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COMISIÓN INTERAMERICANA PARA EL  
CONTROL DEL ABUSO DE DROGAS

**CICAD**

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Secretaría de Seguridad Multidimensional

XXXIII MEETING OF THE GROUP OF EXPERTS ON THE CONTROL OF MONEY  
LAUNDERING  
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BEST PRACTICES IN INFORMATION EXCHANGE BETWEEN FIUS  
PROPOSAL BY THE REPUBLIC OF ARGENTINA

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Working Group for Coordination and Integration of UIF/OIC

Sub working group

PROPOSAL OF ARGENTINA

**MODEL LAWS FOR THE EXCHANGE OF INFORMATION BETWEEN THE FINANCIAL INTELLIGENCE UNIT MEMBER COUNTRIES EXPERT GROUP ON MONEY LAUNDERING FOR THE INTER-AMERICAN DRUG ABUSE CONTROL COMMISSION (CICAD)**

The Group of Experts to Control Money Laundering considers:

**That** crime is a complex phenomenon that continues to perfect its criminal methods at an incredibly rapid speed. Thus, countries should redouble their efforts to combat criminal activities that traverse our extensive own borders. The courts are aware that the actions developed at the individual level, by themselves, are not sufficient and that the international community must unite under any form of cooperation and peaceful harmony to combat drug trafficking, human trafficking, money laundering, terrorism and other transnational crime crimes.

**That** the transnational nature of such criminal behavior jeopardizes the efficiency of national systems, noting that a local response is not enough. The joint action of all operators is mandatory and specific demands arise that result in requests for extradition, seizure or freezing of assets of illicit origin in a foreign jurisdiction, investigation, detection of irregular or suspicious transactions, technical assistance or analysis of any form of cooperation. Treatment of all these situations remains largely established and dealt with by earlier agreements, the legislation of each country and consolidated international standards.

**That** drug trafficking is one of the predicate offenses of greater incidence in the laundering of illicit assets, integrating the above category of serious crimes driven by the FATF.

**That** the 40 +9 Recommendations for Preventing Money Laundering and the Financing of Terrorism adopted by the FATF are binding on member countries, as are the countries that make up specific regional agencies, GAFISUD and CFATF in the Americas.

**That** Recommendation 40 states: "Countries should ensure that their competent authorities provide the widest possible international cooperation to their foreign counterparts. There should be a clear and effective gateways to facilitate prompt and constructive exchange between counterparts, either spontaneously or upon request, of information relating to both money laundering predicate offenses as to

which one is based. Exchanges should be permitted without unduly restrictive conditions... "adding some special situations in which the competent authorities should not refuse requests for cooperation, ensuring the adequate controls to ensure that the information exchanged is used only for authorized purposes, respect both the privacy and protect data.

**That** Financial Intelligence Units on their nature or the profile defined by local law, are key players in the prevention of money laundering and terrorist financing.

**That** Interpretative Notes with respect to Recommendation 40, clarifies that "the FIU should be able to make inquiries on behalf of foreign counterparts when relevant to the analysis of financial transactions. At a minimum, consultation should include: search their own databases, which should include information relating to suspicious transaction reports. Search other databases to which they have direct or indirect access, including databases enforcement authorities of the law, public databases, administrative databases and commercially available databases..."

**That** the Egmont Group, which brings together financial intelligence units, is recognized as a primary objective to "expand and systematize the international cooperation in the mutual exchange of financial intelligence," respecting the exchange of information between Financial Intelligence Units, fundamental principles such as confidentiality, reciprocity, speed, security and informality.

**That** the Annex to the Declaration of Principles states that "The information exchanged that enters FIUs may be used only for the purposes for which it was obtained or supplied," identifying restrictions on the transfer of information to third parties, as well as providing criteria confidentiality and privacy protection in the information exchanged that must be protected by strict controls and safeguards.

