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FINANCIAL INTELLIGENCE ANALYSIS UNIT
ANNUAL REPORT 2013

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FINANCIAL INTELLIGENCE ANALYSIS UNIT

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DEPUTY CHAIRMAN

Dr Anton Bartolo, LL.D.

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Dr Manfred Galdes, BA, LL.M. (Leic.), LL.D.

DIRECTOR

Dr Manfred Galdes, BA, LL.M. (Leic.), LL.D.



From left: Dr Manfred Galdes, Dr Anton Bartolo, Dr Peter Grech, Dr Bernadette Muscat and Mr Pierre Calleja

LETTER OF TRANSMITTAL TO THE MINISTER FOR FINANCE

Hon. Minister of Finance
30, Maison Demandols
South Street
Valletta VLT 1102

28 March 2014

Dear Minister

In accordance with Article 42(1) of the Prevention of Money Laundering Act, Cap 373 of the Laws of Malta, I have the honour to transmit a copy of the Annual Report on the operations of the Unit and a copy of the annual accounts certified by the auditors for the Unit's financial year ended 31 December, 2013.

Yours sincerely



Dr Peter Grech
Chairman

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ABBREVIATIONS

ACR	Annual compliance report
AML	Anti-money laundering
AML/CFT	Anti-money laundering and combating the financing of terrorism
CPMLTF	Committee on the Prevention of Money Laundering and Terrorist Financing
CSP	Corporate service provider
DNFBP	Designated non-financial business and profession
EC	European Commission
EGMLTF	Expert Group on Money Laundering and Terrorist Financing
EU	European Union
FATF	Financial Action Task Force
FIAU	Financial Intelligence Analysis Unit
FIU	Financial intelligence unit
JCPMLFT	Joint Committee for the Prevention of Money Laundering and Funding of Terrorism
LGA	Lotteries and Gaming Authority
MFSA	Malta Financial Services Authority
ML/FT	Money laundering and funding of terrorism
MLRO	Money laundering reporting officer
MONEYVAL	Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
MoU	Memorandum of Understanding
NRA	National Risk Assessment
PEP	Politically exposed person
PMLA	Prevention of Money Laundering Act
PMLFTR	Prevention of Money Laundering and Funding of Terrorism Regulations
STR	Suspicious transaction report

STATEMENT OF THE CHAIRMAN



The FIAU is a small public organisation probably unfamiliar to many members of the public who have no contact with the financial sector. It is however an organisation with a very important task both in assisting the regulation of the financial sector and in the fight against crime.

The role of the organisation is also of its very nature both a national and an international one, given that the concerns of the FIAU, namely the laundering of the proceeds of crime and the financing of terrorism, often occur in an international context.

The development of Malta's financial services industry mainly spanning over the last two decades has also given rise to a pressing need to put proper mechanisms in place in order to prevent the abuse of that industry, which has grown to contribute a very respectable percentage of Malta's gross domestic product.

The contribution of that industry to the country's competitiveness, skills base, economy and attractiveness is substantial but this also means that the sector requires strengthened structures that can ensure that it maintains a strictly legitimate course.

In such circumstances, the risks posed by the failure to implement proper safeguards are also high for the economy at large.

The FIAU is not the only organisation whose mission includes the fight against money-laundering and the funding of terrorism. Very important work in this area is also done by the Police, the Central Bank, the Malta Financial Services Authority and the Office of the Attorney General, among others.

The composition of the FIAU's Board of Governors, with representatives from these public organisations, in fact, reflects the need for proper co-ordination and maintenance of reliable statistics by all those organisations.

The FIAU's work and its effectiveness, as well as the extent of success of the country in preventing money laundering and terrorism financing through its financial system, is also the subject of a number of international monitoring and review procedures, which are carried out in international organisations.

The FIAU is a key player in these procedures, which also assist both the FIAU and the Government to maintain appropriate awareness of the demands of an effective financial regulation and financial intelligence system.

This report will demonstrate how the FIAU has strengthened its role during 2013 and aims to give a comprehensive account of the various domestic and international fields of activity in which the FIAU is involved to properly execute its task and its mission.

If I had to single out one field of activity, which has been developed during the last year, I would choose the National Risk Assessment project. This is an ambitious undertaking, arguably overdue, which involves practically all stakeholders in the financial sector and which aims to produce an essential and most valuable tool for the shaping of future policies and actions in the anti-money laundering landscape.

The FIAU is also committed, and has dedicated considerable resources, to the training of professionals working in the financial sector in keeping up to date and in developing the skills and awareness of the anti-money laundering demands of their daily occupation.

I should not conclude this statement without mentioning the current plans for the expansion of the FIAU and for the substantial increase in its monitoring, analytical and administrative capacity to enable it to meet the challenges of the coming years. These started being implemented in 2013.

The Ministry of Finance has fully supported the development plan underlying this expansion and, together with all the other major stakeholders in the industry, has emphasised its priority.

I hope that you will find the following report, presented for the first time in an eco-friendly digital format only, to be a readable, informative and thought provoking experience, as well as a detailed account of the FIAU's work and of other legal developments in the dynamic scenario in which the prevention of money laundering and of the financing of terrorism is sought.

Dr Peter Grech
Chairman

1. THE FINANCIAL INTELLIGENCE ANALYSIS UNIT

ESTABLISHMENT AND COMPOSITION

The FIAU was set up on 1 October, 2002, as a fully autonomous agency within the Ministry responsible for finance following the publication of Legal Notice 297 of 2002. This brought into force comprehensive amendments to the PMLA (Chapter 373 of the Laws of Malta), enacted by means of Act XXXI of 2001.

The FIAU is tasked with the collection, collation, processing, analysis and dissemination of information to combat ML/FT. It is also responsible for ensuring that subject persons are compliant with the provisions of the PMLA and the Regulations issued under the Act.

In line with the PMLA, the FIAU's policy is established by a Board of Governors and the Unit is headed by a Director, who is responsible for executing that policy.

Four operational sections within the Unit, which enable it to carry out its functions more effectively, are responsible for financial analysis, compliance monitoring, legal and international affairs, administration and IT.

FUNCTIONS

In accordance with Article 16 of the PMLA, the FIAU focuses on three key areas of responsibility:

1. Receiving and analysing information on transactions or activities suspected to involve ML/FT

Institutions and individuals having obligations under the PMLFTR are required to disclose information on any knowledge or suspicion of ML/FT to the FIAU within the timeframes set by law. When these disclosures are made, the FIAU's Financial Analysis Section examines them and if, following the collection of additional information from subject persons, public entities, other FIUs or any other person, it is established that there is a reasonable suspicion of ML/FT, an analysis report is submitted to the Police for investigation.

2. Exchanging information and co-operating with local and foreign supervisory authorities and with other FIUs

The FIAU exchanges information with local and foreign supervisory authorities and with other FIUs both spontaneously and on the basis of a request for information. To facilitate this exchange, the FIAU can enter into bilateral and multilateral MoUs with foreign FIUs, supervisory authorities and international organisations.

3. Oversight and monitoring of compliance by persons and institutions subject to the provisions of the PMLFTR

The FIAU carries out both on-site and off-site supervision on a risk-sensitive basis. Both the Unit's compliance officers and supervisory authorities acting on the FIAU's behalf carry out on-site examinations. Where shortcomings are identified, the FIAU informs subject persons of the time period within which remedial action must take place and determines whether the circumstances warrant the imposition of an administrative penalty or other sanction.

