

# PAPER



**EU AML / CFT**  
GLOBAL FACILITY

# CUSTODIAL FINANCIAL INVESTIGATIONS

**PRISONS AND ILLICIT FINANCE – AN  
OPPORTUNITY AWAITS?**

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# INTRODUCTION

Several years ago, the leadership in the EU Global Facility suggested the topic of **Custodial Financial Investigation** as being worthy of further research and development. Initial scoping was carried out and a number of training packages were developed in support of the EU Global Facility's mission and purpose. Initial contact with the EU Global Facility partner countries and their agencies showed that this was an area that was not immediately obvious as a domain for financial investigation. However, further exploration and dialogue indicated that illicit money and criminal financial models had almost universally been exported into prison and custodial facilities.

The scoping exercise amongst the team's experts and their professional networks indicated many examples of where illicit prison finance was known of but not understood or articulated in actions. The commonality between former and currently serving experts was that they acknowledged the problem but nobody knew how to quantify or describe it. Thus, the Global Facility leadership commenced a research exercise. This paper is the outworking of the exercise.

The present is not an academic paper, but there is a sound basis for the content and conclusions based on academic articles and journals. The problem, conclusions and recommendations were reviewed by experts within this domain and semi-structured interviews providing professional assurance. This was done in support of the three primary questions set by the EU AML-CFT Global Facility leadership, namely:

- o How does the EU Global Facility identify the problem?
- o How do we, as a Global Facility, provide solutions to our partner countries, to meet the problem?
- o What training will support those solutions?

This paper will answer those questions. To do so, the paper is structured into three parts:

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**For further information, please contact:**

info@global-amlcft.eu

[www.global-amlcft.eu](http://www.global-amlcft.eu)



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# 1. THE PROBLEM



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# 1. THE PROBLEM

## ■ Illicit Custodial Finance – What Problem?

The first obvious question is ***“Is there a problem?”***. Initial research was carried out with a literature review of the papers and articles related to the issue. The literature review was then followed by informal, yet semi-structured research conversations with a number of key specialists with experience in the custodial and prison environment.

The literature review was not that helpful. There are plenty of articles on prison rehabilitation, prison management and custodial risk management. There are also plenty of articles that examine the issues of contraband in prisons and the use of mobile phones. However, the bigger problem of how these activities are monetarised for organised crime is not well researched.

In speaking to the pool of experts who were identified it was clear that **there was very little research around how the business model of organised crime is applied in prisons and then also looking at how it interacts with the money laundering function.**

Part of the problem that experts revealed was that the political context of prison was seen as a function of the criminal justice process that ensured firstly punishment and then some element of rehabilitation. Universally, and with credit to professionals in the custodial field, the safety and well-being of prisoners is also seen as a primary function. Most indicated that the illicit economy has a heavy adverse impact on prisoner welfare both within and without the prison wire.

### The Political Problem

Part of the issue in examining this from an operational perspective is that it becomes **difficult to admit openly that there is an illicit economy operating within any national prison system.** It is also hard for all levels of the prison service to admit and acknowledge that there is a problem at a particular custodial facility or even a prison wing.

Admitting that the problem goes against the public expectation of prison and punishment, and indicating that criminality occurs in prison creates a political risk for those in government. However, the reality of the prison model is that detention and the restrictive rules associated with imprisonment actually create an environmental scarcity, which leads to a high cash value for certain items. This results in organised crime approaches and methods of supply where contraband requires a sophisticated business model that matches supply and demand. Any business model is based on the profit principle and the custodial crime model creates an opportunity for lucrative monetarisation of items that externally have a comparatively low cost and are easy to acquire, but within a custodial environment have a high value.

This dilemma suggests that the prison is a form of community that in many ways reflects the crime and social challenges of the broader external society within which it operates. Politically, this is difficult to communicate, and thus it is all the harder to admit that it exists without some attribution of failure of purpose and failure in task. Thus, **the Illicit Custodial Economy is often ignored or tolerated,** alongside its profits and criminal monetarisation, rather than acknowledged and addressed.

### What about the money ?

Research and open source analysis would suggest that most of the custodial policies and strategies that do exist focus on the disruption and denial of supply. The intent is to deny contraband being imported into the prison estate. This is understandable. The contraband that enters the prison estate is tangible and identifiable and thus creates opportunity for investigation and seizure. It is also noted within some of the research and commentary that the author examined that Prison Officers and Police Officers are comfortable with this counter-



*Police officers often do not understand prison regimes or intra-custody criminality. Their skills relate to outside the jail investigations. ©2022/ Unsplash*



smuggling activity. Prison officers focus within the prison estate and police focus is without the estate.

However in examining the literature to date there is very little indication or research that follows the monetary trail or subsequent money laundering that supports this illicit economy. In examining the articles that do exist and in speaking to the expert pool the following model was drawn up for explanatory purposes.

such as illicit mobile phone usage, or to a contraband commodity such as drugs through a network that exists within and without the jail. The cashless purchase of contraband is facilitated by a debt regime that is administered through an organised crime business network within the custodial facility. Studies have shown that this closely mirrors organised method that exists outside the prison.

