

[Guideline 2: Restraining assets](#) [1]. [2]

## Guideline 1: Preliminary review

**Prior to a criminal investigation, involved jurisdictions should undertake a sufficient preliminary review of any indications and allegations, using all available sources, including financial and law enforcement intelligence and open source, and where appropriate share financial information with concerned FIUs, with a view to support subsequent criminal investigations.**

It is essential to obtain and analyse immediately all information available domestically about concerned individuals and their associates, as well as their financial situation and economic ties. The widest range of possible offences should be identified. The information, analysis and possible offences should be summarized to facilitate the exchange of relevant intelligence within and between concerned jurisdictions. This summary will be invaluable to help prepare and prioritise formal investigations.

In order to prevent the possible dissipation of assets, consideration should be given to proactively and promptly sharing this information or summary information with other concerned jurisdictions, through financial intelligence unit (FIU) channels of information sharing, where available.

### Step 1 Receive allegation

Potential sources of allegations may include SARs/STRs/financial intelligence, whistle-blowers, witnesses, informants, victims, media reports, requests for MLA or (foreign) law enforcement agencies, and referrals from Foreign Affairs Offices.

#### Explanation of step 1

Prior to determining the appropriate formal investigation and legal strategy, and before transmitting requests for MLA (see [Guideline 4 Step 2 Less formal avenues](#) [3]), requesting jurisdictions should collect and record all basic information available domestically related to the allegations' target(s) and their associates. Such information should be obtained from all available domestic sources.

If available to law enforcement, financial intelligence may include suspicious transaction reports (STRs), currency transaction reports (CTRs) or other reports and analysis from FIU. The FIU may be able to seek financial intelligence from other FIUs through the Egmont Group or memoranda of understanding with other involved jurisdictions.

Additional sources of information may also be available through governmental databases (e.g., ownership or registration databases for real property, motor vehicles, marine vessels or aircrafts), tax records, company registries, previous criminal or civil proceedings, immigration records, customs declarations, telecommunication and utility records. Government auditing or regulatory agencies (e.g., offices of inspector general, internal audit departments and anti-corruption agencies), or those that maintain asset declarations from certain public officials may also be sources of information.

Information may also be available through commercial databases (e.g., credit reporting bureaus) or open source information (e.g., information obtained from publicly available sources) such as media reports, blog postings, reports published by governments, NGOs or international organisations, and social networking sites. As internet derived information may change or be removed, steps should be taken to record and preserve electronic information for future admissibility as evidence (see [Guideline 4 Step 1 Consider sending spontaneous transmittal of information](#) [3]).

Information may also be obtained through whistleblowers and information hotlines or other channels open to the

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public.

## Step 2 Appropriate party to investigate

Determine the most appropriate party to investigate the allegation, in whole or in part. Consider referring the allegation, in whole or in part, to a more appropriate party for investigation or other action.

### Explanation of step 2

Involved jurisdictions should consider what action to pursue when determining which jurisdiction or authority to refer the allegation to (see [Guideline 3](#) [4] and [Guideline 8](#) [5]). Engaging with the jurisdiction where the assets are located is key.

## Step 3 Assess allegation

Assessment criteria may include jurisdiction, investigative mandate, underlying predicate offences, credibility, materiality and resource requirements for successful investigation.

### Explanation of step 3

Upon the finding of a suspicion in the context of preliminary investigation or the receipt of an allegation, immediate consideration should be given to the identification of possible offences under domestic law, possible offences in other jurisdictions (if known) and the various avenues available for recovery of assets (criminal or non-conviction based confiscation, civil remedies, proceedings in a foreign jurisdiction, among others).

## Step 4 Collect and record basic information

Collect and record in an organised manner all basic information related to the allegation's subject(s), their associates and assets from all sources readily available. Domestic information may include public or governmental registries, mandatory financial disclosures, and lifestyle audits. Open source information may include public registries (domestic and foreign), media reports, commercial databases and social media.

### Explanation for step 4

To support the ability of involved jurisdictions to undertake preliminary reviews that identify as much relevant information as quickly as possible from other involved jurisdictions, jurisdictions should consider developing and maintaining publicly available registries, such as company registries, land registries and/or registries of non-profit organisations. If possible, such registries should be centralised and maintained in electronic and real-time format, so that they are searchable and updated at all times.

Involved jurisdictions can also support each other in accessing and maintaining information, including through providing technical assistance (e.g. in cases of technical challenges such as low internet speed).

Basic information can also be obtained with the assistance of international and regional partners and networks (e.g. EGMONT, asset recovery networks, etc.) (see [Guideline 6](#) [6]).

## Step 5 Prepare a subject, financial and jurisdictional profile

For natural persons, include biographical data, work history, familial relationships, known associates, and financial information. For legal persons, prepare a profile of corporate structure and ownership, including jurisdictional connections (e.g., jurisdiction of incorporation, administration, financial accounts and operations). Identify the potential sources of information or assistance from involved jurisdictions.

### **Explanation of step 5**

This information serves as a basis for developing a subject and financial profile for the investigation. Consideration should be given to preparing a basic subject profile that may be provided to involved jurisdictions, subject to any limitations on disclosure.

Providing as much information as possible may help avoid the duplication of investigative efforts and assist in developing new investigative leads. Special attention should be given to providing consistent transliteration of names with clear identifiers (e.g., date of birth, passport or identity card data, titles (e.g., former Minister of Energy from 2000 to 2004) and relationships (spouse of former President X; son of Ministry of Education) (see [Guideline 7 \[7\]](#)).

## **Step 6 Domestic coordination**

Subject to confidentiality requirements, domestic coordination on complex cases may begin during the collection of information in the preliminary review.

