

Mutual Legal Assistance

Countries should ensure that they:

- > Are able to rapidly, constructively and effectively provide the widest possible range of mutual legal assistance (MLA) in relation to money laundering (ML), associated predicate offences and terrorist financing (TF) investigations, prosecutions and related proceedings.
- > Have an adequate legal basis for providing MLA and, where appropriate, should have in place treaties, arrangements or other mechanisms to enhance cooperation.
- > Do not prohibit, or place unreasonable or unduly restrictive conditions on, the provision of MLA.
- > Have clear and efficient processes for the timely prioritisation and execution of MLA requests.
- > Use a central authority, or another established official mechanism, for

effective transmission and execution of requests.

- > Maintain a case management system to monitor progress on requests.
- > Do not refuse to execute a request for MLA on:
 - ✓ the sole grounds that the offence is also considered to involve fiscal matters; and
 - ✓ grounds that laws require financial institutions (FIs) or Designated Non-Financial Businesses and Professions (DNFBPs) to maintain secrecy or confidentiality (except where the relevant information that is sought is held in circumstances where legal professional privilege or legal professional secrecy applies).
- > Maintain the confidentiality of MLA requests they receive and the information contained in them, subject to fundamental principles of domestic law, in order to protect the integrity of the investigation or inquiry.

- > Where the requested country cannot comply with the requirement of confidentiality, promptly inform the requesting country.
- > Render MLA, notwithstanding the absence of dual criminality, if the assistance does not involve coercive actions.
- > Consider adopting such measures as may be necessary to enable them to provide a wide scope of assistance in the absence of dual criminality and where dual criminality is required for MLA, that requirement should be deemed to be satisfied regardless of whether both countries place the offence within the same category of offence, or denominate the offence by the same terminology, provided that both countries criminalise the conduct underlying the offence.
- > Avoid conflicts of jurisdiction, by giving consideration to devising and applying mechanisms for determining the best

venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country.

- > Make best efforts to provide complete factual and legal information that will allow for timely and efficient execution of requests, including any need for urgency, and send requests using expeditious means.
- > Before sending requests, make best efforts to ascertain the legal requirements and formalities to obtain assistance.
- > Provide the authorities responsible for MLA (e.g. a Central Authority) with adequate financial, human and technical resources and staff with high professional standards, including standards concerning confidentiality, high integrity and who are appropriately skilled.

- > Make available to competent authorities powers and investigative techniques required under Recommendation 31 and any other powers and investigative techniques, such as:
 - (a) all those relating to the production, search and seizure of information, documents or evidence (including financial records) from financial institutions or other persons, and the taking of witness statements; and
 - (b) a broad range of other powers and investigative techniques,for use in response to requests for MLA, and, if consistent with their domestic framework, in response to direct requests from foreign judicial or law enforcement authorities to domestic counterparts.