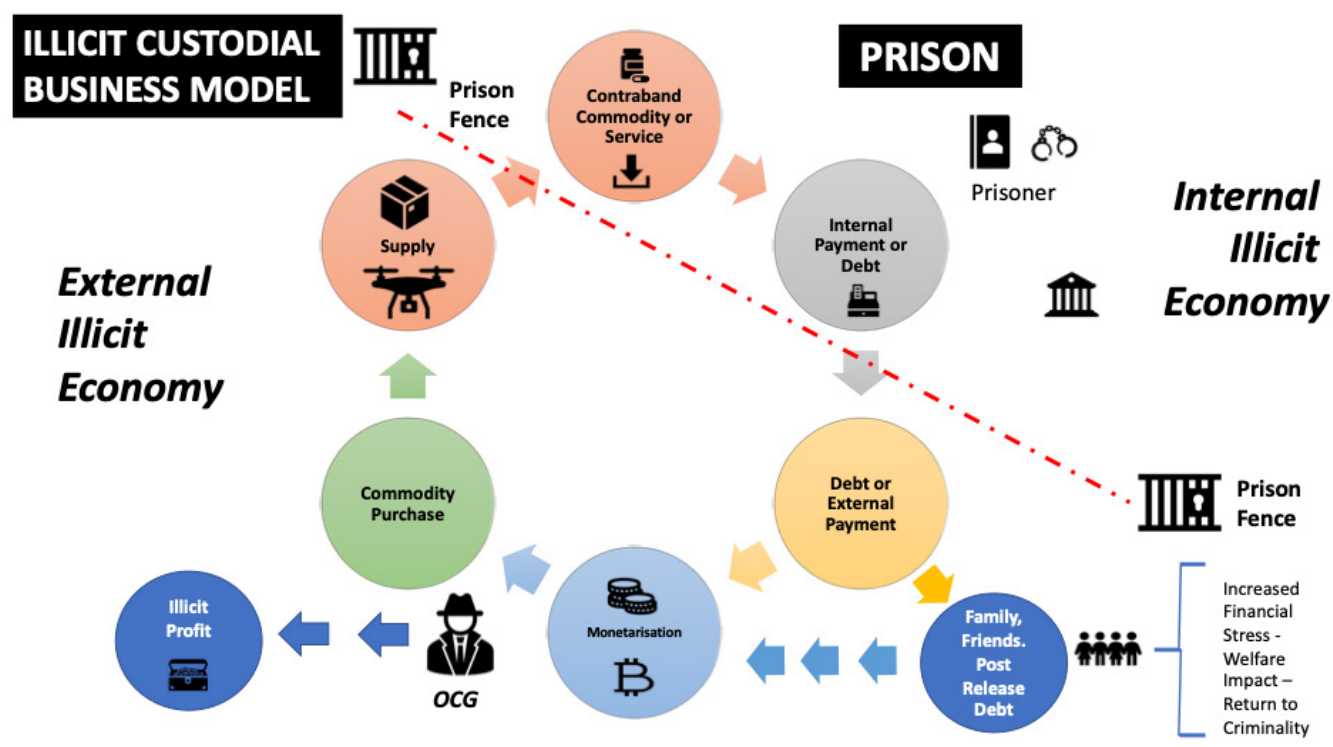


Figure 1 © 2022/EU Global Facility

### The Approved Custodial Economic Regime

As with any economic model any transaction is under pinned by a currency. Most custodial regimes impose a cash free prison environment where the reward of earnings for labour or good behaviour are administered through an approved credit or banking system under the supervision of custodial authorities.

The general focus of this model is to allow marginal earnings that can be used to purchase treats or approved items that enhance the prisoner's environment. However, the enhancement is generally not at a financial or material level that would justify a luxury or inappropriate level of adverse public judgement. The reward is small but and surplus in day to day needs.

This reward economy is controlled and visible to prison authorities and is managed within strict and controlled regime. (That said consultation indicated that even the smallest of custodial regime rewards can become a sub-currency in the Illicit Economy indicated below).

### The Internal and External Illicit Economy

Within the custodial environment the illicit economy also largely exists within a cashless system. Prisoners obtain access to illicit service,

Prisoner will request a contraband item, a debt will be raised (and recorded) and an order will be placed for the item. This will then be delivered. The debt for this item drives activity in two illicit economies, the internal and external. The debt is incurred internally but is settled in the external illicit economy, often by family and friends.

This debt transaction is administered externally much in the same way as any non-custodial organised crime debt. Collectors will reach out to the prisoners nominated payee and cash or currency will change hands. This transaction is no different than any other transaction in that it is tangible and traceable, but only if it is indicated and identified for what it is.

### The Impact of the Illicit Custodial Economy

Many experts and recent research indicates that there are now prisoners who enter the custodial system with a low level of debt and leave with exceptional and unpayable levels of debt. The debts incurred within custodial and largely administered within the illicit economic system result in monetary obligation that follows them outside the jail in the post release environment. Further to this,

in many instances it is family members and friends who become absorbed in servicing the debt during and post custody creating a more vulnerable and less stable release environment. This can readily unpick rehabilitation efforts and result in cyclic offending.

Often many released prisoners must engage in criminal activity to draw down the illicit custodial debts owed. There is significant research that many ex-prisoners, particularly those low-level repeat offenders are on a debt laden merry go round where, in order to pay off prison debts, they become the message couriers for orders and debt transactions upon release, and then commit minor offences leading to arrest to become the importation agent of contraband upon return to custody.

