Financial Intelligence and Money Laundering: A Comparative Case Study of the UK and Brazil

July 2020

Glasgow University Student ID: 2401161s

DCU Student ID: 18114270

Charles University Student ID: 46010726

Louise Nathalie Vingert Silveira

Presented in partial fulfilment of the requirements for the Degree of International Master in Security, Intelligence and Strategic Studies

Word Count: 24,094

Supervisor: Dr. Eamonn Butler McIntosh

Date of Submission: 29th July 2020

Abstract:

Money Laundering (ML) offers criminals the means to hide their illicit proceeds allowing them to enjoy their profits or further reinvest in criminal activities. Financial intelligence provides a comprehensive and effective strategy to disrupt these criminal networks increasing security worldwide. To this purpose the use of Financial Intelligence Units (FIUs) are central in detecting suspicious transactions and providing law enforcement with useful intelligence. The international Anti-Money Laundering (AML) regime offers flexibility on the type of their institutional arrangement which have translated into four models by state practice. The aim of this dissertation is to explore this flexibility and question if the model adopted by a country influences its operations. A mix method approach consisting of document analysis and comparative case study is undertaken. The Brazilian (COAF) and British FIUs (UKFIU), respectively administrative and law-enforcement models, are explored. Through the analysis of official legal documents and their annual report of activities, from their establishment to 2019, this dissertation offers a comprehensive analysis of their legislative framework and operations within their national and regional realities. It explores their key functions of receipt, analysis and dissemination of Suspicious Transaction Reports (STRs) considering their international cooperation and their Financial Action Task Force (FATF) mutual evaluation reports (MER). Finally, it contrasts them regarding essential aspects such as independence and autonomy, receipt of STRs, analysis and dissemination of financial intelligence. This dissertation contributes to a cross regional research of different FIUs and in deepening the study on COAF and UKFIU. It concludes that the model of FIU adopted by a country influences significantly how it operates without harming the exercise of its basic functions dictated by international guidelines. These differences are particular to each model, but also of the environment they operate in, confirming that there is no perfect one-size fits all model of FIU.

Key Words: Financial Intelligence, Financial Intelligence Units, COAF, UKFIU, Financial Intelligence reports, FIU, STRs.

Resumo

A lavagem de dinheiro (ML) oferece aos criminosos meios para ocultar os recursos obtidos illicitamente, permitindo-lhes usufruir de seus lucros ou até mesmo reinvesti-los em atividades criminosas. A inteligência financeira providencia uma compreensiva e efetiva estratégia para romper essas redes criminosas, contribuindo ao aumento da segurança mundial. Neste sentido, o uso das Unidades de Inteligência Financeiras (UIF) é essencial na detecção de atividades suspeitas e na obtençao de informações profícuas para o cumprimento das leis. O sistema internacional contra à lavagem de dinheiro oferece flexibilidade no tipo de arranjo institucional dessas entitdades, as quais tem versado dentro de quatro modelos de práticas estatais estabelecidas. O objetivo desta dissertação é estudar essa flexibilidade e constatar se o modelo adotado por um país influencia nas operações da UIF. Com este fim, adoto uma abordagem de método misto, incluindo análise de documentos e caso comparativo; analizando e comparando documentos oficiais e relátorios anuais, emitidos desde a sua fundaçao ate 2019, do Reino Unido (UKFIU) e do Brasil (COAF), os quais apresentam diferentes modelos de UIF, administrativo e policial respectivamente. Oferece uma análise abrangente dos quadros legislativos e operacionais dentro da realidade nacional e regional de casa pais. Inicialmente explora as principais funções de recebimento, análise e disseminação de Relatórios de Transações Suspeitas (STRs), considerando sua cooperação internacional e seus relatórios de avaliação mútua da Força-Tarefa de Ação Financeira (GAFI). Finalmente, contrasta-os em aspectos essenciais de independência e autonomia, recebimento de relatórios, análise e disseminação de inteligência financeira, resultado dos relatórios e cooperação internacional. Esta dissertação contribui para uma pesquisa inter-regional dos sistemas contra a lavagem de dinheiro e em aprofundar o estudo da COAF e da UKFIU. Conclui-se que o modelo de UIF adotado por um pais influencia significativamente a maneira como opera e desempenha suas funções. Essas diferenças são peculiares a cada modelo, mas também ao ambiente em que operam, confirmando que não existe um modelo único perfeito para todas as UIFs.

Palavras Chave: Inteligência Financeira, unidade de inteligência financeira, UIF, COAF, UKFIU, relatório de inteligência financeira, RIFs

Table of contents:

Acknowledgements:

I would like to thank the IMSISS program and all the staff for the opportunity and help in completing my master's degree in three award winning universities: University of Glasgow, Dublin City University and Charles university. I would also like to thank especially my supervisor, Dr. Eamonn Butler McIntosh, for all the assistance and guidance for the completion of this dissertation. In addition, I thank Dr. Antonio Diaz-Fernandez who has inspired me to focus on Financial Intelligence.

I cannot forget to thank all my friends who have supported me throughout it all and my parents who have enlighten me in the Brazilian issues, which have inspired me to pursue this topic.

Abbreviations:

AML: Anti Money Laundering

AMLD: Anti Money Laundering Directive (EU)

BACEN: Brazilian Central Bank

COAF: Council for Financial Activities Control (PT: Conselho de Controle de Atividades Financeiras)

DAML: Defence Against Money Laundering

DATF: Defence Against Terrorism Financing

DNFBP: Designated Non-Financial Businesses and Professions

FATF: Financial Intelligence Task Force

FIU: Financial Intelligence Unit

FININT: Financial Intelligence

LEA: Law Enforcement Agency

MER: FATF's Mutual Evaluation Report

ML: Money Laundering

NCA: National Crime Agency

NCIS: The National Criminal Intelligence Service

RIF: Relatório de Inteligência Financeira (EN: Financial Intelligence Report)

SAR: Suspicious Activity Report

SOCA: Serious Organised Crime Agency

STR: Suspicious Transaction Report

FT or TF: Terrorism Financing or Financing of Terrorism

Introduction:

Money Laundering (ML) is the process of hiding and cleaning illicit financial proceedings derived from a wide variety of criminal activities (UNODC, no date a; Interpol, 2020). It embraces significant challenges which undermine democratic processes, slow down economic development and represents an obstacle to stability, security and peace worldwide. As stated by Realuyo (cited in GCSP, 2020), financing is indispensable to support and sustain the command and control systems, personnel, arms, communications, logistics and operations of criminal networks. ML offence is engraved in all types of crimes furthering insecurity and violence, making crimes profitable and stimulating bigger criminal rings dealing with drug, arms and human trafficking, environmental crimes and more. It has economic, social and political effects: contributing respectively to unfair competition, price distortion and negative impact on investments; corruption and bribery of the legal system; and gaining of political power through illicit proceeds (Bello, 2017, p. 27). ML is not only a law-enforcement issue, it constitutes a grave national and international security threat which goes beyond financial crime (McDowell and Novis, 2001).

The ML Cycle consists of three stages (UNODC, no date b; Stessens, 2000, p. 84; McDowell and Novis, 2001, p. 6; Bijos and de Magalhães Almeida, 2015, pp. 88–89):

I. Placement*:* money is obtained from illicit activities and placed in the financial system;

II. Layering: money is disassociated from the crime with the covering of its trail. For instance, by moving the money between accounts and/or transferring it to offshore accounts;

III. Integration: money is made available again to the perpetrator in the economy of proceeds with a legitimate appearance; through the purchase

> of luxury goods and/or assets and investments either financial, commercial or industrial. At this last stage, it is hard to identify and connect the money to a ML offence (Bello, 2017, p. 26).

A first degree ML includes the concealment of the source of the money only, whereas its integration back into the system can be referred to as 'recycling' (Stessens, 2000, p. 83). The latter is not always required for the constitution of a ML offence, for example when money is reinvested in illicit activities (Ibid.).

The term ML was first used by American police officers in the 1920s, referring to Mafia's ownership and use of launderettes to give dirty money a legitimate appearance, i.e. appear as profits from these businesses. In a legal sphere, it was first introduced in 1986 in an American judgment of laundered Colombian drug proceeds in Florida (Stessens, 2000, pp. 82–83). The combat to curb ML remains, to date, one of the most arduous tasks. The spread of new technologies, banking products and systems have made the monitoring of dirty money harder, but have put the money in the system to be found (Scott and McGoldrick, 2018). "Money has no colour or smell" and all money, no matter what its origin is, uses the same financial channels (Savona, 1997, p. 108). Thus, once illicit proceeds enter the financial pipelines, it will hardly be detected. The channels through which money travels are relatively free, open and confidential due to financial interests making their tracking difficult. The best chance is through an effective control of the system's entry and exit channels achieved with financial investigations which aim at finding the financial trail left by criminals (Schott, 2006 part VII: 2). The successful tracing of ML schemes depends heavily on authorities' access to financial information and international movements of money (Thony, 1996). It is a crucial means to prevent and fight ML and contribute in disrupting many criminal rings by attacking its proceeds. To this purpose, Financial Intelligence (FININT) and the role of national Financial Intelligence Units (FIUs) and their cooperation internationally is essential.

The scope of FININT has grown substantially in the combat against ML. From its initial focus on illegal drug trafficking, to fighting terrorism, it entails today almost all crimes-for-profit. The term Financial Intelligence (FININT) came

about in a G7 Paris summit in 1989 to deal with the growing threat of ML. On the same occasion, an intergovernmental body was established to coordinate cooperation in the field, the Financial Action Task Force (FATF). The latter fostered the creation of FIUs. They are national bodies tasked with disclosing FININT on suspicious transactions to national authorities and sharing them with international counterparts, if relevant. Particularly, FATF established international guidelines and standards. Its recommendation 29 is the one to foster the creation of FIUs, referring only to 'competent authority' (Stessens, 2000). Although in 2003 FATF provided a revision of them, specifying that FIUs should be the recipients of Suspicious Transaction Reports (STRs); many of their functions, competences and powers still differ from country to country, as there are no prescriptive international standards (Stessens, 2000; Ping, 2005; FATF, 2013). It leaves, therefore, space for deviation in implementation of its competences and institutional arrangements within a countries' domestic system. The international flexibility on the establishment of FIUs is what this study explores.

The scope of this thesis is to contribute to studies on how FININT can play a role in fighting ML and consequentially prevent and disrupt a wide range of criminal activities. More specifically, it will explore the implementation of FIUs in different regional/national realities through a double case study. The flexibility of the international regime regarding FIUs have translated into different institutional arrangements (models) which operate differently despite reflecting the same internationally guided basic functions. The main research question, thus, is if the established model of FIU impact its operations.

Chapter 1 will explore the current literature about the Anti-Money Laundering (AML) regime. It will look more in depth into FIUs related studies and it will dedicate a paragraph to intelligence cooperation and liaison to place the study in the current literature and explain the theoretical view on intelligence adopted throughout the study. Finally, it will look specifically in the current literature on each case-study country. The last section of this chapter (1.4) will set out the adopted methodology of the dissertation. The main structure will be as follows: the study will draw a picture of the international AML regime to then narrow

down to the domestic case studies. Firstly, it will look at the international system (chapter 2) including various conventions and agreements such as the Vienna convention of 1988. This bigger picture is complemented with mentions of regional bodies such as GAFILAT and the European Union (EU) to contextualise the operating environment of the case studies (Brazilian and British FIUs). The chapter intends to summarise the dense international regime involving ML which, nonetheless, sets no specific standard for the establishment of FIUs; the four models developed by state practice are explained in this chapter (2.6). The main part of the research focuses on the case studies (chapter 3 and 4): the UK AML system and the Brazilian equivalent, with focus on their respective FIUs and their operations: receipt, process and disseminations of STRs)/Suspicious Activity Reports (SARs) and international cooperation. Finally, a comparative analysis contrasting the two case-studies will be undertaken in chapter 6 based on their key aspects: independence and autonomy, receipt of reports, analysis and dissemination of financial intelligence, outcome of reports, and international cooperation. Final conclusions are drawn in chapter 6.

Chapter 1: Literature Review

There is wide literature on FININT after the 1990s and particularly its role in fighting the financing of terrorism (FT) and ML (Rudner, 2006; D'Souza, 2011; Gilmore, 2011). For instance, Fontana and Pereira (2012) write about how to make the AML regime more effective in curbing corruption using the case studies of Albania and Tanzania, touching FININT but focusing mainly on the effectiveness of the legal system. Similarly, Lukito (2016) focuses on the role of intelligent financial investigations in tackling ML in Indonesia with its importance and integration in the domestic system as a focal point. Lastly, the work of Suxberger and Pasiani (2018) reveals insights on the use of intelligence in preventing financial crimes and argues that its efficiency is connected to the liability of different actors involved directly or indirectly on the financial flow of illicit assets. More specifically on FIUs, there was a significant increase of studies in the 2000s (Simwayi and Haseed, 2011). Simwayi and Haseed (2011) reflect on combating ML using a regional comparative study of FIUs in three countries in Africa: Zambia, Zimbabwe and Malawi; which have similar types of FIUs, respectively hybrid model in Zambia and administrative for the other two countries. The authors measure the efficiency of these FIUs against international standards and recommendations. Similarly, Dokmanovic and Hristovski (2005) study the role of FIUs in Slovenia, Bulgaria and Macedonia (Europe), all administrative types; Preller (2008), also, analyses a multiple case study, including UK, Switzerland and Germany (Europe) focusing on AML legislation, which includes but is not limited and solely focused on the FIUs. Sathye and Patel (2007) reflect on a double case study of Australia and India (also administrative models) looking for similarities and differences in the rationale, objectives, processes used and outcomes of the FIUs. Lastly, in 2016, Woznica (2016) focused on the role of FIU in fighting ML in Poland and Macedonia. Those are all cases of either single or intra-regional comparisons studies of, mostly, same-model FIUs. At present no study seems to have considered a comparative research based on the model of FIUs adopted by two countries in different regions. This thesis plans on overcoming this gap which is likely due to difficulties in comparing two different AML systems in different

regional realities. The model of FIUs depends highly on the system in which they will be implemented. This favours a study on the impact of institutional arrangements on its operations to understand whether there is a preferable model and to what extent this influences financial investigations.

Furthermore, this dissertation aims at focusing not only on the environment of AML but on the activity of FIUs themselves which revolves mainly around the reception, processing and analysis of Suspicious Transaction Reports/ Suspicious Activity Reports (STRs/SARs). It is important to go more in depth into studies which consider models of FIUs and the importance and handling of STRs/SARs. According to Ping (2005), these reports act with a psychological effect on criminals and inform competent authorities to start investigations around related crimes. For instance, Al-Rashdan (2012) focuses on the regulatory system around STRs and compliance of regulatory bodies, suggesting the need for a more individually made qualitative approach rather than the traditional 'soft sanctions' (cooperative style) or its extreme 'harsh sanctions' (tough regulator). His study points to the individual reality of each country and suggests the need for flexible implementation of international standards based on a nations' reality and priorities regarding ML. He highlights the impossibility of a one-size-fits-all model, suitable for all realities. Chaikin (2009) in "How effective are suspicious transaction reporting systems?" reflects on the effectiveness of STRs systems through the case of Switzerland. The article explores both quantitative and qualitative measures. He concludes that Switzerland faces a problem of underreporting but performs better on the qualitative aspects of its AML regime. The article provides a framework, which this thesis takes up from, to "evaluate the implementation of international standards in national jurisdictions" (Chaikin, 2009, p. 250). The author points to the lack and need for further research on the cost-benefit of STRs systems and terrorism finance; and STRs system in developing countries. Other single-case studies focusing on financial intelligence and STRs systems exist. For instance, Scott and McGoldrick (2018) explore the opportunities and challenges in FININT and financial investigation through the case study of Australia. They point out, differently from the Swiss case, to a problem of overreporting causing data quality issues (Scott and McGoldrick, 2018, p. 305). They suggest that the

Australian system follows a wrong purpose of reporting as an end in itself rather than a means of ML prevention and disruption (Scott and McGoldrick, 2018, p. 302). According to them, reporting obligations are undermining the main goal of investigative outcomes, i.e. prevention and disruption of financial crimes through the provision of actionable intelligence. Other single case studies include Kanak (2016) who theoretically analyse international AML instruments and focus on the laws of Bangladesh and its FIU; and Mniwasa (2019). The latter analyses the role of FIU in fighting ML in Tanzania through a doctrinal approach. This study will attempt to fill the gap of lack of study across two regions with a two-case study, based not only on the interplay within the domestic AML system, but focusing on the model of FIUs implemented and most importantly on what impact this has on their operations (administrative vs law enforcement). This will include reports received and those forward to other authorities for further action. This will allow an understanding of the impact of domestic and regional realities on FININT in the AML regime, as well as exploration of the FIUs in the studied countries; comparing a developing country (Brazil) and a country with larger intelligence tradition (UK).

Finally, given the focus of this thesis on FINNINT and a borderless crime such as ML, domestic and international cooperation and interplay is essential for its effectiveness (Tourinho, 2018). FININT's effectiveness is asserted to a wide extent thanks to the sharing of information and collaboration among intelligence agencies and with law enforcement agencies (LEAs) (Rudner, 2006). The sharing of FININT is, also, determined by facilitations created by states such as sharing networks (see Egmont Group) but also dependent on the model of FIU chosen, which may or may not facilitate sharing. Although, Lander (2004) suggests that intelligence cooperation is almost an oxymoron with intelligence services being manifestations of individual state power and of national self-interest; he recognises that threats that operate irrespective of borders pose a challenge to this traditional view and collaboration is needed. However, not as an end in itself but driven by utility (Lander, 2004). Similarly, Shiraz (2013) argues that cooperative networks in the global south seem to be strengthening out of necessity. Contrarily, Aldrich (cited in Svendsen, 2009) sustains that there is room to understand long term intelligence liaison in the logic of liberal

institutionalism, rather than solely pragmatic/realist view with gritty and operational mindset. As one of the first to believe that knowledge can change events, this theory believes in cooperation to mediate national interests through a vast institutionalised network of information exchange, as in the case of the Egmont group. Similarly, Maldonado and Sancho (2016, p. 36) in the regional context of Latin America affirm that threats from international and domestic concern creates incentives for the cooperation and exchange of information and development of joint actions; those include common threats like ML (Bartolomé, 2016, p. 32). Interestingly, Taylor (2007) draws a general intelligence theory from cybernetics, the science of feedback, i.e. the study of how information can maintain or alter any biological, social, mechanical or artificial system (Taylor, 2007, p. 250). In the case of intelligence, the decision maker must use a constant flow of information or intelligence to optimise efficiency, i.e. lowest cost for the highest security for the state. According to Svendsen (2009, p. 713) no specific theory of IR alone fully explains intelligence liaison in its complexity, as per other phenomena the application of one theory might result in oversimplification. Thus, resulting in the collective use of theory where each explains different levels of activities and resulting in intelligence liaison reflecting what Svendsen calls an enduring duality consisting of both realism and liberal internationalism/institutionalism (Svendsen, 2009, p. 715). This thesis will draw upon the notion of intelligence liaison optimising results and efficiency (as advocated by Taylor and/or a more realist approach to international cooperation) in the case of domestic operations. As well as, a liberal institutionalist approach, considering the financial intelligence liaison more broadly employed by states to fight what is considered a transnational threat.

After an overview of the academic literature covering the topics of this study, the two following sections will briefly explore the current literature on the subject concerning the two countries chosen as case studies.

1.2 Brazil

Most studies regarding the Brazilian FIU (COAF) are legal in nature and deal with the probative value of its reports. Bechara (2017) focuses on the investigation of organised crimes and the attainment of proof reiterating that COAF is not a criminal investigation body, but it is rather in an advisory position to regulatory bodies. As such, its reports are intelligence reports classified as confidential and with no probative value, unless prior jurisdictional control legitimises its access to banking data use as evidence; to control data and legal secrecy. Similarly, Perim et al (2017) focus on Intelligence reports from COAF as evidence regarding acts of administrative impropriety by public agents. Andrade (2019), while analysing the role of FININT in fighting ML and consequently criminal organisations, also, takes on a legal perspective on the role of financial reports in criminal proceedings. Moreover, Comploier (2019) explores the role of COAF regarding the assistance, both preventive and repressive, of measures of a patrimonial nature and imprisonment. He, also, focuses on the interplay between investigative and intelligence reports and in what terms and under what limits and conditions the entry of intelligence material occurs within the scope of the criminal proceedings. Madruga et al (2019), similarly, look at the legal validity and procedural value of financial intelligence exchanged through the Egmont group. Few studies, such as that of Suavinha (2017) and Suxberger and Pasiani (2018), look more broadly at the role of COAF but always with a lens on criminal prosecution and investigations. This thesis aims at looking to fill in this gap, looking at the role of COAF in the country's AML regime but with a focus on policy and legislation implementations and its institutional arrangement and its impact on its operations. Furthermore, an incentive for an updated research study on COAF are the recent amendments to the body in 2019. New changes include the attempted renaming of COAF to UIF – Unidade de Inteligência Financeira (FIU) and its placement under the administrative control of the Brazilian central bank.

1.3 UK

In her doctoral thesis Sittlington (2014) identifies the factors that have an impact on the effectiveness of the UK's AML regime, exploring the ML and related policies. Areas identified include 'sentencing' understood as crime deterrent, criminal knowledge of law enforcement tactics and the reporting regime of suspicious activities. The latter seems to be the more problematic area and in fact, it is the subject of many studies. Already in 1995, Levi (1995) had pointed out that the British SARs regime was problematic. In the article, he points to weaknesses in its effectiveness: regarding intercompany transactions at that time, but also on it being only helpful in tracking already known criminals with overreporting already experienced then, compared to what had been predicted at its establishment. Following reforms of the system, it still faces issues specially regarding the regulated sector. Egan (2010) looks at the SARs regime focusing on the case study of Scotland. He looks at the role of regulating bodies and the public/private policing nexus. He urges for the widening of the concept of private police to embrace the role of the regulated sector in the AML regime given the central role it has. Similarly and more narrowly, Norton (2018), reflects on auditors (part of the regulated sector) in the SARs regime risking turning into law enforcement agents in the private sector and points to the clashes of the legal architecture to auditors; through the lenses of accounting and sociological literature. Furthermore, Kohli (2019) reflects on the moral dilemma to fulfil reporting obligations given the uncertainty on what constitutes 'suspicion'. In the same line and denouncing the unclarity of the British reporting system, Sinha (2014) studies the challenges faced by the banking sector. He noticed an improvement in the consent regime, but as pointed by Kohli (2019), deems the definition of 'suspicious' on deciding on reporting "vague and amorphous" hindering the identification of criminal proceeds. This thesis will contribute to this debate of the British SARs system, adding the perspective on the impact of the policing model of FIU established in the country and what role it plays in this problem.

This chapter has reviewed the literature on the subject and how this study ties in, to contribute to the general field of FININT and FIUs. The following section will explore the chosen methodology, best suited for the purpose of the study.

1.4 Methodology and Scope

To evaluate the operation of different models of FIUs and explore the ways in which the model chosen influences its activities, this dissertation adopts a qualitative research design approach. This approach provides a holistic understanding of rich, contextual often unstructured non-numeric data (Ponelis, 2015). The study will use a mixed method approach, document analysis and a comparative case study. Document analysis provides a means of tracking change and development overtime of the international AML regime and the FIUs themselves, and their use of STRs/SARs and their numbers given the inaccessibility of their content (Bowen, 2009). Moreover, looking at official documents helps pointing to questions and circumstances that should be observed ensuring critical analysis as well as corroboration of findings from other sources (Ibid.). The second approach is a case study design based on two case studies and a comparison of their main similarities and differences. This method allows a focus around which to organize the data collection and analysis (Burnham *et al.*, 2008, p. 63); and provides a robust test on the operation of two different models of FIU, allowing for causal explanations of certain processes (Burnham *et al.*, 2008, p. 65). The chosen case studies are Brazil and the UK as they have implemented the most popular models of FIU among countries (Marcus, 2019). Brazil established an administrative model, recently put under the command of its central bank; serving as a buffer between reporting entities and LEAs. Contrarily, the UK has a law enforcement/police-type of unit located within the National Crime Agency (NCA) under the Home Office. Moreover, these cases offered me the opportunity to explore sources in original language; and by finding themselves in two different regions of the world, they are also great cases to study the impact of not only national but regional realities to the AML regime and the FIUs' operations. However, the countries are not representative of all models of FIU and AML regimes, therefore, generalisation

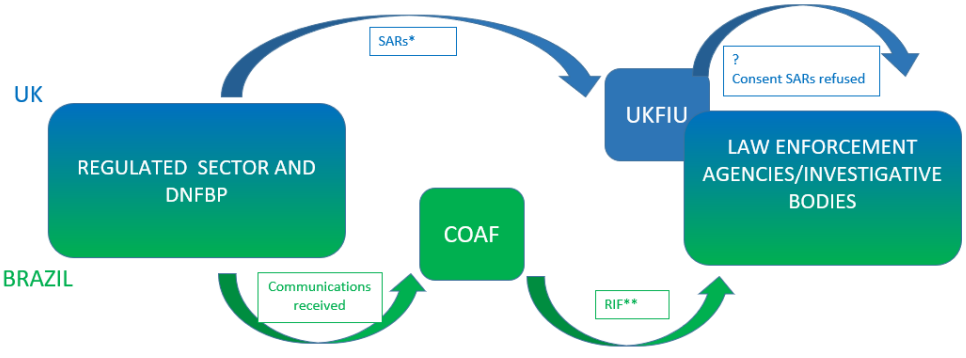
cannot be made. The dissertation aims at contributing to the literature expanding the study of FININT in developing countries and adding cross regional study of different models of FIU; as well as enriching the current literature on COAF and UKFIU. Finally, it represents a departing point for future research on how countries explore the flexibility of international guidelines in fighting financial crimes.

