The Role of Financial Intelligence Units (FIUs) in the Prevention and Detection of Corruption: The Chilean Experience

Submitted by: Chile
THE ROLE OF FINANCIAL INTELLIGENCE UNITS (FIUs) IN THE PREVENTION AND DETECTION OF CORRUPTION: THE CHILEAN EXPERIENCE

Víctor Ossa
Director
FINANCIAL ANALYSIS UNIT (UAF) - CHILE
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Money Laundering definition

United Nations (1)

1. Convention Against illicit Traffic in Narcotic Drugs and Psychotropic Substances, the Vienna Convention (1988)

Money Laundering definition (3)

United Nations (2)

The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offense to evade the legal consequences of his or her action;

The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;

Money Laundering definition

United Nations (3)

Subject to the basic concepts of each country’s legal system:

The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counseling the commission of any of these type of offenses.
Money Laundering definition

CICAD – OAS (1)

The conversion, transfer or transport of property, knowing or should having known, or being intentionally ignorant that such property is proceeds or an instrumentality of a serious criminal activity;

The acquisition, possession, use or administration of property, knowing or should having known, or being intentionally ignorant that such property is proceeds or an instrumentality of a serious criminal activity;

Money Laundering definition

CICAD – OAS (2)

The concealing, disguising or impediment to the establishment of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing or should having known, or being intentionally ignorant that such property is proceeds or an instrumentality of a serious criminal activity;
Money Laundering definition

CICAD – OAS (3)

Participating in, *associating* with, conspiring to commit, attempting to commit, aiding and abetting, facilitating and counseling, inciting publicly or privately the commission of any of the above mentioned offenses to evade the legal consequences of such actions.

Money Laundering definition

**Financial Action Task Force - FATF**

The goal of a large number of criminal acts is to generate a profit for the individual or group that carries out the act.

*Money laundering is the processing of illegally obtained proceeds to disguise their illegal origin.*
Corruption definition

Whilst the “United Nations Convention against Corruption” (Mérida 2003), does not provide an official definition for corruption, common definitions include:

Corruption is an *abuse of (public) power* for private gain that hampers the public interest.

Corruption entails a confusion of the private with the public sphere or an illicit exchange between the spheres. In essence, corrupt practices involve *public officials acting in the best interest of private concerns (their own or those of others) regardless of, or against, the public interest.*

The relationship between money laundering and corruption is direct

The relationship between the corruption of law enforcement or government officials and money laundering, is driven by the highly significant illegal revenues produced, the origin and ownership of which are concealed and disguised through the money laundering process.

On the other hand, money launderers intend to persuade law enforcement and government officials to perform a variety of corrupt practices, required to carry out the money laundering process.

The money launderer, through the application of ‘kickbacks’, may procure willful blindness on such party.
There is a direct relationship between money laundering and corruption

Regimes that lack systems of accountability and transparency typically allow for high levels of money laundering and corruption.

Anti Money Laundering (AML) systems are essential in fighting corruption

Key players of AML systems are the Financial Intelligence Units – FIUs

Definition of a Financial Intelligence Unit
A central, national agency responsible for receiving (and, as permitted, requesting), analyzing and disseminating to the competent authorities, disclosures of financial information:

i) concerning suspected proceeds of crime and potential financing of terrorism.

ii) required by national legislation or regulation, in order to combat money laundering and terrorism financing.
FiU

ANALYSIS:
- Requests information to national and international sources
- Search for related transactions in the FIU data base

Money Laundering evidence → Report to competent authorities → Public prosecutor

No evidence of money laundering

FIU data base

STR
CTR
CUSTOMS
FIU’s
Other sources
Financial Analysis Unit - FIU

FIUs
Main functions

Issue guides and recommendations to the financial system and other economic sectors to prevent them from being used for money laundering

Analyze information received in accordance to their national legal system

Disseminate financial information suspicious of money laundering to competent authorities

Anti Money Laundering (AML) systems are essential in fighting corruption

Prevention
If economies have strong AML systems in place, assets originated by corrupt practices will have more difficulties in being laundered and therefore, be used or enjoyed by such criminals. The issuing by FIUs of red flags, typologies and other guides to the reporting entities, is a key element in prevention having a DISCOURAGING EFFECT

This will also diminish the risk that government officials can be bribed, therefore THE OFFER DIMINISHES
Anti Money Laundering (AML) systems are essential in fighting corruption

Detection
A good record in the detection of corruption has an important discouraging effect in the practice of such crime.

The reception by FIUs of STRs and CTRs from banks, the financial system and other economic activities, allows the early detection of laundering proceeds originated in corruption as suspicious transactions are being monitored throughout several countries.

The reception by FIUs of cash cross-border reports is also a key element in early detection.

Prosecution
FIUs will collaborate with the Public Prosecutor Office providing financial information to support the investigation of Money Laundering and Terrorism Financing crimes.

