

# Needs assessment on tools and methods of financial investigation in the European Union

## Summary

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Dr. Brigitte Slot  
Mr. Drs. Linette de Swart  
Dr. Ioana Deleanu  
Drs. Erik Merkus  
Prof. Dr. Michael Levi  
Prof. Dr. Edward Kleemans

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ECORYS Nederland B.V.  
Watermanweg 44  
3067 GG Rotterdam

P.O. Box 4175  
3006 AD Rotterdam  
The Netherlands

T +31 (0)10 453 88 00  
F +31 (0)10 453 07 68  
E [netherlands@ecorys.com](mailto:netherlands@ecorys.com)  
Registration no. 24316726

**W** [www.ecorys.nl](http://www.ecorys.nl)

# Summary

## Financial investigations

Financial investigation is one of the priorities of the Ministry of Security and Justice in the Justice and Home Affairs area during the upcoming Dutch Presidency of the European Union in the first half of 2016. Financial investigation is an essential horizontal investigative instrument which law enforcement should deploy in investigations in the fight against serious and organised crime as well as terrorism.

Financial investigation is more than investigations on behalf of asset confiscation. Promotion of a common understanding of the potential and wide applications of financial investigation will be one of the objectives of the EU Dutch Presidency, together with the formulation of an action plan that should facilitate the systematic use of financial investigations, increase the knowledge and understanding of financial investigation procedures and techniques among law enforcement practitioners, and improve cooperation in this field in (cross-border) investigations.

[The central question of this study is to assess which tools would and methods help law enforcement best in stepping up the use of financial investigations and cross-border cooperation in this field.](#)

The study is based on interviews with investigators and policy experts, interviews with representatives of the European Commission - DG HOME, Europol, Eurojust, Olaf, CEPOL and FIU, a questionnaire sent to both investigators and policy advisors in almost all EU MS, academic literature and policy document research; expert consultation, and steering group discussions. A total of 36 financial investigators and 18 policy advisors, from various EU countries, answered the questionnaire.

[The study reveals that there is still a widespread misunderstanding of what financial investigation exactly is and when and how it should be applied.](#) Financial investigation is first and foremost an investigation method. It refers to the collection, analysis and use of financial information in its broadest sense. Financial investigations may be applied to any proceeds generating crime (including terrorist financing). The ultimate goal of financial investigation is disrupting organised crime. Even in some non-organised crime homicide cases, financial issues can assist in the investigative process.

In line with this broad approach, 'financial investigation' has been defined by the Financial Action Task Force (FATF) as: 'an enquiry into the financial affairs related to a criminal activity, with a view to: identify the extent of criminal networks or the scale of criminality; identify and tracing the proceeds of crime, terrorist funds or any other assets that are, or may become, subject to confiscation; and develop evidence which can be used in criminal proceedings.'

However, as this study shows, the majority of the financial investigations in Europe are still related to asset confiscation and the collection of evidence on financial and economic crime and money laundering. Only a minority of the financial investigations are carried out to collect evidence on drugs cases or other criminal cases or to develop intelligence on criminal networks and the scale of criminality. Also, the financing of organised crime is often passed over in threat assessments and strategic analyses of organised crime.

On the other hand, it is widely acknowledged among policy makers and investigators in the EU that financial investigations are a powerful and even cost and time efficient tool when integrated with 'classical' investigation methods. Recent case-examples collected in the context of this study have demonstrated that financial investigations have produced important evidence, played a crucial role in the conviction of for example drugs criminals and human smugglers, or have helped to speed up the investigations. Such an approach holds promise to save the cost and time of surveillance in times of austerity such as currently experienced in European MS.

Ideally, financial investigations are applied across all stages of the criminal investigations and judicial proceedings: from a proactive identification of crime or criminal networks, to case investigations and evidence building, up until prosecution and conviction of offenders.

As appeared from the study, the majority of the financial investigations in the EU start (long) after a criminal incident or criminal has been identified. The study also indicates that FIU information has been mentioned as one of the most frequently occurring triggers for a financial investigation. Possibilities of proactive (financial) data mining remain largely unexploited. Cases are seldom initiated through financial information or financial investigations: rather investigators use them to supplement their investigations that commence from other sources.

It is observed that conducting a comprehensive and integrated financial investigation is not widespread in most EU MS. When financial investigations are well embedded in

the criminal investigations, it is more a standing practice than a legal obligation, such as in the UK and Denmark.

Another issue is the general perceived lack of proper feedback from the judiciary to investigators during or after the trial of a case, while investigators have indicated that feedback is important and valuable. Investigators indicate that feedback provides useful information (such as an evaluation of the added-value of their activities) for further work.

The study also indicates that financial knowledge and financial investigative attitudes, are needed at all levels of the law enforcement and judicial system: from basic financial awareness at community policing level, to highly specialist forensic accountancy expertise needed to unravel the 'corporate veil' of complex cross-border illicit money laundering structures. (Specialist) financial expertise by prosecutors and judges has proven to be central to understanding and valuing the financial evidence developed by the investigators.

The objective of this study is to assess needs for tools and methods for financial investigations. However it seems that, based on the research findings, that needs are more related to strategies, culture, collaboration and knowledge sharing than to specific operational gaps and requirements. There is definitely potential for improvement of technical tools available to financial investigators. Some tools related to data and information might be improved or updated, however such improvements will not be effective without overarching national strategies and organisational willingness to experiment with the implementation of financial investigation methods. Another important area for improvement is related to cross-border financial investigations, in particular cooperation and information exchange with third countries.