Other areas of responsibility

Apart from these three key areas of responsibility, the FIAU also:

- Gathers information on financial and commercial activities in Malta on an ongoing basis to detect areas of activity that may be vulnerable to ML/FT;
- Advises the Minister responsible for finance on all matters and issues related to the prevention, detection, investigation, prosecution and punishment of ML/FT;
- Monitors developments in methods, typologies and trends in ML/FT and provides guidance to subject persons;
- Compiles statistics and records, disseminates information and issues guidance and procedures for the implementation of the provisions of the PMLFTR;
- Promotes and provides training on matters related to the prevention of ML/FT;
- Advises and assists natural and legal persons to develop effective measures and programmes for the prevention of ML/FT;
- Participates in international fora, including the plenary and working group meetings of the Egmont Group and MONEYVAL, and the meetings of the EU-FIU Platform and the EU Committee on the Prevention of Money Laundering and Terrorist Financing; and
- Reports any suspicion of ML/FT to the Police, even where the knowledge of the suspicious activity arises otherwise than from a report filed in terms of the PMLFTR.

STRUCTURE OF THE ORGANISATION

The responsibilities for governance of the Financial Intelligence Analysis Unit are split between the Board of Governors and the Director:

The **Board of Governors** sets the FIAU's policy.

The FIAU's operations, which fall within the remit and responsibility of the Director, are carried out by four sections:

The **Financial Analysis Section**, which examines suspicious transaction reports and assesses the course of action that each report would require;

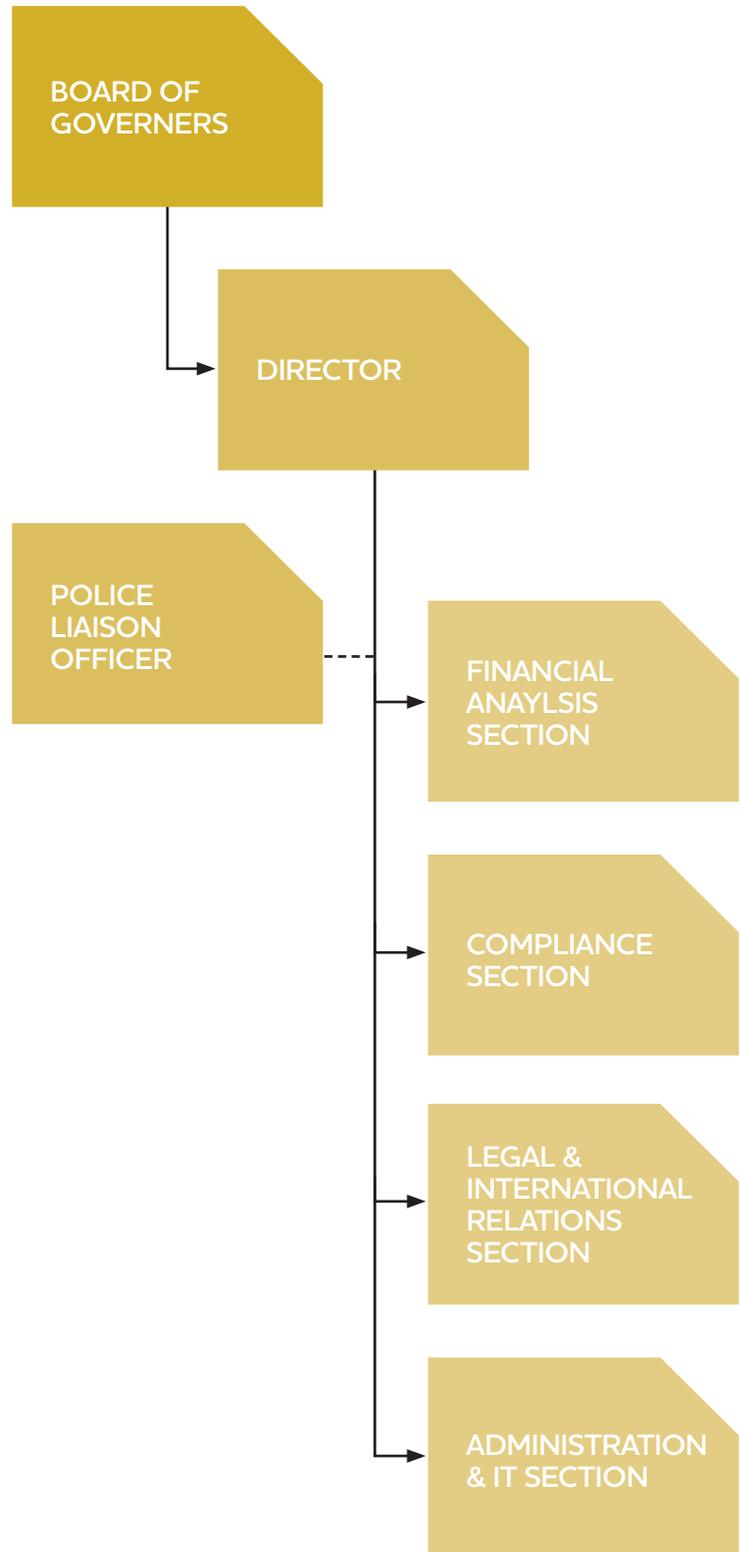
The **Compliance Section**, which ensures that subject persons conform with the provisions of the PMLA and the PMLFTR;

The **Legal & International Relations Section**, which is responsible for all legal matters and manages the relations with other FIUs and relations outside Malta; and

The **Administration & IT Section**, which handles the Unit's administrative, accounting and IT set-up.

Apart from executing the policies set by the Board of Governors, the Director also heads two internal committees, the Financial Analysis Committee and the Compliance Monitoring Committee and chairs the JCPMLFT.

The law also establishes the position of **Police Liaison Officer**, who is the Unit's direct contact within the Malta Police Force. This Officer makes police records available to the FIAU to help it in its work, and provides his assistance in the analysis and processing of STRs and other intelligence data.



2. OPERATIONS

FINANCIAL ANALYSIS

One of the FIAU's primary functions is to receive reports of transactions, attempted transactions, or activities that are suspected to be related to ML/FT.

These reports, often referred to as STRs, are dealt with by the Financial Analysis Section within the FIAU. Most STRs are submitted to the Unit electronically through the FIAU's online submission system. This system, which was launched during 2013 as part of the FIAU's redesigned website, allows MLROs to submit STRs and any supplementary documents electronically by uploading them on the website itself. In this way, STRs and additional documents are submitted directly on an FIAU designated server in a secure and protected manner.

Once the Unit receives an STR, it is reviewed and prioritised on the basis of information that is readily available to the Unit. An assessment is made at the early stages to determine whether the STR is indeed related to ML/FT, and therefore warrants further analysis; and to establish whether the STR is linked to other STRs or cases that are subject to or were previously subject to FIAU analysis.

During the review and prioritisation process, a preliminary plan on the course of action to be followed in relation to a new case is drawn up. Following the subsequent in-depth analysis of the case and all the information that may be collated, a preliminary report is presented to the Financial Analysis Committee. This internal committee is chaired by the Director of the FIAU and is composed of the Manager of the Financial Analysis Section, senior financial analysts, financial analysts and a legal officer. Once the facts of the case are reviewed by the Financial Analysis Committee, a determination is made as to whether a reasonable suspicion of money laundering or funding of terrorism subsists in terms of law.