**That** within the framework of cooperation a document entitled Best Practices for the Exchange of Information between Financial Intelligence Units has been issued on the principles that are reflected by the Group's intention to enhance and strengthen the exchange of information, placing it as a priority. Based in these principles, the document calls on all financial intelligence units to strive to ensure that neither national law nor the principles of privacy are utilized for the the inhibition of information exchange between FIUs, with the end goal of maximum of cooperation permitted by domestic law . This commitment is added to that the various participating Financial Intelligence Units

**That** the document quoted above, states that the consent of the Financial Intelligence Unit for the dissemination of information must be provided without delay and that unless justified in principle, requests should not be refused..

**That** the "Model Regulations on Laundering Assets Related to Crimes of Illicit Drug Trafficking and Other Serious Crimes" of the Inter-American Drug Abuse Control Commission is conducive to the principles of international cooperation, recommending the Group of Experts on Money Laundering to urge Member States of the Organization of American States, among other things, to respond promptly to requests for cooperation and ensure the establishment of "international communications for the purpose of sharing information on matters relating to laundering and terrorist financing, financial institutions and other obligations," referring to its content the organization and objectives of Financial Intelligence Units.

**That** in view of the foregoing and in line with the recommendations of the Working Subgroup at its GELAVEX meeting of May 26 and 27, 2011, the Panel recognizes the importance of fostering Model Regulations for the Exchange of Information among Financial Intelligence Units, promoting a secure framework for the use of information recommended for adoption by the Inter-American Drug Abuse Control Commission, conforming with the following text below:

**MODEL REGULATIONS FOR THE EXCHANGE OF INFORMATION BETWEEN THE FINANCIAL INTELLIGENCE UNIT MEMBER COUNTRIES EXPERT GROUP ON MONEY LAUNDERING FOR THE INTER-AMERICAN DRUG ABUSE CONTROL COMMISSION (CICAD)**

**1.- DECLARATION OF BASIC PRINCIPLES**

1.-1.- Foster cooperation and exchange of information among the member countries' financial intelligence units for the benefit of preventing money laundering and terrorist financing.

1.-2.- The member countries undertake their best efforts so that confidentiality constraints imposed by their laws and regulations do not to hinder cooperation among the financial intelligence units.

1.3.- The recommendations of the Model Regulations are intended to optimize cooperation between jurisdictions and respect the limitations on the use of information provided by agencies, but are not binding, and are not obligatory for member countries, nor override their laws.

1.4.- The exchange of information among the financial intelligence units must be specifically requested in writing in the official language of the unit requested and is based on the principles of reciprocity, confidentiality, speed and security.

1.5.- Requirements between the different Financial Intelligence Units should be performed only in the context of an analysis and / or treatment of a suspicious transaction report.

1.6.- The parties undertake to adopt strict measures to protect the confidentiality of the information.

1.7.-The countries pledge to promote in their respective jurisdictions the use of MOUs with foreign units in order to strengthen cooperation among the units

**2. REQUIREMENTS AND TREATMENT OF REQUESTS FOR INFORMATION**

2.1.- Requests for information from other Financial Intelligence Units will be made and must explained in detail the reasons supporting the request. Only those in writing and in connection with a suspicious transaction report will be advanced. The unit required may reject *in-limine* applications that do not meet these requirements.

2.2.- The requirements should include detailed personal information including any possible forms of identification, names or nicknames, facts, a report on the suspicious transaction report, the purpose that motivates the request, the requested information described accurately, the proposed use as requested, the

approval or denial to be transmitted to the judicial authorities, the express commitment of confidentiality, and any information deemed relevant to the current order.

2.3.- In the event that it is an urgent request, it should be founded and manifested.

2.4.- All information from another financial intelligence unit may only be used for the purpose or purposes for which it was submitted.

2.5.- The information received from other foreign units may not be transferred to any other body and / or legal person and / or individual, without the prior consent of the unit that provided the information.

2.6.- The required unit may exceptionally refuse to fill the requirement, having expressly found the reasons why it can not take action on the request.

