

Corruption and money laundering

WORKING SUB-GROUP ON FIU AND LAW ENFORCEMENT AGENCIES

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Background

The study on “Corruption and Money Laundering” is a document prepared within the framework of the 2021-2023 work plan, approved by the plenary session of GELAVEX at the virtual meeting of Asunción held on November 10, 2020, and entrusted to the Working Subgroup of Financial Intelligence Units and Law Enforcement Agencies.

The study contains a comparative table with the different regulations and relevant criminal typologies of the member countries of the OAS, for studying, comparing, and analyzing as a method of combating corruption and money laundering.

Objectives

General

- Carry out a study of regulations and typologies regarding Money Laundering from corruption and Tax Fraud.

Specifics

- Know the regulations of the countries of the region, regarding corruption and Tax Fraud, and which are precedent crimes for money laundering.
- Identify, through studies carried out by the OAS and the Latin American Financial Action Group (GAFILAT), the money laundering typologies based on corruption in the countries of the region.
- Analyze the instruments prepared by the countries of the region in order to identify typologies of money laundering with a corruption-based crime.

Methodology

- Identification, through information published on the national legislation web pages, the norms that typify the crimes of money laundering associated with corruption and Tax Fraud.
- Identification, through information provided by the organizations in charge of the prevention of money laundering and criminal investigation agencies, the typologies of money laundering from corruption.
- Extraction of conclusions from the material reviewed for the study, also issuing an opinion about these issues in the region.

Research Results

The results of this study will focus on the definition of:

Answer the question: What typologies of corruption and Tax Fraud have been identified as precedent crimes for money laundering?

Answer the questions: What kind of regulations are there regarding corruption and Tax Fraud as precedent crimes of money laundering?

1. Examples of criminal typologies of corruption

- Bribery, both of national and foreign officials.
- Prevarication.
- Peculation.
- Exaction.
- Embezzlement of public funds.
- Fraud.
- Bribery.
- Violation of secrecy.
- Influence peddling.
- Destruction of documents.
- Authority abuse.
- Breach of duties.
- Illegal break-in.
- Open type of corruption.
- Illicit enrichment
- Illegal exercise of public service

2. What type of regulation is there regarding corruption and Tax Fraud as precedent crimes of money laundering?

First of all, it can be noted that most of the countries studied, consider acts of corruption as a precedent crime of money laundering. However, they presented different criteria for integrating this in their legislation.

On the other hand, some countries are not able to incorporate corruption as a precedent crime of money laundering in a broad or not very complex way for its application, either because their money laundering laws exhaustively mention who it applies to, without including government officials, and thereby, corruption cases; because it includes additional requirements; or because they do not expressly criminalize corruption, and such criminalization must be attempted through other criminal offenses, such as bribery.

2. What type of regulation is there regarding corruption and Tax Fraud as precedent crimes of money laundering?

Criteria identified in the regulations of the different countries:

- Countries with an open typology, with a generic definition of money laundering and corruption.
- Closed catalog: money laundering is defined and the law determines which acts of corruption are the precedent for money laundering.
- Open definition of what is understood by corruption.
- Definition of different acts of corruption, restricting these acts to certain typologies.
- Some countries do not explicitly contemplate the crime of corruption in their internal regulations; however, they recognize their existence and the need for combat based on the international regulations to which they adhere.

Phase 2: what is pending

- ❑ The preliminary report was delivered to the Technical Secretariat. In this document, the countries' regulations were identified, and we kindly request their revision and if there are any updates or modifications are needed, please notify us through the TS.
- ❑ Identification of typologies, through the information that will be requested from the FIUs of the region.
- ❑ For the period 2022-2023, cover the areas of arms and drug trafficking according to the mandate of the plenary session.