



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 31 May 2002

9459/02

LIMITE

CRIMORG 42

NOTE

From : The Presidency
to : Multidisciplinary Group on Organised Crime (MDG)
Subject : Information on the FIU.NET project

Delegations will find enclosed information from the Presidency concerning the FIU.NET project.

The objective of this presentation is to keep all the Member States of the European Union informed of the development of the FIU.NET project.

1. BACKGROUND

Money laundering is an activity that takes place in an international context, so a joint response is needed from all States, including of course those that make up the European Union.

The Action Plan to combat organised crime was approved by the Amsterdam European Council on 16-17 June 1997¹. The Action Plan recommended, in particular in point 26(e), that there should be an improvement in co-operation between contact points competent to receive suspicious transaction reports pursuant to Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering², recently modified by Directive 2001/97/EC³.

During the spring of 1998, the informal Money Laundering Experts Group of the Multidisciplinary Group on Organised Crime (MDG) was set up, with the objective of gathering in a report details of both the obstacles faced by and the best practices of Member States in combating money laundering. Recommendation 3 of the final report (which contained eight recommendations) refers to the need to improve and increase the exchange of information between Financial Intelligence Units (FIUs).

The MDG undertook an initiative to increase co-operation between FIUs, which resulted in the Council Decision of 17 October 2000 on provisions for co-operation between Member States' Financial Intelligence Units for the exchange of information⁴.

Article 1 of the Decision provides that Member States shall ensure that FIUs cooperate with each other. Article 7 lays down that Member States shall provide for, and agree on, appropriate and protected channels of communication between FIUs. The Member States must ensure that they are able to cooperate fully within three years, i.e. with a deadline of 17 October 2003 (Article 9(2)). From the fourth year, the Council will assess compliance with the Decision.

¹ OJ C 251, 15.8.1997, p. 1.

² OJ L 166, 28.6.1991, p. 77.

³ OJ L 344, 28.12.2001, p. 76.

⁴ OJ L 271, 24.10.2000, p. 4.

Two meetings were held in the MDG framework under Belgium's Presidency in the second half of 2001:

- On 20 September 2001 a common understanding and interpretation of the Council Decision was agreed upon and a proposal for a declaration was prepared for the joint ECOFIN/JAI Council to be held a month later.

At the ECOFIN/JAI Council on 16 October 2001 in Luxembourg, the Council called upon the Member States to reinforce the existing system and to examine whether to elaborate a system for exchange of relevant information by automatic means. In addition, the Council asked the Commission to explore the possibilities of Community funding for such an automatic system.

- It was decided on 9 November 2001 that the fifteen Member States agreed on moving towards the creation of a special automatic system, leaving the type of information to be exchanged and the question of how to exchange this information to be decided at a later date.

2. CONTENT OF THE FIU.NET PROJECT

At present the procedure for information exchange between FIUs is implemented by fax or via the ESW (Egmont Secure Web) system. The process is slow and does not allow for simultaneous consultation of several FIUs, which is a problem in relation to a phenomenon involving ever-greater quantities of information.

Among the alternatives analysed were the creation of a central database into which communications received on suspicious operations would be entered and the use of a telematic network over the Internet. In the end it was decided that it would be more advantageous to create a special IT network to connect the FIUs together.

The only project submitted that could be developed was the **FIU.NET Project**. The project originated in 1998, at the initiative of the Netherlands Ministry of Justice and the FIUs of Belgium (CTIF-CFI), France (Tracfin), the Netherlands (MOT) and the United Kingdom (NCIS), and is aimed at establishing appropriate and protected communication channels between Member States' FIUs which would make the exchange of information on money laundering possible within a reasonable amount of time, irrespective of its legal nature. In June 2000 the Pilot Project started with the FIU's from France, Italy, Luxembourg, the Netherlands and the United Kingdom.

The following presentation took place under Spain's Presidency in the first half of 2002:

- On 5 March 2002 a general presentation was made of the state of the FIU.NET project, and a questionnaire was distributed to those Member States that were not taking part in the pilot project, to find out what legal, technical, or financial problems, or problems of any other sort, might obstruct their joining the project.