The strongest needs have been expressed at the level of national strategies, organisation and culture, and cross-border exchange of information:

**Table 0.1**      **General overview of hierarchy of needs**

National strategy	High priority
Legal instruments	In principle OK
Technical tools	Potential for improvement
Data and information	Mostly OK
Knowledge and experience	Potential for improvement
Domestic cooperation	Mostly OK
Cross-border cooperation	High priority
Organisation and culture	High priority

**National strategy.** According to the 2012 GENVAL recommendations, MS are advised to develop long-term financial investigations strategies. Only a few countries have indeed implemented such a strategy. Full integration of financial investigations into the overall criminal investigation approaches requires commitment at national policy levels.

**Legal instruments.** In general financial investigators have indicated that they have sufficient legal instruments at their disposal. Some investigators indicated that they would see a (near) reversal of burden of proof in cases of unexplained ownership of assets.

**Technical tools.** Opinions are mixed on the adequacy of technical tools available (computers, laptops, software, data storage platforms, IT training en specialists). Technical needs may have a geographical dimension (sufficient in central locations, but insufficient in peripheral regions). It is also important to note that, as financial crime become more sophisticated, and data mining becomes more standing practise as a research method, it is important to keep up in terms of hardware and software capabilities.

**Data and information.** The majority of the financial investigators indicates that access to relevant databases could be improved, including access to open source data (in particular at cross-border level). There is also a need to create links between data and developing tools for scraping, connecting and analysing multiple data sets (links between financial investigation and internet forensics).

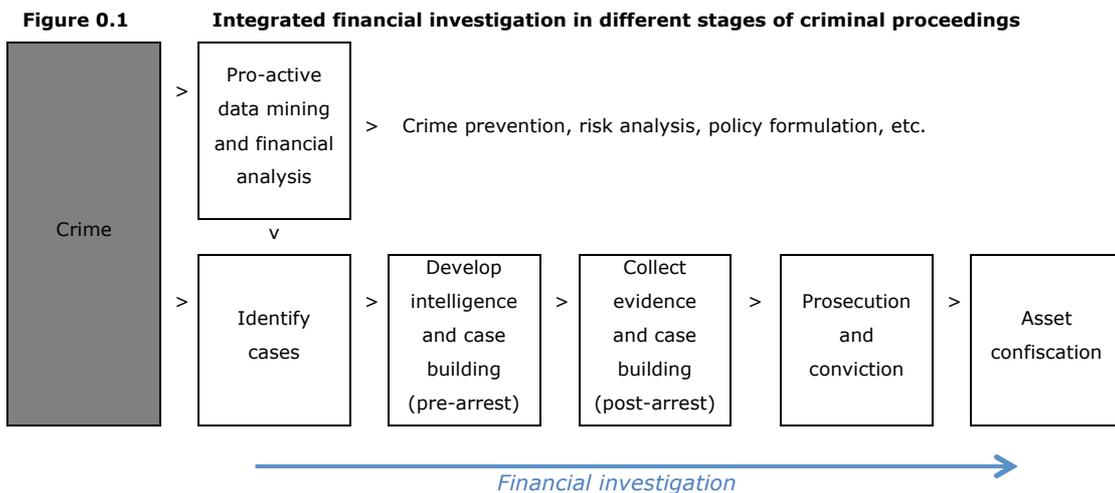
**Knowledge and experience.** Although there is a wide variety of training opportunities is available in many MS, financial investigators indicated the need for targeted case-oriented training. Joint training sessions with police investigators, prosecutors, and judges are highly valued. In general more specialist in-house forensic accounting and financial expertise is needed to bring financial investigations at a higher level.

**Cooperation and exchange of information** should be improved at all levels: within law enforcement organisations, between national agencies (for example police and tax), and between government agencies and the private sector. Multidisciplinary platforms are considered as helpful to integrating financial approaches into regular criminal investigations.

**Cross-border cooperation.** Almost all respondents indicate that preparation time and the elapsed time of international requests are the bottleneck in their work: duration of MLA requests and there are severe bottlenecks in information exchange with third countries (in particular off-shore centres).

**Organisation and culture.** Specialist financial investigators often feel themselves 'insufficiently understood' in the traditional police organisation; cultures of 'traditional' police organisations are insufficiently attuned to what is needed for effective and efficient financial investigations. Also more structural employment of highly educated (university degree) financial experts, higher salaries and better career possibilities are needed.

In sum, promotion of financial investigation requires an 'all-inclusive approach' in which financial investigation is integrated in all stages of the judicial proceedings and at all levels of law enforcement and the judiciary (Figure 0.1). Also pro-active financial investigations (through data mining and financial analysis) should be stimulated, both with the aim to provide intelligence for tactical investigations in criminal cases, and to provide strategic input for policies and practises aimed at prevention of and fight against crime.



Source: Brown et al. (2012), own research.

Integration of financial investigations in the 'traditional' criminal investigation process is first and foremost a concern for the individual member States. However, there is a joint EU responsibility in creating a European level playing field for financial investigations and fostering a cutting-edge European financial investigations culture. Concrete policy actions at EU level may be related to: the formulation of guidance for national financial investigation strategies, publication of a two-yearly European 'Financial investigations report', creation of an 'EU working group on financial investigation typologies', inclusion of Financial investigations in the EMPACT policy cycle, organisation of EU trainings (case-oriented training and integrated for both investigators, prosecutors and judges) and joint actions to improve cross border information exchange and cooperation, within the EU and with third countries.





P.O. Box 4175  
3006 AD Rotterdam  
The Netherlands

Watermanweg 44  
3067 GG Rotterdam  
The Netherlands

T +31 (0)10 453 88 00  
F +31 (0)10 453 07 68  
E [netherlands@ecorys.com](mailto:netherlands@ecorys.com)

**W** [www.ecorys.nl](http://www.ecorys.nl)

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