



Brussels, 31 March 2017

## *MINUTES*

### **31st Meeting of the EU FIU PLATFORM**

**Centre Borschette, Rue Froissart 36, 1000 Brussels rue Froissart 36**

**15-16 December 2016**

#### **1. Adoption of the agenda/approval of the minutes of the previous meeting**

The Commission welcomed the participants and referred to the draft agenda sent to delegations on 13 November 2016, to which it received no comments. The agenda was adopted accordingly.

Concerning the minutes of the last meeting, the Commission recalled that the minutes were sent on 3 November 2016 and sent again on 12 December, and invited comments. The minutes were adopted without changes.

#### **2. FIU.NET and Europol embedment process**

- Update on recent developments by FIU.net and Europol

##### **2.1. General FIU.net updates (including training) and statistics**

Europol announced the appointment of a new business manager and a new innovations and relations officer. The Platform was then informed that the Service and Level Agreement has been signed by 28 FIUs, and the licensing terms for a software are currently being discussed with Thomson Reuters. Europol also announced that it has the intention to make a request for observer status in the Egmont Group.

The training initiatives were then highlighted and the Platform was informed of user workshops taking place on 21 and 22 December 2016, where there will be a focus on the Ma<sup>3</sup>tch filters and cross-border reporting.

Furthermore Europol pointed out to a long legacy list of user demands – for which it started a prioritization exercise. The aim is to agree on priorities for developments based on users' needs. Actually there is a high demand for more user friendliness – especially in Ma<sup>3</sup>tch filters and cross-border reporting. This will be taken to the Advisory Group to be refined. In this context, certain participants recommended best practices, referring for instance to goAML.

Europol presented statistics regarding the FIU.net requests until November 2016. There is an upward trend as time passes, although the last six months were below the trend line. One

participant made more than 12.000 less requests in 2016 as compared to 2015. On cross-border reports, two participants received the most altogether (28,325), but the statistics show something needs to be done on the export-import issue. The common sharing of filters was then presented. From a short analysis it appears that users do not refresh the filters, meaning that important matches may be missed. Many of the old filters were signalled as being in need for handling by the FIUs.

## 2.2. Results of Siena integration WG

Europol noted that the Common Understanding refers to a technical transition period, and all functionalities will be moved to SIENA but there has been no progress on developing a roadmap. A Working Group started with three video conferences on SIENA integration. The preconditions set out were:

- FIUs must remain independent to communicate FIU to FIU without any third party intervention, retaining full control of their data;
- Systems must support structured data which can interface to the national systems;
- FIUs must have possibilities for local (decentralized) anonymous/private matching

The processes were identified, and specifically the case exchange process, the cross border reporting, cross border dissemination, cross matching, accessing and matching open source data, statistics.

Europol explained that it finds integration important but cannot see it happening in the near future. It presented the different steps to integration are the following:

Step 1: Keep things as they are: There is no interconnection between SIENA and the FIU.net. No investment needed and no change for end user, but no progress is made to enhance synergies between competent authorities.

Step 2: A form of interoperability, to enable FIUs willing and able to have interconnection with Siena: The benefit is that it progresses towards greater cooperation, but it remains that two systems need to be maintained.

Step 3: The case exchange process will be implemented in SIENA. This would avoid re-encoding data since structured data can be reused. This is positive for end users of SIENA. Step 2 is a prerequisite to this and two systems will still need to be maintained.

Step 4: Implementing the cross-checking by keeping systems apart, whilst having the possibility to cross-match and share. Interoperability is a prerequisite for this and would mean good progress for information exchange.

Step 5: Implementation of the new processes in SIENA instead of FIU.net. This could also come as step 3.

Step 6: Migration of all processes: this is full integration and means the full replacement of FIU.net by Siena.

Europol further explained that integration of all functionalities is possible, but it is first necessary to establish what we seek to achieve. This echoed the differing views expressed in the Working Group. Europol said that what is needed is the enhancement of the core functions of FIU cooperation and cost-efficiency. Whilst a more detailed functional mapping is yet to be developed, the timeline for integration could be foreseen within two to three years. It was also said that the IDMC changes the landscape of Europol and can encompass FIU.net. To conclude, it was recalled that the Advisory Group was pleased that SIENA does not need to be achieved at any cost whatsoever, and a pragmatic approach will be taken with the baseline of interoperability.