This relationship of illicit and internal economy exploits a number of criminal justice processes and loop-holes. Prison officers understand prison, the rules and regime. They also have a very good understanding of concealment and illicit activity in prisons. However, they often lack the skills to map networks and crime business models which assist in understanding 'big picture' of organised crime. Police officers often do not understand prison regimes or intra-custody criminality. Their skills relate to outside the jail investigations. In many cases neither custodial or police staff understand or have the competence to understand the economic and financial transaction models that are used. This often a function of specialist financial investigation units within policing or other law enforcement agencies.

From a Custodial Financial Investigative point of view the development of analytical visibility of custodial crime business models creates the break-through framework for understanding the links between the illicit economies and allows for systematic approaches to financial investigation. The joining and linking of these two organised crime models, and the acknowledgement of their presence within the custodial function is the first step in dealing with this problem.

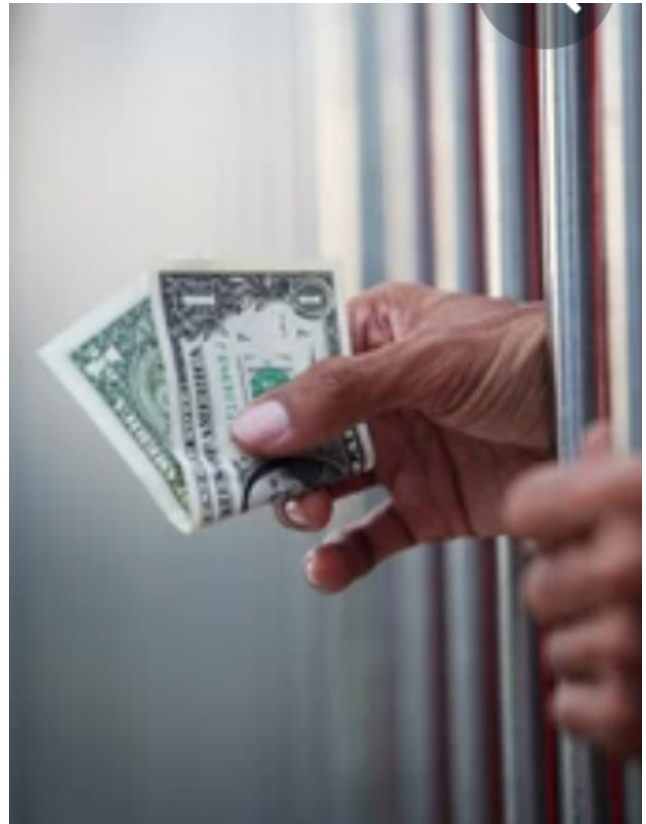


## It's all about the money

Simply tracking and reducing the supply of contraband, although necessary, runs the risk of unintended effects coming into play where the reduction of contraband creates scarcity value inflation creating a greater purchase and debt burden on those within custody. In truth the process is best served by a dual approach where the vulnerabilities in the business model are understood and the links between the Internal Illicit Custodial Economy are identified and subject to enforcement activity. As is often said **"it's all about the money"**.

The identification and seizure of money in the external economic environment also reduces the opportunity for persistent illicit debt to exist. Seizures after payment are more often than not beyond the responsibility of the debtor thus ensuring that the custodial

debtor and their support network is not penalised. Further detail on this approach is indicated in the **'What can be done?' Section**.



*Mapping communication opportunities, financial data and prisoner behaviours is key to establishing illicit communication methods © 2022/Shutterstock*

## The Custodial Continuum and Asset Identification

Another area that directly relates to the Custodial Financial Investigation arena is the continued direction and control of assets whilst individuals are in custody. The term custody is important in this context.

The Criminal Justice Continuum begins when a person becomes a person of interest within an investigation, in plain terms they have become of interest to a law enforcement agency with some degree of linkage to criminality. This could be on the basis of social association, or it could be on the basis of confidential information that is received or suspicious financial transaction reporting. At this point an investigative strand is commenced on them by a law enforcement agency and often that strand is closed as no criminality is disclosed or provable. In other cases they may progress to being an subject of investigation and more formal investigative processes are initiated. Figure two below illustrates this continuum

Figure 2 illustrates the journey of a suspect offender through the criminal justice continuum. It shall be noted that this is a generic model based on multi-jurisdictional procedural trends rather than country specific processes.

The journey from a person of interest to a convicted criminal, particularly in financial crime domain, generates difficulties for the suspected offender in the direction and control of their assets.

