

GROUP OF INTERNATIONAL FINANCE CENTRE SUPERVISORS

GIFCS COMMITMENT ON ASSET RECOVERY

1. Background

It is timely to review GIFCS's commitment to asset recovery, previously reaffirmed in December 2014.

An effective framework for combating financial crime and money laundering must include provisions depriving criminals of the proceeds and instrumentalities of their crimes.

This can in part be achieved by confiscating proceeds recovered through criminal, civil or administrative processes, and ensuring the restitution of funds to the victims of fraudulent or corrupt activity.

The confiscation and recovery of assets of illicit origin are effective instruments for dealing with organised crime, which is undertaken with clearly defined profit goals. They also help to prevent illicit assets from being used to finance other illegal activities, which could undermine confidence in financial systems and corrupt legitimate society.

This process is commonly referred to as "asset recovery".

2. International standards

(a) In October 2023, the FATF strengthened the global requirements on asset recovery through revisions to its Recommendations 4 and 38. The updated Standards – which will be assessed as part of FATF's 5th round starting in 2025 – require that countries establish asset recovery as a priority and that they develop new tools to help identify, trace and recover criminal assets. This includes powers to establish non-conviction based (NCB) confiscation regimes, to the extent this is consistent with domestic law, and to take part in multilateral networks to better facilitate rapid and constructive international cooperation for asset recovery.

(b) In June 2024, FATF updated its FATF Immediate Outcome 8, which requires jurisdictions to evidence that the proceeds and instrumentalities of crime are confiscated. It states:

"Characteristics of an effective system

Criminals are deprived, through timely use of a comprehensive range of asset recovery measures, of criminal property and property of corresponding value, whether the assets are located domestically or abroad. Asset recovery is prioritised by the country and the relevant legal and operational frameworks are reviewed periodically to ensure that:

- the pursuit of criminal property is prioritised and integrated into the objectives and practices of all key stakeholders, particularly LEAs, prosecutors, and FIUs, and asset recovery strategies are developed at the outset of investigations and updated throughout;*
- effective operational and strategic co-operation occurs, and relevant information is easily accessible and shared rapidly;*
- appropriate skills and sufficient resources are available and used effectively, relative to the nature of the risks faced;*
- criminal property and property of corresponding value is effectively and rapidly identified (including through early use of parallel financial investigations) and secured to prevent dissipation, and the value of such property is preserved through effective asset management; and*
- criminal property and property of corresponding value is confiscated, confiscation orders are enforced and, where appropriate, criminal property is returned to or used to compensate victims. Ultimately, this makes crime unprofitable and reduces and disrupts money laundering, predicate crimes and terrorist financing.”*

- (c) The leading convention in this area is the United Nations Convention against Corruption (UNCAC), which was signed in 2003 and came into force in 2005. It uses the expression “asset recovery” to refer to recovery of the proceeds of corruption rather than the wider universe of confiscation and repatriation. When asset recovery is referred to in UNCAC, the context is efforts by governments and their agencies seeking repatriation of the proceeds of corruption hidden in foreign jurisdictions. UNCAC was the first international treaty that details mechanisms and conditions for the repatriation of confiscated assets – as a result UNCAC’s provisions on asset recovery are widely regarded as a major breakthrough in international law. UNCAC compels states to return assets obtained through corruption to the requesting country from which they have been stolen, if certain conditions hold. UNCAC was also fundamental in moving global thinking on criminalising corruption beyond bribery to other aspects such as trading in influence and abuse of power.

Asset recovery is multi-jurisdictional. Its main processes under UNCAC can be broken down into tracing assets, and freezing, confiscating and repatriating assets. The multi-jurisdictional nature of these complex processes means that asset recovery is highly challenging and requires effective international cooperation between requesting states and financial centres.

Often, the assets are stolen by corrupt heads of government and other politically exposed persons. These individuals seek to move the assets to foreign jurisdictions in order to remove them from their domestic environment and take advantage of differences in legal systems, difficulties in coordinating international investigations, poor international cooperation, and lack of transparency by using legal persons.

- (d) The Stolen Asset Recovery Initiative (StAR), which commenced its activities in 2007 is a partnership between the World Bank and the United Nations Office on Drugs and Crime. It works with developing countries and financial centres to prevent the laundering of the proceeds of corruption and to facilitate more systematic and timely return of stolen assets. One of the priorities of StAR is to tackle the misuse of legal structures to conceal the proceeds of corruption.

StAR provides practical technical assistance to jurisdictions involved in asset recovery cases at their request, and can act as a trusted broker in the asset recovery process. It publishes policy papers, expert guides and a public database which tracks efforts by country authorities worldwide to recover and return proceeds of corruption - [Asset Recovery Watch](#) database.

- (e) The Chair and other members of GIFCS have already participated in international fora on asset recovery. These fora bring together interested parties and are a significant part of the international community's efforts in relation to asset recovery.

3. Confirmation

Supervisors have an important role to play within their powers in supporting law enforcement and others to recover and repatriate criminal assets. Supervisors must ensure effective record keeping, monitor and enforce compliance with CDD and beneficial ownership regulations, and insist on timely exchange of beneficial ownership and other relevant information. GIFCS will continue to work with key partners to identify ways of supporting this as part of its commitment to asset recovery.