### 2.3. IDMC (and EU OF2CEN)

It was explained that the Integrated Data Management Concept is a major programme for the enhancement of information exchange which is essential in the fight against crime. A need has been identified to look at the interoperability of the current initiatives at EU level. The IDMC will look at the possibility deriving from the Europol Regulation to use crime-related information for multiple business purposes as indicated by the data owner, allowing for its management and processing in an integrated, technology-neutral manner. The position of Europol within the EU-wide integrated set of tools will be considered in light of the changes taking place after the adoption of new Europol Regulation. One of the main changes is that there is now an explicit reference to the FIUs, which become competent authorities so as to work with Europol and there is an easier way to cooperate with other EU LEAs. The purposes for data processing are cross-checking, strategic or thematic analysis, operational analysis, and the facilitation of information exchange. The IDMC structure was presented.

Next, the EU-OF2Cen initiative was presented. It was explained that this is an EU-funded Italian project on internet fraud that now is rolled out at EU level. There is massive need for internet related information sharing between banks and LEAs. Personal data cannot be shared so a 'pseudonymised' version is shared. The direction in mind is no longer to focus on systems in business development but to redesign the key business functions. Further, it was said that there is a strong orientation on financial analysis and FIUs will be consulted.

### 3. FIU.Net Advisory Group

The Chair of the AG addressed the Platform as regards the conclusions of the previous AG meeting of 25 November 2016. The Chair mentioned that at the present time there will be no rotation of the FIUs represented in the AG. The Vice-Chairs and Chairs for the next year will be decided there. The AG has worked on the Terms of Reference which have not yet been accepted. Volunteers were sought to work on small dedicated teams (e.g. training, technical matters etc).

The Chair went on to address the embedment process, saying the key question to be discussed in the AG is how to proceed. It was said that the Common Understanding was made at another time and era where cooperation at SIENA was the only way it was seen to be possible at that time. One new possible scenario is interoperability which is uncharted territory.

For the AG and FIU team, the focus areas for 2017 were presented as following:

- Cross-border reporting/dissemination,
- SIENA integration: Here it was said that discussions on both the strategic side and the technical side is required
- Operational issues: this could increase the use of FIU.net.
- How to increase the use of FIU.net - in particular Mat3ch and user friendliness.
- User workshops: user ideas on technical innovation to deal with the large amount of data.

On external relations, it was said that three states have shown interest to be connected to FIU.Net. The integration of one has been unproblematic but there may be issues for Europol with regards to the others.

The discussion that ensued revolved around points 2.2 and 2.3 of the Platform's Agenda.

On SIENA integration, differing views were noted in the room. It was stressed by some FIUs that the embedment of FIU.net into Europol was a measure taken in order to find a future-proof solution for FIU.net. Integration with Siena was sought because of a lack of alternative at the time. However it may be necessary to re-assess the intended efficiency and effectiveness gains – also in light of new alternatives such as those offered by interoperability initiatives. Full integration into SIENA is a costly and resource intensive process; some FIUs therefore expressed the desire to put integration into SIENA on hold until more is known regarding data management solutions and interoperability solutions presented by IDMC – or to split the next stages (i.e. interoperability first). It was the position of one FIU not to put integration of FIU.net in Siena on hold, but to end that trajectory entirely taking into account the resources it would take, as well as the new IT strategy of Europol allowing the connection of systems, including FIU.net. Interoperability between FIU.net and Siena could be regarded as a feature to be developed. Certain participants were more convinced about the maintenance of an equivalent system for information exchange rather than full integration – noting that interoperability is not a prerequisite for such information exchange. They called to ensure the objective of the Common Understanding which is to ensure functional equivalence with the current FIU.Net. Further discussions would be needed in AG in this regard. Another issue raised was the need for a system to allow for further development of FIU.net and more training. It was noted that the users' needs should be better taken into account in the AG discussions for defining both needs and processes. Certain FIUs explained that it may be more efficient to have two systems in place and integration is not a purpose as such. A huge work is necessary for full integration in order to deliver only what the system currently offers – asking whether this is really needed. The step-by-step approach set out by Europol was supported by some participants whilst some FIUs also stressed the need to have a decentralised model. It was also emphasised that Europol should not have automatic access to FIU data which is a key feature of a decentralised database. On another issue, one participant expressed surprise regarding Europol's request for observer status at Egmont without consultation of the AG.

