

Table of Contents

Introduction	7
Chapter I. The legal framework for mutual legal assistance	13
A. Legal bases for MLA in criminal matters	13
1. The traditional MLA tool – the letter rogatory	13
2. Bilateral treaties	14
3. Multi-lateral legal instruments.....	15
4. Domestic law	18
5. Coordination preceding an MLA request	18
B. Legal principles applicable to requests for MLA in criminal matters.....	19
1. Reciprocity.....	19
2. Dual criminality	20
3. Evidentiary standards.....	22
4. Limitations on use.....	23
5. Procedural requirements	23
6. Other grounds for refusal.....	24
Chapter II. Common MLA challenges in foreign bribery cases and potential solutions	25
A. Timeliness.....	25
1. Delays in the execution of an MLA request – a fundamental MLA problem with multiple causes	25
2. Ideas for ensuring timely responses to MLA.....	28
B. Insufficient or incomplete MLA requests or responses	36
1. Matching the MLA response to the MLA request.....	36
2. Ideas for ensuring that MLA responses respond to the requesting country’s needs.....	37
C. Lack of sufficient resources	39
1. The challenge of finding adequate resources and capacity to carry out or follow up on MLA requests.....	39
2. Ideas for the efficient use of resources	40
D. The dual criminality requirement.....	42
1. Satisfying the threshold requirement of dual criminality.....	42
2. Ideas for satisfying the dual criminality requirement	43

E.	The risk of “tipping off” a target.....	44
1.	The inherent problem of accidentally notifying a suspect when using official MLA channels.....	44
2.	Ideas for reducing the risk of tipping off a target	44
Chapter III.	Co-ordination of investigative efforts between multiple jurisdictions	47
A.	Cooperation and direct coordination between law enforcement authorities in different jurisdictions	48
B.	Conducting a single investigation in a multijurisdictional case – The JIT experience	51
1.	What is a JIT and how does it work?	51
2.	How to make the best use of a JIT, and challenges that may be faced	53
Chapter IV.	Other relevant mechanisms for international exchanges of information	57
A.	Exchange of tax information.....	57
1.	Legal bases for sharing tax information.....	59
2.	Best practices for sharing tax information	62
B.	Exchange of financial intelligence obtained by FIUs	62
1.	FIUs and applicable international standards	64
2.	Resources for the exchange of information between FIUs	65
3.	Preliminary freezing of assets by FIUs	67
C.	Exchanges through regulatory channels	68
1.	The IOSCO Multilateral Memorandum of Understanding	69
2.	Bilateral memoranda of understanding.....	71
3.	Ad hoc information sharing between securities regulators in different jurisdictions and between securities regulators and foreign law enforcement officials	72
4.	Informal information sharing by securities regulators	73
D.	Best practices for information exchanges and cooperation.....	73
<i>Annex 1.</i>	Case examples demonstrating MLA challenges, solutions and best practices	75
<i>Annex 2.</i>	Practical resources for MLA	89
<i>Annex 3.</i>	Central authorities	93
<i>Annex 4.</i>	Glossary of terms	105