If it is established that a reasonable suspicion of ML/FT does subsist, a comprehensive analytical report, together with all the relevant information, is forwarded to the Police for further investigation. It is important to note that the STRs themselves are not forwarded to the Police, even when an STR leads to the dissemination of an analytical report to the Police. Neither is any information on the identity of the person making the STR.

The procedure outlined above is also followed when the FIAU initiates a case on the basis of information that does not originate from an STR, but originates from other sources, such as spontaneous intelligence reports transmitted to the FIAU from foreign FIUs.

The FIAU also carries out periodical strategic analyses in relation to all STRs to try to identify any patterns, trends and typologies of ML/FT. The outcome of such analyses, together with other information available to the Unit, contributes to identifying any particular ML/FT threats and weaknesses to which the Maltese economy and the country's financial sector may be exposed. This type of analyses also enables the FIAU to provide generic feedback to subject persons and supervisory authorities where this is considered to be necessary.

The Financial Analysis Section is also responsible for drawing up and maintaining comprehensive statistical data covering the functions of the FIAU falling within the sphere of competence of the Section. A detailed review of the data is provided in the following section, together with information on the trends and typologies identified during 2013.

STATISTICS

During 2013 the FIAU received a total of 143 STRs from subject persons, one STR more than the previous year. In terms of cases, the 143 STRs resulted in 121 new cases, as compared to the 103 cases in 2012. Therefore, although the percentage increase in the number of STRs was negligible, the increase of 18 new cases over 2012 constitutes a significant 17 per cent increase.¹

The 143 STRs were received from twelve different categories of subject persons. The STRs were, in fact, made by the same categories of subject persons that filed STRs in 2012 except for casino licensees, which did not submit any STRs in 2013, and insurance licensees, which had filed no STRs in 2012 but then featured in 2013.

In addition to the 121 new cases, another 11 cases were initiated after the FIAU received information from various sources, including spontaneous information from foreign FIUs. Therefore, the number of new cases initiated during 2013 totalled 132.

¹ The difference between the number of STRs and the number of cases arises from the fact that certain cases refer to subjects in respect of whom more than one STR was received by the Unit. In fact, during 2013 the FIAU received 22 STRs that were made in respect of persons already subject to FIAU analysis, or who had already been subject to analysis and whose case had to be re-examined.

When considering that there were also 44² cases still outstanding as at 31 December, 2012 (40 from STRs and four from cases initiated by the FIAU), the total number of cases dealt with by the Unit during 2013 amounted to 176, an increase of four cases over the previous year.

Table 1 lists the number of STRs received from subject persons, the resulting number of cases originating from STRs, and the cases initiated by the

FIAU on the basis of other information.

Although the increase in the number of STRs over the previous year was minimal, this level of reporting is still considered to demonstrate an appreciable willingness among subject persons to report suspicious transactions, which is presumably attributable to the heightened awareness created by the continuous efforts of the FIAU to reach out and conduct awareness-raising seminars and workshops.

Table 1: STRs and cases (2006-2013)³

	2006	2007	2008	2009	2010	2011	2012	2013
STRs made by subject persons	78	63	69	63	73	107	142	143
Cases subject to analysis following STR submission	72	55	67	53	55	91	103	121
Cases subject to analysis on the basis of other information received by the FIAU	10	13	3	13	8	11	17	11
Total number of cases subject to analysis	82	68	70	66	63	102	120	132

² According to the FIAU Annual Report of 2012, the total number of cases still being dealt with at the end of 2012 amounted to 41. However, in view of a change in categorisation of some cases and the re-opening of closed cases following the receipt of new information, 44 cases were actually carried forward from 2012 to 2013.

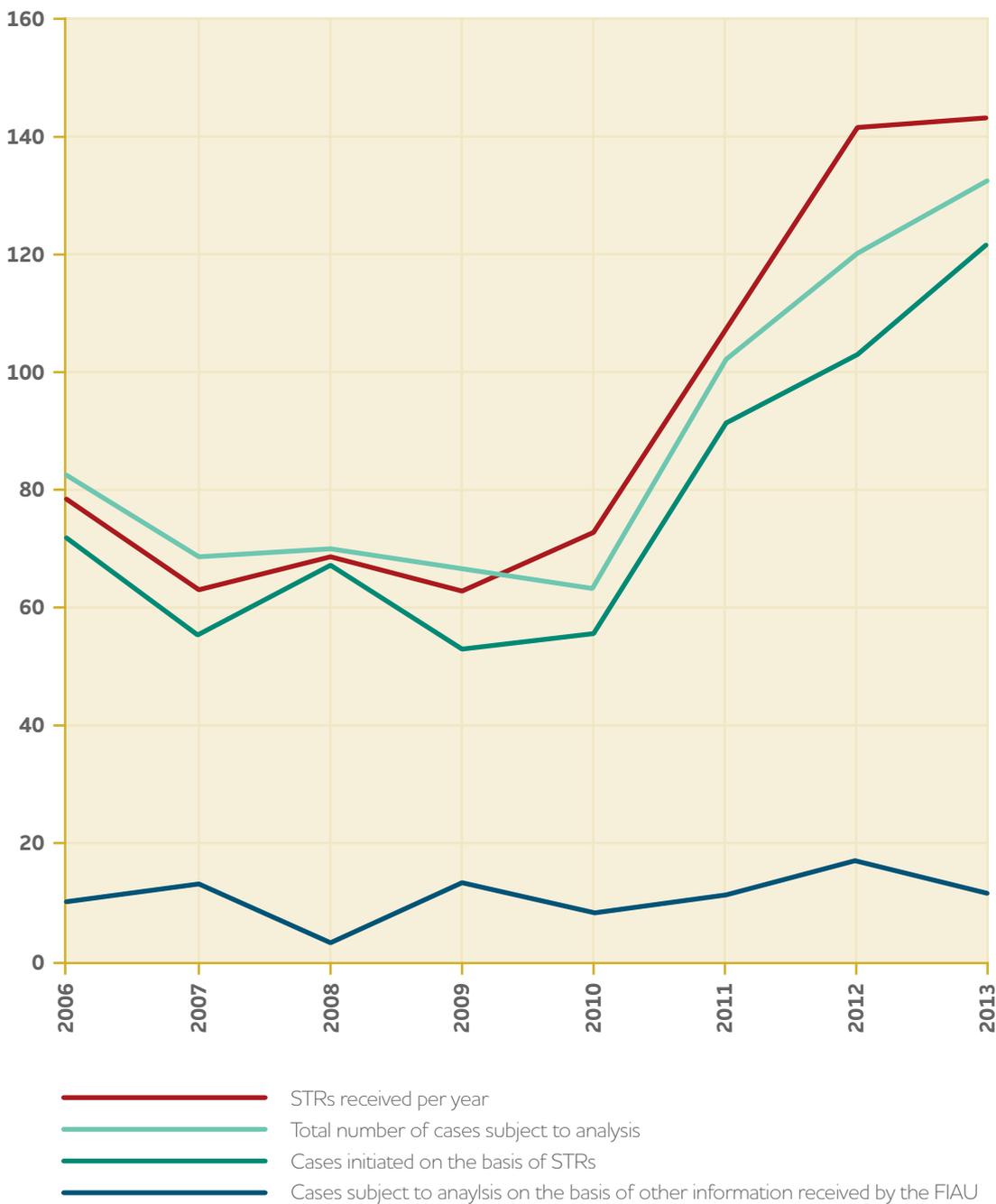
³ Data for the years prior to 2006 is available in previous FIAU Annual Reports.

