



UNECA-UNCTAD

Pilot to Measurement of IFF

17 June 2021

OUTLINE OF THE PRESENTATION

Overview of National Initiatives, Plans, Strategies to address IFFs

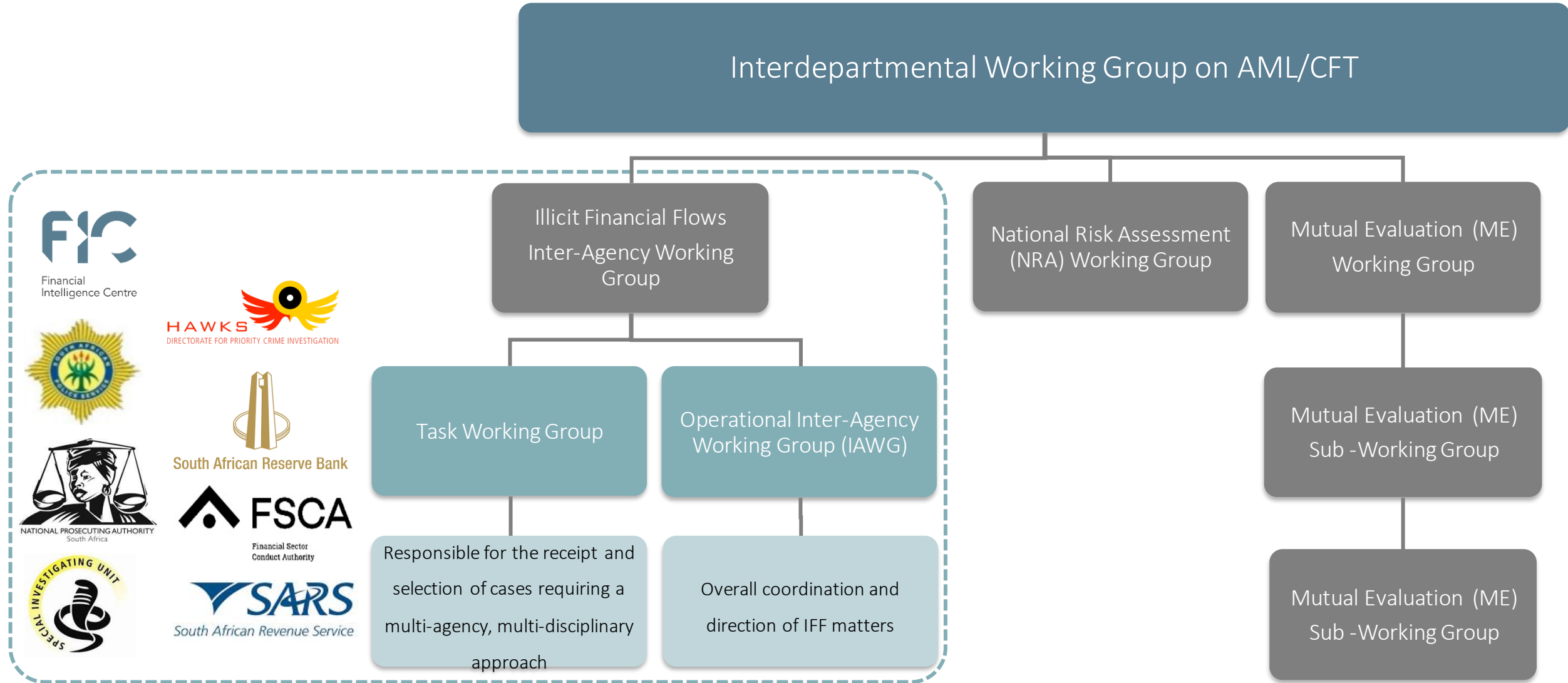
- Coordination of IFF Efforts in South Africa
- Background of IAWG:IFF, Case Selection Criteria, Overview of Operational Success to date, Strategic Overview of the IAWG:IFF
- Way Forward
- Challenges and Lessons Learned

