



NCC Webinar on AML/CFT Taxation issues for the Private Sector

**Criminal investigation
developments**

Criminal Investigation Developments

- How is an investigation initiated?
- The Investigation Process
- What is Money Laundering?
- Indicators of Money Laundering
- Police & OCfR Collaboration



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Initiation of an Investigation

- A Police investigation can commence in two different ways:
 1. Upon a criminal offence detected by the Police;
 2. From Reports, Information or Complaints received from any person or entity (*Articles 535 to 545 of the Criminal Code, Chapter 9 of the Laws of Malta*);



Form of Report, Information or Complaint

- The report, information or complaint can be submitted to the Police **verbally** or **in writing**;



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Duty of the Police

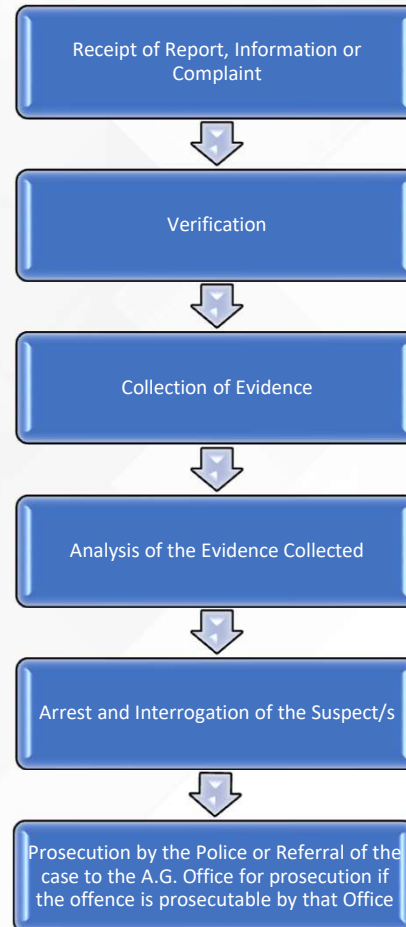
- Once a report, information or complaint is received, the Police shall verify its authenticity and to do so, initiate an investigation on such a report, information or complaint;



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Investigation Process



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Investigation Process

- Collection of Evidence
 - The Police can collect evidence in various manners:
 - ✓ Requests for information (Article 355AD in terms of Chapter 9 of the Laws of Malta);
 - ✓ Issuance of an Investigation Order or an Attachment Order in terms of Chapter 373 and as of March 2021 Chapter 621 of the Laws of Malta;
 - ✓ Searches (Article 355E of Chapter 9 of the Laws of Malta);
 - A person receiving a request for information by the Police is obliged by law to provide the information requested.



Investigating Money Laundering

- What is Money laundering?
 - The Financial Action Task Force (FATF) defines Money Laundering as **“the processing of criminal proceeds to disguise their illegal origin in order to legitimize the ill-gotten gains of crime”**



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Investigating Money Laundering

- What is Money laundering?
- Chapter 373 of the Laws of Malta defines Money Laundering as:
 - i. the conversion or transfer of property knowing or suspecting that such property is derived directly or indirectly from, or the proceeds of, criminal activity or from an act or acts of participation in criminal activity, for the purpose of or purposes of concealing or disguising the origin of the property or of assisting any person or persons involved or concerned in criminal activity;



Investigating Money Laundering

- What is Money laundering?
- Chapter 373 of the Laws of Malta defines Money Laundering as:
 - ii. the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect of, in or over, or ownership of property, knowing or suspecting that such property is derived directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;



Investigating Money Laundering

- What is Money laundering?
- Chapter 373 of the Laws of Malta defines Money Laundering as:
 - iii. the acquisition, possession or use of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;



Investigating Money Laundering

- What is Money laundering?
- Chapter 373 of the Laws of Malta defines Money Laundering as:
 - iv. retention without reasonable excuse of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;



Investigating Money Laundering

- What is Money laundering?
- Chapter 373 of the Laws of Malta defines Money Laundering as:
 - v. attempting any of the matters or activities defined in the above foregoing subparagraphs (i), (ii), (iii) and (iv) within the meaning of article 41 of the Criminal Code;