## CRIMINAL JUSTICE CONTINUUM

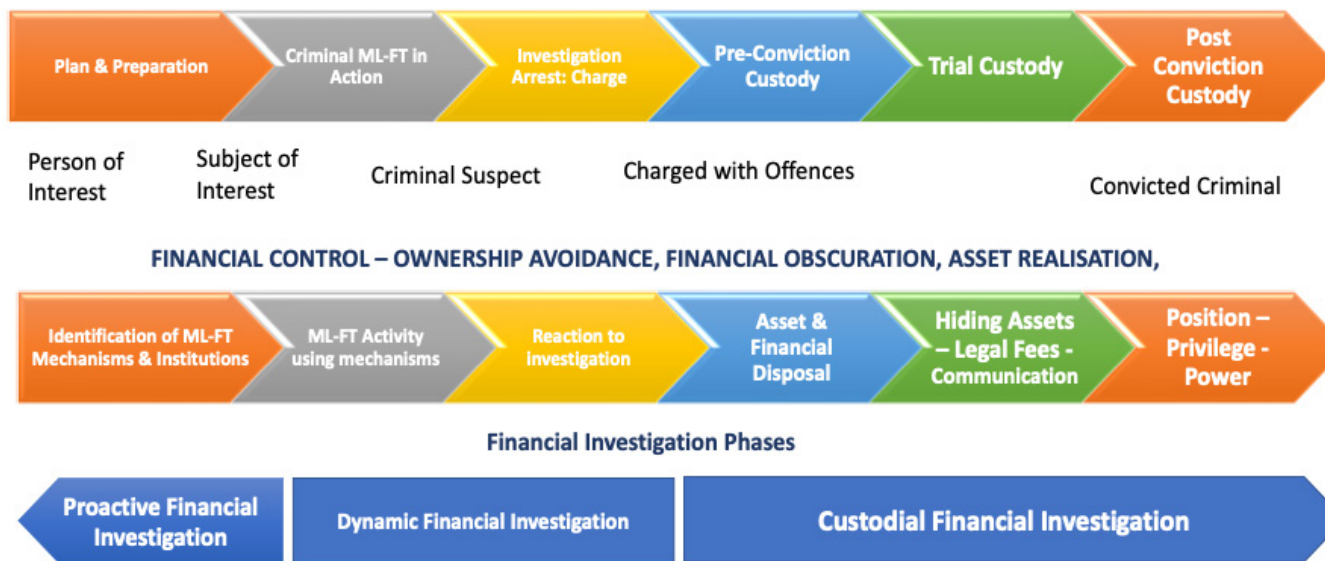


Figure 2 © 2022/EU Global Facility

Dependent on the case circumstances suspected offenders may have restrictive financial orders put on their assets creating financial pressures around day to day costs and lifestyle expenses, not just for them but also for their families and employed associates. Their legal representation will create financial needs that need to be planned for. This combined financial pressure need exists in an environment where any undisclosed or hidden assets from criminal activity are being searched for by financial authorities or being restricted in their use pending clarification of criminal status. Suspected offenders may also be trying to hide, obscure or dispose of assets in a way that is beyond the range of or hidden from investigative financial surveillance.

The above all require instructional direction and control from the offender within a custodial environment that places restrictions on communication especially in detail. Communication is essential to asserting direction and control of financial assets.

When a suspected financial offender is within the custody regime, whether during arrest, on remand pending trial (pre-trial custody) or in the post-conviction phase there is the opportunity to continue the financial investigation. However this requires the assistance and input of those within the custodial institution as well as those without. For the external agencies that are financial in orientation there is a challenge in understanding the custodial regime and its restrictions. For the law enforcement investigating organised crime, there is a need to investigate in parallel with the prison regime, and in the custodial institution there is a need to investigate to support both financial and criminal investigative strands.

A key element in this is the penetration of the criminal communication model and ensuring intelligence coverage of the person within the custodial environment. Mapping communication opportunities alongside financial data and prisoner behaviours is a key way to establishing illicit communication methods and identifying the means of exerting direction and control from within the prison.

## The Political Risk from Financial Direction and Control from Within Custody

As in the illicit economy there are significant perception risks in acknowledging this problem. Acknowledging that criminals either during pre-trial or post conviction can still control their assets offers significant opportunities for public critique. However reality based, intelligence led assessments from across the custodial spectrum all indicate that this is a real ongoing problem. The author was offered many examples from former and current enforcement and correctional colleagues that showed this is a problem that, as with the illicit economy, falls between the skill sets or legal competences of police, financial investigations and custodial functions.

## Terrorist Finance in Prisons

Two key threads of financial activity relating to were identified in the literature review. These threads reflect the difficult tension that exist in prisons between the need to provide a restrictive but human rights-based environment within the politically difficult terrorism domain.

The two elements were:

- **Terrorist Prisoners utilising the illicit economy to secure privilege and better conditions** through contraband purchase and local prison commissary purchase to enhance the attractiveness of their belief structure or ideology to create opportunities for the radicalisation of others towards the cause.

- **Terrorist Organisations either directly or indirectly leveraging non-government or charitable organisations** to deliver financial support to the families of prisoners who are or become adherents to their cause or ideology.

For the purpose of this paper these will be referred to as Beneficial Terrorist Finance.



The former application has been a tactic used by the senior ideological leadership who are detained or convicted within the custody regime to increase radicalisation in jails and provide an elevation in status or conditions as a reward. It is very similar to gang-based recruitments in prisons and it is often based on conditions of conduct or gateway behaviours such as attacking a prison officer or another ideologically opposed inmate, or through the provision of another service, often by family members outside the jail.