2.7.- The information from another financial intelligence unit will be treated and protected with the same secrecy and confidentiality and protect the information in the requesting country, unless specifically requested that different treatment is sought.

2.8.- Financial Intelligence Units shall keep records of the applications of information entered, and filled, which will be organized in a way that allows the development of statistical surveys, including the evaluation of the efficiency of cooperation.

2.9.- With the objective to allow for quickly printing requests, units shall designate contact persons to carry out the operation of the application and carry out the usual consultations.

2.10.- Financial Intelligence Units exchange information between their counterparts in relation to legislative changes and / or regulations that affect the processing and compliance with requests for information.

2.11.- Financial Intelligence Units will adjust the processing of requests and responses, in what is not covered by this regulation, led to the documents adopted by the Egmont Group, especially the "Declaration of Principles for the Exchange of Information Between Financial Intelligence Units" and the title "Best Practices for the Exchange of Information between Financial Intelligence Units."

### **3.- GUARANTEE OF GUARDING INFORMATION PROVIDED**

3.1.- The information provided should be subject to strict privacy and confidentiality controls. It will not be added to the Main Dossier, taking into account the Report Dossier or situation that originated the request for information.

3.2.- Therefore, it is conducive to:

- Financial Intelligence Units should note in the Dossier Principal (the originator of the request) the request made to another counterpart unit.
- The information provided must run in a separate line, conforming to a performance, suggesting its identification as the Docket of Information Exchange, and with direct reference to the Main Dossier. The above mentioned Docket of Information Exchange will contain the information submitted by the foreign unit analysis by the national unit.

- The existence of a Docket of Information Exchange should be recorded on file and in the Main Dossier in the required Unit limitations imposed on the information provided, and expressly stipulate whether such information could be elevated to the Ministry of Interior or Attorney General or in whatever relevant judicial authority or be used as evidence in legal proceedings or has been shared for intelligence purposes. In the latter case and the information considered relevant to the analysis, it is be recorded in the Main Dossier on the quality and relevance of information.
- In case of doubt about its use, the foreign Financial Intelligence Unit should be immediately consulted.

#### **4.- TREATMENT OF THE DOCKET OF INFORMATION EXCHANGE**

4.1.- To resolve issues of transfer of proceedings to the Attorney General's Office or the appropriate judicial authority, it is recommended that:

4.1.1. If the foreign counterpart unit had authorized the use of information for intelligence purposes only:

- The Docket of Information Exchange will be housed in a security box of the local unit and forwarded to only to the Main Docket.
- The administrative act to resolve the referral of Main Docket shall expressly mention: a. - the existence of the Docket of Information Exchange, as well as its safeguarding in a security location. b. - limitation of use imposed on the counterpart unit (with ends of intelligence). c. - the rating that the local unit would give the information provided (if relevant or not).

4.1.2. If any foreign counterpart unit authorized the use and transfer of information to be used as evidence in legal proceedings, it will raise the Main Dossier conjointly with the Docket of Information Exchange. The administrative act to resolve the reference should be explicitly mentioned accompanied by the Docket of Information Exchange on the reason that the foreign counterpart unit authorized the transmission as evidence in legal proceedings.

4.1.3. If the foreign counterpart unit had expressly refused permission to transmit information and referral to the Main Docket to the Attorney General's Office and / or judicial authorities involved and the information provided in terms of cooperation, the Docket of Information Exchange must be reserved in safe within the requesting Unit. The administrative act to resolve the transfer of proceedings to register the existence of files of information exchange and the restriction imposed by the approved unit for transmitting information must be registered.

4.2.- To resolve the files of the Docket of Information Exchange, it must be filed in the safe of the local unit, with specific mention of its status in the administrative decision, noting that the treatment would give a foreign unit the use of information.

## **5.- APPLICATION FORM**

For immediate instances the design of an application form to process requests for exchange of information between Financial Intelligence Units addresses the issues mentioned in this Regulation, also refer to in paragraph 2.11 concerning to the Egmont Group.