Most important is the information FIUs can obtain from each other worldwide.
Responsibility chain in the AML system

- Reporting entity
- FIU
- Public prosecutor
- Courts

Suspicious transaction → Trace of crime → Crime

The International nature of Money Laundering

FATF
The 40 + 9 Recommendations
- GAFISUD
- METAFATF
- APG
- CFATF
- EAG
- GIABA
- ESAAMLG
- MONEYVAL

- CICAD-OAS
- UNODC
- IMF – WB – IDB
- APEC – OECD
- FIUs
- EGMONT
The international nature of Money Laundering

CICAD – OAS

In 1990, the Inter-American Drug Abuse Control Commission (CICAD) of the Organization of American States (OAS), established the Experts Group on Money Laundering Control. In the mid 90’s, the Group issued the Model Regulations on Money Laundering Offenses related to drug trafficking and other criminal offenses. The Model Regulations document has been updated several times during the past years.

In 1999, as CICAD increased its activities of training and assisting member states in the control of money laundering, it established the Anti-Money Laundering Unit (AMLU). The Unit focuses its efforts on providing technical assistance and training.

The international nature of Money Laundering

The UNODC Global Programme against Money Laundering

The Global Programme against Money Laundering (GPML) is the key instrument of the United Nations Office on Drugs and Crime (UNODC) in its efforts in combating money laundering and, therefore, organized crime.

A very important initiative currently being carried out by UNODC is the design of a software for FIUs called goAML and their offer to donate such software to FIUs.
The International nature of Money Laundering

The Financial Action Task Force on Money Laundering (FATF) was established in 1989 by the G-7 member States, the European Commission and eight other countries.

The FATF is an inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing. The FATF is therefore a "policy-making body" that works to generate the necessary political will to bring about legislative and regulatory reforms in these areas. The FATF has published 40 + 9 Recommendations in order to meet this objective.
The international nature of Money Laundering

FATF

During 1991 and 1992, the FATF expanded its membership from the original 16 to 28 members. In 2000 the FATF expanded to 31 members, in 2003 to 33 members, and in 2007 it expanded to its current 34 members.

The International nature of Money Laundering

FATF
The 40 + 9 Recommendations

GAFISUD EAG
META FATF GIABA
APG ESAAMLG
CFATF MONEYVAL

CICAD-OAS
UNODC
IMF – WB - IDB
APEC – OECD

FIUs
EGMONT
The international nature of Money Laundering

Egmont Group

The first few Financial Intelligence Units (FIUs) were established in the early 90’s.
Recognizing the benefits inherent in the development of a FIU network, a group of FIUs met at the Egmont Arenberg Palace in Brussels in 1995. On such occasion, they agreed to establish an informal group for the encouragement of international cooperation.
Now known as the Egmont Group, these FIUs meet regularly to find ways to cooperate, especially in the areas of information exchange, training and sharing of expertise.
There are 106 countries or jurisdictions, with recognized operational FIUs which are currently members of the Egmont Group, along with others in various stages of development. Since July 2007, an Executive Secretariat has been established and based in Toronto, Canada.

The Chilean Experience

The Chilean FIU was created, on December 18, 2003, under Law 19.913. This same law established corruption offenses as a predicative crime for money laundering.

Chile ratified the United Nations Convention Against Corruption on September 13, 2006 which became official by its publication in the Official Gazette on January 30, 2007.
In the past months, Chile has taken legislative and administrative measures to ensure the implementation of what was agreed under the UN Convention Against Corruption.

**Article 5 - Preventive anti-corruption policies and practices**

1.- Anti Corruption government policies
   a) A report from a Committee of Experts on measures to favor probity and efficiency of public management.
   In November 2006, the President of Chile received a report from a Committee of Experts she had previously designated, with recommendations in four areas: Probity, Transparency, Quality of Policies and Modernization of the State.

   b) Constitution of an Agenda of Probity and Transparency and an Executive Secretariat.
   On December 6, 2006, the President of Chile established the Agenda of Probity and Transparency reporting to an Executive Secretariat, which requested the enforcement of 30 concrete measures proposed by the Committee on their November 2006 Report.
The Chilean Experience

Article 5 - Preventive anti-corruption policies and practices

2.- Identification and promotion of good practices

The Executive Secretariat of the Agenda of Probity and Transparency organized - within the State Administration - a contest in order to detect the best practices in probity, transparency and access to public information.

The Chilean Experience

Article 6 - Preventive anti-corruption body or bodies

1.- The Counsel for Transparency

On December 6, 2006, in order to guarantee wide access to information on public entities, the President of Chile sent to Congress a Draft Law for its creation.
1.- Improvements to the High Public Direction System
On December 20, 2006, the President of Chile sent a Draft Law to Congress, with a proposal to amend this System in the following aspects:

i) Add new Public Entities to the System. At the end of such process, only five of these, as well as all State owned Universities, will remain out of the System.

ii) Strengthen the corporate role of the High Public Direction Council

iii) Establish an annual report to Congress by such High Public Direction Council

iv) Improvements to the recruitment process of High Public Directors

2.- Five-year training plan on public ethics for public officials
A training plan is being developed by the Finance Ministry, the High Public Direction Department, and the Executive Secretary of Probity and Transparency Agenda.
The Chilean Experience

Article 7 – Public Sector

3.- Primary Elections Regulation
On December 6 2006, the President of Chile sent to Congress a project to amend our Constitution. This amendment will establish Primary Elections within political parties for the nomination of their candidates for Presidential and Congress elections.