The latter has been a problem for the management of prisoners convicted of terrorism across the decades. As terrorism ideology, structure and methods have changed illicit approaches to welfare-driven influence have changed as well. Evidence ideologically driven financial support to prisoners can be found in the historical post-colonial independence movements where support was often provided to prisoners' families and their children. This model, in an adapted form can be found in Al Qaida and ISIS affiliated prisoners. In the 1970's and 1980's it could be seen in the prison welfare model associated with the IRA in Northern Ireland and ETA in Spain.

In appropriate ideological based welfare approaches supported from money that has been raised through welfare charities is often a

hard issue for financial investigators to deal with. The obscuration of financial sourcing, the legitimacy of prison welfare initiatives and the covert nature of many radicalisation methods all combine to make this difficult to detect. The controversy of investigating charities and NGO's that are associated with political or religious doctrine often creates allegations of illegal or state repression of freedom or state victimisation based on political belief or religion.

This is also difficult in the post-release arena where newly released prisoners are supported by welfare charities ostensibly to re-integrate. This is especially hard to tackle as studies show that supported re-integration of terrorist prisoners is more successful than unsupported strategies.

Many agencies struggle with this which is where the joint task force approach of counter terrorism, custodial and financial investigation becomes essential. Proving the links between outside the 'prison wire' welfare benefit and 'inside the wire' radicalisation or extremist behaviour can only be done with extensive collaborative and cohesive investigations. Thus the Custodial Financial Investigative working can offer much to this solving this problem. ■



*When a suspected financial offender is within the custody regime, there is the opportunity to continue the financial investigation © 2022/Shutterstock*





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## 2. WHAT CAN BE DONE?



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## 2. WHAT CAN BE DONE ?

In response to this question the role of the EU AML-CFT Global Facility must be emphasised. The focus of facility work is on counter illicit financial practice, not on reforming custodial institutions. However there is opportunity to bring the financial intelligence and investigative skills to the custodial domain and apply good practices in a way that counters the Illicit Custodial Economy, Increases the effectiveness of financial investigation of persons in custody and reduces beneficial Terrorist Finance.

### A Model for Custodial Financial Investigation

In conducting informal structured interviews with colleagues and associates it is clear that despite the political or reputational risks indicated in Part 1, the problems and issues outlined had immediate professional resonance. All the parties spoken to indicated that there was a lack of cross skilling and appropriate sharing of information to fully tackle the problem. The UK has launched initiatives to help deal with this with a Financial Intelligence Unit specifically dedicated to counter organised crime and its monetarisation in prisons. It has also commenced initiatives around disrupting supply of contraband and in countering mobile phones in prisons.

Some of this work has been stimulated by practices evolving across the European Union area including work done against the Mafia in Italy and against organised crime in Ireland.

These trans-European identified approaches broadly follow the following C-FIT model:

The model is based in inputs from agencies which are combined

through enabling activity and practice. The bringing together of agencies into a task-force approach and then putting the enablers in place created the best operational environment.

The formation of a multi-agency taskforce to is the only effective way investigate within the Custodial Financial environment. Each agency brings a set of investigative powers, specialised knowledge and legal competences that allow for the best maximised investigative practice. In speaking to professionals, they all acknowledge the skills that exist outside their specialisation and the utility of applying them within it. This is important in the context of a highly regulated custodial domain.

To enable that sharing of powers and information there needs to be legal agreements in place to comply with privacy restrictions and to ensure that secret and sensitive information can be shared effectively. These protocols need to indicate agreement and practice around utilising information, storing it, intra-agency sharing, external agency sharing and its legal purpose. In many of the countries assisted by the Global Facility the lack of legislation or protocol for information sharing has been a baseline inhibition for the effective sharing of financial intelligence and related criminal Intelligence.