The FIU.NET-project most significant features are as follows:

2.1. Technical aspects

The system will operate in three layers or domains:

- **internal** layer, which contain the operational databases with financial information and is strictly speaking outside the network, but which is used to select the information to be made available for consultation. *In Spain, SEPBLAC, is developing a new computer application called TAIS (Tratamiento Automatizado de Información del SEPBLAC = SEPBLAC Automated Data Processing), in which the natural and legal persons to be included in the consultation database will be selected;*

- **exchange** layer, into which is entered the available information that makes up the consultation database. It consists, in each FIU, of a server, which makes it possible to manage the information exchanged in a controlled and structured way and identifies and authenticates communications; a database that stores information received from other FIUs; and a state of the art security measures protecting the information stored;
- **communication** layer, in which the flow or transit of information to be exchanged takes place, and which includes a several advanced security measures that protects the FIU from the outside world.

The FIU.NET system will use the TESTA (Trans-European System for Telecommunication between Administrations) connection network.

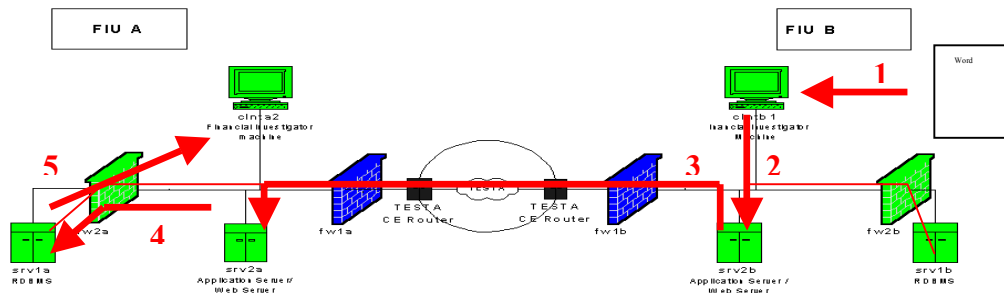
Information exchanges will take place in different scenarios or sequences of messages between senders and receivers.

The important point is that each FIU will retain the autonomy to define its own scenarios, and that symmetry, or reciprocity, will be a fundamental principle. In addition all FIU's will keep full control of their information at all time.

First scenario. In this scenario, the REQUESTING FIU asks the PROVIDER FIU whether the name of a person appears in its database in connection with the notification of any suspicious operation. The PROVIDER FIU replies, within the agreed deadline of five days, specifying whether that name of a natural or legal person is KNOWN, UNKNOWN, or MATCHES SEVERAL DIFFERENT RECORDS. It may also REJECT the query, although this outcome should occur only within the limits specified in the Council Decision of 17 October 2000.

Second scenario. Occurs after a query has had a positive result and the parties agree to exchange the available information. A bilateral connection is then established between the REQUESTING FIU and the PROVIDER FIU to exchange financial information or content on the subject of the query.

The information follows the following path:



1. The information is introduced into the network manually, by a user of the terminal who has had prior authorisation (e.g. a Word file).
2. The application passes to the application server and is connected to the communication line.
3. The application server of each FIU synchronises with the other, activates the virtual channel and jointly executes the logical processes needed to transfer the information.
4. The information is stored in the (GREEN) database of the REQUESTING FIU. It is never stored in TESTA or in the firewalls.
5. The financial investigator retrieves the information received.

Regarding the security policy to be applied to FIU.NET, there is an agreement to follow the PKI (*Public Key Infrastructure*) requirements, whereby each user creates his own keys; electronic identity is ascertained; registration certificates are established; etc.

2.2. Financial aspects

Community funds are sought for, in order to finance the project.

DG Markt has agreed in principle to provide substantial financing - up to 10 million Euro in total over 5 years - to pay for personnel and development, organisation, human resources and methodologies, development and implementation.

In addition there is the possibility of additional funding from the IDA (Interchange of Data between Administrations) programme of the European Commission for the strictly technical part of the project.

At a meeting on 4 March 2002 with the Commissions Contact Committee on money laundering the Committee unanimously approved its full support for the further development of the FIU.NET initiative on a Community wide scale and the full support for funding from the IDA programme.

It is vital to stress that **the agreement of the fifteen Member States**, in support of the **FIU.NET Project** as the choice for information exchange between FIUs, **is needed in order for the finance to materialise**.

The development costs of the pilot project were EUR 565 000, financed by the five Member States (F/I/L/NL and UK) involved in it. For the addition of the last two States (B and E), it was agreed that the new FIUs should cover the marginal costs: it is, however, necessary to make a calculation to find out what those costs would be if all the European Union's FIUs were to join; the amount, although it is not yet known, could be around EUR 80 000.