IFFs Most relevant to South Africa

- Bulk Cash Smuggling
- Key Threats and Drivers Of IFFs

South Africa: Challenges / Lessons Learned

Coordination around Anti-Money Laundering (AML) and Counter Financing of Terrorism (CFT)



BACKGROUND OF IAWG:IFF

- Subsequent to the **parliamentary hearing** of May 2017 relating to IFFs, the FIC called a meeting of the various relevant Government Agencies to create a coordinating forum on IFFs.
- At the parliamentary hearing, **concerns** were raised about the inconsistencies in statistics from various role players.
- There was a call for **coordination** of efforts dealing with IFFs.
- In February 2018 the Terms of Reference (TOR) for the coordinating forum was drafted and approved, resulting in the **Inter-Agency Working Group on IFFs**.
 - Current inventory - 10 matters under multi agency investigation
- Establishment of the IDC

IAWG - Case Selection Criteria

- **Adopted Working Definition (as adopted by the IAWG-IFF)**
 - *An Illicit Financial Flow (IFF) is defined as the illegal movement of money or capital from one country to another when funds are illegally earned, transferred and/or utilised.*
- **This definition therefore covers various aspects in relation to the flow of funds**
 - Illegally earned money (e.g. proceeds of drug trafficking, fraud or theft). This will fall within the legislative framework relating to proceeds of crime – POCA.
 - Legally earned money, but illegally transferred. This falls within the legislative framework relating to Exchange Control and would typically include fraudulent documentation being presented, or non-declaration of cash in the case of “cash mules”.
- **Case Selection Criteria for Inter-Agency Collaboration beyond BUSINESS AS USUAL**
 - Cases must fall within the definition of IFFs
 - Minimum financial threshold of R100 million
 - Minimum of three investigative agencies involved and
 - Any other significant matter (which may fall outside of the above case selection criteria)

Overview of the IAWG:IFF Success to Date

- In excess of R400m recovered to date
- One matter currently in court. Case postponed to 13 July 2021
- Two matters currently with the Prosecution to be placed on court roll
- One matter where arrests of at least four suspects are imminent
- Two matters have been closed due to the IAWG:IFF investigation has disrupted organized crime syndicates
- SARS investigation into TAX compliance and audits on seven cases
- SAPS Crime Intelligence doing surveillance in one matter
- FIC doing ongoing intelligence gathering and profiling based on new information received in relation to eight cases
- IAWG:IFF supporting identified and supports DPCI's National project on
- Cash Couriers at ports of entry