Europol responded that the data owners keep control over the data and share only what they want with Europol. On the Egmont issue, Europol explained it is currently attending relevant Egmont meetings under a grandfathering provision - replacing the former FIU.net Bureau. However the observer status is being requested by Europol as an organisation with a wider mandate and not just the FIU.net team. Therefore no specific consultations were held with AG, although the point was raised in previous meetings without concerns being raised. Europol clarified that they are keen to consult AG and users' needs are definitely taken into account; at the same time, it cannot be expected to revert to AG for each and every issue linked to the delivery of an agreed service (cf training). Regarding the integration of FIU.Net in Siena, Europol has noted the expressed opinions and advice of the AG. It reassured participants that their considerations on ensuring the same level of services, as well as technology and promptness of information, will be taken into account by Europol. It foresees more concrete outcomes early on next year, and will know how to function around core functions.

The Commission recalled that in practice, the step-by-step approach is already applied. It asked participants whether there was general agreement to proceed first with interoperability.

There was consensus among participants on the need for proceeding with interoperability –

since this avenue could bring some quick synergies and added value. Europol noted that proceeding with this step will anyhow require some extensive work for next year. Hence it was agreed to proceed in this way. Internal reflections in Europol will continue on strategic developments.

#### **4. Project "Standardization of cross-border dissemination in the context of FIU.Net"**

The Project Lead opened this point by highlighting that the implementation of the new cross-border dissemination is a requirement under Article 53 of the 4AMLD. At the last meeting a small-scale proof of concept was presented but there have been no suggestions from other FIUs. The Project Lead's presentation aimed at, on the one hand, getting more FIUs on board for carrying out the Proof of concept, and on the other hand, considering how Ma3tch functionalities and import-export features can be implemented. It should be carefully assessed whether the concept works in practice and how much can be automated. It is expected that the new process will need to handle large volumes of data – which may require a refactoring of the system to avoid performance issues. Part of the solution suggested is also to introduce new Ma3tch functionalities – where certain functionalities need to be improved (e.g. not only matching based on names but also bank accounts numbers and legal persons). There is an import-export feature between national IT systems and FIU.net which is very important for many FIUs, and this needs to be automatized. The Egmont Group came up with another standardised format from the ESW two months ago. This was the first draft and at the end of the meeting in January the group intends on implementing the new format. The Project Lead recommended that this format serves as a source of inspiration for FIU.net. It was concluded that the working group will need further IT specialists from MS and technical input. The relevant information will be gathered by the end of January and then the first videoconference will take place.

Being asked whether the relevance criterion will be common or adapted to each country, the Project Lead explained that the solution would be to apply the selection criterion automatically based on simple criteria which should be common for all FIUs. On the relevance criterion the best solution would also be to apply the criterion automatically and commonly between all FIUs. Either way, the criteria set out are not yet fixed and may be changed. One FIU questioned whether banking information is the most relevant, and the Project Lead responded that it is relevant (but not exclusive) as it is often the most accurate information when money laundering is carried out via bank accounts. Further, this information can be easily automated.

Participants mentioned the issue of the deadlines for the functionalities as certain functionalities may take longer than others. Europol explained that the work of the working group on IT development and the proof of concept can go in parallel. The proof of concept is aimed at looking at the selection and relevance criteria but the technical development can be done alongside this.

The Commission recalled that this project is a priority for the Commission since it derives from a legal obligation enshrined in 4AMLD. FIUs were invited to participate in this proof of concept in order to design workable solutions to enhance information sharing. Participants were asked to run this exercise in a constructive manner. The objective is not to replicate business processes from the past – but to design new working procedures for the future. For instance, some FIUs did not use the match3 technology but this will change upon implementation of 4AMLD – so this should not be a blocking point. Automation will

be crucial in that regard – and the fact that a marginal fraction of STRs is not yet standardised should also not serve as a blocking factor for the entire process. FIUs should take this opportunity to make a gap analysis to review their business process. To conclude, six more volunteers are required and a call for volunteers will be sent after the meeting.