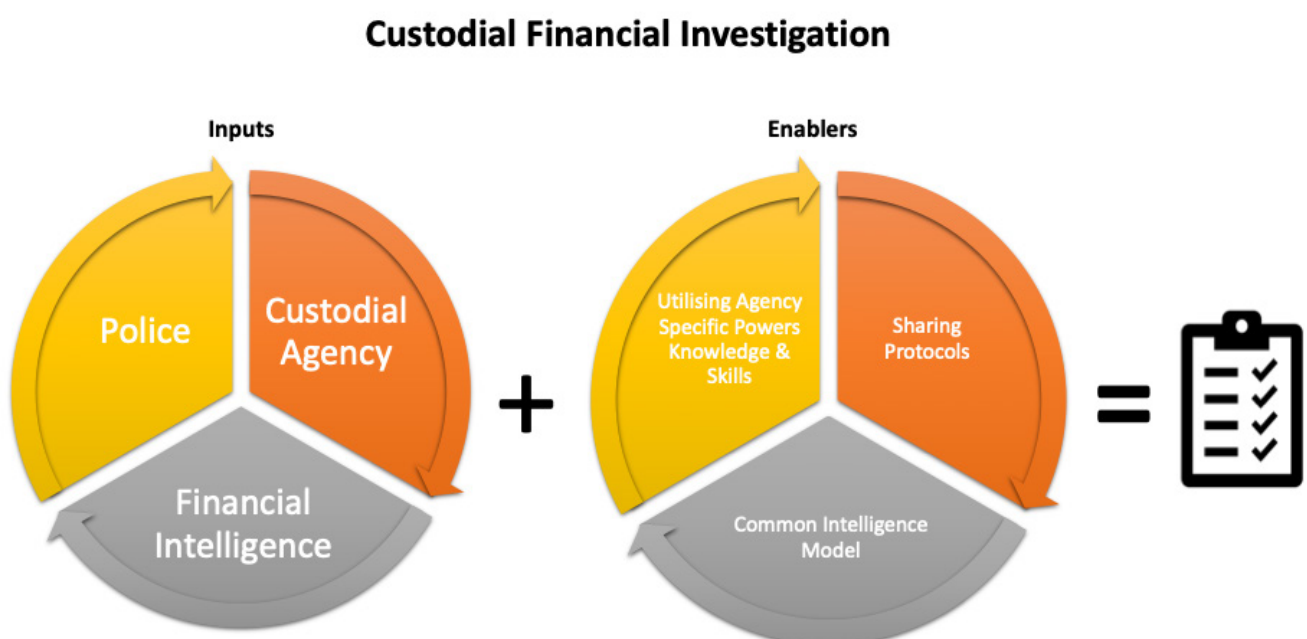


Figure 3 © 2022/EU Global Facility

Once the sharing protocols have been established then a common intelligence model can be introduced. This model will drive a common collection plan that supports the investigative needs of all the agencies within the Custodial Financial Investigation Taskforce (C-FIT). Each agency can then maximise their legal powers and operational opportunities to collect financially relevant information to enable joint investigations.

A key element in the C-FIT approach is to understand that this is not resource intensive. A C-FIT group need not be a full time role but can be made up of existing specialist investigators within agencies who liaise with each other on Custodial Financial Investigations. The SPOC principle is a great way to introduce effective inter-agency enquiry management and focussed information collection. A SPOC generally has a good knowledge of their own legal and operational environment, but also has a basic knowledge of other agencies with whom they liaise. This provides an excellent mechanism to quality assure investigative queries and to ensure that the volume of enquiry is managed at a level their liaison agency can manage.

To elevate from good practice to best practice it would be the view of the Global Facility that establishing a joint multiagency C-FIT unit should be the ultimate goal, however this must be balanced by the degree of financial risk and affordability that exists within any partner country.

## Developing and Understanding the Crime Business Model

As indicated in Part 1 the crime business model (Figure 1) shows how the illicit economy works. Figure 4. Below shows how the model can be countered using investigative techniques that enable effective financial investigation:

As with Figure 1. The Illicit Custodial Business Model is illustrated. However in this model the role of a multi-agency C-FIT is embedded. The current traditional focus of most Custodial and Law Enforcement Agencies is on the supply of contraband with the intent to disrupt or deny it to the Illicit Custodial Economy. However, with few exceptions the financial element of the illicit economy is often ignored or underutilised as an investigative opportunity.

The key linkage to the internal and external economy is Communication. Communication is an essential function of all economic actions and in the illicit economy that is no different. Orders for contraband for the internal illicit economy cannot be placed without communications, debts cannot be communicated, and the settlement of debt cannot be confirmed. In the external illicit economy' monetarisation of the debt also can't be effected without communications that are linked to transactions associated with debt settlement.