The cases are explored and understood through multiple types of data sources, institutional and organisational documents and reports. The research relies on the UK's SARs annual reports from 2003 to 2019 (including some previous sporadic ones) and COAF's annual report of activities from 1999 to 2019. Documents were collected from the official websites where available. The thesis dedicates a chapter for each country with one subheading to explore quantitative (3.2, 4.2) and one for qualitative aspects (3.3, 4.3) of the FIU's performance based on their annual reports. It takes upon the framework of Chaikin (2009) to evaluate "the implementation of international standards in national jurisdictions". It will explore quantitative aspects through statistics, i.e. number of communications received/reports furthered to relevant bodies, and qualitative aspects, such as the outcome of these documents e.g. prosecution, convictions and confiscation of funds. Although a comprehensive view on the quantitative aspect is hard due to the availability of sources, it will be explored to the extent where available and numbers will be adjusted when needed. Similarly, the qualitative aspect will be based on collation of available information. Furthermore, FATF latest Mutual Evaluation Reports (MERs) will be explored (the 2018 MER on the UK and the 2010's Brazil equivalent) to further evaluate and understand strengths and weaknesses of the studied FIUs, incrementing the knowledge on the respective FIU operations.

Limitations to the study include limited access to information. STRs/SARs have limited public access due to their content. For instance, in Brazil those types of documents are protected by constitutional confidentiality. To address these shortcomings, the research will be restricted to the number of STRs/SARs produced rather than their content. The study will focus on their use and productivity from an operational perspective, i.e. how many are produced and

if they lead to further investigations. Furthermore, the comparative study between two different regional and national realities can be difficult. The type of FIUs depends on the system in which they will be implemented, perhaps the reason why the international system is flexible in the type of FIU which can be established. This variety can hinder conclusions on what works best, discouraging regional comparison. This comparison is, however, needed to arrive at the above-mentioned conclusion and can be valuable in individuating characteristics which can lead to the implementation of one or another type of model. Lastly, due to the limited amount of research time, the study is limited to research and understand only the AML regime and FIU of the two studied countries harming bigger generalisations of the findings but contributing to the literature on FININT and FIUs in specific national realities. Some issues encountered during the analysis of the FIU's report of activities are worth mentioning at this stage. In order to compare their operations, given the different models of FIU and the way they operate, I have considered the receipt of financial information (from the regulated sector and DNFBP) and dissemination of financial reports to its final consumer in the following manner (figure 1):

Figure 1: Methodology for receipt and dissemination of reports



The Brazilian administrative model clearly provides the number of communications received and the number of reports forwarded to LEAs (RIFs). In the British case, the number of reports received are represented by the number of SARs. Nonetheless, the UKFIU's location within the NCA makes the analysis of the number of reports taken for further investigations difficult.

Therefore, I have considered ‘refused consent SARs’ (further explained in chapter 3 section 3.2.2) for this step, as the refusal of consent indicates that further action by LEAs is in progress or was anticipated (Law Commission, 2018a, p. 59).

To conclude, to the purpose of comparison between the two FIUs of communications received from the regulated sector, I have used the Brazilian ‘communications received’ (which includes both atypical-COS and in cash operations-COE) against the British ‘SARs’. With regards to forwarded reports to LEAs, I have used the number of ‘RIFs’ in comparison to UK’s refused ‘consent SARs’. A direct comparison will not be possible, rather the study will contrast the FIUs operations against their main tasks.

Chapter 2: The International AML Regime

The international normative apparatus to combat ML is dense. Collective efforts have developed in various forms from global to regional initiatives and were internalised into domestic legislation. Internationally, this includes treaties but most importantly soft laws. The former refers to instruments not legally binding such as agreements, declarations of international organisations and including UN resolutions, which are effectively observed by states (ECCHR, 2020). This characteristic stems from the peculiarity of ML as a crime. Money illicitly obtained in one country could be successfully laundered in another with more relaxed policies, avoiding police prosecution in the country where the crime originally happened. Thus, the perception of the need for similar controls, stimulated a great political will to avoid the emergence of ML havens (Miron, 2017, p. 302). The importance of coordinated international efforts and cooperation is clear; and a key instrument are national FIUs. The purpose of this chapter is to set the international framework of the AML regime which represents the foundation of the regimes implemented in the case study countries and the environment in which the national FIUs operate. It will touch upon UN initiatives, international conventions and inter-governmental bodies which established the basis of the AML regime and establishment of FIUs, favouring communication and coordinate responses between countries. It will, then, narrow down to relevant regional initiatives, i.e. Latin America and Europe (2.4 and 2.5). The chapter concludes with a brief description of the models of FIUs developed from state practice which is necessary to familiarise the reader with the current models in use, to then focus on the case studies.

2.1 United Nations (UN)

ML was firstly understood, and dealt with, in connection to drug trafficking (Egan, 2010, p. 274). Origins of a collective action on the concept dates to 1988 UN's *Convention against Illicit Traffic in Narcotic Drugs and Psychotropic*

substances, held in Vienna. In its preface, proceeds of the crime were recognised to be the main incentive to engage and further feed the industry (UN, 1991). Thus, the most effective way of tackling it was by attacking its financial proceeds, and by extension, the laundering of money arising from it (Bijos and de Magalhães Almeida, 2015, p. 90). By 2010, the convention had 184 state participants providing the law enforcement community with tools to undermine the financial power of cartels (Savona, 1997, p. 125; Gilmore, 2011, p. 55; Bijos and de Magalhães Almeida, 2015, p. 89). It addressed for the first time the criminalisation of ML related to drugs and other substances as an autonomous crime in article 3(1)(b) and determined sanctions (UN, 1991). Offences include "acquisition, possession or use of property..." derived from illicit activities described in paragraph (a) and "participation in, association or conspiracy… aiding, abetting, facilitating and counselling…." of drug related offences (Ibid. p.56). The importance of both article 1 (definitions) and 3 of this convention is, on ensuring future cooperation, granted that bilateral and domestic legislation are effectuated. Moreover, it calls for the empowerment of courts and competent authorities to make bank, financial and/or commercial records available or to be seized, independently of any bank secrecy law (article 5(3)). The same applies to mutual assistance purposes (article 7). The Vienna convention as it is known, nonetheless, is limited to proceeds related to drug offences (UN, 1991; Savona, 1997, p. 123).

A decade later, in 1998, the UN recalled the Vienna convention urging states to take action and cooperate to fight the laundering of proceeds linked to drug trafficking in point 15 of its *Political Declaration and Action Plan against Money Laundering* A/RES/S-20/2 (UNGA, 1998, p. 4). Moreover, it created the *International Money-Laundering Information Network* (IMoLIN) and the *Anti-Money-Laundering International Database* (AMLID) to favour countries' communication. The former is a secure database only for restricted users whereas the latter is a public database (Bello, 2017, p. 31). Another important landmark is the Palermo convention (2000) which the UN adopted with resolution GA 55/25; entering into force in 2003. Although its main focus was to combat transnational organised crime, it is an effective tool and a needed legal framework in countering ML. Article 6 (1), in fact, deals

with "criminalization of the laundering of proceeds of crime and article 7 includes measures to combat money-laundering" (UNODC, 2004b). The innovation was the mentioning of the creation by state parties of "a financial information service that functions as a national centre for the collection, analysis and dissemination of information", i.e. FIUs (Miron, 2017, p. 311). Finally, in 2003, a UN *convention against corruption* (Merida convention) addressed the prevention and control of corruption, dealing also with its illicit proceeds including criminalisation (article 23(1)), prevention and detection of transfers (article 52) - specifying rules to financial institutions and their duty to cooperate (UNODC, 2004a). Its article 14 considers measures to prevent ML which, similarly to the Palermo convention, alludes to FIUs (article 14(a)): "each state party shall institute a comprehensive domestic regulatory and supervisory regime[...]" (UNODC, 2004a, p. 16; Miron, 2017, p. 312).

UN initiatives are often criticised as reflecting the will of stronger countries and accused of settling for the lowest denominator, compromising effective solutions. Nonetheless, its international-backed conventions and resolutions are important instruments to the whole community of states, given its wide reach, to further global debates and inspire future agreement and legislations. Although ML has not been treated directly but inside other main conventions, other initiatives were launched, and measures discussed and integrated in regional bodies. Savona (1997) notices that although these initiatives were mainly focused on domestic measures to prevent ML, they suggest a consistent approach which thus, could be, and were, integrated to a global system to curb ML. The following sections will review inter-governmental bodies, organisations and international task forces established to refine the framework and implementation of the international AML regime and the recommendation of establishing FIUs.

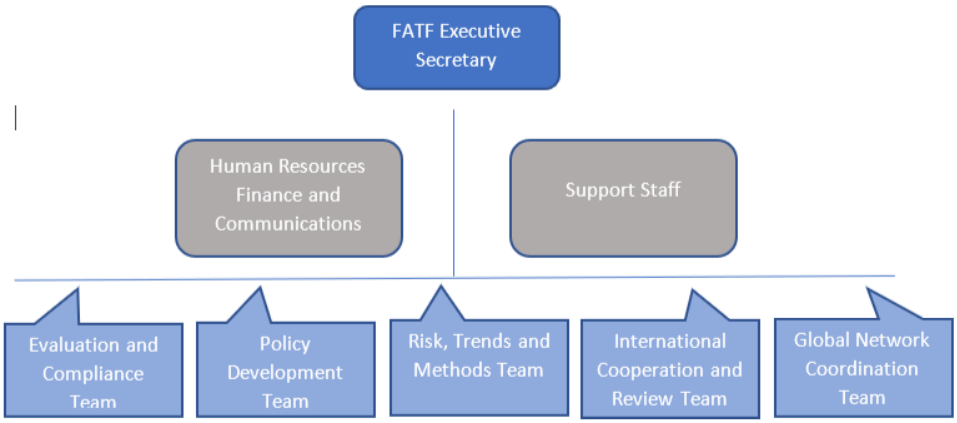
2.2 Financial Action Task Force (FATF)

In July 1989, a G7 summit was held in Paris to address the pressing threat of drug production, consumption and trafficking connected to the laundering of

proceeds (Gilmore, 2011, p. 91). A clear need for action to help the banking system and financial institutions from ML culminated in the institutionalisation of AML, i.e. the creation of the FATF (Gilmore, 2011, p. 91; Aamo, 2017, p. 90; Bello, 2017, p. 32). The task force is an intergovernmental body initially charged with reviewing current practices, techniques and trends of actions. Later, it began suggesting and considering additional measures in the combat of ML, TF and WMD. It, now, sets such standards and monitors countries on their implementation representing the main basis for recommendation on the subject worldwide.

The organisation has thirty-seven member jurisdictions and two regional organisations (European Union and Gulf Cooperation Council) which usually meet three times a year in the country of the current presidency and at the headquarters of the OECD in Paris (Gilmore, 2011, p. 95). In addition to its members, FATF counts with associate members like MONEYVAL and GAFILAT; as well as observers states, such as Indonesia or organisations, such as EUROPOL and the World Bank. With regards to its structure, it is formed by a secretariat composed by representatives from 15 countries and located at the OECD headquarters (Figure 2); and a one-year term rotating presidency (1st July to 30th June of the following year) chosen by the plenary (FATF-GAFI, 2019c).

Figure 2. FATF Secretariat structure



Source: (FATF-GAFI, 2019a)

2.2.1 FATF's recommendations

FATF's first comprehensive report was released in February 1990 summarising an analysis of the process of ML, a review of measures and instruments already in place and most notably a plan of action to combat ML which included its 40 recommendations. They are standards still to date internationally recognised ensuring a level playing field in fighting financial crimes and widely adopted by all main international organisations such as IMF and the World Bank and encouraged by UNSC Resolution 1617 (Chaikin, 2009, p. 240; FATF-GAFI, 2012). The recommendations were built on the foundations of the UN Vienna convention and the 1988 Basel committee on banking supervision[1]; having three areas of focus (Gilmore, 2011, p. 92):

I. Improvement to national legal systems;

II. Enhancement of the role of the financial system;

III. Strengthening of international cooperation.

The recommendations were reviewed and updated over the years to ensure relevance. In 2001, the issue of TF was taken into consideration and included in the mandate with the addition of eight recommendations on the subject. Furthermore in 2003, a revision took place to follow the evolution of ML techniques and a year later another recommendation was added, further strengthening the system, and completing *FATF 40+9 recommendations*. Finally, in 2012 the issue of the countering of financing of WMD was added to the mandate; together with interpretative notes and three significant amendments: a risk-based approach to be applied to all relevant recommendations (previously ruled-based approach see Bello and Harvey

[1] BCBS: it serves as a forum for regular cooperation on banking supervision; it has 45 members from 28 jurisdictions and concerns the enhancement of financial stability through homogenous bank supervision; the *Capital accord* was released in 1988 and then revised in 1999 with Basel II released in 2004. Basel III took place in the background of the 2007-09 financial crisis and culminated in many adjustments regarding liquidity risk measurement, resilience and most recently capital requirements (BIS, 2020).

(2017)), beneficial ownership requirements and introduction of tax crimes as a predicate offence (Aamo, 2017, p. 93).

FATF recommendations embrace a wide variety of topics within its scope which are divided in seven sections (see appendix 1 for a complete list) (FATF-GAFI, 2012, pp. 4–5). Some are relevant to mention for this study. Recommendation 9 establishes that secrecy laws regarding financial institutions shall not hinder the implementation of FATF recommendations; recommendation 28 urges countries to subject financial institutions and certain non-financial businesses and professions to regulatory and supervisory measures (FATF-GAFI, 2012, p. 12). For instance, requiring them to keep a client's records consisting of identity and transactions and to report any suspicious transactions (Schott, 2006 part VII: 2). The dealing of these suspicious activity reports is explored in recommendations 20 and 21, being one of the main instruments to combat ML. It applies to both financial businesses and to DNFBPs (Chaikin, 2009). Recommendation 20 sets the requirement of filling these reports promptly (FATF-GAFI, 2012, p. 17):

> *If a financial institution suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity, or are related to terrorist financing, it should be required, by law, to report promptly its suspicions to the financial intelligence unit (FIU).*

The following recommendation (21) protects institutions and their employees, while submitting those reports, from criminal or civil liability connected to any breach of contract; it, also, prohibits *tipping-off* of any information given to a financial unit. FIUs are the main recipients of reports. They are defined in recommendation 29 (FATF-GAFI, 2012, p. 22):

> *Countries should establish a financial intelligence unit (FIU) that serves as a national centre for the receipt and analysis of: (a) suspicious transaction reports; and (b) other information relevant to money*

> *laundering, associated predicate offences and terrorist financing, and for the dissemination of the results of that analysis. […]*

Furthermore, the recommendation stresses the unit's ability to receive further information from the reporting sector, and its duty to have timely access to financial, administrative and law enforcement information relevant to its function. As specified in recommendation 31, on the carrying of its function regarding ML investigations or related predicate offences and TF, all the information needed can and should be provided to competent authorities (Ibid.). This definition of FIU is central to this study, it provides minimum requirements but the specification of the establishment of a FIU is rather flexible. There is no mention of its institutional arrangement or limits to its role. This will be further explored in the subchapter 2.6.

2.2.2 FATF monitoring role

FATF has the mandate of monitoring countries to ensure and evaluate the implementation of its recommendations. It does so through Mutual Evaluation Reports (MERs) which work as a form of enforcement mechanism. They are comprehensive processes which take part in cycles of 7-8 years and can take up to 18 months; in every round around 40 jurisdictions are evaluated by FATF-style Regional Bodies, the IMF and the World Bank (Aamo, 2017, p. 90; FATF-GAFI, 2019b). The publication of a MER represents a starting point for a country to improve its performance. A country needs to report back on a regular basis and in three years, it is supposed to have addressed all technical compliance faults identified (Aamo, 2017). In five years, a follow-up assessment is produced considering the new measures in place. Ratings are given on assessment of the 40 recommendations and on the 11 subsequent results with the self-assessment based on two components, established at the February 2013 Plenary meeting (FATF, 2013, 2019b; Aamo, 2017, p. 93):

- Effectiveness: aimed at assessing if measures are working and delivering intended results;
- Technical Compliance: focused on assuring the necessary legal framework is in place.

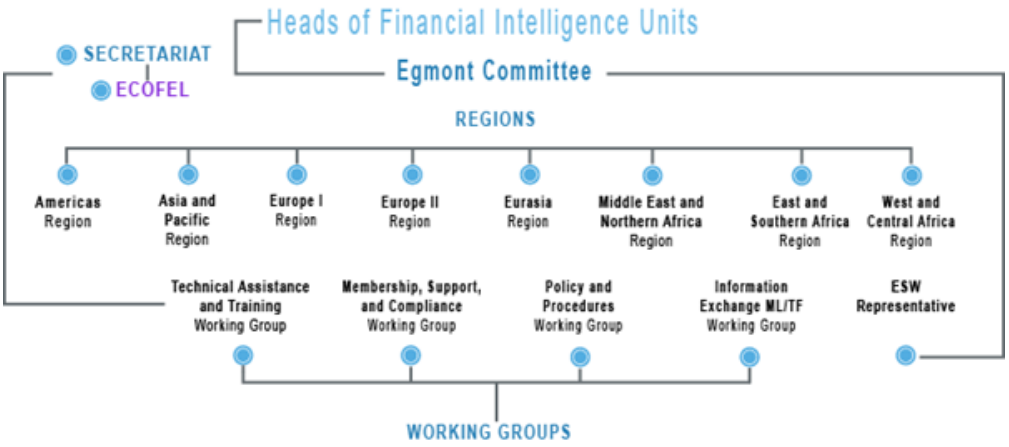
FATF identifies countries which are not doing enough in implementing the recommendations in two categories: Black and Grey list (ECOFEL, 2018, p. 3). The lists are informal terms used externally to indicate poor performance or non-compliance. It can be referred to as *name and shaming* and can have important economic consequences for countries (Egan, 2010, p. 274). The grey list includes, currently, eighteen jurisdictions. It comprises countries which are under increased monitoring due to strategic deficiencies in fighting crimes specified in the organisation's mandate. These jurisdictions are asked to comply with defined action plans with dictated postponed timeframes (Aamo, 2017, p. 90; FATF-GAFI, 2020). More worrisome are countries placed in the blacklist, a.k.a. *Call for action* or 'high-risk and other monitored jurisdictions', previously NCCTs (Non-Cooperative Countries or Territories) (Bello, 2017, p. 29); currently Iran and Democratic People's Republic of Korea (DPRK). They are considered non-cooperative representing a risk to the integrity of the international financial system (Miron, 2017, p. 303).

2.3 The Egmont Group

As FATF standards emerged, countries started to establish national FIUs; and the lack of international guidance drove them to further cooperate. In 1995, the Egmont group emerged in Belgium from a US-Belgium initiative specifically related to ML (Gilmore, 2011, p. 81). It is an informal group of FIUs, formed to advance elements of the AML fight and work towards the harmonisation of standards not specified by international instruments (Rudner, 2006; Gilmore, 2011). It deals, for instance, with the mandatory filing of suspicious reports or the issues related to international cooperation between different models of FIUs. In this sense, it can be viewed as a forum, with annual meetings, to maximise international cooperation, discuss and exchange information, experiences and training (Florêncio Filho and Zanon, 2018, p. 76). It is extremely important for

the sharing of intelligence. Once a national FIU joins the group, it has access to the information of others and the possibility of establishing memoranda of understanding (MoUs) agreements. The exchange happens through a secure network 'Egmont Secure Network' to protect the secrecy of the financial information (Bijos and de Magalhães Almeida, 2015, p. 93). Its charter was approved in Bermuda in 2007, comprising its strategic mission and objectives; its permanent secretariat was established with headquarters in Toronto. The operating structure of the group is composed by the head of FIUs (HoFIUs), four working groups, ECOFEL (Centre of FIU Excellence and Leadership), eight regional groups and the Secretariat (Egmont Group, 2020) (see figure 3 and appendix 2 for detailed descriptions). Finally, the Egmont Group has been a FATF observer since 2002 following its recommendations and adopting FATF's definition of FIU (Gilmore, 2011, p. 83; Egmont Group, 2013, p. 5).

Figure 3: Structure of the Egmont group Secretariat



Source: (Egmont Group, 2020)

2.4 Latin America

2.4.1 Mercosur

In the context of Latin America, the study will consider Mercosur and GAFILAT to lay out the environment in which COAF was established and operates. Mercosur is a southern American trade bloc established in 1991 by four countries: Brazil, Argentina, Paraguay and Uruguay; Venezuela joined in

2006 but is currently suspended and Bolivia is in the accession phase (Mercosul, 2020). Although, the body's main objective revolves around the promotion and creation of commercial and investment opportunities by integrating national economies; it favours as a result, the integration in other matters subject of interest and important to the functioning of the bloc and its members. Its establishment treaty, treaty of Asunción, stresses in article 1 (Mercosul, 1991):

> *[…] The commitment of States Parties to harmonize their legislation, in relevant areas, to achieve or strengthen the integration process.*[2]

In this light, a meeting between justice ministers was agreed as well as the development of a common framework for legal cooperation (David, 1999, p. 63). This is important for the necessity to coordinate efforts in the field of information and experience sharing, within and between regulatory and supervisory bodies; enhancing the members' performance when confronted with internal and external threats, including that of ML against the bloc's financial system. This is due to the international characteristic of the crime and the potential impact on all members. To this purpose the commission takes concrete actions such as memoranda of understanding, organisation of seminars, training programs, sharing of information materials and a virtual forum to facilitate exchange of information between regulating and supervisory bodies in Mercosur (Mercosul, no date). It formulates proposals for minimum regulatory guidelines and prepares spreadsheets to compare rules and monitor suspicious operations in member countries.

2.4.2 GAFILAT

GAFILAT is the *Financial Action Task Force of Latin America*, previously known as the *Financial Action Task Force of South America* (GAFISUD). It comprises 17 countries from South, Central and North America, the Caribbean and observer countries and organisations such as Germany, France, Interpol and CICAD[3] (GAFILAT, 2018, p. 5). It was born from a memorandum of

[2] Translated by the author

[3] Inter-American Drug Abuse Control Commission: an organisation member of the general assembly of OAS (Organisation of American States) which focuses on the reality of the

understanding (MOU) between nine South American countries in December 2000 in Cartagena-Colombia and created in the context of the establishment of other FATF-like regional groups fighting ML (De La Torre, 2017, p. 357). Its main goal is to combat and prevent ML and any economic, political and social costs derived from it. Its internal structure is formed by the Plenary of Representatives, the Executive Secretariat and five Working Groups (GAFILAT, 2020). The Secretariat is located in Argentina where diplomatic basis and legal capacity to the institution is conferred (Pucci, 2019, p. 497). As a body linked to the FATF, it recognises ML as a global threat and adhere to its recommendations, recognising them as international standards on the subject and promoting their implementation. Likewise, it emphasises the prevention and strengthening of national institutional capacity, having the power to develop its own standards to improve regional/national policies (De La Torre, 2017). Its tasks include fostering the criminalisation of ML as an offence, creating an effective legal system to investigate and prosecute crimes and establishing a suspicious activity report system. It provides assessments, reports and evaluations on normative frameworks and performances; as well as enables the consideration of regional factors within the implementation of these measures and executes educational training in the region (Pucci, 2019, p. 497). For instance, by identifying regional trends and common characteristics between them (GAFILAT, 2018). The organisation became an associate member of FATF in 2006.

Both Mercosur and GAFILAT are two important organisations in Brazil's environment which foster cooperation and implementation of AML regulations offering support on regional specific issues. The next section will consider Europe's environment in which the UKFIU operates.

Americas, i.e. it offers members technical assistance on ML related to drug trafficking elaborating norms and directing countries on the detection of suspicious operations contributing to the harmonisation of national legislations (OAS, no date; Bijos and de Magalhães Almeida, 2015, p. 92).

2.5 Europe

2.5.1 Council of Europe

In the European context, the council of Europe played a leading role in embracing a large network of treaties and conventions to expand cooperation and promote legal modernisation (Gilmore, 2011, p. 173). Already in 1977, it established a committee on Crime problems (CDPC) focusing on the illicit transfer of criminal funds to the further perpetration of crimes which culminated in R(80)10 on *Measures against the transfer and safekeeping of funds of criminal origin*. Although the initiative was not widely implemented, it is significant for its adoption of a preventative philosophy, found later in FATF; i.e. the idea that the banking sector can play an active and effective role in the repression of ML (Gilmore, 2011, p. 174).