From **Chart 1**, one may observe the marked increase in the number of new cases following STRs submitted by subject persons and cases that were subject to analysis on the basis of other information received by the FIAU. The exceptional growth registered in disclosures to the FIAU during 2011 and 2012

seems to have slowed down, yet the overall upward trend persisted during 2013.

The total number of STRs since the FIAU was established has, therefore, increased to 946 and the total number of cases has increased to 791.

Chart 1: STRs and cases (2006-2013)



The number of STRs that were considered to be unrelated to ML/FT and were therefore not subject to any analysis increased. Nonetheless, the STRs received during 2013 which were subject to analysis were still considered to be of high quality, with a number of disclosures providing extremely valid information both for the FIAU and eventually for law enforcement officers.

STRs by categories of subject persons

Table 2 lists the disclosures made by type of reporting entity in absolute numbers and as a percentage of the total number of STRs for the years 2006-2013.

Table 2: STRs filed by type of reporting entity in absolute numbers and as a percentage of the total number of STRs (2006-2013)

Type of reporting entity	2006		2007		2008		2009		2010		2011		2012		2013		TOTAL	
	No	%	No	%	No	%	No	%	No	%*								
Credit Institutions	42	54	39	62	44	64	26	41	38	52	26	24	58	41	66	46	339	46
Financial Institutions	13	17	11	17	13	19	6	10	4	5	6	6	12	8	8	6	73	10
Investment Services Licensees	-	-	2	3	-	-	3	5	2	3	8	7	3	2	10	7	28	4
Insurance Licensees	3	4	2	3	2	3	-	-	4	5	5	5	-	-	1	1	17	2
Supervisory Authorities	12	15	1	2	1	1	3	5	3	4	6	6	4	6	2	1	32	4
Independent Legal Professionals	-	-	1	2	1	1	3	5	3	4	1	1	3	2	8	6	20	3
Remote Gaming Companies	-	-	-	-	3	4	3	5	4	5	37	35	14	10	17	12	78	11
Casino Licensees	-	-	-	-	-	-	1	2	2	3	6	6	6	4	-	-	15	2
Trustees & Fiduciaries	5	6	2	3	3	4	2	3	4	5	6	6	13	9	7	5	42	6
Real Estate Agents	1	1	-	-	-	-	2	3	-	-	-	-	-	-	-	-	3	1
Accounting Professionals	2	3	4	6	-	-	4	6	3	4	1	1	5	4	3	2	22	3
Regulated Markets	-	-	1	2	-	-	3	5	-	-	-	-	1	1	1	1	6	1
Company Service Providers	-	-	-	-	2	3	3	5	5	7	5	5	18	13	15	10	48	7
Others	-	-	-	-	-	-	4	6	1	1	-	-	5	4	5	3	15	2
TOTAL	78	100	63	100	69	100	63	100	73	100	107	100	142	100	143	100	738	100

*Due to rounding up of figures, the percentages provided may not add up to 100%.

A pattern similar to that of the previous years was in fact noted, with credit institutions being the main category of subject persons that filed STRs during 2013, with 66 reports, constituting 46 per cent of all the reports received during the year. This is also an increase of five per cent over the 41 per cent filed during 2012. These figures continue to confirm the importance of vigilance among credit institutions and how vital it is for credit institutions to have adequate policies and procedures for the prevention of ML/FT.

This high level of reporting also confirms that the low number of reports by credit institutions observed during 2011, at 26 STRs, could not be considered to be a downward trend but was simply coincidental. The number of STRs submitted by credit institutions during 2013 is also the highest number of STRs ever received from a single category of subject persons since the setting up of the FIAU, and provides another indication of the increase in the level of awareness and vigilance following heightened supervisory action in this sector by the FIAU.

Most of the STRs received from credit institutions during 2013 were filed by core domestic banks,⁴ with 45 disclosures being made by this category of banks in comparison to 38 during 2012. All five core domestic banks made at least one disclosure of suspicious transactions during 2013 and the figure of total disclosures by core domestic banks represents 68 per cent (66 per cent in 2012) of the STRs filed by credit institutions. As in the case of 2012, the percentage of STRs filed by these five core domestic banks seems to be proportionate to the banks' share in the domestic market, with the two major banks accounting for the largest number of STRs, and a lower number of reports originating from the smaller banks.

STRs by non-core domestic banks amounted to 20 during 2013, one more than the corresponding figure for 2012. The 20 STRs were filed by five non-core domestic banks, and it should be noted that 13 of these STRs were received from one single bank. This relatively large figure for STRs received from one bank is likely to have arisen in view of the broad international dimension of the bank's client base. From these 20 STRs, two involved persons of Maltese nationality while 13 disclosures were related to foreign individuals. The other cases involved both Maltese and foreign persons. On the other hand, only one STR was made by banks categorised as international banks.

The second largest number of STRs filed during 2013 relates to STRs by remote gaming companies, with

17 disclosures, making up 12 per cent of all STRs received during 2013. Although this figure represents an appreciable number of disclosures, it is less than half the exceptional number of STRs filed by the same category of subject persons during 2011 and a two per cent increase over 2012. While the number of STRs filed by remote gaming companies during 2011 was exceptionally high and its effects on the STRs' statistical records were exacerbated by one of the lowest levels of reports made by credit institutions, the increase in the number of STRs during 2013 is deemed to be connected to the overall growth of the remote gaming industry rather than to excessive reporting by any single company, defensive reporting or some other unusual event.

Casino licensees, on the other hand, did not make any disclosures during 2013. This development is considered to be unusual when the figure of six STRs in 2012 is taken into account and when one considers that since 2009 this is the first time that this category of subject persons did not file any STRs.

The third largest number of STR submissions during 2013 is that relating to reports originating from CSPs, even though a decrease of three STRs was registered when compared to 2012. This decline is not of particular concern since the general trend over the past years has been positive. It is, in fact, anticipated that the filing of STRs by this category of subject persons will continue to increase over the coming years as the extent of regulation will increase and vigilance within this sector will continue to be given priority.

The number of disclosures by trustees and fiduciaries also decreased from 13 STRs in 2012 to seven STRs in 2013. No particular reason was identified that could explain this difference.

STRs by investment services licence holders have once again increased to the levels registered in 2011, with 10 STRs being filed in 2013. This figure represents an increase of seven STRs (+5%) over 2012. Other increases were noted in the number of disclosures made by independent legal professionals and insurance licence holders.

A decrease was registered in the number of STRs filed by financial institutions, supervisory authorities and accounting professionals. The filing of STRs by regulated markets remained at the same level as 2012, and once again a worrying factor was the absence of any reports by real estate agents, who have failed to file any STR for the fourth consecutive year.

⁴ Categorisation according to Central Bank of Malta Financial Stability Review 2011, p 47; http://www.centralbankmalta.org/updates/Downloads/pdfs/FSR_2011.pdf.

Persons in respect of whom disclosures were made

A total of 323 natural and legal persons were the subjects of the 132 new cases that the FIAU dealt with during 2013. Records show that 73 per cent of these were natural persons and the remaining 27 per cent were legal entities. Of the 323 persons subject to analysis, 34 per cent were Maltese nationals and companies registered in Malta.