## **5. Project "joint analysis" on cross-border /multilateral cases**

At the last meeting, the Commission presented the main lines and options for joint analysis projects. Following discussion on this, it was agreed that the Platform should 1) discuss the follow up of the MICRI project; 2) discuss a possible new project with a multi-jurisdictional obliged entity (i.e. big player) that has a centralised compliance function – but basically reporting in a fragmented way.

On the first point, the results of the joint analysis project on "migration smuggling" were presented at the Platform meeting of June. The report on this project (MICRI report) was distributed to participants. In the discussion in June, the succeeding Slovak and Maltese Presidencies expressed willingness to follow up on this. However, it was decided to wait for the final report of the project before deciding on the next stages. The Commission said it was impressed by the first phase of the work and is keen to see a follow-up. The concerned FIU reported that there are several operational files open that are shared with LEAs. It added that migration flows are changing and that this should be monitored. It was also suggested that the analysis of the information should be shared, beyond the information itself. It was concluded that 1) operational follow-up should be ensured concerning identified cases; 2) the update of the Ma3tch filters needs to continue and 3) there should be a top-down approach, to which Europol and one FIU will make a follow-up.

- Reporting from FIUs concerning possible obliged entity to be involved in a joint analysis project on cross-border cases and discussion

FIUs were asked at the meeting of Egmont Europe I about their interest in a project involving a major obliged entity. It seems that the legal framework does not allow an Obligated Entity to send a report to several FIUs when it contains information on transactions in several jurisdictions. A major obliged entity showed interest in doing a pilot using an actual or historic case, and FIUs can learn what analysis needs to be conducted and where to start from. The Commission offered secure premises to carry out the project – which may also require further security requirements by sandboxes. Participants stressed that this project should look at new functionalities for reporting and dissemination through FIU.net. It was also stressed that this project could benefit from previous projects carried out on multilateral information sharing.

- Synergies with Europol

During the last AG meeting, it was proposed to discuss certain operational initiatives within Europol's mandate, such as TFTP, FTF, EMPACT and Flash Fincen.

To this end, Europol reported that it had received some TFTP requests and it will be reverting back to the concerned MSs soon. On the proposal on foreign fighters, Europol suggested to establish filters for criminal information on known suspects and use matching technology. At the moment, Europol approaches data owners in MSs and asks for names which are put into encrypted filters - and require approval from HENU. This will need more collaboration with interested FIUs. It presented the technical proposal in this regard.

Another synergy could be reached on EMPACT (European multidisciplinary platform against criminal threats). Europol has nine priority crime areas. For each one, a multi-annual strategic plan, a project and an operational action plan are implemented. Some stakeholders have expressed interest for FIU.net and improved use of financial intelligence / financial investigation. They could be willing to put their information into filters to make matching possible.

Finally Europol presented a proposal to streamline the dissemination of FFR by uploading the information directly in FIU.Net – although the ultimate responsibility for assessing the information will rely on recipients. Europol will look at this issue to improve handling of FFR and avoid duplications – which was supported by participants. Europol was convinced that plenty issues exist where Europol could work with FIUs on operational issues next year.

Members of the platform stressed the need for HENUs to accept providing information, in view of the value of financial information for terrorist financing. A reference was also made to the UN terrorist list and to whether this could be integrated. Those projects should also consider integrating the EU list of freezing measures that are applied by financial institutions. They also mentioned other areas where more synergies could be reached e.g. cyber crime, CEO fraud and bank fraud where information exchange could be improved. Asked about the next steps for EMPACT, Europol said it promotes using FIUs and asset recovery offices at kick-off meetings with relevant drivers in order to get participants committed in sharing data with FIUs.

The Commission welcomed those initiatives which are in line with the Action plan on Terrorist Financing – where there was a call for a more intelligence driven approach. Especially in terrorism financing cases, time is a crucial element and proactive cross-checking of data can make the difference. Such developments are also in line with the work carried out in FATF and EGMONT. Initiatives that could facilitate exchange of data with LEA and FIUs are welcome.

Europol was invited to put into place the next steps for those initiatives.