South Africa : IAWG:IFF Approach

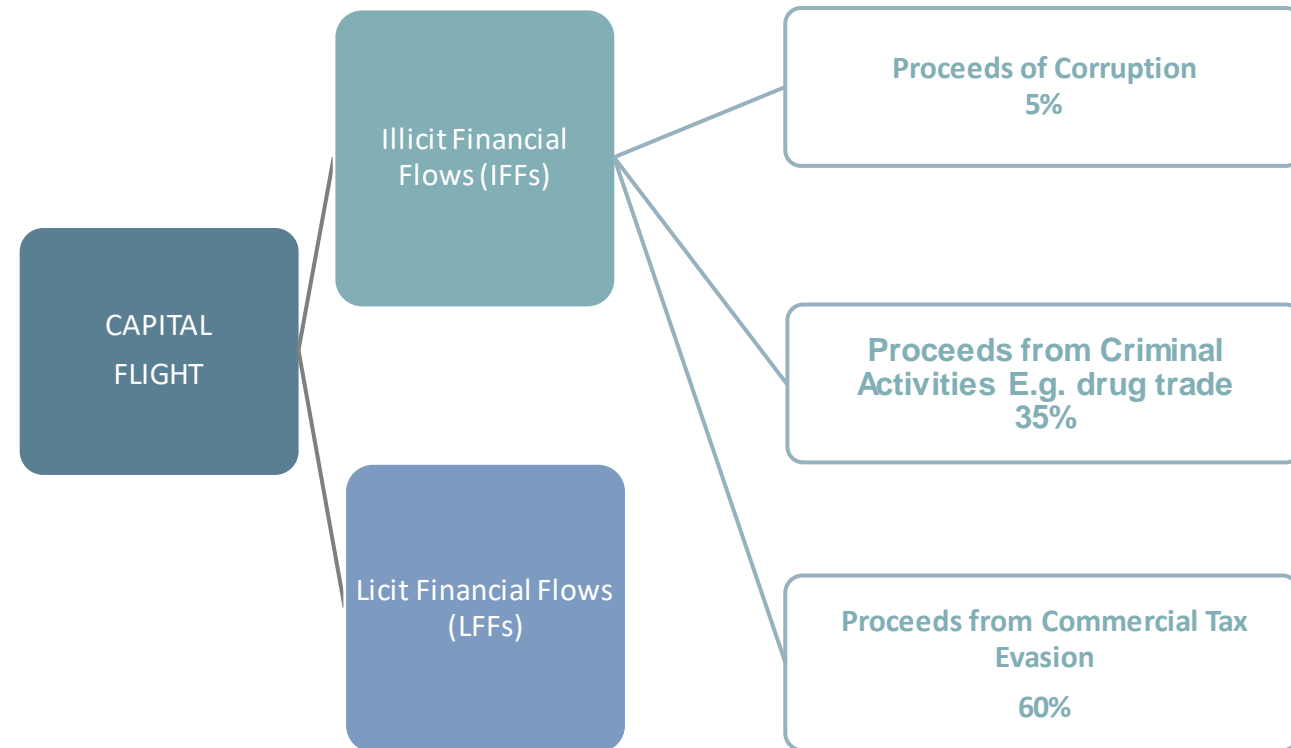
- South Africa's strategy to address IFFs should begin at the national level but include a regional, continental and global approach.
- The exploitation of legal loopholes by multi-national corporations which allow for money to be taken out of the country and invested in other African states while the profits are not repatriated should be included in the regional/continental approach
- South Africa should make cash declarations by those in transit obligatory, which is the case in many other countries.
- Corruption at OR Tambo International Airport which is the site of extensive smuggling of cash, is a massive challenge that must be addressed urgently.
- The legislative amendment in terms of the transit jurisdiction is already in progress and its presentation to Parliament for conclusion and sign-off must be fast-tracked.
- The IAWG:IFF has reached an agreement to support the Illicit Trade Working Group by appointment of permanent IAWG:IFF representative to attend meetings
- The focus on the role of the illicit economy in driving IFFs should be expanded to include the illicit movement of money from the NGO sector, unregistered churches and spaza shops.
- The role of intelligence is crucial and activities such as profiling of cash mules should be intelligence driven as opposed to random, potentially stereotypical targeting of individuals.
- There is also a need for improved and on-going training of staff, especially those in the provinces and at ports of entry.
- Coordination of investigations and harmonising the prioritisation of cases should be addressed in cases not being investigated by the IAWG.

IFFs that are most relevant in South Africa

Defining Illicit Financial Flows

- Dev Kar, lead economist at **Global Financial Integrity (GFI)**, defines IFF or illicit money as “money that is illegally earned, transferred, or utilised. Somewhere at its origin, movement, or use, the money broke laws and hence it is considered illicit.”
- **United Nations Development Programme (UNDP)**, definition: “include, but are not limited to, cross-border transfers of the proceeds of tax evasion, corruption, trade in contraband goods, and criminal activities such as drug trafficking and counterfeiting.”

- IFFs are understood as the **international flow** component of **illegal activity/corruption**, which takes place **domestically**, as well as **internationally**.