Approximately 60 per cent of the natural persons who were the subjects of a report were nationals of European Union member states, while approximately 70 per cent of the legal entities reported to the FIAU were entities registered in EU member states.

At least one foreign natural person or legal entity was involved in 78 per cent of the cases analysed by the FIAU, a figure that is very close to the equivalent figure for 2012, which stood at 74 per cent. These figures demonstrate the strong international element present in the cases analysed by the FIAU, which is in line with what one would expect to see in a country having a proportionately large financial services sector.

The legal and natural persons of foreign nationality featuring in the new cases subjected to analysis by the FIAU during 2013 are citizens of 50 different countries, 41 per cent of which are EU member states. The nationalities that feature more prominently are the countries that have long standing historical and commercial ties with Malta, such as Italy and the United Kingdom. Indeed, 27 natural or legal persons having either Italian nationality or having been registered in Italy and 20 natural or legal persons, which are either nationals of or incorporated in the United Kingdom were subject to analysis. A clear link to these two states is also evidenced further on in this report in the section dealing with international co-operation.

Requests for information

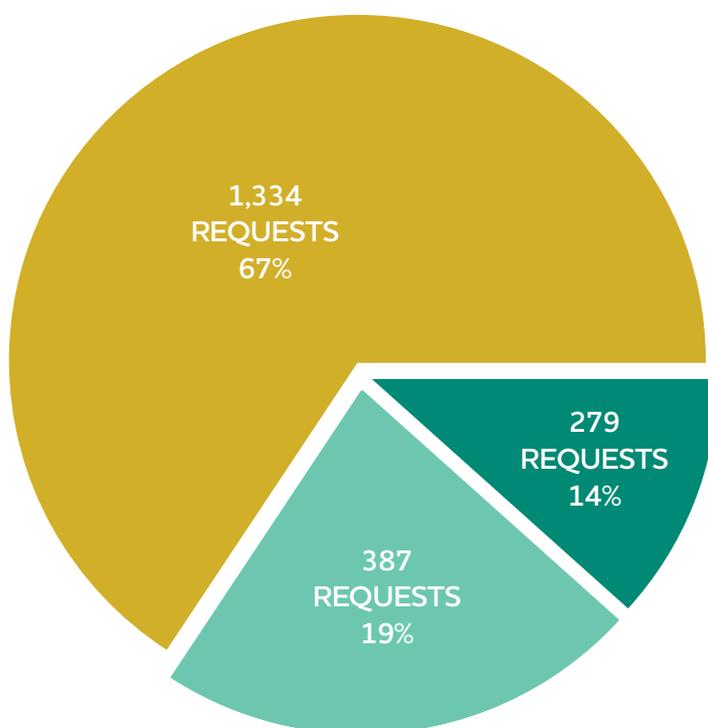
During 2013, the FIAU made 2,000 requests for information to 251 entities in total, including persons subject to the PMLFTR, the Police, supervisory authorities, foreign FIUs, Government departments, agencies and ministries.

These requests were made in cases where the FIAU was in receipt of an STR, where the FIAU carried out an analysis on the basis of other information available to it and where the Unit received an international

request for information from a foreign FIU in respect of which information needed to be sought from other persons or entities.

In 2013, the FIAU made 570 fewer requests than it made in the previous year. The diagram in **Chart 2** reveals that two-thirds of these requests for information were made following the receipt of an STR. The requests for information made in the course of analyses carried out independently of the receipt of an STR amounted to 387 and accounted for 19 per cent of the total requests made during 2013, while the number of requests for information made following the receipt of international requests for information during 2013 amounted to 279 (14 per cent). This latter figure amounts to 182 requests more than the equivalent figure for 2012, and reflects the fact that the FIAU received 28 per cent more requests from FIUs in 2013 than in 2012.

Chart 2: Requests for information made by the FIAU by type of initial disclosure (2013)



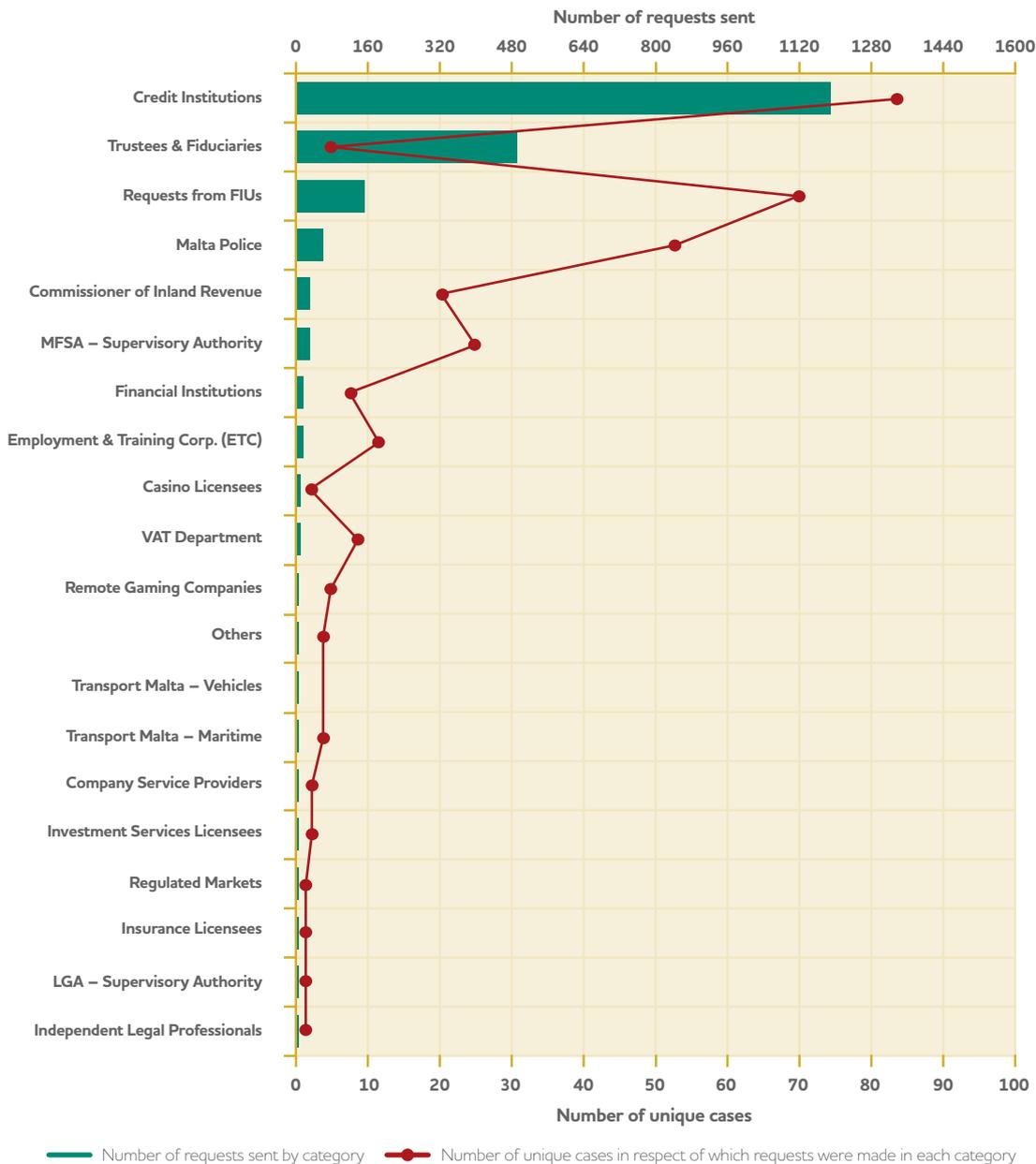
- Requests following an international request for information
- Requests in the course of analyses carried out independently of the receipt of STRs
- Requests following STRs received by the FIAU

It is evident that the reduction in the number of requests made by the FIAU in 2013 was mainly recorded in cases initiated following the submission of an STR, and the reduction is therefore mainly attributable to the increase in the number of STRs received which were classified as being unrelated to ML/FT and were therefore not subjected to analysis.