In 1987, in line with UN advancements on the proceeds of illicit drug trafficking, the same committee formulated norms and standards in the 1990 *Convention on Laundering, Search, Seizure and confiscation of the proceeds of crime.* It entered into force in 1993 with the direct participation of Australia, Canada, USA and the EU community (Gilmore, 2011, pp. 174–175). It is regarded as an international criminal law agreement and an example of an integrated approach to interstate penal cooperation aimed at establishing a set of rules for all stages of crime, from investigation to confiscation (Savona, 1997, p. 109; Gilmore, 2011, p. 183). Although inspired by the *UN 1988* convention terminology and systematic approach, it added stricter measures as a higher regulatory attempt given lower adherence of more like-minded states. For instance, the criminalisation of ML, despite some flexibility (see article 6(4)), was not restricted to drug-trafficking but extended to any predicate offence (Gilmore, 2011, p. 178). Moreover, it added measures to assist law enforcement in the investigative part (Gilmore, 2011). However, the document is lengthy and complex lacking measures on the role of the private sector in fighting ML.

2.5.2 EU

The EU's own legislative measure (91/308/EEC) came in 1991, to ensure a consistent implementation of FATF's recommendations and maintain the integrity of the union's financial system (Gilmore, 2011, p. 223). The directive was intended to give directions and requirements leaving a leeway on how to achieve goals (Ibid.). Article 15, in fact, allows the adoption of stricter measures in the field. Contrarily to the braced 1988 and 1990 international documents, it fully embraced a preventative approach complementing the others: "it ends where the 1990 convention begins", i.e. with criminal investigations (Ibid. p. 222). The directive inflicts obligations aimed at credit and financial institutions to detect ML schemes before the criminal investigation stage (Ibid.). Several revisions of this directive took place addressing previously left gaps and refining provisions to make sure the EU was updated with the latest threats and FATF requirements (Bello, 2017, p. 3). The first revision took place in 2001 (2001/97/EC) extending the predicate offences to other crimes (e.g. corruption) and extending the reporting of suspicious activity from institutions with branches in multiple jurisdictions; it, also, extended the range of professions covered and established requirements for the creation of a FIU (Egan, 2010, p. 275). In 2005, a second revision culminated in Directive 2006/70/EC which tightened the AML/CTF standards and implemented FATF 2003 revision, covering TF and setting penalties for the non-compliant businesses (AML Forum, no date; Egan, 2010). Further revisions include regulation n°648/2012 and Directive 2015/849/EU (Ibid.). Finally, in 2016 a revision concluded the 5th directive of the kind (5AMLD). It addressed gaps related to cryptocurrencies, safeguards for financial transactions related to high risk third-countries, enhancement of the power of FIUs with regards to transparency of ownership and their access to information. For instance, the establishment of centralised bank account registries to allow more coordination and standardised effectiveness across EU FIUs (Timmermans, Dombrovskis and Jourovà, 2018; Angus, 2019).

Lastly, the EU favours cooperation of its members' FIUs through FIU.net; a decentralised and advanced computer network established within EUROPOL.

The EU's law enforcement agency covers cooperation related to administration of justice and law enforcement and has an explicit mandate extending its scope of competence. Article 4(1) of the EU council decision of 2009 states that EUROPOL shall cover organised crime and other forms of serious crimes, listing in the annex illegal ML activities (Gilmore, 2011, p. 245). FIU.net supports EU FIUs with the right tools facilitating an effective exchange of information through the provision of analytical assistance in cases derived from STRs and Currency Transaction Reports (CTR) (Europol, no date). The EU, as a comprehensive union, incorporates cooperation, also, in other matters of judicial cooperation on extradition, mutual recognition and others. For instance, judicial cooperation is assured by Eurojust (Gilmore, 2011, p. 246). The EU commission is a member of FATF and an observer of the Egmont Group.

2.6 Financial Intelligence Units (FIUs)

The previous section has explored different international instruments and guidelines of AML which share an important similarity: silence with regards to the institutional arrangement of FIUs. This subsection was added to clarify the concept of different models of FIUs and their operationalisation within member states.

FATF recommendations refer to FIU only as "competent authority" which shall receive reports from financial institutions (Stessens, 2000, p. 183). European directives are also brief; alluding to "authorities responsible for fighting ML", only requiring states to ensure their ability to request and receive information from financial institutions (European Commission, 2001). In the case of the EU, the lack of specification can be explained by its subsidiary principle and thus, lack of criminal competence on the subject (Stessens, 2000). The EU commission does not consider its duty to harmonise measures on the nature and structure responsible for financial information (Thony, 1996, p. 264). Another example is that of the Egmont group's understanding of FIU, on which many others are based. It only emphasises FATF's definition and provides basic guidance as an international forum. Accordingly, there is no international

harmonisation yet regarding the model of these units, understood as institutional arrangements. Neither on their functioning, conditions of receipt of suspicious transactions nor procedures through which they are processed and transmitted (Stessens, 2000, p. 184). The definition provided by the Egmont group (same as FATF - see page 28) represents the lowest common denominator and incorporates three basic functions (Ibid.):

- repository: central point of information for ML, receiving disclosed information but, also, having certain powers on dictating what happens to it.

- analysis: responsible for analysing the reports of financial transactions and processing the information it receives. This normally includes adding value to the received information.

- clearing house: serve as a channel to ease the exchange of information, either individual or general, on unusual or suspicious transactions. This exchange can take place with various partners either domestic or international.

Owing to only three basic functions specified and an indication of the FIU's relations to other institutional bodies (see appendix 3), three models of FIUs have emerged from state practice reflecting each country's realities and priorities. These models of units can be assembled into four categories (Thony, 1996; IMF, 2004; Schott, 2006; Florêncio Filho and Zanon, 2018, p. 76; Marcus, 2019):

Administrative: They are established as a *buffer* between the financial sector and DNBFBP, and law-enforcement agencies or prosecutorial entities. The role of the FIU, in this case, is to receive suspicious reports and, only if substantiated, send them to relevant investigative or prosecutorial entities (IMF, 2004, p. 10). They can either operate under the supervision of a ministry, like in the case of Brazil (Autonomous FIU); or as fully independent bodies - less likely e.g.

Belgium (Independent FIU). In the latter case, their administrative centre can fall more likely under the Finance Minister or the central bank risking a higher political supervision. The uniqueness of the administrative model of FIU is the fact that it clearly makes the distinction between suspicious cases to be dealt with administratively, and offences, task of LEA (Thony, 1996, p. 270). This gives reporting entities more confidence in reporting as circulation will be limited and data will be scrutinised before forwarding to the next level of police enforcement. Moreover, FIUs' powers are likely limited to receipt, analysis, and dissemination of reports and the disclosure of the content is defined narrowly to preserve its confidential aspect (a.k.a. closed-box FIUs) (IMF, 2004, p. 11).

Law Enforcement or police: This model has an emphasis on the law-enforcement aspect and is linked to a LEA, thus, being built on an already existing structure. They take advantage of expertise and exchange of information, being able to share them easily (e.g. through national and international criminal information networks), speeding investigation and increasing its usefulness (IMF, 2004, p. 13). This is favoured by the units' law-enforcement like powers with no prior legislative authorisation needed e.g. freezing of transactions or assets (Ibid.). These powers, however, can also work in disadvantage of the FIU. They have limited access of data on currency transactions above a fixed amount. The main drawback relates to the nature of police services, which is investigative rather than preventative (Ibid.). This leads to a lack of confidence in reporting entities. As a matter of fact, the information they provide in reports might become a clue or even an assumption to the unit. Collaboration in this sense assumes a negative connotation and unless sure of the suspiciousness of a transaction, a reporting entity will be reluctant and unlikely to send a report and put a client under investigation (Thony, 1996, p. 267).

Judicial or prosecutorial: the unit is established within the judicial branch of the state or, most often, the prosecutor's office. Countries likely to adopt this model are those with a civil law or continental system, where the public prosecutor is part of the judicial system and thus, have power over criminal

proceedings and on directing and supervising investigative bodies (Thony, 1996). In this case, reports are sent to the prosecutors' office, and an investigation is opened if a first inquiry confirms suspicion. Only then, although immediately, judicial powers come into play - seizing funds, freezing accounts and others (IMF, 2004, p. 16). This model is suitable for countries with tighten bank secrecy laws and a link between judicial and prosecutorial authorities to ensure financial institutions cooperate, as information is passed directly for analysis and processing (Florêncio Filho and Zanon, 2018, p. 77). The advantage is, also, connected to the prosecutorial office enjoying public confidence and independence. Difficulties may arise with the sharing of information with other types of FIUs (Thony, 1996, p. 267).

Hybrid: this model entails the combination of the other models of FIUs attempting to have the advantages of all or as a result of the combination of two already existing agencies which work in the AML regime. This could be a combination of an administrative- and a police model or a mix of the power of the customs office and the police. Examples of such models are Denmark and Norway (IMF, 2004, p. 17).

This chapter has defined the history and framework of the international AML regime. The main hard law instruments in the international arena are the Vienna convention (1988), the Palermo convention (2000) and the Merida convention (2003). From these instruments, soft laws emerged such as the creation of FATF and the Egmont group as well as UN derived resolutions influencing domestic legislations. Additionally to the main broad international framework, the chapter laid out the basis of regional structures for both case studies and explored the main instrument for effective financial investigations in the area: FIUs; defining their different models and their characteristics. Most importantly, it has become clear that no specific model of central unit is required beyond basic functions, thus leaving it flexible for countries to decide on their functions and implementation which differ within four state-created models. Having in mind the international regime, the next chapter will introduce the UK case of study, its AML regime and more specifically the operation of its FIU, to

allow its contrast to the Brazilian FIU in chapter 5 in order to answer the research question, evaluating the impact of the model of FIU in their operations.

Chapter 3: The United Kingdom (UK)

[..] with the exception of a few very rare cases, in the UK the mafia is not something that you can see or hear. There aren't dead bodies on the streets, or shootings […] it exists, but it's quiet, it acts in the dark. And most of all it doesn't have the pungent smell of blood, but the reassuring smell of money.

Roberto Saviano speaking at the UK House of Commons on 26 May 2016 (Lammy, 2016)

The laundering of criminal proceeds in the UK, according to a study by RUSI (Moiseienko and Keatinge, 2019) derives most notably from drugs and arms trafficking, followed by fraud, corruption and tax crimes. It represents an obstacle to the security and prosperity of the country. As a global financial centre, the proceeds of crime are most likely generated in other countries, with the UK serving as a destination or transit point (NCA, 2015; FATF, 2018, p. 5). Moreover, the financial sector is a critical part of the UK's economy and as such, its integrity and international reputation is significantly threatened by ML offences. In 2017 the Home Office declared ML is likely to cost £90 billion a year coming from exploitative and violent crimes including drug and human trafficking (NCA, 2015; Home Office, 2017). In a bigger regional reality, ML activity covers a wide ground with suspicious financial activities identified in 0.7%-1.28% of EU's GDP (Law Commission, 2018b). An effective financial control over these activities is important. It supports and adds value to various crime-types, including non-financial (NCA, 2019b, p. 12).

The UK AML system is composed, mainly, by its Suspicious Activity Report (SARs). The system is comprehensive but rather radical (Fleming, 2005). It is supported heavily by the UKFIU, a police model of unit, which received more than 450,000 reports over 2018/2019 with, nonetheless, low-quality information. The following chapter will explore the AML regime in the UK and the operation of its law enforcement model FIU. It will analyse quantitatively its number of reports received and those used by LEAs to further criminal

investigations. It will explore the output of these documents, such as cash seizures and restrained sums, and its use of international cooperation. Finally, it will look at how FATF evaluated it in 2018 and draw conclusions on its activities.

3.1 Legislation

The UK is considered the pioneer in combating ML, being in the forefront of the implementation of EU directives (Thony, 1996, p. 265; Bello, 2017, p. 36). It was a founding member of FATF in 1989 and it established a financial section within the National Drug Intelligence Unit (NDIU) already in 1987. The proactive British approach to AML resulted in a vast legal framework which lays its foundations in the Proceed of Crime Act of 2002 (POCA), specifically part VII, and the Money Laundering Regulations (MLRs) (Law Commission, 2018a, p. 6). The latter's last modification was in January 2020 to include international standards set by FATF and to transpose the EU's 5AMLD (FCA, 2020). Part VII of the POCA has been amended to its final version several times (POCA, 2002; NCA, 2019b, 2019a). Complementation is provided in other relevant guidelines approved by the government and acts and regulations which support primary legislative objectives in line with FATF recommendations and EU directives (Preller, 2008, p. 235).[4] Significantly, the 2017 Criminal Finances Act created a system of regulatory obligations for business under the supervision of the Financial Conduct Authority (FCA) and other recognised professional and regulatory bodies (Ibid.). Moreover, a parallel and complementary regime to ML is the Terrorism Act (2000) part II related to counter terrorism finance (Law Commission, 2019, p. 20).

POCA (2002) criminalises ML and the failure of reporting a suspicious activity. Firstly, part VII, s327-329, defines three offences of ML applying to proceeds of *any* criminal offence, considering the British all-crimes approach (Law Commission, 2019, p. 24): s327 classify as an offence the concealment or

[4] e.g. Serious Organised Crime and Police Act of 2005, Serious Crime Act 2007, Serious Crime Act 2015 and Criminal Finances Act 2017.

disguise (of "nature, source, location, disposition, movement or ownership or any rights with respect to it"), conversion, transfer and removal to outside the country of criminal property; s328 regards involvement in arrangements and s329 acquisition, use and possession of criminal property (POCA, 2002 s327-329). Secondly, part VII, s330-332, lay the conditions of holding the reporting sector responsible for the failure of reporting a suspicious activity. Disclosure is required when (Law Commission, 2018a, p. 6):

I. he/she knew or suspected or had reasonable grounds for knowing;
II. information or matter of suspicious came to him/her during business in the regulated sector;
III. identification of person or whereabouts of laundered propriety is possible;
IV. he/she believes or is reasonable to expect he/she to believe, that information will or may assist in identifying the person or whereabouts of laundered property.

An offence is committed if no disclosure is made to the nominated officer or an authorised person by "the Director General of the National Crime Agency", after the information comes to him (POCA, 2002, s330; Preller, 2008, p. 235; Bello, 2017, p. 41). Additionally, the legislation explicitly prohibits the warning of the filling of a report or any of its information to any non-authorised person. This is known as *tipping off* and entails the same penalties of failure to disclose (POCA, 2002, s333a; Bello, 2017, p. 37,44).

These ML offences are wide and the threshold low. It is, in fact, set at 'suspicious' (Law Commission, 2019, p. 24). The latter is a key component of the British ML offences as the minimum threshold under sections 327-329 as well as the trigger of reporting obligations under sections 330-332 (Ibid.). However, it can be problematic. The meaning of 'suspicious*',* and its application by those obliged to report activities, was listed as one of the legal difficulties of the SARs regime in the 2018 government revision and is pointed out as a weakness of the Risk-based approach to ML (Bello and Harvey, 2017, p. 3; Law Commission, 2018a, p. 111).

The regulated sector, subjected to the SARs regime, is defined in s330 schedule 9 (*Business in the Regulated Sector and Supervisory Authorities*) order 2007, and includes institutions such as banks and credit, stockbrokers, insurance companies and others (POCA, 2002, s330; Egan, 2010, p. 279; Wentworth, 2018). Part 2 of the above mentioned schedule describes, also, supervisory authorities, including the Commissioners for Her Majesty's Revenue and Customs, Trade and Investment in Northern Ireland; the Financial Services Authority (replaced with the Financial Conduct Authority (FCA) and others such as the professional bodies described in paragraph 2 (POCA, 2002).

3.2 The UKFIU

The origins of a British FIU can be traced back to 1987 when a financial section was established within the National Drug Intelligence Unit (NDIU). It was responsible for dealing with information on illicit movement of money from drug trafficking. In 1992, it was replaced by the National Criminal Intelligence Service (NCIS), a bigger entity classified as an intelligence unit with no investigative power. In 1995, as the UK included the all-crimes approach to ML in its legislation (previously opting out of article 6(4) of Council of Europe's convention), it officially established its FIU by FATF standards and joined the Egmont Group (Gilmore, 2011, p. 178). The duty to report suspicious activities came from the transposing of EC directives and FATF standards into national framework (Egan, 2010, p. 275; Gilmore, 2011; Law Commission, 2019, p. 21; NCA, 2019b). To such purpose, the *Economic Crime Agency* (ECA) was created within the NCIS with a more centralised and specific role. It was responsible for financial information, the filtering of suspicious reports, organisation of training for professional staff and an advisory role for the government and the financial sector (Thony, 1996, p. 265). In 2006, the NCIS was replaced by the SOCA (Serious Organised Crime Agency) under the *Serious Organised Crime and Police Act of 2005* (Preller, 2008, p. 236; Egan, 2010, p. 277). It took over the responsibility for the country's FIU and its SAR database. As a law-

enforcement agency, it had the same investigative powers of other LEAs (Egan, 2010, p. 277).

The current UKFIU is a law enforcement/police model, located within NCA under the Home Secretary. It was created by the *Crime and Courts Act 2013* (Bello, 2017, p. 3). Before being placed within NCA's Economic Crime Command (ECC), it was part of the agency's intelligence hub (NCA, 2014, p. 3). This change shows a great synergy of the SARs regime and the country's economic crime environment (Ibid.). Furthermore, the director of the ECC chairs the SARs regime committee ensuring a great connectivity of the process from the initial suspicion to the outcome (Law Enforcement intervention) (Ibid.). Within the NCA, the DAML team has the central role in preventing ML. It handles all DAML SARs which are sent directly to them for triage, risk management and assessment (NCA, 2019a, p. 11). The team tends to receive around 1,000 new cases per week. Each is taken a decision upon in seven days to comply with the law. Once the SAR is assessed, the team decides to grant or refuse consent (if consent SAR) or send it to LEAs which will take appropriate action. In the case where international aspects are entailed, the UKFIU international team takes over taking relevant measures which can include a dissemination report for intelligence purposes for the jurisdiction involved (Ibid.). Furthermore, the SARs Enquiry and Action Team can conduct targeted analysis by using keyword searches and in this way, selecting SARs related to priority threat areas and/or ongoing operational activities (NCA, 2019a, p. 13).

Moreover, in the fight against serious organised economic crime, the *National Economic Crime Centre (NECC)* was established in October 2018 bringing together LEAs and Justice agencies as well as government departments, regulatory bodies and the private sector, including NCA. Its task is to make use of intelligence and capabilities from across the public and private sector to identify and prioritise investigations (criminal, civil or regulatory) as well as maximise the use of new powers (such as Unexplained Wealth Orders and Account Freezing Orders). The crime centre includes a joint ML intelligence task force (JMLIT) combining law enforcement and the financial sector to favour the exchange of information regarding ML and wider economic threats

(NCA, no date). It has already uncovered 5,000 suspect accounts and started more than 3,500 internal investigations (Ibid.). Lastly, the NCA hosts the Joint Financial Analysis Centre which main goal is to lead the exploitation of criminal intelligence and financial data on economic crime (Ibid.). From 2017, in the transposition of the 4MLD, the HMRC and FCA have the power to impose administrative sanctions (HM Treasury, 2017).

The UKFIU has a comprehensive structure by being placed within the NCA, which includes many sections, task forces and bodies focused on fighting ML. The police-type of unit stands out in assuring an effective sharing of information, having the reports promptly available to all investigative bodies with ease in cooperation during the whole process. Nonetheless, this structure faces the risk of side-lining and overshadowing the UKFIU and the value it can add to SARs and places a great responsibility on the private sector. The following sections will explore more in depth the FIU's operation, the SARs regime and their processing, analysis and use based on its annual report of activities.

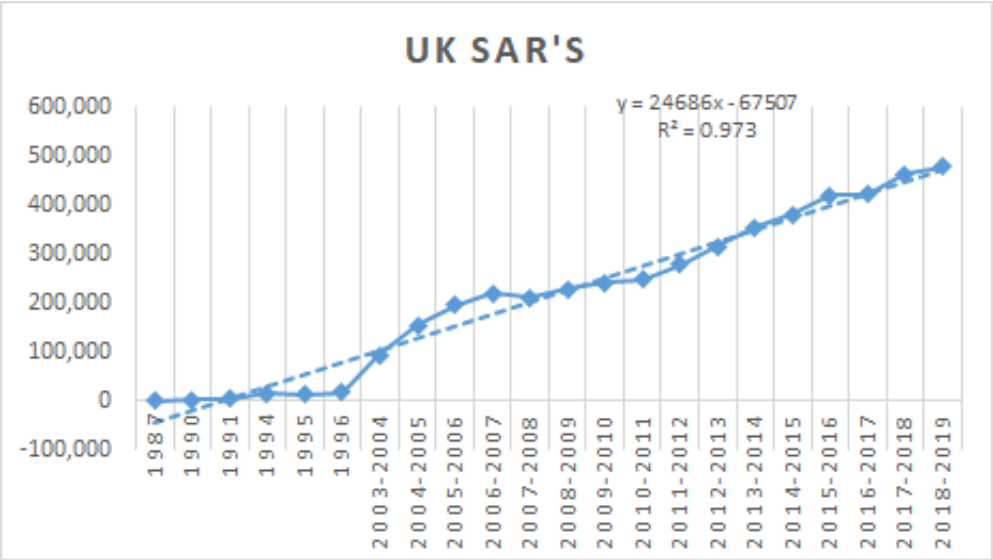
3.2.1 SARs regime

One of the main components of the British AML legal system is the obligation of businesses (called the regulated sector) to submit a piece of information (SAR) which alerts LEAs of a client or an activity which is suspicious and might indicate ML or TF (NCA, 2019a, p. 7). This is not only regulated by the POCA but also foreseen by the Terrorism Act of 2000 (TACT). In the case of denial to disclose the information, the UKFIU can make use of its investigatory power (Egan, 2010, p. 281). Beyond the regulated sector, individuals and firms have a duty to send a SAR, shall they have knowledge or suspicion of offences described in POCA s327-329. Reports must be submitted online through a secure system or through manual reporting. In 2015, SARs were submitted online, as CSV. file/encrypted bulk data, Word/encrypted email or paper (NCA, 2015). The suspicious reports can be specified as DAML or DATF (Defence Against Terrorism Financing) and can either be SARs or consent request SARs

(explored in the next subsection 3.2.2). They do not constitute neither proof of crime nor FININT in its final form. The information is raw FININT (Ioannides, 2014, p. 113). Firstly, because they are merely information. Secondly, because financial intelligence is the product of cooperation between the FIU, LEA and other authorities. If admissible, FININT evidence can be used in court.

SARs are maintained in an online database named ELMER. It is the largest source of FININT for LEAs and contains over two million SARs (NCA, 2019a, p. 8). It includes data from the financial sector as well as those received by foreign partners and UK bodies. Before being made available through portals like Moneyweb and Arena[5] within ELMER, reports are screened by the UKFIU in order to identify those with sensitive issues which are then sent to specialist units or teams (Ibid.). International requests and SARs are only available on ELMER to officers of the UKFIU and the non-sensitive ones are made available seven days from receipt to NCA officers. More specifically, DAML SARs are emailed directly to the relevant end user (Ibid.). The UKFIU, due to its system and its structure, receives a large number of SARs, reaching 478,437 in 2018/2019 (NCA, 2019b).

Figure 4. Total number of SARs in the UK from 1987 to 2018/19.



There is a high significant correlation (Figure 1, $r^2 = 0.97$) of the increase of SARs in the UK from 1987 to 2019. Source: SOCA (2008-2012); NCA (2013-2015); NCA (2017-2019)

[5] a search and analysis tool for end users of SARs (NCA, 2018, p. 7).

Figure 4 shows the number of SARs reported to the UKFIU since 1987. A constant increase can be noted over the years probably due to the expansion of the regulated sector. The UK values show a great linear correlation (R^2=0.97). The big jump from 1996 to 2004 is explained by the year gap due to the lack of corresponding data. From 2008, a smaller growth is recorded and a slight decrease from 220,484 in 2006-7 to 210,524 in 2007-08 can be noted. This decrease is likely related to the 2006 publication of the *Lander report*, which recognised the large quantity of reports with often low quality providing a review of the reporting regime and the functioning of the system suggesting a programme to raise awareness to unnecessary reports, i.e. instructing when and how to fill in SARs (SOCA, 2008). The maintenance over the years of a constant increase in the numbers of received SARs, however, does not mean an automatic effectiveness of the system. At a closer look, those reports do not all meet high quality standards or even the threshold of suspicion (Law Commission, 2018b). They are likely a result of fear of being held accountable for failing to report (Hungerford *et al.*, 2019). Penalties include fines and up to 14 years of imprisonment (POCA, 2002, s334). According to the UK Law Commission (2018b), 15% (4,121 SARs) of the reports sent from October 2015 to March 2017 did not meet the suspicion criteria, having been filled unnecessarily. Among the issues listed by the Law Commission in the SARs regime are (Law Commission, 2018a, p. 11):

- large volume of disclosures to the UKFIU (1);
- low intelligence value and poor quality of many of the disclosures (2);
- defensive reporting of suspicious transactions leading to high volume reporting and poor-quality disclosures (5).