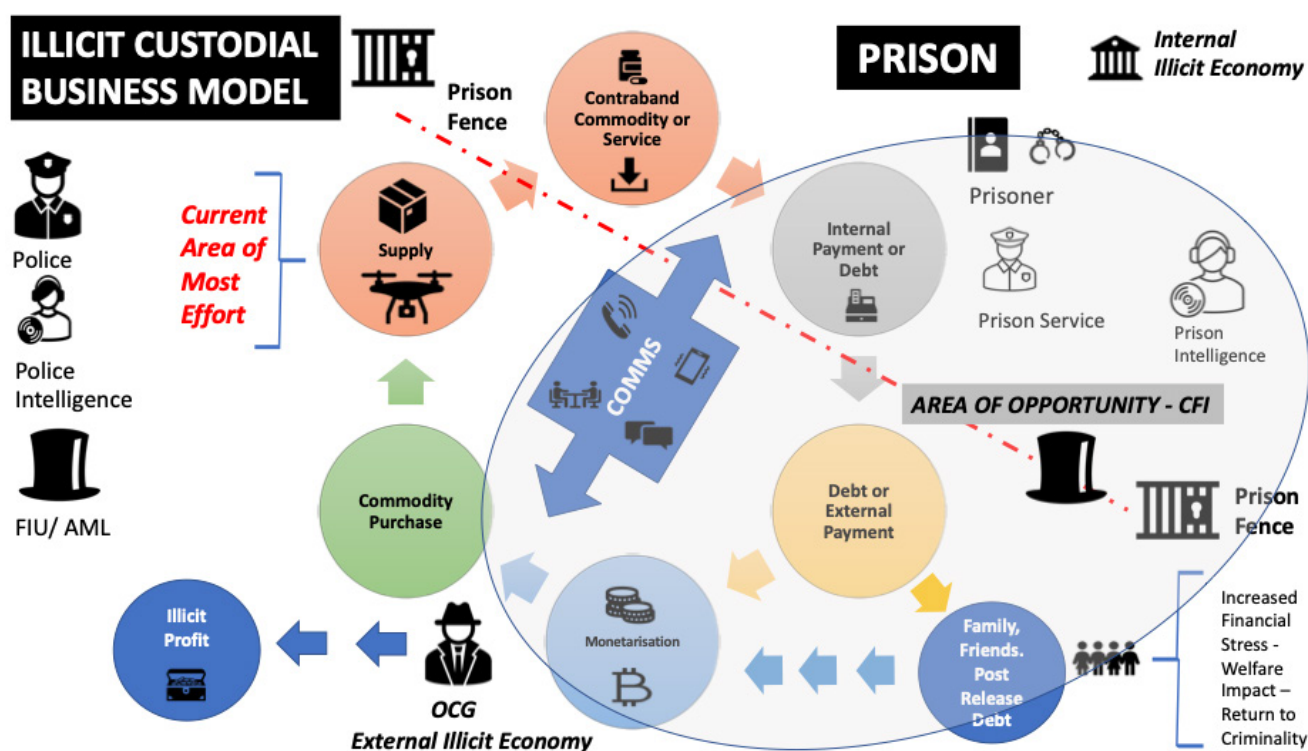


Figure 4 © 2022/EU Global Facility

Custodial Regimes restrict communications so the methods are both approved and unapproved. But whatever method is used communication intelligence is a key breakthrough point whether it be digital financial transactions from a hidden smartphone in prison or a communication passed to a family member during a visit. The key opportunity is to capture the communication and link it to financial transactions. The below Figure 5. Illustrates this.

Figure 5 illustrates how the internal and external illicit economies are linked through communication and indicated where the C-FIT Taskforce approach places the investigative actions. The keystone in this model is the opportunity to look at communications as an investigative tool and link it in a Custodial Financial Investigation chain from Order to Transaction to internal debt to external payment to laundering to monetisation. This opportunity is best managed in a joint C-FIT where custodial agents, police and financial specialist understand both sides of the prison fence and bring their skills and competence together. Intelligence led approaches through joint sharing arrangements and a common agreement on intelligence need is the enabler for the fullest financial investigation.

In dealing with the financial custody continuum illustrated in Figure 2. The communication issue is the same. Again the intelligence gain is achieved through understanding the internal illicit communication methods used and mapping communication activity and content to external financial activities and behaviours.

In dealing with TF and its utility for assisting in radicalisation or ideological reward it is important to evidence the processes and activities that show the radicalisation as it occurs. This may require a more sophisticated approach with assistance from intelligence agencies. However, the method is very similar. Map custodial events and observed behaviours against financial transactions and then review the legitimacy and functions of any supporting NGOs.

Custodial Institutions are a community that operate under different regimes than normal society, but they do provide an opportunity for intelligence gathering in a more closed and less dynamic environment. The C-FIT approach will work for this as well, perhaps with a different membership given the security context.

### Custodial Intelligence Units

It is important that and helpful from a Custodial Financial Investigation point of view that a SPOC Liaison process is established for Custodial Intelligence Units. UNDOC and EU doctrine advocate the establishment of these units to support the dynamic risk assessment of inmates and support the effort against organised criminality and terrorism within the prison wire.

It is essential that these units are briefed on the financial and investigative needs AND opportunities that their unique intelligence collection affords. There is no point in saying that we need to know about financial information from a prison if the financial investigator doesn't understand how it manifests in the illicit custodial economy, and equally if the receiving prison officer doesn't understand how the financial information can be utilised. That sharing and collaboration ensures the most effective opportunity for Custodial Financial Investigation.