2.3. Legal aspects

To implement the FIU.NET project it is very important to resolve the legal problems that have been encountered. These are of two types:

- matters concerning the incorporation of Member States through their FIUs, and
- matters concerning the information exchange itself and the processing and use thereof.

3. POSITIONS OF MEMBER STATES

The participation of Member States in the project took place initially through a pilot project and a consortium. After the meeting of the pilot project Working Party, held on 12 April 2002 at the office of the Internal Market DG, at which the incorporation of Belgium and Spain was approved, the terms "pilot project" and "consortium" were dropped and the expression "**European FIU.NET project**" came into use.

EU FIU MEMBERS OF THE FIU.NET:

STATE	BELGIUM
FIU	CTIF/CFI - Cellule de Traitement des Informations Financieres/Cel voor Financiële Informativewerking
REMARKS	Administrative

STATE	FRANCE
FIU	TRACFIN - Traitement des Renseignement et Action contre les Circuits financiers clandestins
REMARKS	Administrative

STATE	ITALY
FIU	UIC - l'Ufficio Italiano Cambi
REMARKS	Administrative

STATE	LUXEMBOURG
FIU	Service Anti-blanchiment du Parquet économique et financier du Parquet de Luxembourg
REMARKS	Public prosecutor's office

STATE	NETHERLANDS
FIU	MOT - Meldepunt Ongebruikelijke Transacties
REMARKS	Administrative

STATE	SPAIN
FIU	SEPBLAC - Servicio Ejecutivo de Prevención del Blanqueo de Capitales
REMARKS	Administrative

STATE	UNITED KINGDOM
FIU	NCIS - National Criminal Intelligence Service
REMARKS	Administrative/Police

EU FIU NOT MEMBERS OF THE FIU.NET:

STATE	AUSTRIA
FIU	Meldestelle der EDOK
REMARKS	Police

STATE	DENMARK
FIU	Hvidvasksekretariatet
REMARKS	Public prosecutor's office

STATE	FINLAND
FIU	Keskusrikospoliisi/Rahanpesun selvittelykeskus
REMARKS	Police

STATE	GERMANY
FIU	Gemeinsame Finanzermittlungsgruppe (Bundeskriminalamt/Zollkriminalamt)
REMARKS	Police

STATE	GREECE
FIU	Committee of Financial and Criminal Investigation (Art.7 L2331/95)
REMARKS	Administrative

STATE	IRELAND
FIU	An Garda Siochana - Bureau of Fraud Investigation
REMARKS	Police

STATE	PORTUGAL
FIU	Brigada de Investigação de Branqueamento da Direcção Central de Investigação do Tráfico de Estupefacientes da Polícia Judiciária
REMARKS	Police/Public prosecutor's office

STATE	SWEDEN
FIU	Finanspolisen
REMARKS	Police

4. FUTURE PROSPECTS

In order to take a decision and in order for the States to support the project, the FIUs need more information on how the FIU.NET will help in their day-to-day work.

In these circumstances, Spain intends, as holder of the six-month Presidency of the European Union, to act as follows:

- keep all the Member States informed, both in the MDG and in the Contact Committee meetings, of progress as it is made;
- find out what the obstacles are to joining the Project – a questionnaire has been drawn up to that end;
- try to prepare for candidate countries for EU membership to join.

In order to find out what obstacles, be they legal, technical, financial or of any other kind, may obstruct the European Union FIUs' joining the European FIU.NET, a questionnaire was distributed at the MDG meeting on 5 March 2002. The result of that questionnaire was as follows:

No answer was received from:

- **Germany**
- **Austria**
- **Portugal**

The following replied in the negative:

- **Sweden:** gave financial reasons, and no further explanation;
- **Finland:** stated that technical explanations on the Project were needed and that human and budgetary resources were lacking;
- **Ireland:** was awaiting the outcome of an enquiry to determine whether there were any legal obstacles to joining the exchange network.

The following made its membership subject to the resolution of certain issues:

- **Denmark:** needed to know the technical details. To find out whether there were legal impediments, its needed to know what information was to be exchanged. It did not have a budget of its own and wished to know how the pilot project was being implemented with the countries currently taking part in it.

The following gave a positive response:

- **Greece:** no additional conditions or explanations.