Credit institutions licensed under Maltese law and foreign FIUs were the main entities from which

information was sought by the FIAU. Indeed, more than half of the requests for information made by the FIAU during 2013 were made to credit institutions. These were made in connection with 84 separate cases and/or international requests for information from foreign FIUs which sought the assistance of the FIAU in collating information in relation to a ML/FT investigation. Requests for information made to other FIUs during 2013 amounted to 152 and these were made in relation to 69 separate cases.

Chart 3: Number of requests for information made and number of unique cases in respect of which the requests were made – per category (2013)



Outcome of analyses

During 2013, 176 cases were dealt with by the Financial Analysis Section of the Unit, some of which had been carried forward from 2012. Forty-four cases⁵ were in fact carried forward from 2012, 121 cases were opened by the FIAU during 2013 following the receipt of an STR and a further 11 cases were initiated by the Unit on the basis of other intelligence.

The analyses in relation to 122 cases out of the 176 cases were concluded by the end of the year, with the remaining 54 cases still undergoing analysis. Twenty-four per cent of the concluded cases were referred to the Police for investigation and in 49 per cent of the cases it was determined that a reasonable suspicion of ML/FT did not subsist. A further 27 per cent (33 of the cases concluded by the Unit in 2013), most of which originated from reports on transactions or activities related to fraud and scams, were considered to be unrelated to ML/FT following a *prima facie* review.

Almost a third of these cases originated from reports by remote gaming companies while seven of these cases stemmed from reports by credit institutions, another five from reports by investment services

licensees and three by company service providers. It was also noted that five of these 33 cases derived from STRs made by reporting entities that had never filed an STR before.

The number of cases that were determined to be unrelated to ML/FT after a *prima facie* review was the highest ever. Part of this increase may be attributed to the larger number of cases the FIAU dealt with during the year. This phenomenon may also be attributable to the increased supervision by the FIAU which may have indirectly given rise to an increase in defensive reporting and premature reporting.

Reports received from credit institutions continued to be the primary source of STRs that result in cases being referred to the Police for further investigation. From the 29 cases forwarded to the Police during 2013, 12 were triggered by STRs received from credit institutions. Four cases originated from reports from CSPs and another four cases were generated by the Unit on the basis of intelligence it received independently of any STR. The remaining cases referred to the Police were triggered by reports from different categories of subject persons, including trustees and fiduciaries, accounting professionals, independent legal professionals, remote gaming companies and financial institutions.

Table 3: Outcome of STRs and cases (2006-2013)

Outcome of STRs and cases where the STR was received from subject persons: 2006-2013

	2006		2007		2008		2009		2010		2011		2012		2013	
	STRs	Cases														
Referred to Police for investigation	24	21	24	22	41	39	20	16	34	19	25	18	45	23	47	25
No reasonable suspicion of ML/FT – no further action	36	34	26	25	30	29	21	20	40	37	69	61	102	87	55	54
Report unrelated to ML/FT – no analysis carried out	1	1	4	4	2	2	-	-	-	-	-	-	6	4	33	33
Ongoing analysis	23	21	30	27	27	25	48	41	47	39	60	51	49	40	57	49

5 Vide footnote 2.

Outcome of STRs and cases where analysis was based on other information received by FIAU: 2006-2013

	2006		2007		2008		2009		2010		2011		2012		2013	
	STRs	Cases														
Referred to Police for investigation	4	4	2	2	2	2	2	2	4	4	1	1	3	3	4	4
No reasonable suspicion of ML/FT – no further action	7	7	5	5	6	6	3	3	8	8	11	11	11	11	6	6
Report unrelated to ML/FT – no analysis carried out	-	-	-	-	-	-	-	-	-	-	1	1	2	2	-	-
Ongoing analysis	-	-	6	6	1	1	9	9	5	5	3	3	4	4	5	5

Outcome of all STRs and cases: 2006-2013

	2006		2007		2008		2009		2010		2011		2012		2013	
	STRs	Cases														
Referred to Police for investigation	28	25	26	24	43	41	22	18	38	23	26	19	48	26	51	29
No reasonable suspicion of ML/FT – no further action	43	41	31	30	36	35	24	23	48	45	79	71	113	98	61	60
Report unrelated to ML/FT – no analysis carried out	1	1	4	4	2	2	-	-	-	-	1	1	8	6	33	33
Ongoing analysis	23	21	36	33	28	26	57	50	52	44	63	54	53	44	62	54

Suspected predicate offence

Table 4 lists the number of cases referred to the Police every year since 2006 identifying the suspected predicate offence, where this was identifiable to the FIAU.

Fraud continued to be the suspected predicate offence behind most of the cases referred to the Police for investigation in 2013, accounting for over a third of the 29 cases sent. Several different types of

suspicious fraudulent activity were identified in these cases, including boiler room fraud, VAT carousel fraud, credit card fraud, investment fraud and telemarketing fraud. There was no other prevailing suspected underlying offence in the 2013 cases that were subject to the transmission of a report to the Police.

In six cases referred to the Police the suspected underlying offence could not be determined, even though the basis of a reasonable suspicion of ML/FT was in fact established.

Table 4: Suspected predicate offences in cases referred to the Police on suspicion of ML/FT (2006-2013)

Suspected Predicate Offence	2006	2007	2008	2009	2010	2011	2012	2013	TOTAL	% OF TOTAL*
Drug Trafficking	4	5	7	1	2	1	1	-	21	11
Fraud	2	1	-	5	6	3	13	10	40	21
Forgery	3	-	-	-	-	-	-	-	3	2
Usury	5	1	4	-	-	1	-	-	11	6
Undeclared Income	-	-	4	-	1	2	1	2	10	5
Unlicensed Financial Services	-	3	3	-	3	-	-	1	10	5
Organised Crime	-	2	2	1	1	1	1	2	10	5
Human Trafficking	-	1	2	-	-	-	-	-	3	2
Theft	-	-	-	-	-	2	-	-	2	1
Illegal Gambling	2	-	1	-	-	-	1	1	5	3
Identity Theft	2	1	-	-	-	-	-	-	3	2
Living off the earnings of Prostitution	2	-	-	1	-	-	-	-	3	2
Phishing	-	1	-	-	-	-	-	-	1	1
Corruption	-	-	-	-	1	4	4	2	11	6
Unknown	1	6	16	7	4	4	4	6	48	25
Misappropriation	-	-	-	-	-	-	-	1	1	1
Embezzlement	-	-	-	-	-	-	1	2	3	2
Contraband	-	-	-	-	-	-	-	2	2	1
TOTAL	21	21	39	15	18	18	26	29	187	98
Funding of Terrorism	-	1	-	1	1	-	-	-	3	2
GRAND TOTAL	21	22	39	16	19	18	26	29	190	100

*Due to rounding up of figures, the percentages provided may not add up to 100%.

