

# Tax Evasion & Money Laundering

IFA APAC Conference 2024

Workshop 4



**International Fiscal Association**

Hong Kong Branch

# Ms. Kim Ji-Suk

Prosecutor at Seoul central Prosecutor's office

Ms. Kim has extensive experience in investigating various tax evasion, money laundering, and tracking and freezing the proceeds of crime.

During her 16-year career as a prosecutor, she has specialised in investigating various tax crimes, money laundering crime.

# Prof Martin Wenz

Professor at University of Liechtenstein

Professor Dr Martin Wenz is a Professor of National and International Tax Law and holds the Chair for Business Taxation and the Laws of International and Liechtenstein Taxation at the University of Liechtenstein.

His main research interests are the international tax policy, the re-design of tax systems, international tax standards, the international Level-playing-field on taxation, the international tax treatment of individuals, companies, private and charitable asset and wealth structures and the various aspects of the Liechtenstein tax law.



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# Mr. Kenny Foo

Independent advisor

Kenny Foo is a trusted confidential advisor to a handful of family offices on tax, trusts, succession and governance matters.

Previously, he was a Managing Director at J.P. Morgan Private Bank in Hong Kong, first as its Asia Pacific Head of Wealth Advisory, then as a Special Advisor to the International CEO on tax and AML policies.

Prior to J.P. Morgan, Kenny was a tax and trusts lawyer with Baker McKenzie and Withers LLP in Singapore, Sydney, New York, Zurich and Geneva.

# Outline

- A. The connection between tax evasion and money laundering
- B. Suspicious Transaction Reporting
- C. A prosecutor's perspective
- D. Identifying the proceeds of tax evasion
- E. Tracing criminal proceeds traced through mixtures
- F. Self-Laundering
- G. The evasion of foreign taxes

## Questions



# What is money laundering?

# Keeping Dirty Funds out of the Financial System



# Money Laundering Offences

*A crime was committed*

**Predicate offence**

*As a result, the offender obtained property*

**Proceeds**

*A person transferred, acquired, used or possessed the property*

**Laundering actions**

*The person knew or had reasons to believe that the property was the proceeds of predicate crimes*

**Mental state**





# Predicate Offence

# 1988



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# Predicate Offence

# 2000

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*“We’re just having a little problem with tax...”*





**2012**

Tax evasion  
became a  
predicate  
offence for  
money  
laundering

# Suspicious Transaction Reports

- Information received in the course of work
- Suspicion or reasonable grounds to suspect
- Property is the proceeds of criminal conduct or connected to criminal conduct
- Must file a Suspicious Transaction Report (or, in an organization, report to the MLRO)