## **6. Project "Mapping exercise on FIU powers / obstacles for cooperation"**

The Commission reported that the feedback received by the Project Team on the second draft of the mapping exercise was very positive. A revised version was subsequently sent on 12 December 2016. The Project Leader set out the aims and timeline of the exercise, resulting in its presentation to the Platform for its adoption. The objectives were to map the shortcomings in domestic powers and the limits to cooperation. The Commission refers to this exercise in its Action Plan with a view to taking new initiatives to remove remaining obstacles. The Project Leader explained the changes made, namely that it added an executive summary, redrafted Chapter 4, revisited Chaps 5 and 6, and singled out and highlighted the conclusions and proposals. Also included were more tables with information on national approaches, and a better or more in-depth analysis of some issues, particularly the barriers to cooperation, how national states are implementing the EU framework, and what the EU could do about this. The Project Lead presented the key findings of the report. It thanked all FIUs for their substantial input in this exercise.

Subject to some editorial changes, the EU FIU platform formally adopted the report ("mapping report").

Participants subsequently discussed the protection requirement of the document and its possible dissemination.

It was decided that the compilation of FIUs' individual responses is not part of the report. Access to the FIUs individual responses is limited to participants having carried out the analysis work. Hence consent was given only for participating FIUs, Commission, and Europol to access the FIU's individual replies sent to the survey.

As to publication of the Report, varying views were expressed going from public document published on the internet – to classified document. Finally it was decided that the report is a public document that will be sent to EU policy makers which are the primary addressees of the report (Commission, Council, European Parliament).

Concerning further dissemination, participants decided to re-discuss this matter at the next EU FIU platform meeting. Participants wanted to discuss first follow up measures that may be taken, before promoting the mapping exercise at international level.

## **7. EU Supranational risk assessment**

The Platform was informed that the Commission organised meetings with the private sector on 4-5 October 2016 and it is now receiving input in order to fine-tune its analysis. The Commission is now in the process of finalising this analysis and asked for the Platform's reflections on certain questions that were sent on 14 December 2016. Platform participants delivered some sector-specific input on the Commission's questions.

The Commission reported that it anticipates finalising Stage 1 (the analysis of the risk) by January 2017. It will then proceed with the definition of mitigating measures (Stage 2) as well as drafting the SNRA report. The Commission aims at publishing the SNRA report by end of June/early July.

## **8. EU, MENA, and SEA Joint Meeting and Discussion**

The EU is preparing a new EU Global AML/CFT program which was presented to participants. In this context representatives from FIUs from the EU, MENA, and SEA met in order to discuss barriers to cooperation, including challenges around exchange of information. They explore possibilities for collaboration and joint cooperation, including identifying concrete action items that can inform the development and implementation of activities under the EU Global AML/CFT program.

## **9. Amending of the 4th AML Directive**

The Commission reported on the state of play of the negotiations to the 4AMLD in the Council – where a common approach is being adopted. On bank accounts registers, there was general support to introduce centralised automated systems concerning information on bank account holders to be directly accessible to FIUs. It also reported on the discussions on Articles 32 and 55 where the essence of the Commission's proposal was kept. The Commission thanked the Slovak Presidency for its hard work and commitment in order to reach a good outcome.

The European Parliament vote is anticipated for 25 January 2017. It is expected that the Parliament will propose to make numerous amendments. Trilogues are expected to begin in March 2017.

## **10. Follow-up of the Action Plan on Terrorism Financing**

The Commission presented recent follow up measures outlined in the Action plan on Terrorism Financing, especially the proposal for a Directive on Criminalisation of money laundering (CMLD), article 75 TFUE restrictive measures ("art. 75 sanctions") and a system to track terrorism financing (TFTS).

### On the CMLD

The Commission addressed developments on the Criminalisation of Money Laundering Directive. MSs received a questionnaire in October and the Commission had a meeting with Ministries, as well as meeting with legal professionals and EU Agencies. The starting point is the FATF Recommendation 3 and the Warsaw Convention which in addition to the existing conventions added the requirement for MSs to ensure the establishment of the predicate offence in a precise matter. Having analysed the information on predicate offences in MSs, there was general compliance with the FATF Recommendations and the Warsaw Convention, although there are diverging approaches reflecting national traditions. There were mixed approaches to the prior conviction requirement (some MSs place the burden of proof on the accused), and it was found that most MSs have sanctions going beyond 5 years imprisonment for basic ML offences. Following this analysis work, the Commission will issue a proposal for a Directive on criminalisation on money laundering on 21 December 2016.