Typologies and trends

The predominant typologies observed in the cases analysed by the FIAU and forwarded to the Police during 2013 were undoubtedly the incorporation of companies in Malta by foreign nationals and the use of credit institutions licensed under the Banking Act by foreign nationals as a vehicle to launder the proceeds of criminal funds generated outside Malta. As to trends,

the main trend observed during the year was that most cases referred to the Police for investigation involved the use of a company registered in Malta having at least one non-resident foreign beneficial owner.

Once again, the use of Maltese bank accounts and international wire transfers featured in the vast majority of the cases reviewed by the FIAU. In some cases, the subjects availed themselves of the services

of Maltese professionals and service providers. In these cases these entities were suspected of having been used unknowingly and unwittingly to launder criminal funds.

As observed in 2012, the use of companies licensed by the LGA to operate in the remote gaming sector also featured in a number of cases referred to the Police for investigation. Similarly, companies licensed or authorised by the MFSA to provide services were identified as having potentially been used to disguise the origin of criminal proceeds.

The use of Maltese companies and Maltese bank accounts to launder criminal proceeds generated abroad

Several cases dealt with in 2013 involved the suspicion of the use of Maltese company structures and bank accounts to a varying degree, mainly by foreign nationals, to launder the proceeds of a number of different crimes committed in other jurisdictions.

The *modus operandi* observed in eight of the cases referred to the Police in 2013 followed a specific sequence – one or more non-resident foreign national setting up Maltese companies, the opening of a bank account with a Maltese credit institution in the name of the companies, the receipt of substantial funds from bank accounts in foreign jurisdictions and the subsequent transfer of these funds to other foreign bank accounts.

In these scenarios, it was noted that the Maltese companies would form part of a larger multi-national company structure intentionally set up to layer the proceeds of crime generated in foreign jurisdictions. In a number of cases it was established that the foreign nationals had availed themselves of the services of CSPs that would have assisted them in the incorporation of the companies. In most cases, the CSP would also provide registered address services and directorship and/or company secretariat services. Some cases also featured the use of trustees and fiduciaries licensed under the Trusts and Trustees Act.

The FIAU analysis in these cases was initiated either upon the receipt of intelligence from a foreign FIU which would have identified the link to Malta during the course of an analysis or investigation that it was carrying out, or upon the receipt of an STR from a reporting entity that would have identified a suspicion of ML.

The red flags indicators that gave rise to the reporting of suspicious transactions and/or activity in these cases varied from case to case. The following are the main causes of suspicion identified:

- the pattern of the transactions taking place through the accounts appeared to be incongruent with the declared intended purpose and activity of the company;
- adverse information through open sources, including media articles and public warnings, on the subjects involved in the companies and/or one of the beneficiaries or remitters, being revealed during the customer due diligence or ongoing monitoring processes;
- transfers of funds to or from companies registered in offshore jurisdictions that appeared to be shell companies;
- discrepancies between the bank account transactions and the contents of supporting documentation presented to the bank;
- the presentation of invoices or other supporting documentation that appeared to be false;
- the forgery of signatures on contracts; and
- the failure to provide explanations and general lack of co-operation by the customers.

The use of Maltese companies and Maltese bank accounts to carry out fraudulent schemes and to subsequently launder the proceeds

Three separate cases involved a very similar typology where Maltese companies were set up by foreign nationals who opened bank accounts in the name of the companies with Maltese credit institutions. These companies and the bank accounts were then used to carry out fraudulent schemes internationally. The proceeds of the scheme were thought to have been laundered through the same structures.

In one of the cases, a Maltese bank received claims from foreign remitting banks to return the funds remitted since fraudulent activity had been identified. The analysis of the Maltese companies' bank accounts revealed that the transactions that were being carried out were in fact inconsistent with the declared intended activities of the companies.

Intelligence obtained from the FIAU's counterparts in another case provided substantial indications that the Maltese companies and bank accounts had been used to defraud hundreds of individuals in foreign countries and to subsequently launder the illicit proceeds.

Both these cases involved widespread fraudulent schemes operated by foreign nationals residing outside Malta which involved several victims, all of which were remitting relatively small sums of money from different countries to bank accounts in Malta held in the name of Maltese companies that were beneficially owned by the foreign nationals.

In the third case, the victim of the fraud was a foreign company that was allegedly defrauded by foreign nationals through dealings carried out through a Maltese company.

The use of Maltese bank accounts to carry out unlicensed activities and the subsequent laundering of the proceeds

Another typology identified in 2013 was the use of Maltese bank accounts by Maltese nationals to carry out licensable activities without the required authorisation from the competent authorities.

Cases involved the suspicion of the laundering of profits of illegal gambling through cash deposits in a bank account followed by substantial wire transfers to online gaming companies registered outside Malta. The FIAU also referred cases to the Police involving the deposit of large numbers of cheques in bank accounts over a protracted period of time which were incompatible with the type of business or occupation of the person making the deposits.

The use of substantial amounts of cash

Three cases forwarded to the Police in 2013 involved the use of substantial amounts of funds in cash suspected to be the proceeds of crime due to the different circumstances and persons involved in each case. In these cases, which differed from each other both in terms of nature and volume, a number of interesting features were identified. The FIAU noted the existence of cases involving the use of substantial sums of money in cash for the purchase of luxury items by individuals having a history of proceeds-generating convictions, the use of potentially forged withdrawal vouchers to substantiate cash deposits, multiple deposits on the same day at different banks and unreasonable explanations on the source of the funds upon deposits being made.

The use of false documentation

Once again, several cases subject to FIAU analysis in 2013 involved the use of forged documentation and false invoices being produced by companies to provide documentary evidence in support of wire transfers. Fictitious back-to-back agreements entered into merely to support very large transfers between companies in

different jurisdictions also featured prominently in the cases reviewed.

The FIAU also examined the attempt to transfer funds of a foreign PEP by a non-EU bank through a correspondent banking relationship held with a Maltese bank. The suspicious transaction, which was supported by an invoice that did not appear to be genuine, was very similar to several other cases identified in previous years where high profile PEPs in African countries attempted to carry out suspicious transfers through banks in their country that in turn used corresponding banking relationships with banks in Malta.

The use of remote gaming accounts

A number of cases involved the use of remote gaming accounts held with remote gaming companies licensed in Malta to launder the proceeds of crime. Cases varied from the use of prepaid cards to deposit potentially illicit funds in the remote gaming accounts with eventual withdrawal taking place through bank accounts, to the attempt to transfer funds held in the account to other persons, thereby transferring the ownership of the proceeds of the criminal activity. Cases of this nature invariably involve foreign nationals.

The use of Maltese entities and licensed financial institutions to disguise the origin of funds

The cases analysed during 2013 once again revealed that it is not uncommon for the services of licensed financial institutions, trustees, fiduciaries and company service providers to be used to assist in disguising the origin of illicit funds, in particular to distance the subjects from the ownership of the funds and to give a false appearance of legitimacy.