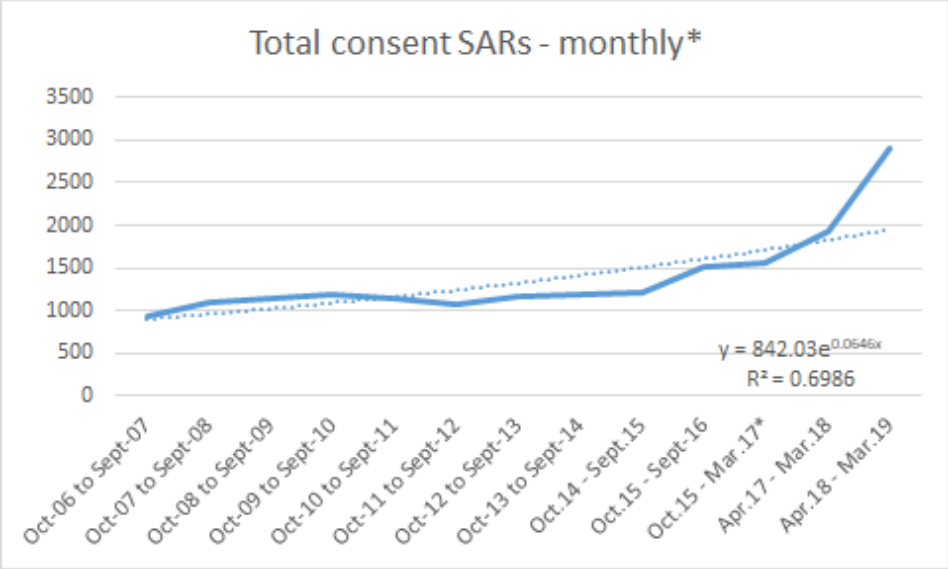
3.2.2. The consent regime

Next to the SARs reporting system a complementary *consent regime* is implemented in the UK. Its grounds are laid in POCA s335; and information is also given in the consultation review paper n.236 (2018a). The review came after the government's commitment in April 2016, *Action Plan for AML and CTF*, to make the SARs regime, and thus the consent one, more effective and less cumbersome addressing the high number of low quality reports. The *consent regime* regards the consent of authorised disclosures; and it has a dual function of offering protection from criminal liability to the reporting entities as well as offering FININT to the FIU and LEAs (Law Commission, 2018a, pp. 6–7). Reporters of SARs can seek consent for a particular transaction they are unsure about or an activity which could constitute ML or TF (a prohibited act under s327-329) (NCA, 2014, p. 25). The authorization is requested through the submission of an 'authorised disclosure' as a consent SAR. The latter differentiates from the 'required disclosure' which is required by law (Law Commission, 2018a, p. 7). Those reports are dealt with by a designated body: the UKFIU Consent Team. They assess the request by themselves or by identifying the relevant LEA which can make a more thorough decision granting consent to the transaction or refusing it. The consent regime and reports derived from it are important tools which provide law enforcement with early intervention opportunities, before a ML offence occurs. Whether a request is granted or refused, it can provide useful information. For example, on crime patterns, being thus, instrumental in enabling law enforcement activity (NCA, 2015).

Figure 5 shows the number of consent requests over the years from October 2013 to March 2019. Due to a change in the tracking period (from October-September to March-April) the official reports from 2017 covers a period of 18 months. Therefore, figure 5 considers a monthly average to normalise the data. It is possible to note a general increase in consent SARs, following the trend of the overall SARs regime. The exponential increase in the number of consent SARs is, likely, due to the uncertainty of the regulated sector on whether to

submit an official SAR report or not, thus a request is sent. A spike in the last year coincides with the publication of the government's review.

Figure 5. Monthly total of consent requests from October 2006 to March 2019.



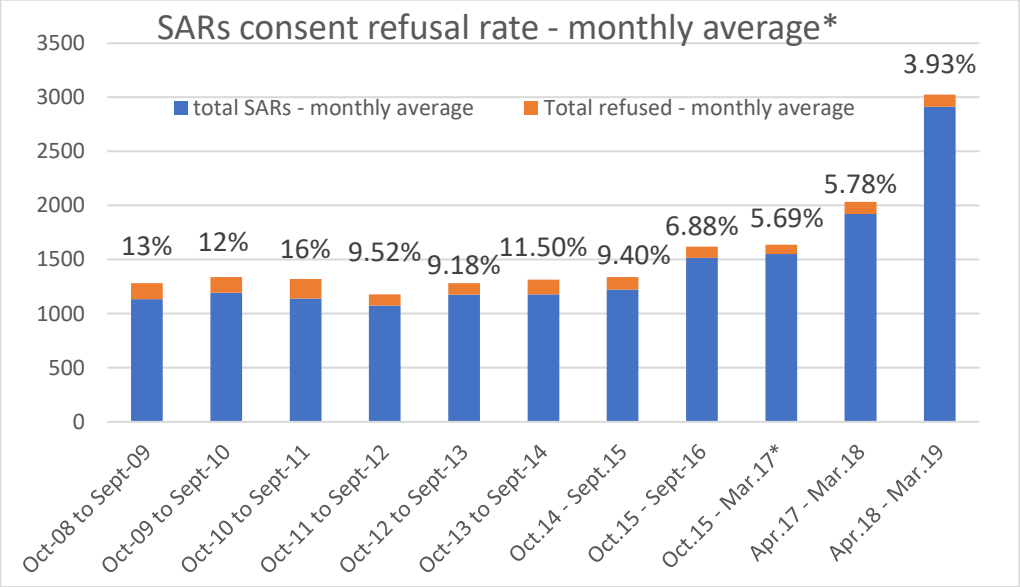
*18months (see appendix 6)

There is a significant correlation (figure 3, $r^2 = 0.70$) of the increase of consent SARs from 2006/7 to 2018/19. Source: SOCA (2008-2012); NCA (2013-2015); NCA (2017-2019)

In order to understand the operation and effectiveness of the consent regime and SARs, we must look not only at intervention figures but the preventative value it has in deterring criminals from laundering the proceeds of crime (SOCA, 2011). According to a study by UK think tank RUSI, there is no concrete way of knowing whether a SAR has produced operational value to LEAs (Hardy, 2017). Contrarily to Brazil, where the FIU submits the so called RIF to the relevant authority once a crime is identified, there is no straight forward number in the UK to reveal the number of investigations helped or started from a SAR, or a number to quantitatively report the forwarded communications to LEAs. Therefore, for the purpose of this analysis we will consider consent requests, and their refusal number. The refusal rate represents the number of reports which led to further actions by LEAs or which were sent to relevant agencies for further investigation. According to SOCA (2010, p. 20) "consent requests will only be refused if a law enforcement agency plans to take action". The consent requests are only a small portion of the SARs produced yearly but

we can have a general idea from this sample (figure 4). There are, however, limitations since even granted requests can lead to further action like cash seizures or restrained sums, those will be considered in the next subsection.

Figure 6. Refusal rate of consent SARs on the total of consent SARs received from October 2008 to March 2019



*18 months, see appendix 6

DAML SARs prior to 2017 were referred to as Consent SARs (NCA, 2017, p. 7). Source: SOCA (2008-2012); NCA (2013-2015); NCA (2017-2019)

Figure 6 shows the monthly average refusal rate for consent requests sent from 2008/09 to 2018/19. Although the number of consent SARs have increased, the number of refusals have varied over the years ranging from 2,197 (2010/11) to 1,229 (2011/12)(appendix 7) and with the percentage rates of SARs refused decreasing from 13% in 2008/9 to 3.93% in 2018/19 which could indicate a higher confidence of reporting entities in submitting SARs.

The consent requests can either refer to ML or TF. Over the years, the DAML requests have largely surpassed those of DAFT (Appendix 4). If we consider only consent SARs sent from October 2014 to March 2019, DAML represented 98.5% of them. Concerning the total number of SARs, ML consent requests have represented around 4% of the total number (during the same period). As it

is to be expected the number of DAML requests follows an upward trend. In the last reported year (2018-19), it had a significant increase of 52.72% (from 22,619 to 34,543), representing 7% of the total SARs received (NCA, 2019b). A summary of the consent regime considering only DAML requests and refusals compared to total values is provided in Appendix 5.

Although, the refusal rate of SARs requests provides evidence of further actions taken by LEAs, granted requests, also, contribute in providing financial information to authorities. LEAs are, however, not constrained to communicate on restraints, cash seizure or arrests connected to granted requests, only those refused. Thus, this information must be taken conservatively, as advised by the UKFIU in its 2018/19 SARs annual report. The next section will consider outcomes taken from both refused and granted consent SARs.

3.3 Outcome of intelligence reports

Although there is no agreed measure for the effectiveness of the British consent regime, SOCA (2010) has conventionally used seizure and restrained amounts, as well as number of arrests, to provide some indication. This will be repeated in this dissertation. Regardless, these numbers are far from showing the financial or social costs kept from hitting the UK economy or long-term impact on disrupting criminal organisations (Ibid.).

Figure 8. Cash seizures and Restrained sums from consent SARs

	Cash Seizures		Restrained Sums	
Year	**From refused consent**	**From granted consent**	**From refused consent**	**From granted consent**
oct.07-Sept.08	£473,869	£5,293,800	£16,974,684	-
oct.08-Sept.09	£676,178	£4,151,771	£18,642,981	£354,353

oct.09-Sept.10	£353,929	£1,385,797	£28,709,751	£337,971
oct.10-Sept.11	£67,405	£3,421,470	£28,397,884	£1,750,000
oct.11-Sept.12	£119,143	£609,047	£104,747,007	£5,557,900
oct.12-Sept.13	£173,374	-	-	-
oct.13-Sept.14	£107,951	£309,260	**£141,178,112**	£339,540
oct.14-Sept.15	£1,313,437	£1,135,472	**£43,079,328**	£99,137
oct.15-Sept.16	**£16,117,014**	£1,210,867	£14,089,147	£692,350
Oct.15-Mar.17*	**£16,183,553**	£1,787,666	£1,210,867	£840,535
Apr.17-Mar.18	£776,088	£157,504	**£48,102,958**	£1,161,261
Apr.18-Mar.19	£829,752	£5,685	**£122,838,459**	£46,692

Source: SOCA (2008-2012); NCA (2013-2015); NCA (2017-2019)

Figure 8 shows cash seizures and restrained sums from both granted and refused consent SARs where it is possible to see the variety of sums over the years with no specific patterns or trends. They vary significantly depending on the cases unveiled. A large decrease of restrained sums is highlighted from 2013/14 to 2014/15. This is explained largely by five large cases with a cumulative value of £119 million in 2013/14 (NCA, 2015). Another significant difference is noted in the last two reported years. The sum restrained in 2018/19 is £74,735,501, the second highest value. According to the UKFIU, this is related to the introduction of Account Freezing Orders (AFOs) as well as the extension of the moratorium period by The Criminal Finances Bill of 2017; part 1, chapter 2 s10 amended Part 7 of the POCA (2002). The NCA can now incrementally extend

the period pending consent of a SAR up to six months; previously 31 days (NRF, 2017; UK Gov, 2017; NCA, 2019b, p. 4); likely allowing for a more thorough analysis and diligent investigation. In the *cash seizure* column, the number varies depending on the number of schemes brought down but also on their worth. Oct.15-Sept.16 and Oct.15-Mar.17 figures spiked up due to large amounts of cash seized from refused DAML consent of over £15m in 2016 (NCA, 2017, p. 8). The number of arrests and cases opened varies significantly over the years, and those related to granted consents are logically less if compared to refused consents (see appendix 8). Restrain sums and cash seizure do not seem to have any correlation to the number of SARs received over the years. They are likely influenced by big outliers which offered the possibility of catching large criminal rings and thus leading to bigger cash seizure and restraints. Data on arrests and initiated cases are specified in appendix 8.

3.4 International cooperation

The UKFIU contributes regularly with domestic agencies, especially through its online database system (ELMER), in a very straightforward manner. Its mandate includes, also, dealing with international requests and interacting with other FIUs and international agencies serving as a central point of communication. It receives and makes requests on behalf of UK law enforcement for FININT. Its SARs annual reports highlight numbers from the interaction with the Egmont Group, EU's secure network FIU.net, EU's *Asset Recovery Network* (ARO) which works in facilitating EU-wide tracing of assets derived from crime and with *Camden Asset Recovery Inter-Agency Network* (CARIN). The former is an informal inter-agency (law enforcement and judicial practitioners) network dealing with asset tracing, freezing, seizure and confiscation (CARIN, 2020). Numbers show a prevalent interaction with the Egmont Group (Appendix 10). In 2018/19, 1,132 requests received were recorded and 1,147 requests for FININT made. We can see a balance between requests made and received. The same is found with the other bodies. Although far behind interactions with the Egmont group, requests made and received by

ARO in 2018/19 were 244-227; followed closed behind by those with FIU.net (234 -114). In previous years, however, FIU.net interactions have always been superior from those with ARO (see appendix 10). CARIN requests made in 2018-19 were 29 and received 30 being less frequent overall (Appendix 10). The number of total inbound information is 1,639 with outbound ones totalling 1,518 showing a balance between them. In addition to formal requests, the UKFIU receives reports spontaneously from overseas. In 2018/19, it received 1,295 reports and has disseminated 764; from which 365 to Europol (NCA, 2019b, p. 6). Finally, the official SARs annual reports highlight the category 'other work' referring to other requests related to "general questions on systems, regulations, legislation" outside typical inbound/outbound ones (NCA, 2017, p. 4). They have significantly increased from 10 in 2014/15 to 170 in 2015/16 to 258 in the latest report (2018/19)(NCA, 2019b). NCA annual report of 2017, describes the difficulty in accounting for changes in those cooperation numbers due to the dependency of UKFIU on requests submitted by UK and international partners (NCA, 2017, p. 4).

3.5 FATF - Mutual Evaluation Report (MER)

The FATF last evaluation of the British AML regime took place in 2018. The UK was ranked at the top 60 of evaluated countries. Scoring 'high' in two effectiveness outcomes, 'substantial' in six and 'moderate' in three (FATF, 2018). Overall, it has been a positive result. The improvement (from the last MER in 2007) on the areas of coordination and cooperation nationally is recognised (Ibid. p. 3). Also, the reporting system is deemed comprehensive to all financial institutions and all DNFBP with generally strong controls; and its legal framework is deemed complete with the requirement for entities "to conduct customer due diligence and obtain and maintain beneficial ownership information in a manner that is generally in line with the FATF requirements" (Ibid., p. 4).

The evaluation raises, however, concerns about its accuracy over a system that has embraced plenty of criticism over the years (Couvée, 2018). Weaknesses are identified in the risk-based approach to supervision and beneficial

information available in the registry of trusts which results still uncompleted (FATF, 2018, p. 4). More importantly for this study is that the UK has been accused of side-lining its FIU. This accusation comes from the fact that all British LEAs have specialist investigators who have virtually unrestrained access to the FIU's database of SARs. This can be attributed to the structure as a law-enforcement model which favours working closely with LEAs. Additionally, there was a deliberate policy decision of NCA to limit the FIU's operational and strategic analysis role. Thus, the FIU might fail to recognise certain crime patterns or spot illicit activities. Those are, also, missed by other LEAs which target-search the SARs database based on their own priorities or open investigations (Couvée, 2018). It follows that the unit lacks in providing added value to SARs and enough support role in operations to other agencies, falling short on its functions of dissemination and analysis. The MER report questions the full exploitation, in a systematic and holistic way of reports and the provision of adequate support to investigators. Moreover, unlike other countries, the UK adopts a "distributed model of dissemination" for its FIU assigning only few (9) employees to investigate them, except for high priority cases like counterterrorism. Most commonly, SARs are reviewed, and only useful leads are passed on. It follows, then, a concern related to the autonomy of the UKFIU from NCA, concerning its roles and priorities.

3.6 Conclusions

The British AML comprehensive legal structure and its UKFIU were explored. Many consider the British reporting obligations onerous and extensive as a result of the expansion of predicate offences and widening of regulated entities (Bello, 2017, p. 40). Nonetheless, as pointed out by Law Commissioner Prof. Ormerod, the reporting regime is not working as it is meant to (Law Commission, 2018b). LEAs are faced with challenges of high numbers of low-quality reports (Ibid.) The high number of reports and undesirable quality could be explained by the chosen domestic regulations and thus, fear of prosecution from the regulated sector as well as due to the position of the UKFIU within the

NCA as pointed by the review commission. This means difficulty in processing and adding value as well as danger of skipping reports and consequently ML offences may escape controls (Law Commission, 2019, p. 31). The police model of unit favours a close collaboration with LEAs, however, this should not come to the damage of effective financial analyses of received reports.

Moreover, intelligence from the private sector is, undoubtedly, essential but a disproportionate weight is put on the private sector in the British AML regime. In addition to high penalties, the legislation should think of problems and difficulties caused to the reporting entities due to high processing times. UK banks are spending more than £5 billion annually on core financial crime compliance and other business risk losses while waiting for approval for certain transactions which are delayed with no apparent explanation due to 'tipping off' restrictions (Law Commission, 2018b). The UK has, recently, tried to step up its efficiency in fighting illicit proceeds. For example, with the newly established NECC within the NCA and the availability of new powers to authorities like the *Unexplained Wealth Orders* (UWO) asking suspects to declare their wealth, and finally by giving new power of seizures on items like precious metals, stones and art works (Ibid.). Moreover, programmes to raise awareness of the filing of reports could ease the number of SARs received and improve their quality.

After setting the main characteristics of the UKFIU, the next chapter will explore the Brazilian counterpart following the same structure of analysis.

Chapter 4: Brazil

It is not the violence in the Favelas that is ruining[6] our country. It is not the lack of education, broken health system, public deficit or interest rates. What's ruining our country is the cause of all these things

The mechanism (José and Elena, 2019)

In 2016, the Brazilian Central Bank (BACEN) estimated that ML cost the country R$6 billion per year (just below £1 billion) (Campos, 2016). It is a widespread problem against the country's financial system. Differently from the UK, ML in Brazil is primarily related to domestic crimes such as corruption, smuggling, drug trafficking and organised crime (US Department of State, 2014). Those crimes generate funds which are then laundered via the banking system, real estate investment, or financial asset markets industry (Febrero, 2019). It is the fuel of organised crime which represent a national and regional threat in Latin America. There are record levels of violence associated with organised crime, which provides livelihood for the marginalised population due to the weak institutions, inequality and lack of economic opportunities (GCSP, 2020). Corruption represents one of the main challenges and is significantly furthered with the help of ML. According to International NGO Transparency International (n.d.), Brazil scores 35/100 ranking 106th out of a total of 180 countries. It is, currently, facing large corruption scandals such as the Car Wash operation, which involves many political parties and companies, national and internationally, in kickback and bribery schemes. In 2005, another major corruption scandal called *Mensalão* ('big monthly') had shaken the country's political arena and most recently in 2020, the Justice and public security minister resigned over claims of presidential political interference in justice matters (Know Your Coutry, 2019). In this sense, COAF represents a central body not only in providing FININT to assist LEA but as a symbol of the need for an impartial control body. This has impacted it in two ways: it has been the

[6] Language adapted – translated by the author.

target of criticisms over political influence but also victim of strict bank secrecy and limitations.

The following chapter will explore the Brazilian AML system and its FIU, following the same structure of the previous chapter on the UKFIU. It will analyse its technical aspects of operation (legislation and its instruments) and its results quantitatively and qualitatively based on COAF's annual reports. It will, also, evaluate its activities internationally and cooperation in the domestic context as an administrative unit. This will help, later, in the analysis and comparison to the British police unit in chapter 5.

4.1 Legislation

Brazil ratified the UN Vienna convention (1988) in 1991 with decree nº 154/1991 committing also to other similar international agreements. The Palermo Convention (2000) was internalised with decree nº 5.015/2004, and the Merida convention on Corruption was adopted through decree nº 5.687/2006 (COAF, 2002; Bijos and de Magalhães Almeida, 2015, p. 90). Those included considerations on regional commitments under the auspices of the organization of American States – OAS, like CICAD (COAF, 2002; Miron, 2017, p. 311). As a response to these commitments with the international community Brazil enacted, in March 1998, law nº 9.613 criminalising ML related to "drug trafficking, terrorism, arms trafficking, extortion, and organised crime" (Febrero, 2019); and establishing, in the same occasion, *the Council for Financial Activity Control* (COAF) – discussed in the next subsection. The 1998 law covered ML derived from crimes, excluding as predicate offence crimes such as the exploitation of the animal game, fraud and TF. In 2002, it was updated to widen the definition to include all 'harmful acts'. Moreover, in 2003, law nº 10.701 declared TF a ML predicate offense, as well as crimes against foreign governments (Planalto, 1998; Febrero, 2019). Finally, in 2012, the federal law was modified by law nº 12,683, including any criminal offence a subject of ML (Planalto, 1998):

> *Hide or conceal the nature, origin, location, disposition, movement or ownership of assets, rights or values arising, directly or indirectly, from a criminal offense* [previously of crime][7].

Law nº 9.613/98 regarding ML, furthermore, specifies in section 5, articles 9-11, the obligations to natural or legal persons subjected to the control mechanism. They are obliged to communicate to COAF or its defined regulatory body (such as BACEN - for financial institutions, SUSEP - for insurance companies, CVM - for building societies, SPC - for private welfare entities – see figure 9) its suspicious financial transactions (Ministerio da Economia, no date; Bijos and de Magalhães Almeida, 2015, p. 89). In order to comply with these provisions, the regulated sector is subjected to adopting policies, procedures and internal controls such as identifying customers and keeping records, according to size and volume of operations (Article 10-part III). Article 11 refers to the communications to COAF within 24 hours and the duty of refraining from informing anyone ('tipping off') (II): of all transactions in section II of article 10 (a) and all operations referred to in Item I (b). Article 11 (III) imposes communications of the non-occurrence of proposals (negative statement), transactions or operations mentioned in Article 11 (II). Those are to be referred to the regulatory or supervisory body of their activity or, in their absence, to COAF; Article 10 (IV) foresees the registration with these bodies. Non-compliance is subjected, mainly, to administrative sanctions (Planalto, 2012, s8). Finally, part V, established the duty of compliance with requests from COAF, and responsibility for preservation, under the terms of the law, of the confidentiality of the information provided (Planalto, 2012; Ministerio da Economia, 2020).

In July 2012, law nº 12.683 provided an update to the ML legislation improving significantly administrative obligations for some sectors of the economy. This included identification of clients, keeping up-to-date records and communicating financial transactions including national and international currency, marketable securities and purchase of gold and jewellery. Another recent sector included in the fight against ML is that of Artwork. Since 2019, an

[7] Translated by the author

ordinance from IPHAN (National Historical and Artistic Heritage Institute) obliges traders and auctioneers to register and communicate all cash transactions of works worth above R$10.000,00 (£1.500pounds) and who made or purchased them, in any method of purchase (Bechara, 2017, p. 173; Marconi, 2018).

4.2 The Brazilian FIU

COAF was established in 1998 with its competences defined in articles 14 and 15 of law nº 9.613/98 (Planalto, 1998). It is an administrative authority, central and independent under the supervision , at its creation, of the Finance Ministry (Ministério da Fazenda)[8] (Florêncio Filho and Zanon, 2018, p. 75). It disciplines, applies administrative sanctions, receives, examines and identifies suspicious occurrences of illicit activities related to ML as per international requirements (Planalto, 1998, art.14; Bijos and de Magalhães Almeida, 2015, p. 88; de Araujo Neto, 2016). It analyses information received from the financial sector and other regulated sectors and collates them with other available information (e.g. provided annually by the individuals themselves in legal forms via annual income tax return) to determine if there is well-founded evidence of wrongdoing. It, then, produces intelligence reports and identifies the competent authorities to which forward FININT reports (RIFs) for the establishment of appropriate procedures (Miron, 2017, pp. 293–298; COAF, 2018, p. 9). After the production of RIFs, COAF provides feedback for the communicating institutions by disclosing the results of the evaluation of communications received as well as through face-to-face meetings, training and seminars (COAF, 2018, p. 15).