One participant raised the issue of the interplay between the CMLD and the AMLD, and the Commission explained that they should be in line, yet more precision may be needed on the criminal side.

### On Art 75

At the moment, asset freezing is applied under the CFSP legal basis. FATF has been raising concerns on the lack of application of existing asset freezing regimes to so-called "EU internal terrorists". The existing regimes in the CFSP are being assessed – including the autonomous asset freezing regime for Al Qaida and ISIL and any related cell. By exclusion, Art 75 can be used to freeze assets of internal terrorists (not linked to international terrorism), but this remaining category is actually quite narrow. So far there are procedural differences in national asset freezing regimes. One problem identified was that, although MS can ask for mutual assistance, there is still a risk of asset flying. Asset freezing appears to be a useful tool for big organisations with high funding requirements, but not for small cells. For such instances, criminal law tools might be more adapted; the Commission will present measures to facilitate mutual recognition of freezing measures.

### On TFTS

The Commission is carrying out an analysis on the need and possible added value of the TFTS. Elements in the analysis will consider the fact that for terrorist financing, funds to

carry out operations can be rather low, funds are used quickly, and funds are raised from both legal and illegal sources. Various transfer methods are increasingly used. In spite of all developments (e.g. better coordination between private and public sectors) the reporting of suspicious transactions is not always able to detect financial movements of terrorists. LEAs do not always have prompt access to financial information from financial institutions and from central bank account registers, and there is a limitation in use for FIUs. This is the baseline situation for analyzing the added value for TFTS. One of the challenges is having different systems / data providers which will raise questions in terms of feasibility, costs and data protection. The results will be presented on 21 December.

## **11. Review of the FIU platform work plan**

In light of the discussion on the mapping exercise – and need for possible follow up actions – it was agreed to postpone this agenda item to the next meeting.

## **12. Any other business**

- Relevant developments in FATF/Egmont

### FATF Changes to the Methodology: R.20 proposal for a footnote on c.20.1 (promptly)

At the last FATF plenary, FATF discussed possible changes to c.20.1. The ECG did not reach consensus on the proposal to add a footnote to criterion 20.1 to clarify how assessors should assess whether suspicious transaction reports are being filed promptly. Some delegations noted that many financial institutions do not monitor transactions in real time, but instead rely on automatic screening systems to flag an anomaly or unusual transaction for further analysis. A new proposal for discussion will be table for FATF discussion in February 2017. The new proposal should clarify at what stage the time to “promptly” file begins.

Participants of the Platform stressed that these changes in methodology are relevant to the EU, as there is a need to signal the necessity for Obligated Entities to react as quickly as possible, whilst at the same time ensuring that FIUs have the ability to postpone if necessary a transaction. Participants discussed the different ways that 'promptly' is interpreted. In one MS it is interpreted as being a period of 3 days which led to problems during their mutual evaluation. The Commission mentioned that in the FATF no specific amount of days was mentioned, rather it is a matter of identifying when a certain level of suspicion must be reached.

### Participation of the Commission as observer in the Egmont Group

The Commission expects a decision on its participation in the Egmont Group sometime in early 2017. It will grant reciprocity for the group to attend Platform meetings on matters that concerns it.

### Ongoing Egmont projects (Use for intelligence purpose only, Beneficial ownership, STRs)

Egmont is currently working on projects that are relevant from an EU perspective: Beneficial Ownership, STRs, Information sharing between FIUs and LEAs, "use for intelligence only".

Participants held a short discussion about the state of play of those projects.

### Workshop with the Israeli FIU

The Commission reported that it is discussing with Israeli counterparts about the preparation of workshops that will be back-to-back with next platform meeting. Platform members were asked to volunteer to make a presentation on their national risk assessments. Participants were keen to learn what Israel has developed in regards to, amongst other things, terrorist financing and virtual currencies, and what toolkit is available to their FIU information sources and domestic intelligence.

### **13. Next EU FIU Platform meeting**

The date of the next meeting will be confirmed later (tentatively 29-30 March).