# “Red Flags”

Transactions that don't make economic sense

Large cash transactions

Offshore payments & entities

Unusual account activity

Unidentified or unrelated third parties

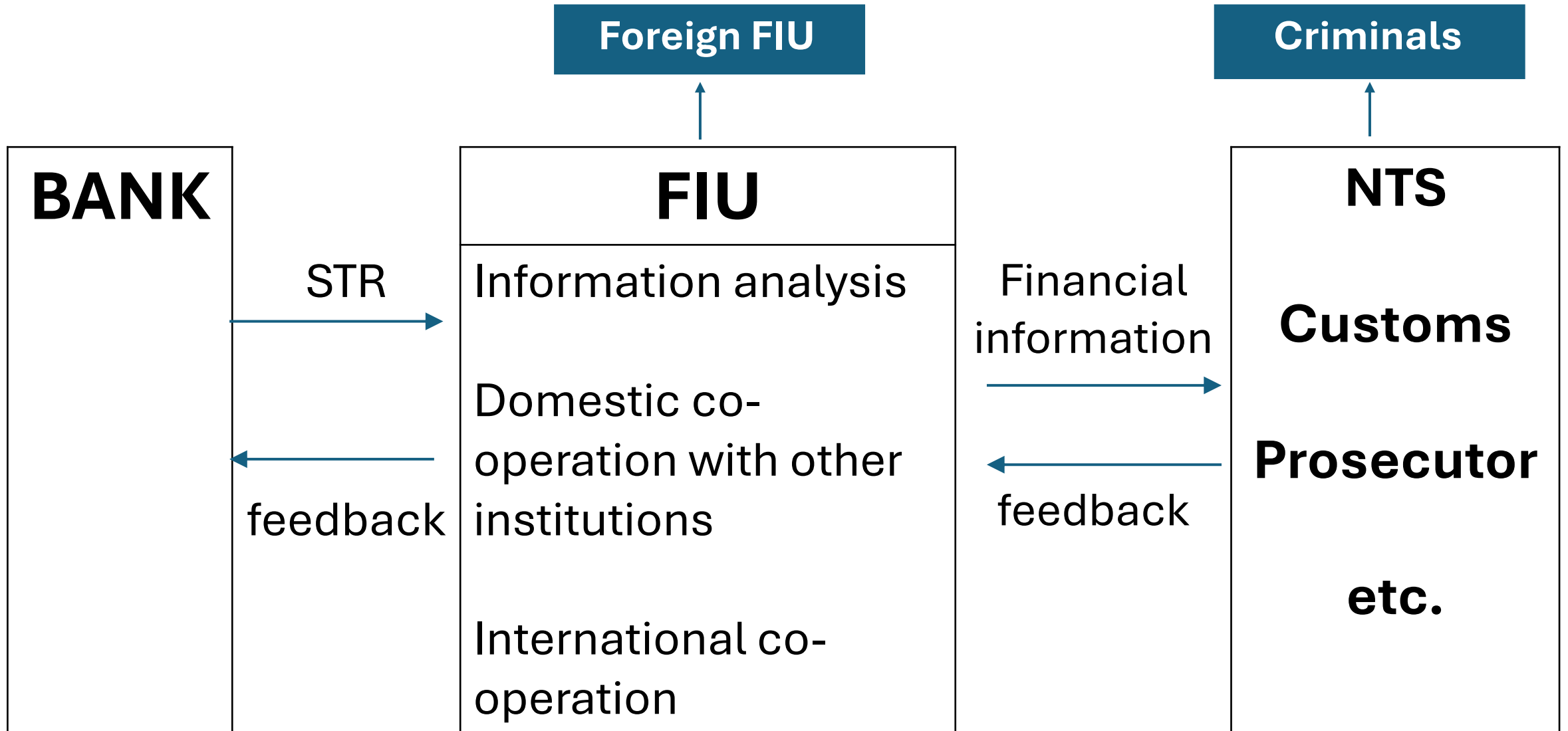


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# After sending a STR ...



# ...after receiving a STR (Korea)





# A Prosecutor's Perspective – Korea

National Tax Service (NTS / Tax Authority)

- Inspection
- Difficulty in investigating money laundering

# A Prosecutor's Perspective – Korea

## Investigation & Prosecution

- The Prosecutor's office
- Joint Investigation Team with NTS (and other agencies)

# A Prosecutor's Perspective – Korea

The Criminal Court

Judgement and Penalty

# A Prosecutor's Perspective – Korea



"Singaporean businessman fined 150,000\$ for aiding North Korean money laundering"



# A Prosecutor's Perspective – Korea

- The relationships between FIUs, Tax Authorities, Police, Prosecutor's Office and other entities
  
- Blind spots...

# Was anything “obtained” ?

\$100 income      Tax Rate @ 30%      **\$30 tax evaded**

<b>BANK X</b>		
1 Jan 2021	31 Dec 2021	16 Apr 2022
\$100	\$200	\$200

# Where is it ?

\$100 income, \$30 tax evaded

<b>BANK X</b>
\$100 + \$100

<b>BANK Y</b>
\$200

<b>BANK Z</b>
Shares

# Withdrawals from mixtures

\$100 income, \$30 tax evaded

<b>BANK X</b>
$\$170 + \$30$

<b>D1 withdraws...</b>
\$50
\$120
\$30



# Withdrawals from mixtures x2

<b>BANK X</b>
$\$170 + \$30$

<b>Withdrawals</b>	
<b>Defendant 1</b>	<b>Defendant 2</b>
\$180	\$20
\$20	\$180
\$50	\$150

# Self-Laundering

## BANK X

\$170 + \$30

## Tax Evader

Keeps cash in his pocket

Pays for a meal

Pays advisory fees

Transfers funds offshore

# Cross-Border Tax Evasion – Korea

## Case1

Offshore asset concealment, money laundering

## Case2

Embezzlement, Corporate tax evasion, money laundering

# Tax Evasion&ML : Illegal Activities

# Cross-Border Tax Evasion – Jurisdictional processes

- Dual criminality requirement
- Jurisdiction conflict (Territorial & Personal Principle)
- Mutual Legal Assistance (Foreigners, Citizens)
- Tax (relaxation)

# International Co-operation

- Co-operation in combating both tax evasion and money laundering
- Principle of reciprocity
- Co-operation at various levels
  - FIU – Egmont Group
  - Tax Authorities
  - Police – Interpol
  - Prosecution – Mutual Legal Assistance
  - Judges/Courts

# Questions