COAF has, also, the duty to promote institutional dialogue with other national bodies. It is part of the Brazilian Intelligence System (Sisbin) and of the National Strategy to Combat Corruption and Money Laundering (ENCCLA) as a producer of FININT. The latter differs from criminal investigation. Although it is not primarily aimed at producing evidence, nothing prevents COAF reports

[8] Replaced in 2019 by Ministério da Economia (Ministry of Economy)

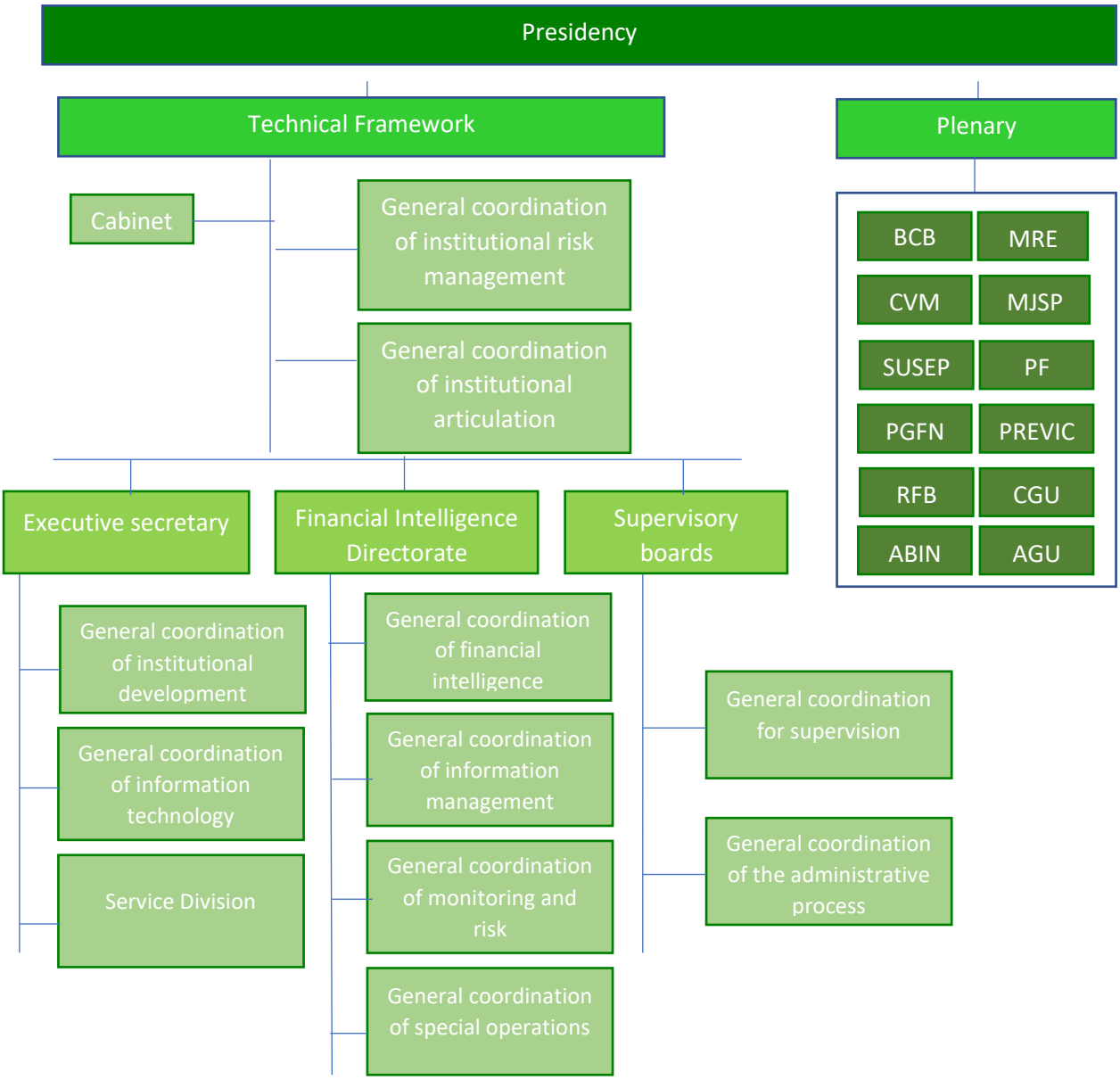
from being used to assist police authorities in an investigation; paying attention to the sensitivity of data present in the RIF (de Araujo Neto, 2016). COAF has neither direct criminal investigative power, nor the ability to block values, detain people or conduct interrogations but it can, nonetheless, impose administrative sanctions as per law nº 9.613 (Miron, 2017, p. 314; COAF, 2019, p. 7).

The reports sent to LEAs and/or prosecutorial authorities contain financial information subjected as such to bank secrecy rules. As stated by FATF in its recommendations (9, 20, 29), the importance of the creation of a FIU and their relevance is linked to their access to financial data. The constitutionality of the access of banking data by COAF and its referral to LEAs and investigative agencies was the topic of much debate and in 2016, it was deemed constitutional by Complementary Law (CL) nº 105/2001 (Miron, 2017, p. 288). Officials state that COAF's communications should not be referred to as a 'break' of bank secrecy but a simple 'transfer' of the information (Ibid., p. 290). The information, in fact, is not distributed indiscriminately under a criterion purely personal and remains not openly available to the public. Minister Dias Toffoli, reporting minister, highlights that CL nº 105/2001 is judicious and includes strict requirements for data transfer, considering the right to secrecy but also the need to access this data by tax authorities (Ibid., p. 292). Here, international commitments made by Brazil and the importance of following international standards for tax and banking information transparency have, also, play a significant role in the decision. Important to mention a preliminary decision from the Brazilian supreme federal court (STF) of July 2019 which brought back the issue and determined the suspension of all processing of inquiries and investigations containing data disseminated by COAF and a ban in sharing suspicious financial data to prosecutors without prior judicial authorization, claiming clashes with bank secrecy rules. It raised big concerns within FATF about the ability of COAF to share FININT with LEAs in a timely manner and the danger of strict bank secrecy rules getting in the way of effective controls. In December, however, the preliminary decision was unanimously revoked. Thus, declaring constitutional the sharing of COAF's reports with criminal prosecution bodies for criminal purposes, without prior judicial authorization

(COAF, 2019, p. 8). This is in line with domestic laws nº 7.492/1986 and complementary law nº 75/1993 (regarding the public ministry) and with FATF standards (Miron, 2017, p. 314). In fact, interpretative note to recommendation 29, regarding the dissemination of intelligence (c) states that "the FIU should be able to disseminate, spontaneously and upon request, information and the results of its analysis to relevant competent authorities" through secure channels (FATF-GAFI, 2012, p. 98). Furthermore, recommendation 31 gives the power to investigative authorities to request *any type* of information held by the FIU.

Additionally to debates on bank secrecy and the sharing of financial reports, recent cases of corruption and well-known police operations such as Car Wash have involved high elite politicians shaking the Brazilian political arena. Those pressing issues brought to light the role of COAF which has consequently been the subject of many legal debates and changes. In January 2019, law nº 9.613/98 was revoked by decree nº 9.663 (Planalto, 2019). From its creation in 1998 until 2018 COAF was linked to the finance ministry. In January 2019, Provisional measure (MP) 870/2019 transferred it to the minister of justice and public security; and in May 2019, congress while approving of MP 870, placed COAF back in the sphere of the ministry of economy (former ministry of finance) with MP 886 of June 2019 (COAF, 2019, p. 8). Nonetheless, in August 2019 MP 893 renamed COAF *Unidade de Inteligencia Financeira*-UIF (FIU) placing the unit under the BACEN and allowing the appointment of non-public servants to integrate the deliberative council linked to the agency (Senado Federal, 2019). The renaming did not last long, the congress decided to maintain the name COAF approving law nº 13.974, of 7th January 2020, which, also, placed COAF officially in the administrative realm of BACEN and stressed its technical and operational autonomy nationwide (COAF, 2019, p. 8; Camara dos Deputados, 2020). The former law consolidated, furthermore, the structure of COAF's plenary: a president and twelve effective positions of organs and entities related closely to the activities of the unit, nominated by the president of BACEN (COAF, 2019, p. 8); raising concerns regarding its political autonomy and danger of external interference (Fernandes and Pires, 2019).

Figure 9. COAF's Organisational chart



Source: (COAF, 2019, p. 11)

COAF was created specifically to serve as the Brazilian FIU. It has technical and operational autonomy, but a more limited role compared to the UKFIU. As it is clear from its structure, its functions and responsibilities count with the help of other regulatory bodies. It is, thus, not always the direct point of reference of the regulated sector for communications. Moreover, it has been the target of many national debates linked to bank secrecy and changes in recent years which

resulted in the shift of its administrative jurisdiction to BACEN. The next subsections will explore more in depth COAF's operational aspects.

4.2.1 Communications received

After introducing COAF and its legal aspects and changes over time, we will now analyse more in depth its activities as a financial unit. In the Brazilian case, the equivalent of SARs are the communications of suspicious activities received by COAF, a.k.a. suspicious transactions reports (STRs). The communications received from the regulated sector can be of two types according to legal provision article 11, item II, lines a and b, of Law nº 9,613/98 (Miron, 2017, p. 303; COAF, 2019, p. 14).

- Communication of cash operations (Comunicação de Operação em Espécie - COE*)*: Communication forwarded automatically to COAF from the regulated sector for cash transactions from clients above value established by law. From 2018, banks must communicate all transactions of R$ 50.000 or above (Agência Estado, 2019).

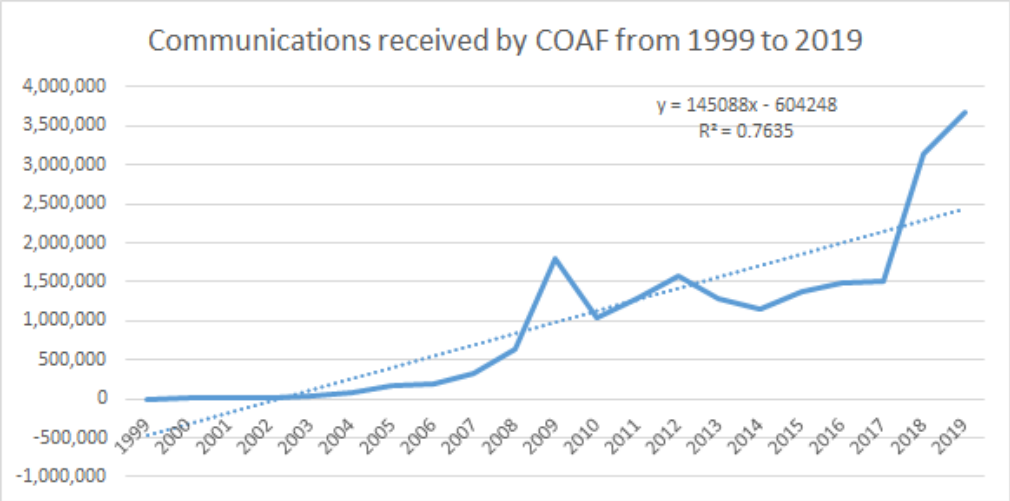
- Communication of suspicious operations (Comunicação de Operação Suspeita - C*OS):* Communication forwarded to COAF by the regulated sector when there is suspicion of ML, TF or other crimes involving a transaction. The minister of economy sets an indicative starting value of R$ 10.000 (Alvarenga and Laporta, 2019).

The first typology is more straightforward whereas the second is based on the legal criteria of having "reasonable terms" to suspect in Article 9, III, of law nº 9.613/98 (Planalto, 1998; Miron, 2017, p. 303; COAF, 2019, p. 14). Whereas COE have an established value, COS can rely indicatively on a circular letter 3.461/2009 from BACEN for those institutions assigned to report to it. It establishes in its article 13(I) all operations or rendered services which value is equal or greater than R$ 10.000,00, must be communicated if there is suspicion of ML (de Araujo Neto, 2016). For example, in the case of *structuring* which is a red flag for ML (money deposited in smaller amounts) it must be

communicated. Those communications come together with the implementation of complementary policies, controls and procedures such as 'know your customer' and 'due diligence' in order to assess customer risks and scrutinise all transactions, including identification and qualification of customers, documents for the origin of the resources in the transaction and of the purpose and the beneficiary of the operation (COAF, 2019, p. 14).

Figure 10 shows the number of communications received by COAF over the years. The trend follows an overall upward direction since the establishment of the unit. In 2019, communications reached 3,684,741, an increase of 17% compared to the previous year (3,135,495). From 2017 to 2018 an increase of 108% was recorded in the number of communications (appendix 10).

Figure 10. Communications received by COAF - yearly



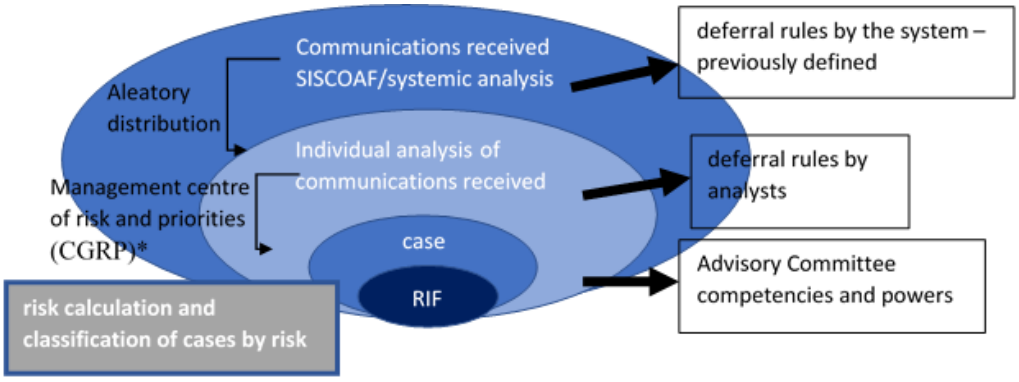
There is a significant correlation (Figure 7, r = 0.76) of the increase of the number of communications received over the years. Source: COAF annual reports 1999 to 2019.

Like the British case, a high number of communications received shows a great involvement of the regulated sector but does not per se indicate efficiency of the system. The number of communications used to produce RIFs is, thus, an important number to consider as it can indicate the quality of communications received. In 2018, 330,895 communications were used to produce RIFs, involving 378,334 natural and legal persons (COAF, 2018, p. 16). That represents 10.6% of the total sent. The previous year, 265,693 communications were used; a slightly lower number which, nonetheless, represented 17.67% of

the total (Ibid.). Although these numbers indicate a small use of STRs an increase quality of reports (RIFs) are reaching LEAs from 2016 to 2019 – see appendix 12 (COAF, 2019, p. 21).

The main tool used by COAF is a system called SISCOAF: Control system of Financial Activities. It works both as a channel for the regulated sector to communicate suspicious activities and as a tool used by COAF to analyse those communications as well as denunciations received, storage of registries and documents produced, exchange of information with competent authorities and information repository; serving as a large database (COAF, 2018, p. 10). Within this system is the SEI-C (Electronic exchange system). The former is used mainly for the circulation of RIFs to authorities; receiving information on indications of ML identified by national authorities and for forwarding responses to submitted requests (from the judiciary or Public Ministry) (Ibid.). Given the amount of communications received, COAF uses *risk-based management* to define priorities and optimize the use of resources (see figure 11). In this way, more resources are devoted to cases where the likelihood of a ML offence is imminent or more serious. This leads to a lower number of cases which entail, however, bigger schemes and sums.

Figure 11. COAF's risk-based management system (original in appendix 11)



*CGRP: Automated tool which calculates the risk of the communications and establishes a distribution order for analysis and RIF production.

Source: (COAF, 2018, p. 10) – translated by the author.

4.2.2 RIFs

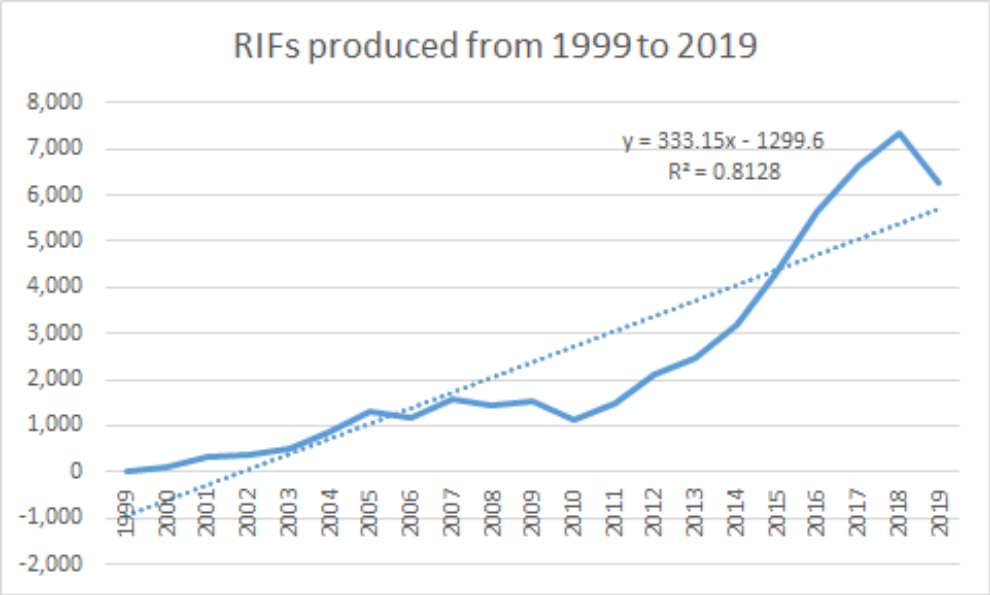
Communications received are processed and analysed with results registered in a document named *Relatório de Inteligência Financeira* – Financial Intelligence report (RIF) - last stage of figure 11 (Miron, 2017, p. 312; Ministerio da Economia, 2020). RIFs can be of two types (de Araujo Neto, 2016):

- Spontaneous (*espontâneo* or ex officio - sent): prepared by COAF's initiative and result from the analysis of communications received or denounced;
- Exchange (*de intercâmbio*- required): prepared to respond to information requests by national authorities or by other FIUs

Although RIFs are neither evidence of illicit activity nor imply the existence of a crime, they constitute evidence that should be adequately checked. They are, therefore, directed according to article 15 of law nº 9.613/98, to competent authorities, Judicial police and/or public ministry, to carry out eventual following up investigative procedures (COAF, 2019, p. 23). Those can be domestic authorities like the Prosecutors, federal police, civil police, Internal Revenue Service auditors or international FIUs. The communication with domestic authorities happens through an electronic system called SEI-C within SISCOAF (COAF, 2018, p. 17). Those authorities will, then, have the duty to act on the information contained in the report (Bechara, 2017, p. 174; Moreira de Andrade, 2019, p. 50).

Figure 12 shows the number of RIFs produced over time, which have increased over the years. From 7 reports produced in 1999 to 6,272 in 2019. It recorded a small drop only in the last year. In 2018, 7,345 were produced and sent to LEA whereas in 2019 a drop of 14.6% (6,272) was registered.

Figure 12. RIFs produced by COAF from 1999 to 2019



There is a high significant correlation (Figure 1, $r^2 = 0.81$) of the increase of RIFs from 1999 to 2019. Source: COAF annual reports 1999 to 2019.

Intelligence reports provided by COAF have great significance not only by providing the strengthening of governance measures and control of the financial system but, also, to the criminal justice system as preventative to the crime of ML or disruptive, as start of or support for investigations (Bechara, 2017, p. 173). COAF is not a regulatory organ and should not be confused with their activities. Nonetheless, like other domestic bodies from criminal justice, it is part of the broader Brazilian AML system playing an essential role and working in collaboration with all other bodies (Ibid.). In addition to COAF, other authorities in Brazil have expanded their capacities, systematically and progressively, by specialising and cooperating with others, to engage in the fight against ML to act exchanging information and experiences. Those include the Federal Police, the Federal Revenue Service, the Federal Comptroller General and the Public Ministry (Ibid.).

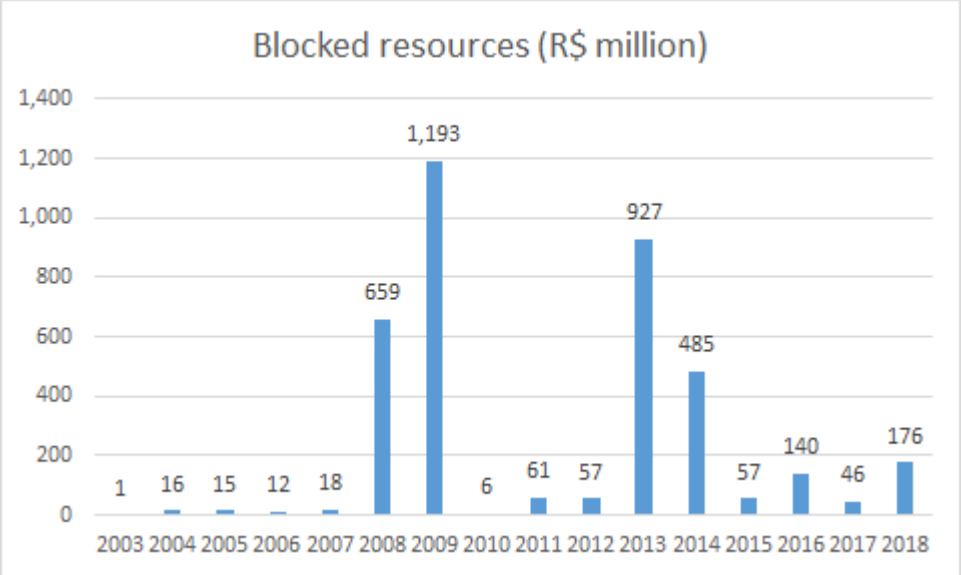
4.3 Outcome of intelligence reports

The annual activity reports from COAF provide less details on arrests and cash seizures but include sum restraint derived from communications of suspicious

activities. It offers, also, the number of RIFs forwarded to competent authorities, mainly police and public prosecutor's office which indicate, highly likely, further action (COAF, 2011, p. 23). It breaks down who it was sent to as well as the number of people or entities related to them. This data is important. For example, in 2010 the number of persons and legal entities investigated with relation to investigated cases brought up by RIFs has increased three-fold compared to 2009 reaching 30.531. This indicates a clear increase in the complexity of working cases, which can explain the fall of RIFs forwarded to LEA in 2019 (COAF, 2010, p. 19).

The efficiency of the Brazilian system understood as qualitative outcome of reports can be, therefore, quantitatively measured with sum restraints, in Portuguese *bloqueio de recursos.* Nonetheless, it is not fully representative of all its social and economic impact. In figure 13, we can see the number which vary significantly and that depends solely on the cases caught and the amount of money involved, as it was seen in UKFIU's case. High sums were restraint from criminals in 2008 amounting to R$659 million (£91.6 million). In 2009 the highest number was recorded: R$1,193 million. The COAF annual report of that year considers a period of 6 years (2003 to 2009) where R$ 1.9 billion were blocked in current accounts, investment funds and private pensions belonging to individuals investigated for ML or other related crimes; as a result of monitoring and analysis by COAF with prosecuting authorities (prosecutors and federal police) acting with judicial authorization (COAF, 2009, p. 16). From those R$1.9 billion, 41% were effectuated in other countries showing a great deal of cooperation and synchronism with other FIUs.

Figure 13. Blocked resources by COAF 2003-2018



Source: COAF annual reports 2003 to 2018.

In 2018, R$176 million were blocked from people investigated in operations initiated by the Federal Police Department, Public and Civil Police, such as Car Wash operation, Calicute and Quinto do Ouro (COAF, 2018, p. 19). The blocked resources are a result of great cooperation between internal bodies and the national competent authorities. COAF had great numbers of exchange of information with the Judiciary Police (2,300), the Public Ministry (2,800) and the Judiciary (1,000) (COAF, 2008, p. 24).

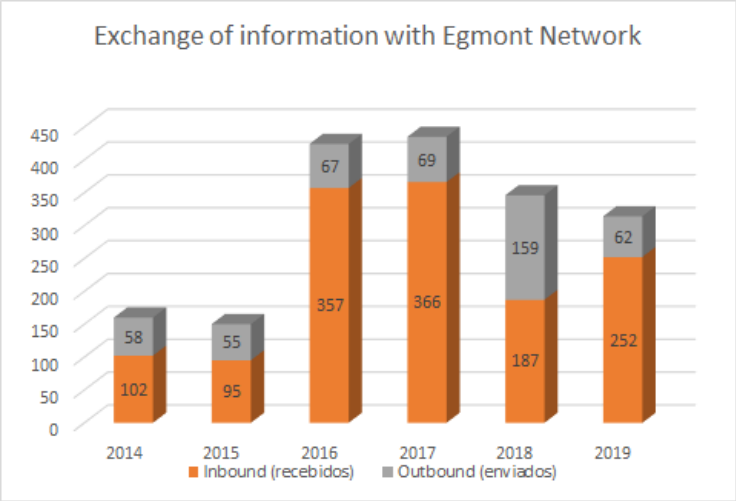
Significantly to consider is COAF's activities as a supervisory unit. Its role includes the application of administrative sanctions and the management of administrative sanction processes regarding the regulated sector (*Processo Administrativo Sancionador* - PAS). The former processes are established in advance of applying a sanction as the result of infractions by individuals or legal entities (COAF, 2019, p. 35). Since its establishment COAF has initiated 610 and judged 516 processes. In 2019, only 15 PAS were initiated, representing a reduction of 87% compared to 2018 (appendix 13). This is explained partially by the intensification of the risk-based approach; favouring inspection of high-risk processes to the system which are logically more complex. Furthermore, within monitoring there is greater emphasis placed on the clearance of the

infractions identified in Objective Preliminary Inquiry (APO) (rather than Broad Preliminary Investigation (APA) (Ibid.).