4.- Draft Law to regulate lobbying activities
On December 6, 2006 the President of Chile sent to Congress a Draft Law to regulate such activity.

The Chilean Experience

Article 7 – Public Sector

5.- Amendment to law on transparency, limit and control of election - campaign expenditures
On December 6, 2006, the President of Chile sent to Congress a Draft Law which will among others:

i) Create a Suppliers Registry

ii) Prohibition to juridical persons to make donations to candidates or political parties

iii) Establishment of penal types for certain offenses to the Election Expenditures Law

iv) Restrictions to some faculties of the Executive Power in relation to the presentation of urgent Draft Laws during election - campaign periods.

v) Restrictions to publicity of governmental policies during election - campaign periods.

vi) Prohibition to perform fund collection campaigns within Public Institutions.
The Chilean Experience

Article 8 - Code of conduct for public officials

1.- Probity and Transparency Manual
The Executive Secretary of the Probity and Transparency Agenda is presently elaborating a Manual and Code of Conduct for public officials.

2.- Incompatibility and Inabilities for Congressmen
On December 6, 2006 the President of Chile sent to Congress a project to amend the Constitution. Such Amendments include:
   i) the ruling of conflict of interests for Congressmen and
   ii) restrictions and disclosing to the acting of Congressmen as attorneys or mandates under certain circumstances.

The Chilean Experience

Article 8 - Code of conduct for public officials

3.- Protection to public officials who report irregularities and corruption acts
On December 6, 2006 the President of Chile sent to Congress a Draft Law, which establishes that public officials who report irregularities and corruption acts shall receive protection. This Law has already been approved by Congress, and published in the Official Gazette on July 24, 2007.

4.- Public availability of the declaration of Patrimony and Interests (Amendment to the 8th Article of the Chilean Political Constitution)
Public authorities are obligated to declare their wealth and interests at the beginning and end of their period in such positions. On December 6, 2006 the President of Chile sent to Congress a Draft Law in order to amend the Constitution and make such declarations public and widely available.
The Chilean Experience

Article 9 - Public procurement and management of public finances

1.- Presidential guidelines on active transparency dated December 4, 2006
Every public entity must publish in its official web site:
   i) a detailed list of all acquisition of goods and services
   ii) a list including every individual working for the entity
   iii) a detailed list of funds transferred to juridical persons.

2.- Improvement of the General Audit Governmental System
A Draft Law has been presented to upgrade a governmental advisor commission to become the Internal General Audit Governmental Council. Every Ministry will need to establish its own Auditing Council.

3.- Improvement of public procurement
On December 20, 2006 a Draft Law was sent to Congress to strengthen the public procurement system established by the Law in 2003, so extending its compulsory compliance to a broader range of public entities and public activities. All acquisitions over a certain amount (approximately US$ 50) must be made via the governmental procurement web site www.chilecompra.cl.

4.- Project of Constitutional Amendment on the modernization of the Contraloría General de la República (the Chilean Official Public Auditing Entity)
On December 6, 2006 the President of Chile sent to Congress a Draft Law to introduce significant changes and modernize the Contraloría General de la República.
The Chilean Experience

Article - 10 Public reporting

1.- Draft Law on the transparency of the activity and access to information of public entities.
On December 6, 2006 the President of Chile sent to Congress a Draft Law to regulate the access to information of public entities. Active transparency shall become an obligation.

Article 12 – Private Sector

1.- A Draft Law to broaden restrictions to the “revolving door”
On December 6, 2006, the President of Chile sent to Congress a Draft Law to strengthen employment restrictions to public officials once they finish their period as governmental authorities. Monetary compensation for a one year restriction period.

The Chilean Experience

Article - 33 Protection of reporting persons

1.- A Law to provide protection to public officials who report irregularities or corruption acts
On December 6, 2006, the President of Chile sent to Congress a Draft Law to protect public officials against any unjustified treatment, if they report in good faith any irregularities or corruption acts. This project became a Law upon its publication in the Official Gazette on July 24, 2007.
Perception of corruption 2006

Source: Transparency International

SOUTH AMERICA

### SOUTH AMERICA

<table>
<thead>
<tr>
<th>Country</th>
<th>Control of Corruption</th>
<th>Ranking</th>
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### WESTERN HEMISPHERE

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### APEC

**Member Economy**

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*Source: World Bank Institute – Worldwide Governance Indicators for 2006*
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Thank you!

Víctor Ossa  
Director  
FINANCIAL ANALYSIS UNIT (UAF) - CHILE  
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August 20, 2007