IAWG:IFF's INVOLVEMENT - BULK CASH SMUGGLING MATTERS

- There are some recent media reports on travelers arrested at South African airports with large amounts of cash.
- The IAWG:IFF has supported these investigations in and during 2020 the IAWG:IFF has tasked the DPCI to conduct a threat analysis and assessment of the cash couriers at ports of entry.
- The project was initiated by the DPCI providing a comparative statistical picture of the cash couriers at the ports of entry for 2012 to 2020
- Tactical profile analysis, threat analysis and identification of key drivers were conducted
- Recommendations for multi-agency approach were provided

KEY THREAT DRIVERS: ILLICIT FINANCIAL FLOWS

- **Weak border controls** (lack of enforcement): Airports and border posts are predominantly used for the Illicit Flow of funds (IFF) in and out of the country. For geographical reasons, the borders of some countries are impossible to police comprehensively. A lack of strict border control, especially at our land borders, makes it very easy to smuggle and legitimately export illicit products.
- **Inadequate sanctions**: The incentive to engage in illicit trade would be reduced if the balance of risk and reward was weighed more against the offenders. Fines do not deter professional Cash Carriers and Smugglers.
 - For Example: It is alleged that the accused transferred money as monetary gifts and loans to non-resident individuals or resident individuals temporarily abroad, excluding those who are abroad on holiday or business travel, of which the amount was exceeding the prescribed limit.
 - Value R900 000 = 102 charges - On 2018-09-27, the accused was convicted on 102 counts of the Exchange Control Regulations of 1961, Banks Act 94 of 1990 and sentenced to 5 years imprisonment, wholly suspended for 5 years.
- **Corruption**: Enforcement and controls are undermined – whenever the authorities are prepared to turn a blind eye if the price is right, thus encouraging the offer of bribes to the local border guards, customs officers and more senior government officials. Law Enforcement Officials are aware of the criminal's activities, aiding and abetting.
- **Abuse of the Import payment procedure**
- **Socio-economic conditions** caused by unemployment and poverty.
- **Inadequate Gathering, Analysis, Investigation and Prosecution**: No proper alignment of capabilities.

Multi-Agency Policing Strategies

It is recommended that:-

- A Multi-Disciplinary team be established to focus on co-ordination, identification of suspects and investigation of the threat utilizing Organised Crime approach to identify groups or possible syndicates involved.
- Hold regular meetings with FIC to monitor the current trend and feedback on Project: IFF6.
- Analyse the various crimes that lead to Illicit Financial Flows and conduct awareness amongst the various agencies
- Conduct Docket Analysis to determine Case Linkages, the criminal practice, intent and capability of the grouping.
- Vulnerabilities Identified: What was exploited by the entity to execute its criminal intent – the nexus between the Cash Couriers and the Law Enforcement in those area? Internal collusion, Security Companies, Law Enforcement.
- Criminal Signature: What was left behind at the crime scenes? any description of the suspects: clothing, language, FP, DNA, CCTV Footage, Vehicle Registration Numbers, make and model, cell phone.
- Liaise with the Local Criminal Record Centre to determine any possible forensic evidence.
- The use of scanners at land, sea and airports of entry can result in greater successes and to establish the actual statistic relating to this phenomena and to identify groups or possible syndicates involved.
- Recruit Informers or Agents to collect and gather information about the suspected groupings on illegal Cash Couriers /smugglers.
- Create awareness of the Crypto Currency threat as it relates to IFF's

IAWG:IFF Challenges / Lessons Learned

- Covid-19 Impact on operations:
 - Inability of critical DPCI personnel to function with limited access to data during Covid-19 impacted on the availability of investigators and prosecutors to proceed with cases
 - Lock down impacted on official's access to physical files at offices
- Lack of communication between DCS (Department of Correctional Services) and the Investigating Officer resulted in person being handed over on 7 October 2020 for deportation already .
- IAWG:IFF to actively support DPCI Project Team on cash seizures at the ports of entry, with less focus on money mules and rather looking at higher levels of syndicates in cash smuggling
- Realign focus in line with recommended actions stemming from MER to also consider foreign proceeds (inflow), facilitators and stand-alone ML cases
- The challenges in addressing the IAWG:IFF, includes a lack of dedicated capacity to investigate, and prosecute

THANK YOU