4.4 International cooperation

COAF cooperates with domestic bodies through the submission of RIFs and receipt and execution of requests for information (appendix 14-15). Internationally, it acts as the national coordinator within FATF, additionally to being part of GAFILAT and the Egmont Group (since 1999). It is, therefore, part of the network of *informal, or direct international legal cooperation,* i.e. it enjoys access to other information without previous bureaucratic procedures where information obtained cannot, however, be directly used in judicial proceedings (de Barcellos, 2006, p. 504). In 2019, COAF has exchanged 314 information with foreign FIUs, a decrease compared to previous years. The years of highest communications were 2016 and 2017, with respectively 424 and 435 (Figure 14 and appendix 14). Those are only indicative numbers of financial intelligence cooperation. More broadly, going beyond the focus of this thesis, are bilateral agreements and convention agreements in criminal matters. Brazil has nine agreements with twelve countries (one agreement is with Mercosur)(de Barcellos, 2006, p. 510). Those are important on the next phases of investigation, freezing of assets abroad or arrests which are not handled by COAF.

Figure 14. Exchange of information with International FIUs, inbound and outbound from 2014 to 2019



Source: COAF annual reports 2014 to 2019.

The main partners of information exchange are Europe and the Americas. Europe is by far the main recipient and sender of COAF communications. In 2019, out of 314 information exchanged 195 were to/from Europe (COAF, 2019, p. 26). In 2018 Europe represented 71% of inbound information from international FIUs and 46% of outbound ones (COAF, 2018, p. 19). In different years a similar picture is seen. From 2013, where data is available, Europe has represented the biggest share in international communications. North America, South America and central America (including Caribbean) are the next main partners, with respectively 37, 32 and 38 communications each out of 314 in 2019, followed by Asia (11) (Ibid.).

4.5 FATF – Mutual Evaluation Report (MER)

The most recent MER on Brazil is that of June 2010. Brazil ranked *Compliant* (C) in 3 and *Largely Compliant* (LC) in 21 of the 40+9 recommendations; and *Partially Compliant* (PC) or *Non-Compliant* on three out of the six core recommendations (Know Your Coutry, 2019). The MER positively recognises the ENNCLA initiative as well as the system of Specialised Federal Courts; they include federal prosecutors and judges specialised and with experience in

financial crimes including ML (FATF, 2010). It, also, positively highlights the use of electronic means by COAF with no paper system for the communication of suspicious transactions, which is believed to ease the ability to manage and analyse greater numbers of communications received (both COE and COS) (FATF, 2010; Miron, 2017, p. 298). Overall, COAF's performance seems effective with the public ministry satisfied with the quality of the product it receives indicating technical quality of the RIFs, highlighting easy cooperation and support of on-going investigations (Miron, 2017, p. 298). Thus, the country's AML system was declared to be largely in line with international requirements.

Nonetheless, already in the previous evaluation of 2000, bank secrecy laws rigidity was identified as an obstacle for the reporting sector for supervision and exchange of information (IMF, 2005). This has been partially addressed in 2019 with the declaration of constitutionality of the sharing of information between COAF and LEAs but progress must still be made in the field. However, a problem in the institutional arrangement of the unit has been pointed out. There is a lack of effective communication and coordination (FATF, 2010, p. 55). Not only with COAF and other domestic bodies with which it acts, e.g. other regulatory bodies, but also internally and with financial and DNFBP sectors (Ibid.; Florêncio Filho and Zanon, 2018, p. 83). Lastly, the FATF report points to a lack of personnel which has only, partially, been addressed recently (Ibid., p. 82). In 2018, 37 employees constituted the technical staff board and by the end of 2019, 81 (COAF, 2019, p. 46). These flaws in the institutional arrangement impact the number of cash seizures and outcomes. The number of confiscations, sentences and convictions is deemed to be low compared to the size of the country and its financial market. Finally, the 2010 report highlights the still lacking criminalisation of terrorist financing as a standalone offence. This was addressed in 2016, with the enactment of law nº.13.260 which criminalised terrorism and terrorist financing (Know Your Coutry, 2019). Brazil finally took a step forward with the enactment of law nº.13.810 (February 2019) and Decree nº.9.825 (June 2019); which gave a new framework for identifying and freezing assets of terrorists. Preventative measures seem to be in place and apply to all financial institutions, dealers in precious metals and stones, as well

as estate agents (legal person). However, they are not as robust everywhere as in the banking sector (FATF, 2010).

The evaluation is rather outdated since the AML regime is subjected to constant updates. A possible next plenary discussion is scheduled for June 2022 with data for onsite visit still to be checked (FATF, 2020). Most recently, FATF has called out Brazil several times releasing statements of worry with the country and its lack of action to address deficiencies pointed out in the MER 2010 mainly related to TF which were partially addressed since then (FATF, 2019a). The peak of dissatisfaction came in 2019, FATF raised questions about Brazil's membership in the October plenary meeting due to the Supreme Court decision on the use of FININT in criminal investigations in 2019, which was later revoked.

4.6 Conclusions

COAF has been progressively active since its creation contributing with FININT in many cases of ML. Its characteristic of being an administrative model of unit has favourably contributed to its activity of acting as a buffer between reporting entities and LEAs inspiring trust for the regulated sector. COAF performs well in handling the high quantity of communications received. Through a greatly handled online system, the FIU is able to analyse and turn the information into actionable intelligence for LEAs. Moreover, its independence of action and autonomy are other well praised characteristics, which some officials saw threatened with the recent transfer of the unit to the administrative realm of BACEN. Adrienne Senna, president of the body from 1998 to 2002, stressed that a FIU answering to the Central Bank is an unusual situation which will impact the independence of COAF and thus international trust (Dianni, 2019). It could, also, damage communications received by COAF. They are in great part received from sectors regulated by other entities; e.g. luxury goods traders, securities carriers, real estate, notaries and others sectors not connected to the financial system; sector regulated by BACEN (Camara dos Deputados, 2020).

It is worth mentioning that the adoption of the administrative model in Brazil involves, nonetheless, drawbacks which have been the subject of discussion. Although RIFs are of enormous importance for initiating processes and investigations, the information provided by COAF does not constitute a means of proof and have no probative value (Florêncio Filho and Zanon, 2018, p. 79). Its administrative nature, also might explain difficulties on lack of communication with the financial sector and DNFBP; and issues brought forward by public prosecutors such as ability to have access to copies of administrative procedures which contain evidence of crimes; as well as the labelling of its performance as non-systematic and non-coordinated regarding the exchange of information for investigation, and lack of training of the bodies involved in this process (Ibid, p. 83). As pointed out by Florencio Filho and Zanon (2018), this is intrinsically linked to its administrative model, especially regarding the lack of agility in the application of repression and preventive judicial measures and submission to political control. Thus, COAF is an advisory and supportive unit to regulatory bodies and other criminal justice bodies which produces quality intelligence reports but is limited in its ability to communicate effectively and share its findings as effectively as it is wished by its final consumers (Florêncio Filho and Zanon, 2018).

Chapter 5: Analysis and Findings

The case studies have shown two distinctive landscapes of FIUs, despite the same underlying functions dictated by the international system. It pointed to specific issues and operational characteristics linked to their institutional arrangements and country realities. This leads to the understanding that the adopted model chosen to the national FIU influences, significantly, how it operates within the domestic AML system and internationally. It affects international cooperation, how communications of suspicious operations are received from the financial sector and DNFBPs, analysed and disseminated to the final consumer. The goal of this chapter is looking at different aspects of the FIUs, essential for their operation, contrasting the Brazilian and British models. It aims at highlighting areas where the FIUs operate differently demonstrating strength and/or weaknesses, emerging from their different adopted models and the environment they operate.

5.1 Independence and autonomy

In March 2018, an intersectional meeting of heads of FIUs (HoFIU) together with the Egmont Committee (EC) concluded the need for operationally independent and autonomous FIUs in the fight against corruption (ECOFEL, 2018). This equally applies to the fight and prevention of all financial crimes. Any intrusion can compromise the activity of determining objectively which cases to pursue and disseminate; and it can hinder the confidence and trust of reporting sectors, LEAs and other FIUs which interact with the national FIU. Independence and autonomy are, thus, crucial for the correct operation of FIUs ensuring an effective information exchange and international cooperation within the AML regime (Ibid., pp. 9-10). The different models of FIUs can, equally, have shortcomings in this regard, as it can be demonstrated by the examples studied.

The last amendment of COAF, in 2019, transferred the unit administratively to the supervision of BACEN. The change has worried some experts who believe the central bank would influence the independence of the entity and damage international trust. ECOFEL (2018, p. 3) has, in fact, highlighted in the report to the appointment of the Head of FIU being subject to undue influence as one of the jurisdictional shortcomings endangering the independence and autonomy of administrative-type units. Problematics in the Brazilian case arose, also, due to the change of its members which can now be from outside of the civil service stream. The administrative model of FIU adopted by Brazil has an autonomous structure but has the flaw of being linked directly to political control, firstly the Ministry of Economy and now the Central Bank.

The report by ECOFEL on FIU's autonomy and independence has, additionally, included in the jurisdictional shortcomings of decision-making independence, the location of a FIU within the existing structure of another authority (ECOFEL, 2018). The latter is the UK's choice: a police model of FIU. The UKFIU's location within the NCA has brought to light what we have called in chapter 5, a side-lining of the UKFIU's function within the structures of the NCA. As a matter of fact, the World Bank (cited in Florêncio Filho and Zanon, 2018, p. 77), highlights that the law enforcement model of FIU implements measures on top of existing AML regulations, which may result in a normative multiplicity and competition of competences between authorities. The UKFIU seems to be at this stage, where it is seemingly irrelevant and stepped on by other criminal investigatory bodies underestimating its potential as a receiver, analyst and processor of SARs, especially given the problem of overreporting in the UK. The study of ECOFEL (2018, p. 6) on autonomy and independence of FIUs recognises that different types of FIUs may face different challenges, as it is, also, concluded here from the example of Brazil and the UK.

5.2 Receipt of reports from the regulated sector

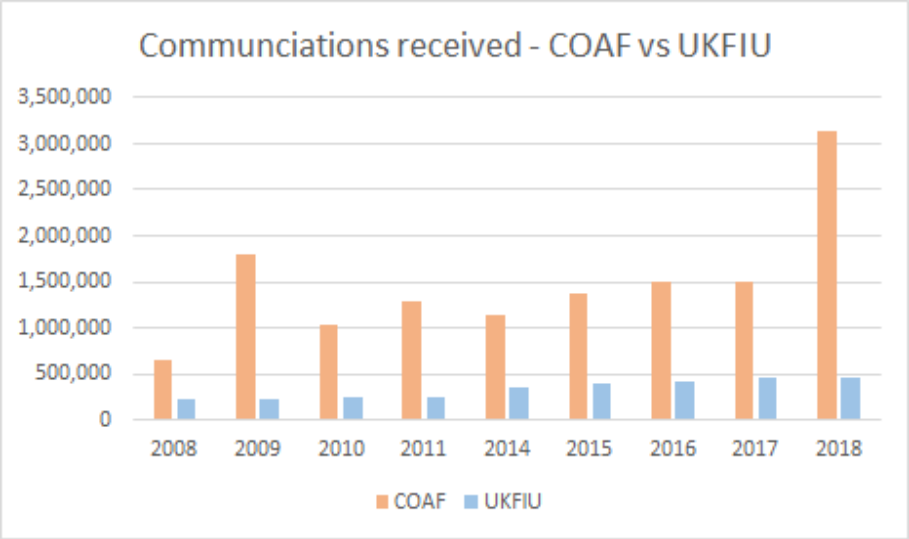
The different models of FIU infer significant distinctive characteristics which can, at least partially, explain their receipt and handling of financial reports.

Both countries set regulations creating a reporting sector which is obliged to communicate suspicious transactions as per FATF recommendations. On the one hand, Brazil is slightly clearer in setting a guiding amount (R$10.000) above which reporting is strongly advised for suspicious transactions (COS). It advises the financial sector and DNFBPs, establishing also a specific amount (R$ 50.000) for all cash operations (COE). Although it relies on the scrutiny of reporting entities, it sets an indicative 'red-flag' amount. On the other hand, the UK sets the threshold at suspicious only. In the British case there is a confusion with relation to the threshold which can be rather ambiguous. Consequently, the country has faced a problem of overreporting for its capacity. Similar to the study of Australia by Scott and McGoldrick (2018), where the reporting system is an end-to itself, the UK has been trying to tackle and ease the filling of reports due to fear of sanctions. The failure to report is, in fact, criminalised. As a reaction, in 2017, the British HMG's AML campaign started for the first time focusing not on raising the number of submissions from at-risk professionals but on enhancing the quality of SAR submissions (NCA, 2018, p. 8). Brazil has, also, been presented with a high number of reports but with better quality (appendix 12). In addition to minimum amount guidelines, high numbers can be related to the fact that administrative models of FIUs inspire confidence from the reporting sector. Their disconnection to LEAs reduces the fear that every reporting case might be subjected to further investigation.

For the years where comparable data is available (2008-2011; 2014-2018)[9], COAF has clearly received more communications from the Brazilian reporting sector. In 2008, a smaller difference of just over 400,000 is noted between the two countries, whereas in 2018 this difference grew to over 2 million (Figure 15). This difference upon direct comparison of numbers must be taken cautiously due to the likely bigger size of the Brazilian reporting sector; thus, it is better to only contrast this information.

[9] UKFIU data is available from September to October. To normalise the data, monthly data was collected from available reports and grouped yearly (January to December).

Figure 15. Comparison of the number of communications received by COAF and UKFIU from 2008-2011/2014-2018.



Source: COAF annual reports 2008 to 2018; SOCA (2008-2011); NCA (2014-2015); NCA (2017-2018)

This study examines three sectors (Banks, Building Society and Credit cards)[10] to contrast studied FIUs. In 2018, they represented the main senders of SARs/STRs in both countries and had the same correspondent categories found in both annual reports. The percentage of contribution of the number of communications was calculated from each of those categories in the total number of STRs/SARs received for the years 2016-2018 (Figure 16). Both countries received communications mainly from banks. The latter sector represents about 80% of the total number of communications received in both countries. The other two compared sectors have different incidences. SARs sent by Building Societies in the UK correspond to around 4% of the total received, whereas in Brazil they represent around 1% of the total. Similarly, reports from *Credit Cards* in 2018 represented 0.25% of the total number of communications received in Brazil while contributing to 1.45% of SARs in the UK. Although more sectors would have to be analysed for a more comprehensive analysis, we can deduce that the lower incidence on the total number of SARs in the UK could mean a broader variance of sectors communicating. This is confirmed by

[10] In Brazil those correspond to *Bancos* (Banks, suming Bancos cooperativos to the total value), *Mercado de Valores Mobiliários* (Building Societies), *Cartões de crédito* (Credit Cards).

looking at the listed reporting sectors in the FIUs annual reports. COAF (2018, p. 12) lists 32 categories of sectors obliged to comply. On the other hand, the NCA has 51 categories listed (NCA, 2018, pp. 15–16).

Figure 16. Comparing sectors of SARs/communications received

	Banks - Bancos			
	BR	UK	BR % of total	UK % of total
2016	1187685	341604	79.56%	82.87%
2017	1182886	365694	78.69%	80.65%
2018	2559196	372304	81.62%	79.91%

Credit card - Cartões de crédito			
BR	UK	BR% of total	UK% of total
33927	5012	2.27%	1.22%
15200	6293	1.01%	1.39%
7890	6759	0.25%	1.45%

	Building societies - Mercado de Valores Mobiliários				TOTAL SARs received	
	BR	UK	BR % of total	UK % of total	BR	UK
2016	16463	14177	1.10%	3.44%	1,492,799	412,224
2017	15888	18498	1.06%	4.08%	1,503,253	453,421
2018	28114	21134	0.90%	4.54%	3,135,495	465,905

Source: COAF (2016-2018) and NCA (2017-2018) annual reports.

Upon direct comparison, the number of reports received conform to the characteristics of FIUs. In fact, law enforcement models tend to receive less reports due to their proximity to LEAs, whereas the administrative model inflicts higher confidence from reporting entities. Nonetheless, looking closer at the case studies, and contrasting them, Brazil seems to be doing well and not struggling but praising a high number of reports, whereas the UK faces problems of overreporting and low quality owing to its lack of clarity on the criteria for the filling of reports and criminalisation of non-reporting. In conclusion, the big difference in numbers of reports received must be considered carefully given the likely higher number of reporting entities in Brazil. Perhaps, the difference is due more broadly to the AML reporting system owing to clarity and reporting legislation. Most importantly is looking at the way this great quantity is handled within the FIU, which the next section will approach.

5.3 Analysis and dissemination of financial intelligence

At the stage of analysis and dissemination of FININT is where most differences based on the model of institutional arrangement emerge. Although both countries have implemented the required FATF risk-based approach (RBA), their institutional location and arrangements impact the evaluation, collation of received information and dissemination to the final consumer.

The functioning of the AML regimes is highly dependent on the information handed to LEAs or public prosecutors. According to Thony (1996, p. 258), a unit can endure either a lack of information which hinders any forward prevention or combat of crimes; or sometimes a surfeit of information. The latter endanger analytical information turning the database of a unit into an information warehouse which cannot be used unless you know exactly what you are looking for. We seem here to have found both examples. COAF was established as a separate body specifically to serve as Brazil's FIU and a buffer between the financial sector and DNFBP and LEAs. It is an independent administrative body, which receives STRs, analyses them and forward RIFs on SARs with confirmed serious indication of crime suspicion. Consequently, a lower selective number of reports with added value is received by police agencies or the public prosecutor's office. Contrarily, the UKFIU finds itself on the other end of the spectrum. Its police-model unit is located inside an existing body with policing and investigative powers. This position blends together their functions, to a certain extent, hindering the autonomy and shadowing the FIU's activity of processing the received SARs in an effective manner. The reports are made available in the Elmer database to the NCA 7 days after receipt. The UKFIU, thus, fails in adding value to SARs. As stated by Rodrigues (2008, p. 21), police units tend to focus on measures of repression harming prevention. It works leaning towards more investigative and police goals with the targeted selection of reports neglecting some unknown criminal patterns or reports.

Additionally, a rapid and swift communication and sharing of information between FIUs and law enforcement is critical in the dissemination phase given how rapid criminals can move assets and act (Martini, 2019). We have seen, as

pointed out in its 2010 MER, that Brazil lacks in the communication with its regulated sector. Similarly, looking at the structure of COAF and its risk management and sorting approach to the communications received, it is possible to note that the sorting process, of which communications go through, assure the forwarding of relevant reports but might, also, slow down the communication with final consumers of FININT. The exchange of information between domestic investigative bodies and the unit are slowed down hindering timely response by investigative bodies.

It follows that, naturally, if the FIU is attached to an administration, like it is in the UK, it is likely to use the normal administration's channel of communication with other services rendering the communication smoother. Thus, although hindering analysis functions, the UKFIU's location within NCA improves communications with the final intelligence consumer in an immediate and swiftly manner. If the FIU is established as an independent agency (like COAF) it performs its analysis function better; but the same communication will be more difficult, or at least less natural having to follow bureaucratic processes (Thony, 1996, p. 263).

5.4 Outcome of intelligence reports

To contrast the contribution of intelligence reports to LEAs and prosecutorial authorities' activities, we look at Brazilian 'Blocked resources' and the UK's 'Sums restrained'. In 2018, in Brazil the cooperation of COAF with the Public Ministry and police authorities resulted in the judicial blocking of R$176 million (just over £26 million pounds) related to ML investigations or other associated crimes. The biggest block of resources of R$1,193 million (£177 million) happened in 2009. In the UK, £122,838,459 were restrained from criminals in 2018/19 whereas the biggest value was recorded in 2013/14, i.e. £141,178,112. No valuable comparison can be done here as the value of restrained sums depends on the cases pursued and the amounts not discovered are unknown. Nonetheless, contrasting the case studies, the UK has bigger figures. This goes in line with a higher number of reports with easy access and

better communication with investigative bodies and prosecuting authorities and with Brazil's risk-based management approach, dealing with less but more complex cases.

5.5 International cooperation

Finally, we contrast the FIU's interaction with their international counterparts which is an essential function within FININT. Both FIUs show great communication with the Egmont network, likely a reflection of their memberships. In terms of numbers, overall, the UK has cooperated more often with other FIUs. In 2018/2019 it received 1,132 requests of information from the Egmont group and it sent 1,147 requests. This is an increase compared to the previous year (2017/2018) in which it received 742 and sent 665 information reports (Appendix 8). The UKFIU has, also, great communication and interaction with FIU.net and Europol, showing a great regional cooperation with its European partners. COAF's number of information exchanges with other FIUs are significantly lower. A total of 346 exchanges in 2018 and 314 in 2019 were recorded with the Egmont group; from which 62 sent and 252 received (Appendix 14). From these numbers it is possible to highlight that the UK has a better balance of inbound-outbound communication, whereas Brazil receives significantly more information than it sends. Nonetheless, Brazil presents a great number of domestic communications, above 7,000 in 2018 and 2019 (see appendix 14). Europe is the most frequent partner, also, of COAF when it comes to the exchange of information. Its Latin American neighbours come, often, in third place over the years after Europe and North America revealing a weaker regional cooperation.

Results in this section deviates slightly from the description of FIU models. The administrative model is set to be a great model to contribute to cooperation and sharing of information with domestic authorities, as seen for Brazil, but also other FIUs since it transmits a sense of neutrality, which was not completely proven. However, at the same time the administrative model can present

difficulties in sharing with other models of FIU due to the breaking of bank secrecy rules. The police model, such as the UKFIU, shows results in line with the theory. Police-type units have a certain facility with *expedite use of existing national and international criminal information exchange networks;* for instance, Europol and Interpol (IMF, 2004, p. 13). Moreover, the European apparatus of information exchange of FIUs seems to be better built specifically for FININT (e.g. FIU.net), favouring the UK's highest regional interaction. In fact, it is important to mention here that the UKFIU data of information exchange (in NCA's annual reports) includes not only the exchange of information with other FIUs (like Brazil); it considers a broader network of exchange, including asset recovery networks (such as ARO and CARIN) and the regional FIU.net.

5.5 Conclusions

This chapter attempted to put side by side the operations of both models of FIUs from Brazil and the UK in sections contrasting their main functions. Firstly, the autonomy of operation and independence of the units are similar, reflecting flaws and strengths of each model. Similar results are seen from the analysis of receipt and process of SARs/STRs. As it is to be expected from a law-enforcement- FIU the UKFIU receives a great number of SARs and effectively communicates with LEAs but have limited value added capability and results side-lined inside the NCA structures. COAF, as an administrative unit, analyses its report more thoroughly handling a great quantity of reports. It forwards relevant and perceived great quality RIFs to LEAs and prosecutorial authorities with, however, space to improve the effectiveness of its communications. The consideration of the outcome of reports is not suitable for direct comparison. Nonetheless, it is possible to note that both FIUs have contributed considerably to the block of significant amounts of money contributing to the fight and prevention of ML within their realities. In terms of international cooperation both FIUs act actively inside the Egmont Group network. Nonetheless, in terms of numbers of communications the UKFIU significantly outstands its

counterpart. On the regional cooperation aspect, the UK seems to be more effective in communicating with other European FIUs. They, in fact, represent the biggest share of its information exchange; whereas COAF contributes mainly with Europe rather than its own region. These observations must be taken carefully as the study considered only information provided on the annual reports. No consideration of Memorandum of Understanding was analysed regarding COAF's cooperation with other regional partners whereas the UK considers also exchange of information with asset recovery entities in the SARs annual reports.

This chapter has shown how both models of FIU influence the way the unit operates in performing its main function as a central intelligence unit. They exercise their functions reflecting strengths and weakness of each model and their specific country reality and AML regime. The final chapter will draw our final conclusions.

Chapter 6: Conclusions

The findings outlined in chapter 5 clearly answer the research question and assist in providing a better understanding of FIUs and their role in fighting ML in the studied case countries. The answer to the research question is undoubtedly positive. The model of FIU implemented in a country significantly influences its operation: the relation it has with domestic and international institutions and its handling of SARs/STRs as indicated in the findings. Nonetheless, the different models do not seem to impede the exercise of basic functions required by international standards, i.e. repository, of analysis and clearing house. This study has contributed to questioning the flexibility of the international AML regime related to FIUs; and has explored if the model of FIU chosen by a country influences its operations. It complemented the current literature on a deeper study of COAF's operations and contributed to further expanding the UK's; offering an inter-regional study of the two most commonly adopted models of FIU.

