government agencies may be involved in detecting, investigating and prosecuting these offences and recovering the proceeds of crime. This second edition of *Effective Inter-Agency Co-operation in Fighting Tax Crimes and Other Financial Crimes* describes the current position in 48 countries with respect to the law and practice of domestic inter-agency co-operation in fighting tax crimes and other financial crimes. It outlines the roles of agencies in different countries, legal gateways to enable these agencies to share information and other models for co-operation, such as joint investigations and the establishment of intelligence centres including officials from different authorities. The report identifies a number of successful practices based on countries' experiences and makes recommendations for how inter-agency co-operation may be improved

In addition to greater country coverage, improvements since the first edition include:

- analysis of legal gateways in countries for sharing information with the customs administration, which is a key authority in the prevention, detection and investigation of illicit flows;
- an outline of measures that have been introduced since the first edition was released in June 2012; and
- country-specific sections, which contain more detailed information on the position in each of the 48 countries covered by the report.

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