### **Explanation of step 6**

Subject to confidentiality requirements, for instance with regard to the need to prevent leaks or tip off suspects, the collection of information during a preliminary review may provide an opportunity to begin domestic coordination in complex cases (see [Guideline 3 Step 3 Put in place an operational coordination mechanism \[4\]](#)). Doing so ensures the continuity of the investigation and prevents the loss of knowledge (see [Guideline 3 Step 1 Develop an investigative and legal strategy template/checklist \[4\]](#)).

National coordination through formal or informal team/taskforce may be considered and FIUs or financial analysts can be involved throughout the process of investigation. FIUs may assess information against open sources at each stage of the process.

## **Step 7 Identify possible offences**

Identify all possible offences under domestic and foreign laws (if known) and consider various avenues for asset recovery.

### **Explanation of step 7**

The assessment of allegations (see step “assess allegation”) is of key importance because a requested jurisdiction may not be able to afford a requesting jurisdiction international cooperation if the legal proceedings in the requesting jurisdiction do not satisfy the requested jurisdiction’s domestic legal requirements (see [Guideline 9 Step 2 Consider consulting the requested jurisdiction on the draft request for MLA \[8\]](#)). As admissibility standards vary among jurisdictions, compliance alone with admissibility requirements by the requesting jurisdiction may still be insufficient. Requested jurisdictions may have to fulfil higher evidentiary thresholds required by their courts to comply with requests for MLA. Identification of such issues is recommended as early in the investigation process as possible through consultations among involved jurisdictions (see [Guideline 5 \[9\]](#)).

Issues relating to dual criminality, elements of proof, standards of evidence, and legal admissibility of evidence obtained during investigation must be considered.

## **Step 8 Share information with other involved jurisdictions**

Where possible, share information with other involved jurisdictions through FIU (e.g. Egmont channel if available), law enforcement channels and asset recovery networks or on a bilateral basis.

## Explanation of step 8

Where appropriate, FIUs should share financial intelligence with FIUs of other concerned jurisdictions, through appropriate channels such as the Egmont Group. Other networks such as the regional-based ones can also be used, in particular when members are not part of the Egmont network and countries may consider the use of MoUs (see [Guideline 6](#) [6]).

Involved jurisdictions should also consider providing information spontaneously, and receiving jurisdictions should use information provided to follow-up and pursue investigations (see [Guideline 4 Step 1 Consider sending spontaneous transmittal of information](#) [3]).

Involved jurisdictions should close the file if determined they do not have jurisdiction. Prior to closing the file, however, the lead agency should evaluate whether there is information relevant to another case or jurisdiction, spontaneously transmitting information where appropriate and possible (see [Guideline 8](#) [5]).

## Further reading

- UNCAC, Articles 31(2), 48(4 and 5), 52(5) and 58
- [Technical Guide to UNCAC](#) [10], Article 31, available at [http://www.unodc.org/documents/corruption/Technical\\_Guide\\_UNCAC.pdf](http://www.unodc.org/documents/corruption/Technical_Guide_UNCAC.pdf) [10]
- Financial Action Task Force (FATF), [Best Practices on Confiscation \(Recommendations 4 and 38\) and A Framework for Ongoing Work on Asset Recovery \(Best Practices on Confiscation\)](#) [11], available at <http://www.fatf-gafi.org/dataoecd/39/57/44655136.pdf> [11]
- Stolen Asset Recovery Initiative (StAR), [Asset Recovery Handbook: A Guide for Practitioners](#) [12] (particularly Section 2: Strategic Considerations for Developing and Managing a Case) available at: <https://star.worldbank.org/publication/asset-recovery-handbook> [12]
- StAR, [Barriers to Asset Recovery: An Analysis of the Key Barriers and Recommendations for Action](#) [13] (see Barriers 27 (Lack of Publicly Available Registries) and 28 (Identifying Foreign Bank Accounts)), available at: <https://star.worldbank.org/publication/barriers-asset-recovery> [13]
- Monteith, C. (2013). Case and Investigation Strategy. In: Fenner Zinkernagel, G. et al. (eds.). 2013. Emerging Trends in Asset Recovery. Peter Lang
- Bacarese, A. (2009). The role of intelligence in the investigation and the tracing of stolen assets in complex economic crime and corruption cases. In: International Centre for Asset Recovery (ICAR). 2009. [Tracing Stolen Assets: A Practitioner's Handbook](#) [14], available at: <https://www.baselgovernance.org/publications/tracing-stolen-assets-practitioners-handbook> [14]
- Lasich, T. (2009). The investigative process – a practical approach The role of intelligence in the investigation and the tracing of stolen assets in complex economic crime and corruption cases. In: International Centre for Asset Recovery (ICAR). 2009. [Tracing Stolen Assets: A Practitioner's Handbook](#) [14], available at: <https://www.baselgovernance.org/publications/tracing-stolen-assets-practitioners-handbook> [14]

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- [9] <https://guidelines.assetrecovery.org/guidelines/guideline-5-legal-requirements>
- [10] [http://www.unodc.org/documents/corruption/Technical\\_Guide\\_UNCAC.pdf](http://www.unodc.org/documents/corruption/Technical_Guide_UNCAC.pdf)
- [11] <http://www.fatf-gafi.org/dataoecd/39/57/44655136.pdf>
- [12] <https://star.worldbank.org/publication/asset-recovery-handbook>
- [13] <https://star.worldbank.org/publication/barriers-asset-recovery>
- [14] <https://www.baselgovernance.org/publications/tracing-stolen-assets-practitioners-handbook>