Main findings relative to the study countries are in line with the current literature, and Brazil's new changes were accounted for. Brazil struggles with the communication aspect. The effectiveness of communication within the structures of the AML instruments of the country must be tackled, to assure greater participation of COAF in ML and related offences. For instance, by tweaking the management and coordination capacity to improve communication within and outside the FIU. A better swift communication of reports to LEAs could significantly improve results. As an administrative body, this is not a straightforward process but good quality reports together with swift communication are crucial for a successful AML regime (Florêncio Filho & Zanon, 2018, p. 85). Moreover, the country must ensure the autonomy of the body. This relates to the tight secrecy laws hindering the sharing of FININT as per FATF's recommendations and its connection now to BACEN. Although, bank secrecy debates seem to have settled in the country in December 2019, it must be assured it is not, again, used against effective investigations. With regards to the British FIU, the study confirmed the already existing literature on

problem of the number of SARs received and lack of added value before it is made available to LEA. The next step is a focus on working towards clearly defining the role of the UKFIU within the NCA and continuing its awareness programmes targeted at the reporting sector to improve the quality of SARs received. It is, also, concluded the same that Levi (1995) correctly pointed to as a weakness. The side-lining of the unit encourages the focus on already known criminals rather than on the identification of new patterns of crimes. Most often the insights produced are not updated into the system, leaving authorised final consumers to access the database and draw their own conclusions. This hinders the holistic understanding of criminal activity with space for improvement of coordination and collation of financial information received via SARs (Marzouk 2018); but, also, underestimates the added value which a correct and comprehensive financial analysis can bring to raw financial data provided by the reporting entities. The UK strategy for 2019-2020, correctly, includes increasing its analytical and outreach capacity from law enforcement and the private sector, through proactively building up on its resources (NCA, 2019b, p. 14). An IT transformation project is here suggested to be placed as a top priority to handle the increasing number of SARs received as in the Brazilian case.

Overall conclusion of the findings confirms the international flexibility on financial crime standards, increasing its validity and highlighting that there is no one size fit all model of FIU. The international fight against financial crime has evolved based and pushed for by states and their practices. A coordinated and central response to this type of crime is indispensable given its borderless characteristic but international agreements must adapt to realities and problematic, and priorities of each country to assure effective outcomes, as pointed out by Al-Rashdan (2012). The response to financial crimes in country A will be different than country B (Keatinge, 2019). They face different threats and see the world in a different way. Therefore, a somewhat tailor-made approach, if not nationally, regionally, will follow. This dissertation has clearly shown how the adopted model of FIU by a country influences its operations but, nonetheless, does not impede the exercise of its basic internationally defined functions. The insights arising from this study on how countries explore

differently this flexibility, can be used as proposition for future research on this offered flexibility and its effectiveness.

To conclude, the model of FIU chosen will affect its operations including the receipt and analysis of STRs/SARs and their dissemination as well as international cooperation and FININT outcomes; and will reflect regional and national realities. Their operational effectiveness and contribution against ML and financial crimes more broadly will, likely depend on how the country handles inherent drawbacks of the chosen model.

References:

Aamo, B. S. (2017) 'Combating money laundering and terrorist financing: Monitoring the implementation of FATF recommendations', *European Business Law Review*, 28, pp. 89–97.

Agência Estado (2019) *Lava-Jato revela saques fracionados para driblar Coaf em esquemas*, *Correio Braziliense*. Correio Braziliense. Available at: https://www.correiobraziliense.com.br/app/noticia/politica/2019/01/31/interna_politica,734418/lava-jato-revela-saques-fracionados-para-driblar-coaf-em-esquemas.shtml (Accessed: 30 April 2020).

Al-Rashdan, M. (2012) 'An analytical study of the financial intelligence units' enforcement mechanisms', *Journal of Money Laundering Control*, 15(4), pp. 483–495.

Alvarenga, D. and Laporta, T. (2019) *Coaf: saiba o que é e como funciona o Conselho de Controle de Atividades Financeiras*, *G1*. G1. Available at: https://g1.globo.com/economia/noticia/2019/01/21/saiba-o-que-e-e-como-funciona-o-coaf.ghtml (Accessed: 30 April 2020).

AML Forum (no date) *History of the European Union Anti-Money Laundering and Financing of Terrorism Directives*, *AML Forum*. Available at: https://www.anti-moneylaundering.org/Europe.aspx (Accessed: 25 February 2020).

Angus, R. (2019) *EU's 5th Anti-Money Laundering Directives – Brexit & Beyond?*, *NorthRow*. Available at: https://www.northrow.com/blog/eu-anti-money-laundering-directives-5-6-amld-brexit-beyond/ (Accessed: 25 March 2020).

de Araujo Neto, O. V. (2016) *Relatório de "Inteligência" Financeira emitido pelo Conselho de Controle de Atividades Financeiras e seu conteúdo sigiloso*, *JusBrasil*. JusBrasil. Available at: https://oscarvneto.jusbrasil.com.br/artigos/341087078/relatorio-de-inteligencia-financeira-emitido-pelo-conselho-de-controle-de-atividades-

financeiras-e-seu-conteudo-sigiloso (Accessed: 21 April 2020).

de Barcellos, A. B. R. (2006) ‘Cooperação internacional para recuperação de ativos provenientes de lavagem de capitais’, *De jure: revista jurídica do Ministério Público do Estado de Minas Gerais*.

Bartolomé, M. (2016) ‘La dinámica de la seguridad internacional contemporánea y el rol de la inteligencia estratégica en América del Sur’, *Inteligencia Estratégica contemporánea. Perspectivas desde la región suramericana*, pp. 11–23.

Bechara, F. R. (2017) ‘Desafios na investigação de organizações criminosas: meios de obtenção de prova; relatório de inteligência financeira’, *Revista Jurídica da Escola Superior do Ministério Público de São Paulo*, 10(2), pp. 159–186.

Bello, A. U. (2017) *Improving Anti-Money Laundering Compliance: Self-Protecting Theory and Money Laundering Reporting Officers*. Springer. Springer.

Bello, A. U. and Harvey, J. (2017) ‘From a risk-based to an uncertainty-based approach to anti-money laundering compliance’, *Security Journal*, 30(1), pp. 24–38.

Bijos, L. M. D. and de Magalhães Almeida, M. J. (2015) ‘A Globalização e a Lavagem de Dinheiro: medidas internacionais de combate ao delito e reflexos no Brasil’, *Revista CEJ*, 19(65), pp. 84–96.

Bowen, G. A. (2009) ‘Document analysis as a qualitative research method’, *Qualitative research journal*, 9(2), pp. 27–40.

Burnham, P. *et al.* (2008) *Research methods in politics*. Macmillan International Higher Education.

Camara dos Deputados (2020) *Sancionada lei que transfere COAF para o banco central*, *Camara*. Câmara dos Deputados. Available at: https://www.camara.leg.br/noticias/630195-sancionada-lei-que-transfere-coaf-

para-o-banco-central/ (Accessed: 20 April 2020).

Campos, E. (2016) *Lavagem de dinheiro movimente R$6 bilh õ es por ano no Brasil, diz BC*, *Economico Valor*. Valor. Available at: https://valor.globo.com/financas/noticia/2016/11/17/lavagem-de-dinheiro-movimenta-r-6-bilhoes-por-ano-no-brasil-diz-bc.ghtml (Accessed: 20 April 2020).

CARIN (2020) *Camden Asset Recovery Inter-Agency Network*, *CARIN*. Available at: https://www.carin.network/ (Accessed: 27 April 2020).

Chaikin, D. (2009) 'How effective are suspicious transaction reporting systems?', *Journal of Money Laundering Control*, 12(3 OP-Journal of Money Laundering Control), pp. 238–253.

COAF (2002) *Relatório de Atividades 2002*. Brasília: Fazenda.

COAF (2008) *Relatorio de Atividades 2008*. Brasília: Fazenda.

COAF (2009) *Relatorio de Atividades 2009*. Brasília: Fazenda.

COAF (2010) *Relatorio de Atividades 2010*. Brasília: Fazenda.

COAF (2011) *Relatório de Atividades 2011*. Brasília: Fazenda.

COAF (2018) *Relatorio de atividades 2018*. Brasília: Fazenda.

COAF (2019) *Relatório de Atividades 2019*. Brasília: Fazenda.

Comploier, M. (2019) *O papel da atividade de inteligência financeira na prevenção e repressão aos crimes praticados por organizações criminosas*. Universidade Presbiteriana Mackenzie.

Couvée, K. (2018) *FATF Criticizes 'Deliberate' Limitation of UK Financial Intelligence Unit*, *ACAMS*. Edited by ACAMS. ACAMS. Available at: https://www.moneylaundering.com/news/fatf-criticizes-deliberate-limitation-of-uk-financial-intelligence-unit/ (Accessed: 8 April 2020).

D'Souza, J. (2011) *Terrorist financing, money laundering, and tax evasion:*

Examining the performance of financial intelligence units. Florida: CRC Press.

David, P. R. (1999) 'Mercosur:"Organised Crime, Money Laundering and Harmonisation of Legislation"', *Journal of Money Laundering Control*, 3(1), pp. 63–65.

Dokmanovic, M. and Hristovski (2005) 'The Role of Financial Intelligence Units in Prevention of Money Laundering', *Institute for Strategic Research and Education*.

ECCHR (2020) *Hard Law/Soft Law*, *ECCHR*. ECCHR. Available at: https://www.ecchr.eu/en/glossary/hard-law-soft-law/ (Accessed: 5 May 2020).

ECOFEL (2018) *Understanding FIU Operational Independence and Autonomy*. Edited by T. E. G. of F. I. Units. Toronto, Canada: The Egmont Group.

Egan, M. (2010) 'The role of the regulated sector in the UK anti-money laundering framework: Pushing the boundaries of the private police', *Journal of Contemporary European Research*, 6(2), pp. 272–288.

Egmont Group (2013) *Egmont group of Financial Intelligence Units Charter*. Sidney (Australia): Egmont Group.

Egmont Group (2020) *Structure and Organization of the Egmont Group of Financial Intelligence Units*, *The Egmont Group*. Egmont Group. Available at: https://egmontgroup.org/en/content/structure-and-organization-egmont-group-financial-intelligence-units (Accessed: 21 November 2019).

European Commission (2001) 'DIRECTIVE 2001/97/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 4 December 2001 amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering', *344*. Edited by European Parliament and European Council. Brussels: Official Journal of the European Communities, pp. 76–81.

Europol (no date) *Financial Intelligence Units - FIU.net*, *Europol*. Available

at: https://www.europol.europa.eu/about-europol/financial-intelligence-units-fiu-net (Accessed: 20 March 2020).

FATF-GAFI (2012) *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*. Paris, France: FATF-GAFI.

FATF-GAFI (2019a) *FATF Secretariat*, *FATF*. Available at: https://www.fatf-gafi.org/about/fatfsecretariat/ (Accessed: 25 March 2020).

FATF-GAFI (2019b) *Mutual Evaluations*, *FATF*. Available at: http://www.fatf-gafi.org/publications/mutualevaluations/documents/more-about-mutual-evaluations.html (Accessed: 14 March 2020).

FATF-GAFI (2019c) *Who we are*, *FATF*. Available at: https://www.fatf-gafi.org/about/ (Accessed: 25 February 2020).

FATF-GAFI (2020) *Jurisdictions under Increased Monitoring – 21 February 2020*, *FATF*. Available at: https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-february-2020.html (Accessed: 25 March 2020).

FATF (2010) *Mutual Evaluation Report - Anti-Money Laundering and Combating the Financing of Terrorism Federative Republic of Brazil*. Edited by GAFISUD. Paris.

FATF (2013) *Best practices paper: the use of the FATF recommendations to combat corruption*. Paris FATF/OECD: FATF.

FATF (2018) *Anti-money laundering and counter-terrorist financing measures United Kingdom - Mutual Evaluation Report*, *Fourth Round Mutual Evaluation Report*. Paris: FATF.

FATF (2019a) *FATF Statement on Brazil*, *FATF*. Paris. Available at: https://www.fatf-gafi.org/publications/methodsandtrends/documents/fatf-statement-brazil-feb-2019.html (Accessed: 20 January 2020).

FATF (2019b) *Methodology for assessing compliance with the FATF*

Recommendations and the effectiveness of AML/CFT systems. Paris, France: FATF.

FATF (2020) *Global Assessment calendar*, *FATF*. Available at: https://www.fatf-gafi.org/calendar/assessmentcalendar/?hf=10&b=0&r=%2Bf%2Ffatf_country_en%2Fbrazil&s=asc(document_lastmodifieddate)&table=1 (Accessed: 26 April 2020).

FCA (2020) *Money Laundering Regulations*, *FCA*. Available at: https://www.fca.org.uk/firms/financial-crime/money-laundering-regulations (Accessed: 5 June 2020).

Febrero, P. (2019) *What are Brazil's money laundering laws?*, *Coin Rivet*. Coin Rivet. Available at: https://coinrivet.com/pt/what-are-brazils-money-laundering-laws/ (Accessed: 23 April 2020).

Fernandes, A. and Pires, B. (2019) *Presidente do BC indica Ricardo Liáo para presidir novo Coaf*, *Estadão*. Estadão. Available at: https://politica.estadao.com.br/noticias/geral,presidente-do-bc-indicara-ricardo-liao-para-presidir-novo-coaf,70002975131 (Accessed: 25 April 2020).

Fleming, M. H. (2005) 'UK law enforcement agency use and management of suspicious activity reports: towards determining the value of the regime', *Jill Dando Institute of Crime Science. London: UCL*.

Florêncio Filho, M. A. and Zanon, P. B. (2018) 'Políticas Públicas De PrevençÃo E Combate À Lavagem De Dinheiro No Brasil: Coaf E Arranjo Institucional', *Revista Pensamento Jurídico*, 12(2).

Fontana, A. and Pereira, P. G. (2012) 'Using money laundering investigations to fight corruption in developing countries: Domestic obstacles and strategies to overcome them', *CMI U4 Issue*, 9.

GAFILAT (2018) *Casos y tipologias regionales 2017-2018*. Quito, Ecuador: GAFILAT, GIZ, UAFE.

GAFILAT (2020) *La Estructura Interna*, *GAFILAT*. GAFILAT. Available at: https://www.gafilat.org/index.php/es/gafilat/quienes-somos/la-estructura-interna (Accessed: 26 March 2020).

GCSP (2020) *Transnational Organised Crime and Illicit Financial Flows in Latin America*, *Testimonial*. Geneva Centre for Security Policy. Available at: https://www.gcsp.ch/global-insights/transnational-organised-crime-and-illicit-financial-flows-latin-america (Accessed: 30 June 2020).

Gilmore, W. C. (2011) *Dirty Money: Dirty money: the evolution of international measures to counter Money Laundering and the Financing of Terrorism*. Amsterdam: Council of Europe.

Hardy, P. D. (2017) 'Suspicious Activity Reports Rarely Provide "Operational Value" to Law Enforcement Investigations', *Anti-Money Laundering (Aml), Criminal Enforcement, suspicious activity Report (SAR)*. Edited by P. D. Hardy. Ballard Spahr LLP.

HM Treasury (2017) *Money Laundering Regulations 2017: consultation*, *uk.gov*. UK.GOV. Available at: https://www.gov.uk/government/consultations/money-laundering-regulations-2017/money-laundering-regulations-2017 (Accessed: 6 May 2020).

Home Office (2017) *Economic crime factsheet*, *uk.gov*. UK.GOV. Available at: https://homeofficemedia.blog.gov.uk/2017/12/11/economic-crime-factsheet/ (Accessed: 6 May 2020).

Hungerford, J. *et al.* (2019) *UK Money Laundering And The Future Of SARs - The Law Commission's Report And Recommendations*, *Mayer Brown*. Mayer Brown. Available at: https://www.mondaq.com/uk/Government-Public-Sector/826748/UK-Money-Laundering-And-The-Future-Of-SARs--The-Law-Commission39s-Report-And-Recommendations (Accessed: 8 April 2020).

IMF (2004) *Financial Intelligence Units: An Overview*. Edited by World Bank. Washington, D.C: IMF.

IMF (2005) *Brazil: Report on the Observance of Standards and Codes–FATF*

Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism, *Country Report*. Washington, D.C.: International Monetary Fund.

Interpol (2020) *Fighting money laundering goes hand in hand with investigating the crimes it is linked to.*, *Interpol*. Available at: https://www.interpol.int/Crimes/Financial-crime/Money-laundering (Accessed: 26 March 2020).

Ioannides, E. (2014) *Fundamental principles of EU law against money laundering*. Ashgate Publishing, Ltd.

José, P. and Elena, S. (2019) *The mechanism*. Brazil: Netflix.

Kanak, M. A. (2016) 'Role of financial intelligence unit in combating money-laundering and terrorist financing: an analysis on the functioning of Bangladesh financial intelligence unit', *IOSR Journal of Humanities and Social Science*, 21(7), pp. 148–158.

Keatinge, T. (2019) 'The Suspicious Activity Reports - Trailer', *The Suspicious Activity Report podcast*. RUSI, p. 5:26.

Know Your Coutry (2019) *Brazil*, *Know your country*. Available at: https://www.knowyourcountry.com/brazil1111 (Accessed: 5 February 2020).

Kohli, N. (2019) 'Anti-money laundering:'Suspicion for the purposes of making a disclosure under the 2002 Act is–unhelpfully–subjective and objective'', *Property Journal*, p. 30.

De La Torre, M. (2017) 'Organismos Internacionales contra la lucha del lavado de activos (International Organizations Against the Fight Money Laundering)', in *VI Congreso Internacional en Ciencias Administrativas.* La Paz, Bolivia: Universidad Privada Franz Tamayo.

Lammy, D. (2016) *Roberto Saviano - Dirty Money in London event*, *David Lammy*. Available at: https://www.davidlammy.co.uk/single-post/2016/05/31/Roberto-Saviano-Dirty-Money-in-London-event-1

(Accessed: 22 July 2020).

Lander, S. S. (2004) 'International intelligence cooperation: An inside perspective', *Cambridge Review of International Affairs*, 17(3), pp. 481–493.

Law Commission (2018a) *Anti-Money Laundering: the SARs Regime Consultation Paper No.236*. UK.gov.

Law Commission (2018b) *Anti-money laundering crackdown should be more focused on most suspicious activity – Law Commission*, *uk.gov*. UK.gov. Available at: https://www.lawcom.gov.uk/anti-money-laundering-crackdown-should-be-more-focused-on-most-suspicious-activity-law-commission/ (Accessed: 21 March 2020).

Law Commission (2019) *Anti-money laundering: the SARs regime Report No. 384*. UK.gov.

Levi, M. (1995) 'Incriminating Disclosures: An Evaluation of Money Laundering Regulation in England and Wales', *European Journal of Crime, Criminal Law and Criminal Justice*, 3(2), pp. 202–217.

Lukito, A. S. (2016) 'Building anti-corruption compliance through national integrity system in Indonesia', *Journal of Financial Crime*, 23, pp. 932–947.

Madruga, A., Teixeira, A. and Wehrs, C. (2019) 'O valor processual das informações de inteligência financeira obtidas por meio do Grupo Egmont', *Jornal de Ciências Criminais*, 2(2), pp. 7–30.

Maldonado, C. and Sancho, C. (2016) 'Strategic Intelligence Cooperation in South America and the South American Defense Council', *Journal of Mediterranean and Balkan Intelligence*, 7(1), p. 30.

Marconi, G. (2018) *Combate à lavagem de dinheiro começou há 20 anos*, *Folha de Londrina*. Folha de Londrina. Available at: https://www.folhadelondrina.com.br/politica/combate-a-lavagem-de-dinheiro-comecou-ha-20-anos-1003201.html (Accessed: 20 April 2020).

Marcus, A. J. (2019) *Transparency International Anti-Corruption Helpdesk*

Answer Transparency International Anti-Corruption Helpdesk Financial intelligence units: effective institutional design, mandate and powers Query.

Martini, M. (2019) *Brazil's Supreme Court halts anti-money laundering investigations*, *Voice Transparency*. Edited by Voice Transparency. Available at: https://voices.transparency.org/the-role-of-financial-intelligence-units-and-the-fight-against-corruption-in-brazil-e745f1c8e749 (Accessed: 20 May 2020).

McDowell, J. and Novis, G. (2001) 'The consequences of money laundering and financial crime', *Economic Perspectives*, 6(2), pp. 6–10.

Mercosul (1991) *Tratado para a constituição de um mercado comum entre a República Argentina, a República Federativa do Brasil, a República do Paraguai e a República Oriental do Uruguai (26/03/1991)*, *Assunção: Desenvolvimento*.

Mercosul (2020) *Em Poucas Palavras*, *Mercosur*. Available at: https://www.mercosur.int/pt-br/quem-somos/em-poucas-palavras/ (Accessed: 29 March 2020).

Mercosul (no date) *Comissão de Prevenção à Lavagem de Dinheiro e ao Financiamento do Terrorismo*, *SGT N.4 Assuntos Financeiros*. Available at: https://www.sgt4.mercosur.int/pt-br/Paginas/Prevenção-à-Lavagem-de-Dinheiro-e-ao-Financiamento-do-Terrorismo.aspx (Accessed: 29 March 2020).

Ministerio da Economia (2020) *Inteligência financeira*, *Fazenda.gov*. Available at: http://www.fazenda.gov.br/assuntos/prevencao-lavagem-dinheiro/inteligencia-financeira (Accessed: 30 April 2020).

Ministerio da Economia (no date) *SUPERVISÃO PARA PREVENÇÃO À LAVAGEM DE DINHEIRO*, *Fazenda.gov*. Available at: http://www.fazenda.gov.br/assuntos/regulacao-e-supervisao/supervisao-para-prevencao-a-lavagem-de-dinheiro/supervisao-prevencao-lavagem-de-dinheiro#reguladores (Accessed: 30 April 2020).

Miron, R. B. (2017) 'O sigilo bancário e a atuação do COAF: análise dos

critérios definidos pelo STF no julgamento da ADI 2390/DF para a transferência de sigilo de dados', *Revista da AJURIS*, 44(142), pp. 287–320.

Mniwasa, E. E. (2019) 'Money laundering control in Tanzania', *Journal of Money Laundering Control*, 22(4), pp. 796–835.

Moiseienko, A. and Keatinge, T. (2019) *The Scale of Money Laundering in the UK Too Big to Measure?* London: RUSI.

Moreira de Andrade, B. W. (2019) *' Siga o dinheiro': análise da inteligência financeira no combate à lavagem de dinheiro e às organizações criminosas*. Universidade Federal do Ceará.

NCA (2014) *Suspicious Activity Reports (SARs) Annual Report 2014*. London: National Crime Agency.

NCA (2015) *Suspicious Activity Reports (SARs) Annual Report 2015*. London: National Crime Agency.

NCA (2017) *Suspicious Activity Reports (SARs) Annual Report 2017*. London: National Crime Agency.

NCA (2018) *Suspicious Activity Reports (SARs) Annual Report 2018*. London: National Crime Agency.

NCA (2019a) *SARs IN ACTION: the life of a SAR - Every step from submission to law enforcement outcome*. London: UKFIU business critical team.

NCA (2019b) *Suspicious Activity Reports (SARs) Annual Report 2019*. London: National Crime Agency.

NCA (no date) *National Economic Crime Centre*, *National Crime Agency*. National Crime Agency. Available at: https://www.nationalcrimeagency.gov.uk/what-we-do/national-economic-crime-centre (Accessed: 20 February 2020).

Norton, S. D. (2018) 'Suspicion of money laundering reporting obligations:

Auditor compliance, or sceptical failure to engage?', *Critical Perspectives on Accounting*, 50, pp. 56–66.

NRF (2017) *Make me a SuperSAR: Criminal Finances Act 2017*, *Norton Rose Fulbright*. Norton Rose Fulbright. Available at: https://www.nortonrosefulbright.com/en/knowledge/publications/dcfb1441/make-me-a-supersar-criminal-finances-act-2017 (Accessed: 5 May 2020).

OAS (no date) *CICAD: anti-money laundering*, *CICAD*. Available at: http://www.cicad.oas.org/Main/Template.asp?File=/lavado_activos/default_eng.asp (Accessed: 20 November 2020).

Perim, M. C. M., Lemgruber, L. and Pozzebon, G. R. C. (2017) 'A utilização dos relatórios de inteligência financeira oriundos do COAF como meio de prova na persecução dos atos de improbidade administrativa de agentes públicos', in *CONGRESSO NACIONAL DO MINISTÉRIO PÚBLICO*.

Ping, H. (2005) 'The suspicious transactions reporting system', *Journal of Money Laundering Control*, 8(3), pp. 252–259.

Planalto (1998) *LEI Nº 9.613, DE 3 DE MARÇO DE 1998.* Edited by Casa Civil Subchefia para Assuntos Jurídicos. Brasília: Presidência da República.

Planalto (2012) 'Lei Nº 12.683, de 9 de julho de 2012.' Edited by Casa Civil Subchefia para Assuntos Jurídicos. Brasilia: Presidência da República.

Planalto (2019) 'LEI Nº 13.964, DE 24 DE DEZEMBRO DE 2019'. Edited by Secretaria-Geral Subchefia para Assuntos Jurídicos. Brasilia: Presidência da República,.

POCA (2002) *Proceeds of Crime Act 2002*, *c.29*. London: UK Public General Acts.