As indicated the SPOC principle and practice is a great way to make this work. ■

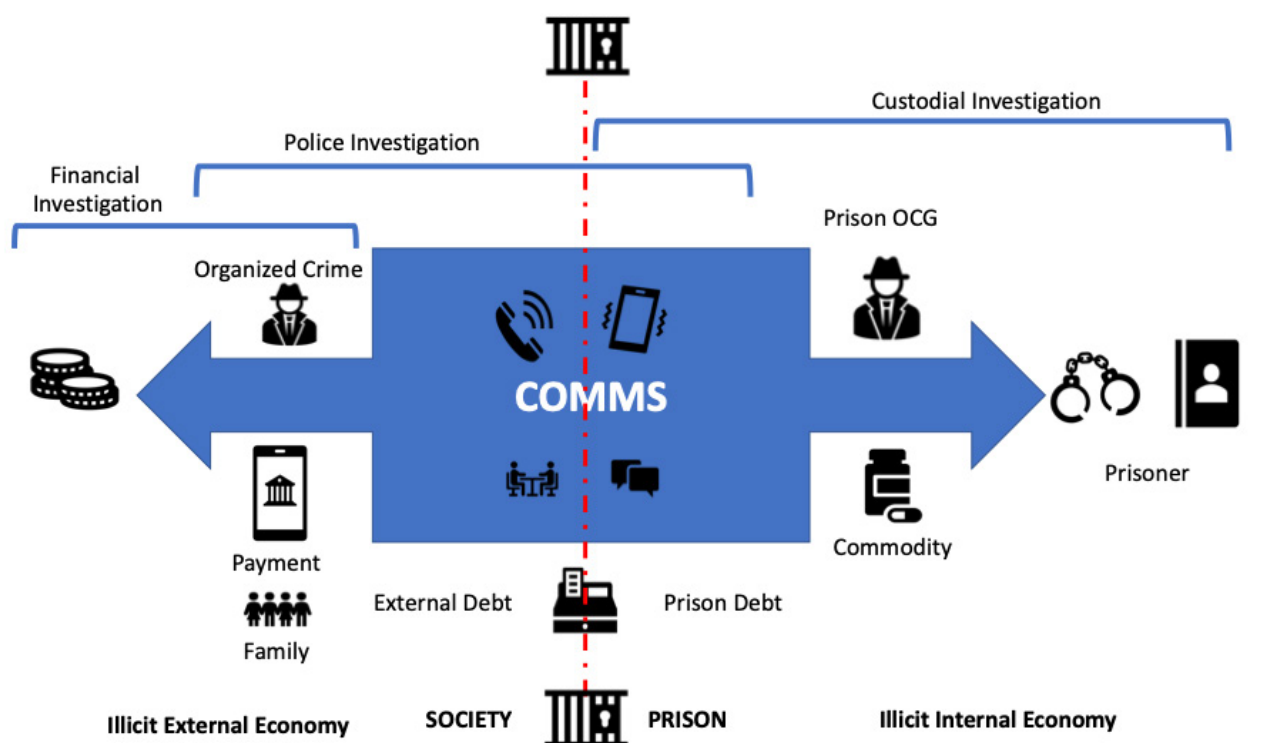


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# **3. ANSWERING THE QUESTIONS**

**RECOMMENDATIONS AND CONCLUSIONS**



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# 3. ANSWERING THE QUESTIONS

## ■ Recommendations and Conclusions

There were three exam questions set by the EU Global Facility Leadership:

- o How does the EU Global Facility enable the identification of the problem?
- o How do we, as a Global Facility, provide solutions to our partner countries to meet the problem?
- o What training will support those solutions?

### How does the EU AML/CFT Global Facility enable the identification of the problem?

The EU Global Facility, through this paper, can adopt the investigative models to aid partner countries identify and tackle the problem. The identification of the crime business model used in the Illicit Custodial Economy provides the basis for the advancement of Custodial Financial Investigation. However, the application of this model aims to identify and investigate the Illicit Custodial Financial activity, not to develop responses to other Custodial problems.

It has been previously agreed that webinars would be delivered on the Custodial Financial Investigation. The timing of a provisional webinar has been agreed, the agenda of which should be to overview the issue and articulate how the illicit custodial economy works along with the harms it presents. It is then suggested that a second webinar go ahead, subject to there being a business need being evidenced from the first webinar.

### How do we, as a EU Global Facility, provide solutions to our partner countries to meet the problem?

As part of the consultation model the EU Global Facility should advise on the adoption of intelligence, analytical and communication investigation skills that relate to financial behaviours and transactions associated with the Illicit Custodial Economy and its business models.

Engagement with experts indicate that there is a real chance that this financial risk exists in every custodial regime which should provide a basis for consultation through the EU GF Key Expert on Law Enforcement. A key part of the communication around the subject is to show the benefits of a managed approach to this issue and how it relates to the ML/TF environment.

There is also an option to develop a risk-based scoring model to indicate the in country harms that exist to assist with reducing the political and reputational risks.

### What training will support those solutions?

Following the literature review and research interviews with experts, it is suggested that there is a need to support the C-FIT model through training in the following areas:

- **Education on the Illicit Custodial Economy and its harm impacts on Prisoners and societies**

- **Education on the analysis required to develop local crime business models for Custodial Agencies and Institutions**

- **Education on Intelligence collection through intelligence led practices and operational methods including special investigative measures, communications and basic financial confidential informants**

- **Education on turning custodial Intelligence into evidence and financial intelligence into evidence for custodial discipline hearings**

- **Education on C-FIT approach and how information can be shared through local agreements and MoUs.**

The view of the expert is that some of the previous intelligence courses that exist are applicable to this context but need to be reduced and focussed onto custodial financial investigations and their place within financial criminality. New subject matter can be developed to support analysis in this context and also support the development of C-FIT models and the agreements required for a task-force based approach.

Future webinars and events should be multi-disciplined in nature without losing their focus on Custodial Financial Investigation.

To support this it is recommended that webinars and any future training be multi-agency events where the disciplines of Organised Crime Investigation, Counter Terrorism, Financial Investigation and Custodial Agencies are represented.

It is also recommended that there is a cross pollination between EU Global Facility experts dealing with Beneficial Ownership and asset control and identification within the financial sector. Their knowledge and input will be beneficial in developing training content that advises the C-FIT model.

## Conclusion

The research to date indicates that there is little academic interest in this area. Many governments have also not formally identified this as an area of risk, yet consulted practitioners indicated that the Illicit Custodial Economy was a problem everywhere. (Consultation included practitioners in the UK, Ireland, Australia, Canada and the USA with research illustrating identified risk in Sweden, Denmark and Italy).

The overwhelming view was that Custodial Institutions, Law Enforcement and Financial Investigators need to work more closely together and that this should be a C-FIT model taught to partner countries by the EU Global Facility. The supporting advice was to enable authorities to quantify, explain and engage with the risks and enable a capacity and capability to counter the Illicit Custodial Economies, Custodially relevant Terrorist Finance and Asset Identification for those in custody.



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