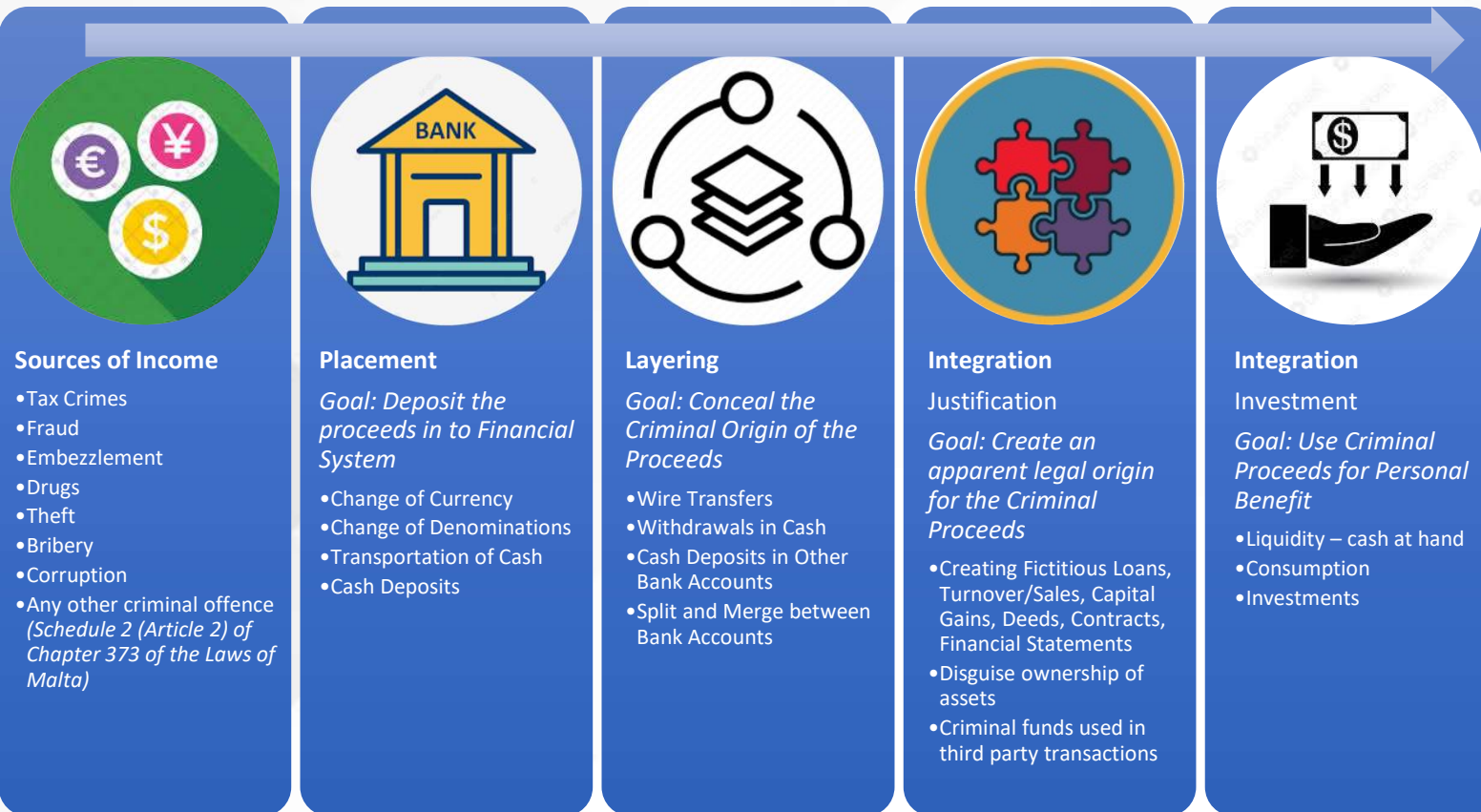
Investigating Money Laundering

- What is Money laundering?
- Chapter 373 of the Laws of Malta defines Money Laundering as:
 - vi. acting as an accomplice within the meaning of article 42 of the Criminal Code in respect of any of the matters or activities defined in the above foregoing sub-paragraphs (i), (ii), (iii), (iv) and (v);



Investigating Money Laundering

- Stages of Money laundering:



Investigating Money Laundering

- Indicators of Money Laundering:
 - Unusual Income
 - No income or low income compared to the normal cost of living;
 - Person appearing to be living beyond their means;



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Investigating Money Laundering

- Indicators of Money Laundering:
 - Unusual rise in net worth
 - Inheritance from a criminal family member;
 - Fictitious inheritance;
 - Gambling and Lottery Gains;



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Investigating Money Laundering

- Indicators of Money Laundering:
 - Unusual possession or use of assets
 - A person with low income owns or makes use of expensive assets (car, boat, real estate);
 - A person owns assets located abroad, which are not declared locally;



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Investigating Money Laundering

- Indicators of Money Laundering:
 - Unusual debt
 - Obtaining a mortgage on a relatively low income;
 - Obtaining a loan from unidentified parties;
 - Repayment of a loan in a relatively short period of time without a legitimate income to justify such a repayment;



Investigating Money Laundering

- Indicators of Money Laundering -
Examples:

- A shareholder supports his business with contributions which are not in line with his tax declarations;
- A person accumulates wealth which cannot be supported by his known source of funds (e.g. low wage / ailing business);



Investigating Money Laundering

- Indicators of Money Laundering -
Examples:

- The personal bank records do not show funds which can support the person's lifestyle;
- A person makes use of offshore credit/debit cards for which the source of funds deposited cannot be identified;



Investigating Money Laundering

- The Police request information from various entities in order to ascertain:
 - The current wealth of the suspect;
 - The source of income of the suspect;
 - The suspect's interest in legal entities;
 - The money flow of the suspect and the entities in which he holds an interest;
 - The declared income of the suspect;



Investigating Money Laundering

- The Police have established a strong working relationship with the Office of the Commissioner for Revenue (OCfR);
- Through this collaboration, the Police cross-check the findings of the investigation with the OCfR declarations;
- Officers from the OCfR assist the Police in the tax analysis process;



Investigating Money Laundering

- Whenever a case of tax evasion is established, the Commissioner for Revenue sanctions the Police to press criminal charges against the person/s investigated in terms of the Income Tax Acts.



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Investigating Money Laundering

- To facilitate the exchange of information between the two departments, the Police has set up the Fiscal Crime Unit within the Financial Crimes Investigations Department.



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Investigating Money Laundering

- What can you do?
 - Whenever you come across suspicious transactions you should submit a Suspicious Transaction Report (STR) to the FIAU;
 - If you note that a criminal offence is taking place, report your suspicions to the Police to initiate an investigation;



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Thank You For Your Attention