Ponelis, S. R. (2015) 'Using Interpretive Qualitative Case Studies for Exploratory Research in Doctoral Studies: A Case of Information Systems Research in Small and Medium Enterprises', *International Journal of Doctoral Studies*, 10, pp. 535–550.

Preller, S. F. (2008) ‘Comparing AML legislation of the UK, Switzerland and Germany’, *Journal of Money Laundering Control*, 11(3), pp. 234–250.

Pucci, R. D. (2019) ‘Transnational crime in South America’, in *Research Handbook on Transnational Crime*. Edward Elgar Publishing.

RODRIGUES, P. P. (2008) ‘COAF: Unidade de Inteligência Financeira do Brasil’, *Universidade de Sao Paulo*.

Rudner, M. (2006) ‘Using financial intelligence against the funding of terrorism’, *International Journal of Intelligence and CounterIntelligence*, 19(1), pp. 32–58.

Sathye, M. and Patel, C. (2007) ‘Developing financial intelligence: an assessment of the FIUs in Australia and India’, *Journal of Money Laundering Control*, 10(4), pp. 391–405.

Savona, E. (1997) *Responding to Money Laundering International Perspectives*. Amsterdam: Harwood Academic .

Schott, A. P. (2006) ‘Reference Guide to Anti-Money Laundering and Combating the Financing of Terrorism’, *The International Bank for Reconstruction and Development/The World Bank/The International Monetary Fund, Second Edition and supplement on special recommendation IX*.

Scott, B. and McGoldrick, M. (2018) ‘Financial intelligence and financial investigation: opportunities and challenges’, *Journal of Policing, Intelligence and Counter Terrorism*, 13(3), pp. 301–315.

Senado Federal (2019) *Lido o relatório da MP que transfere Coaf para o Banco Central*, *Agência Senado*. Agência Senado. Available at: https://www12.senado.leg.br/noticias/materias/2019/10/23/lido-o-relatorio-da-mp-que-transfere-coaf-para-o-banco-central-votacao-e-adiada (Accessed: 21 April 2020).

Shiraz, Z. (2013) ‘Drugs and Dirty Wars: intelligence cooperation in the global South’, *Third World Quarterly*, 34(10), pp. 1749–1766.

Simwayi, M. and Haseed, M. (2011) 'The role of financial intelligence units in combating money laundering: A comparative analysis of Zambia, Zimbabwe and Malawi', *Journal of Money Laundering Control*, 15(1), pp. 112–134.

Sinha, G. (2014) 'To suspect or not to suspect: Analysing the pressure on banks to be "Policemen"', *Journal of Banking Regulation*, 15(1), pp. 75–86.

Sittlington, S. B. K. (2014) *What are the factors that influence the effectiveness of anti-money laundering policy implementation in the UK? Exploring money laundering crime and policy*. Northumbria University.

SOCA (2008) *Suspicious Activity Reports regime ANNUAL REPORT 2008*. London: Serious and Organised Crime Agency.

SOCA (2010) *Suspicious Activity Reports regime ANNUAL REPORT 2010*. London: Serious and Organised Crime Agency.

SOCA (2011) *Suspicious Activity Reports regime ANNUAL REPORT 2011*. London: Serious and Organised Crime Agency.

Stessens, G. (2000) *Money laundering: a new international law enforcement model*. Cambridge University Press.

Suavinha, B. P. (2017) *A Investigacao criminal da lavagem de dinheiro com o enfoque no trabalho desenvolvido pelo COAF*. FAFRAM.

Suxberger, A. and Pasiani, R. P. R. (2018) 'O Papel Da Inteligência Financeira Na Persecução Dos Crimes De Lavagem De Dinheiro E Ilícitos Relacionados (The Role of Financial Intelligence in the Persecution of Money Laundering and Related Felonies)', *Revista Brasileira de Políticas Públicas*, 8(1), pp. 290–319.

Svendsen, A. D. M. (2009) 'Connecting intelligence and theory: Intelligence liaison and international relations', *Intelligence and National Security*, 24(5), pp. 700–729.

Taylor, S. A. (2007) 'The role of intelligence in national security', in Collins, A. (ed.) *Contemporary security studies*. Oxford: University Press, pp. 249–

267.

Thony, J. F. (1996) ‘Processing financial information in money laundering matters: the financial intelligence units’, *European Journal of Crime, Criminal Law and Criminal Justice*, 4, pp. 257–282.

Timmermans, F., Dombrovskis, V. and Jourovà, V. (2018) *Joint Statement on the adoption by the European Parliament of the 5th Anti-Money Laundering Directive*, *European Commission*. Brussels: European Commission. Available at: https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_18_3429 (Accessed: 26 March 2020).

Tourinho, M. (2018) ‘Brazil in the global anticorruption regime’, *Revista Brasileira de Política Internacional*, 61(1), pp. 1–18.

UK Gov (2017) *Criminal Finances Act 2017*, *UK Government*. London: UK Government.

UN (1991) *United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988: Adopted by the Conference at Its Sixth Plenary Meeting on 19 December 1988*. Edited by United Nations. New York: United Nations.

UNCAC (2011) *Definition of FIU*, *United Nations*.

UNGA (1998) ‘Resolution adopted by the general assembly - A/RES/S-20/2’. UN: General Assembly.

UNODC (2004a) *United Nations Convention against Corruption*. New York: United Nations.

UNODC (2004b) *United Nations convention against transnational organized crime and the protocols thereto*. New York: United Nations Office on Drugs and Crime.

UNODC (no date a) *Introduction to money-laundering*, *United Nations*. Edited by UN. Available at: https://www.unodc.org/unodc/en/money-

laundering/introduction.html?ref=menuside (Accessed: 29 March 2020).

UNODC (no date b) *Money Laundering Cycle*, *United Nations*. Edited by UN. Available at: https://www.unodc.org/unodc/en/money-laundering/laundrycycle.html (Accessed: 24 February 2020).

US Department of State (2014) *Countries/Jurisdictions of Primary Concern - Brazil*. Available at: https://2009-2017.state.gov/j/inl/rls/nrcrpt/2014/supplemental/227739.htm (Accessed: 28 July 2020).

Wentworth, I. (2018) *Why is Money Laundering Illegal?*, *Deltanet International*. Deltanet International. Available at: https://www.delta-net.com/compliance/anti-money-laundering/faqs/why-is-money-laundering-illegal (Accessed: 24 March 2020).

Woźnica, R. (2016) 'The role of financial intelligence units in combating money laundering in Poland and Macedonia: a comparative analysis', *Гласник= Glasnik*, 60(2 ОР-Гласник= Glasnik).

Additional bibliography for case-study statistics:

COAF (1999-2019) *Relatório de Atividades*. Brasília: Fazenda.

SOCA (2008-2012) *Suspicious Activity Reports regime ANNUAL REPORT 2010*. London: Serious and Organised Crime Agency.

NCA (2014-2015) *Suspicious Activity Reports (SARs) Annual Report*. London: National Crime Agency.

NCA (2017-2019) *Suspicious Activity Reports (SARs) Annual Report*. London: National Crime Agency.

Appendix

1. FATF recommendations - sections

SECTION	TITLE	RECOMMENDATIONS
Section A	AML/CFT policies and coordination	1-2
Section B	Money Laundering and confiscation	3-4
Section C	Terrorist financing and financing of proliferation	5-8
Section D	Preventive measures	9-23
Section E	Transparency and beneficial ownership of legal persons and arrangements	24-25
Section F	Powers and responsibilities of competent authorities and other institutional measures	26-35
Section G	International Cooperation	36-40

Source : (FATF-GAFI, 2012, pp. 4–5)

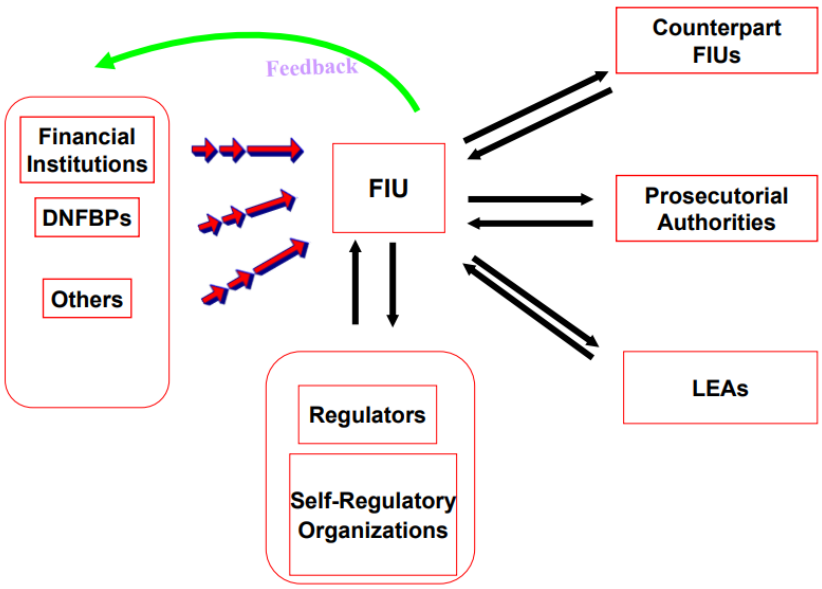
2. Operational structure of the Egmont Group

BODY	FUNCTION DESCRIPTION
The heads of all FIUs (HoFIUs)	They meet once a year in the annual plenary and keep in touch constantly through the group's secure Web. They take unanimous decisions on membership, structure, budget and principles.

Egmont Committee (EC)	Functions of coordination and consultation for the HoFIUs and working groups.
Working Groups (4)	groups on different subjects ensuring development, cooperation, and sharing of expertise. They meet periodically and inform HoFIUs on different matters (see page 18).
ECOFEL	*Egmont Centre of FIU Excellence and Leadership* provides extra assistance for FIUs to operate strongly nationally and internationally (e.g. sharing of expertise, building of networks and others).
Regional groups (8)	they assist the achievement of goals on a regional level. All member FIUs are a member of a regional body and those are represented in the Egmont committee by Regional Representative/s.
Egmont group secretariat	provides support at an administrative, technical and strategic level to other Egmont bodies; it, also, manages the content on the Egmont Secure Web open community.

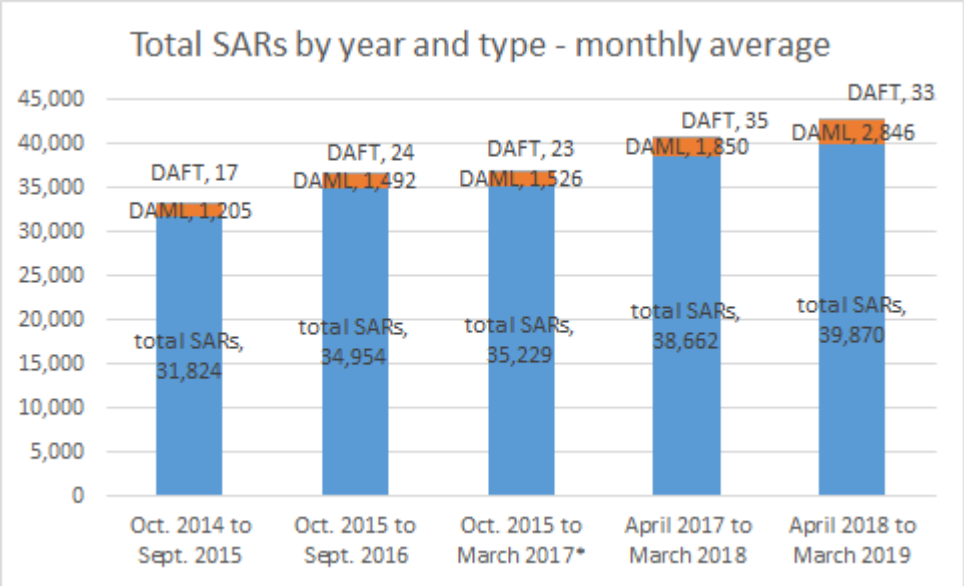
Source: (Egmont Group, 2020)

3. FIU's main interactions



Source: (UNCAC, 2011)

4. SARs requested by year and type



Source: NCA(2014-2015); NCA (2017-2019)

5. Consent requests and refusal of DAML

CONSENT REGIME DAML	TOTAL REQUESTS	TOTAL REFUSED	DAML REQUESTS	DAML REFUSED
Oct.15 - Sept-16	18,185	1,251	17,896 (98,41%)	1,242(6,94%)
Oct.15 - Mar.17*	27,900	1,587	27,478 (98,49%)	1,558 (5,67)
Apr-17 to Mar-18	23,071	1,333	22,649 (98,17%)	1,291 (5.70%)
Apr-18 to Mar-19	34,935*	1,372	34,543 (98.87%)	1,332 (3,86%)
Oct-15 to Mar-19	**103,739**	**5,543 (8%)**	**102,566 (98.87%)**	**5,423 (5.29%)**

*Calculated from the total of DAML requests (34,543) and assumption by the author of DAFT from previous years and refused requests (392+40); 18 months period. Source: NCA (2017-2019)

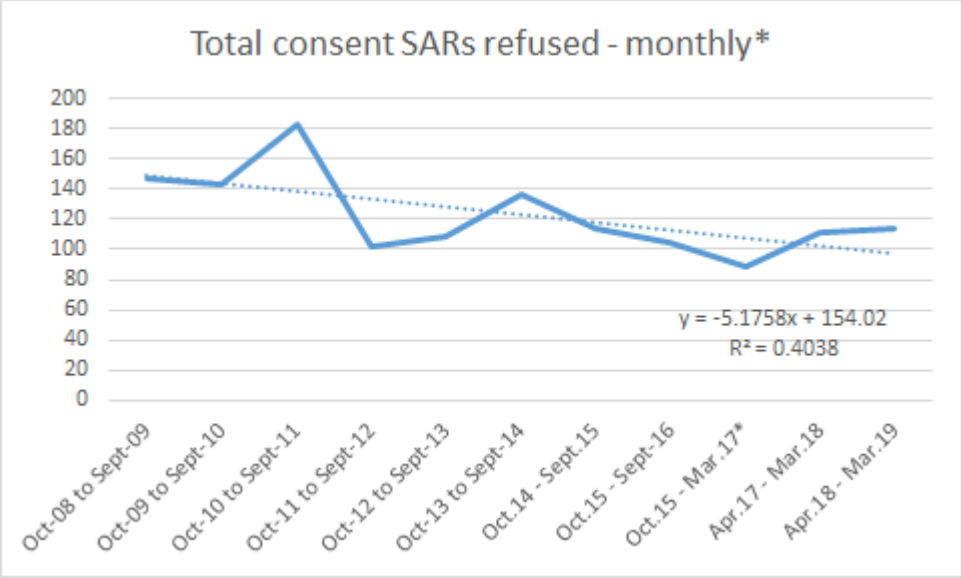
6. Total SARs and consent SARs monthly average

Period of time	Total SARs	Total SARs monthly average	Total Consent SARs	Consent SARs monthly average
Oct-06 to Sept-07	220,484	18,373.67	11,277	939.75
Oct-07 to Sept-08	210,524	17,543.67	13,223	1101.92
Oct-08 to Sept-09	228,834	19,069.5	13,618	1134.83
Oct-09 to Sept-10	240,582	20,048.5	14,334	1194.5

Oct-10 to Sept-11	247,601	20,633.42	13,662	1138.5
Oct-11 to Sept-12	278,665	23,222.08	12,915	1076.25
Oct-12 to Sept-13	316,527	26,377.25	14,103	1175.25
Oct-13 to Sept-14	354,186	29,515.5	14,155	1179.58
Oct-14 to Sept-15	381,882	31,824	14,672	1222.67
Oct-15 to Sept-16	419,451	34,954	18,185	1515.42
Oct-15 to Mar-17*	634,113	35,229	27,900	1550
Apr-17 to Mar-18	463,938	38,662	23,071	1922.58
Apr-18 to Mar-19	478,437	39,870	34,935	2911.25

Source: SOCA (2006-2011); NCA (2013-2015); NCA (2017-2019)

7. Total number of consent SARs refused over the years, monthly average



*18 months, see appendix 4. Source: SOCA (2008-2011); NCA (2013-2015); NCA (2017-2019)

8. Number of cases and related arrests from both refused and granted consent requests.

	Arrests	
Date	refused consent	requests granted
oct.07-Sept.08	78 (56 cases)	
oct.08-Sept.09	42 (30 cases)	36 (28 cases)
oct.09-Sept.10	31 (17 cases)	29 (22 cases)
oct.10-Sept.11	24 (21 cases)	7 (7 cases)
oct.11-Sept.12	34 (31 cases)	11 (9 cases)
oct.12-Sept.13	-	-
oct.13-Sept.14	47(35 cases)	5 (5 cases)
oct.14-Sept.15	17 (16 cases)	5 (5 cases)
oct.15-Sept.16	39 (28 cases)	2 (2 cases)
Oct.15-Mar.17	47 (36 cases)	4 (4 cases)
Apr.17-Mar.18	40 (28 cases)	12 (3 cases)
Apr.18-Mar.19	-	-

Source: SOCA (2008-2011); NCA (2013-2015); NCA (2017-2019)

9. Intelligence received and disseminated (international cooperation)

Date	**Intelligence reports spontaneously received from overseas**	**Intelligence spontaneously disseminated (excluding Europol)**	**Intelligence spontaneously disseminated to Europol**

Oct.13-Sept.14	1,434	361	131
Oct.14-Sept.15	1,585	371	200
Oct.15-Sept.16	1,428	326	174
Oct.15-Mar.17	1,956	490	218
Apr.17-Mar.18	1,621	470	204
Apr.18-Mar.19	1,295	399	365

Source: NCA (2013-2015); NCA (2017-2019)

10. Financial intelligence requests made and received by international entity

Number of financial intelligence requests received						
	Egmont	FIU.net	ARO	CARIN	Other	TOTAL
Apr.18-Mar.19	1,132	234	244	29		1,639
Apr.17-Mar.18	742	472	224	17		1,455
Oct.15-Mar.17*	1,140	678	248	30		2,096
Oct.15 - Sept.16	725	460	175	27		1,387
Oct.14 - Sept.15	747	628	154	27	10	1,566
Oct.13 - Sept.14	778	537	140	14	13	1,482
Number of financial intelligence requests made by UKFIU						
	Egmont	FIU.net	ARO	CARIN	Other	TOTAL
Apr.18-Mar.19	1,147	114	227	30		1,518
Apr.17-Mar.18	665	544	311	39		1,559

Oct.15-Mar.17*	963	802	454	75		2,294
Oct.15 - Sept.16	606	520	278	62		1,466
Oct.14 - Sept.15	736	664	314	85	2	1,801
Oct.13 - Sept.14	570	449	293	37	10	1,359

*18 months period; Source: SOCA (2008-2011); NCA (2013-2015); NCA (2017-2019)

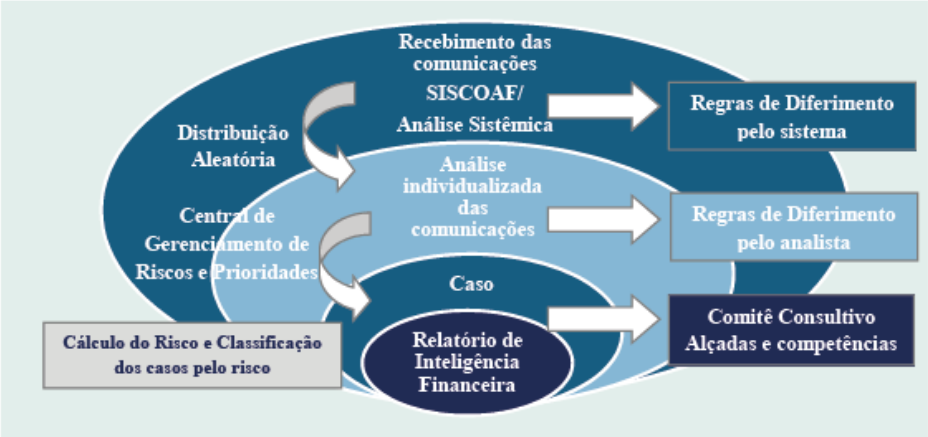
11. Communications received COAF breakdown COE (Communications of operations in kind) and COS (Communication of suspicious transactions):

YEAR	COS	COE	TOTAL communications received
1999	n/a	n/a	824
2000	-	-	6,654
2001	-	-	6,364
2002	-	-	6,014
2003	7,168	33,358	40,526
2004	9,050	76,102	85,152
2005	29,124	129,489	158,613
2006	22,893	171,107	194,000
2007	141,576	193,788	335,364
2008	-	-	645,785
2009	-	-	1,802,865
2010	-	-	1,038,505
2011	-	-	1,289,087
2012	-	-	1,587,427
2013	-	-	1,286,233
2014	171,933	972,346	1,144,279
2015	306,668	1,075,543	1,382,211
2016	323,775	1,169,024	1,492,799

2017	323,323	1,179,930	1,503,253
2018	414,911	2,720,584	3,135,495
2019	318,939	3,365,802	3,684,741

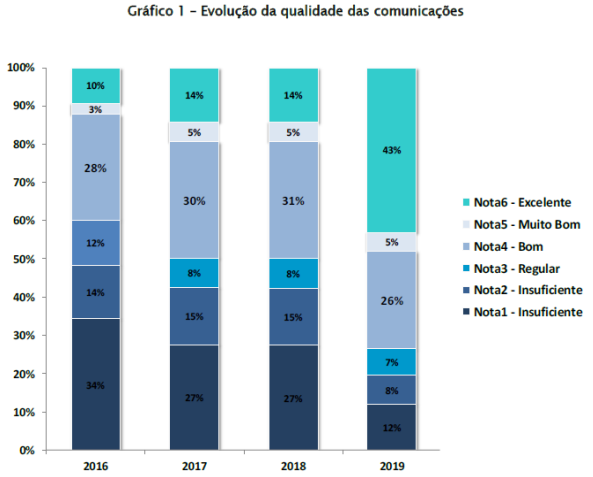
Source: COAF (1999-2019)

12. Risk-based approach of COAF (original EN: *risk management and priorities*)



Source: (COAF, 2018, p. 10)

13. Quality of reports received by COAF over the years 2016-2019



Source: (COAF, 2019, p. 21)

14. Administrative Sanction Processes - Initiated and judged

YEAR	PAS initiated	PAS judged
2004	3	-
2005	-	-
2006	2	3
2007	18	2
2008	16	8
2009	6	11
2010	15	6
2011	10	14
2012	6	18
2013	9	10
2014	45	12
2015	50	39
2016	156	71
2017	143	117
2018	116	132
2019	13	73
2020	2	-
TOTAL	610	516

Source: (COAF, 2019, pp. 35–36)

15. Information exchange domestic and international

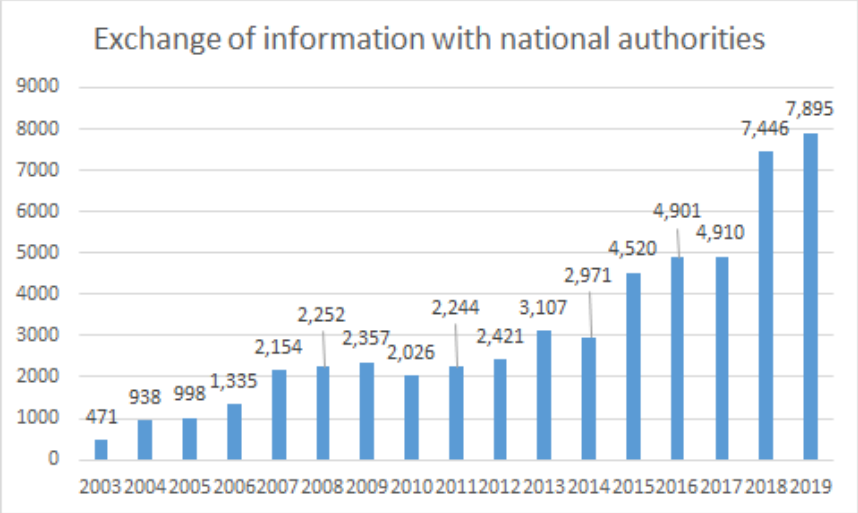
YEAR	Exchange of information with national authorities	Exchange of information with FIUs (Egmont network)	Inbound (recebidos)	Outbound (enviados)
1999	-	19	22	4
2000	-	14	19	54
2001	-	91	45	46

2002	-	156	99	57
2003	471	234	-	-
2004	938	298	-	-
2005	998	177	-	-
2006	1,335	204	-	-
2007	2,154	197	95	78
2008	2,252	143	116	27
2009	2,357	233*	-	-
2010	2,026	144	-	-
2011	2,244	227	-	-
2012	2,421	164	-	-
2013	3,107	170	-	-
2014	2,971	160	102	58
2015	4,520	150	95	55
2016	4,901	424	357	67
2017	4,910**	435	366	69
2018	7,446	346	187	159
2019	7,895	314	252	62

*Calculated from 573 data from 3 years 2007-9 (COAF, 2009, p. 17)

**COAF annual report from 2019 reports 5,232.

16. COAF: exchange of information with national bodies



Source: COAF (2003-2019)