INTERNATIONAL CO-OPERATION

International co-operation between the FIAU and foreign FIUs is crucial in the effective combating of ML/FT. This is especially so within the context of Malta's efforts at positioning itself as a financial services centre and a hub for remote gaming. It is, in fact, essential that exchange of information is encouraged because several cases subjected to FIAU analysis have an international element, ranging from the non-resident shareholding in companies to the transfer of funds through Maltese bank accounts or the access to services provided by Maltese subject persons.

Financial and law enforcement information is sought from foreign FIUs regularly in order to support analyses

being carried out within the FIAU. Naturally, the FIAU is also engaged in the provision of information to its foreign counterparts to assist them in their work in relation to cases of suspected ML/FT that may have direct or indirect connections with Malta or Maltese natural or legal persons.

Exchange of information among FIUs that are members of the Egmont Group is governed by the Egmont Group Principles for Information Exchange between Financial Intelligence Units. Under the PMLA, the FIAU is empowered to exchange information both when a request is received from a foreign counterpart but also on its own motion. In fact, during 2013 information was transmitted to foreign FIUs spontaneously in eight different cases. In its turn, the FIAU received 12 spontaneous information reports from its foreign counterparts.

Under Maltese law it is not a pre-requisite for an MoU to have been entered into with a foreign counterpart for the exchange of information to take place with that FIU, as is the case with several other FIUs. However, since the national legislation regulating the affairs of a number of other jurisdictions may in fact include such a condition, the FIAU has over the years entered into a number of bilateral agreements regulating the exchange of information. During the year under review, two MoUs were concluded with the Japan Financial Intelligence Centre (JAFIC) and the Tunisian Financial Analysis Committee (TFAC), bringing the total number of MoUs entered into by the FIAU with other FIUs up to 11.

Requests for assistance and co-operation

The FIAU made fewer international requests for assistance to its foreign counterparts during 2013 as compared to 2012. However the figure was still above the number of requests made in the preceding years. During 2013 the FIAU made 152 requests in relation to 69 cases, while the equivalent figures for 2012 were 179 requests in 75 cases.

There was an increase in the number of requests for information received by the FIAU during 2013 over the previous 12 months. Records show that during 2013, the FIAU received 96 requests for assistance from foreign FIUs in comparison to 74 in 2012. This is a 30 per cent increase over 2012 and is almost at par with the number of requests received by the FIAU in 2011 (97 requests).

The figures provided in **Table 5** give a statistical overview of the requests for information made and requests made to the FIAU for the period between 2006 and 2013. The table also provides the percentage difference between requests made by the FIAU and requests made to the FIAU. These figures clearly show that in the past three years the number of requests for information made to the FIAU has practically doubled when compared to the figures available for the previous three years, indicating that the number of cases being dealt with by foreign FIUs that have a link with Maltese individuals, financial institutions, companies or legal entities is on the increase.

Table 5: Requests for co-operation and assistance (2006-2013)

Year	Number of requests received by the FIAU	Number of requests made by the FIAU	Percentage difference between requests made by the FIAU and requests made to the FIAU
2006	23	43	87%
2007	29	29	0%
2008	44	28	-36%
2009	46	83	80%
2010	45	75	67%
2011	97	142	46%
2012	74	179	142%
2013	96	152	58%
TOTAL	454	731	61%

The graph contained in **Chart 4** provides a graphic representation of the information contained in **Table 5**.

As in previous years, the FIAU carried out an exercise to establish the time it took to respond to requests for assistance received from foreign FIUs and also the time taken by foreign FIUs to reply to requests made by the FIAU.

The information contained in **Tables 6 and 7** and in **Chart 5** is based on the data available relating to

requests received and made by the FIAU that were finalised by 31 December, 2013.

Of the 96 requests for assistance received by the FIAU from foreign FIUs during 2013, only one request was outstanding as at the end of 2013. This request was received in December 2013 and was replied to in January 2014. As may be noted from **Table 6**, more than 77 per cent of the requests received by the FIAU are replied to within five working days.

Chart 4: Comparative analysis of requests received and requests made by the FIAU (2006-2013)

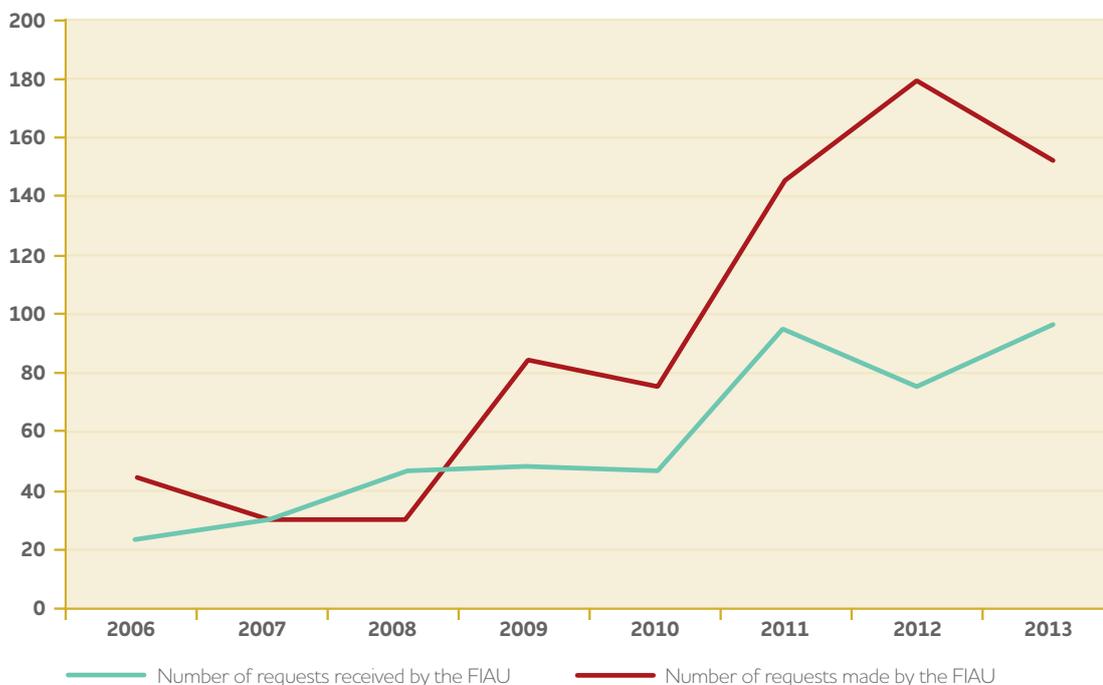


Table 6: Timeliness of responses by the FIAU to requests for assistance received from foreign FIUs (2013)

Range of working days taken for the FIAU to reply	Number of requests replied to within the specified range*	Percentage of requests replied to within the specified range
1	22	23
2-5	52	55
6-10	16	17
11-15	2	2
16-20	1	1
21-25	-	-
26-30	2	2

*The figures refer to requests in respect of which a response was provided by the FIAU. The figures do not include requests pending at the end of 2013.

The remaining 23 per cent of requests received by the FIAU were replied to within a timeframe of between six and 30 working days. Since certain requests for information require a certain degree of review and, at times, a detailed analysis of the information obtained from third parties needs to be carried out before responding, delays of up to one month are normal and acceptable.

International standards, in particular the Egmont Group Principles for Information Exchange between FIUs, place enormous emphasis on timeliness in responding

to international requests for information and the figures provided in the table below clearly indicate that the FIAU is well within the limits which are considered acceptable.

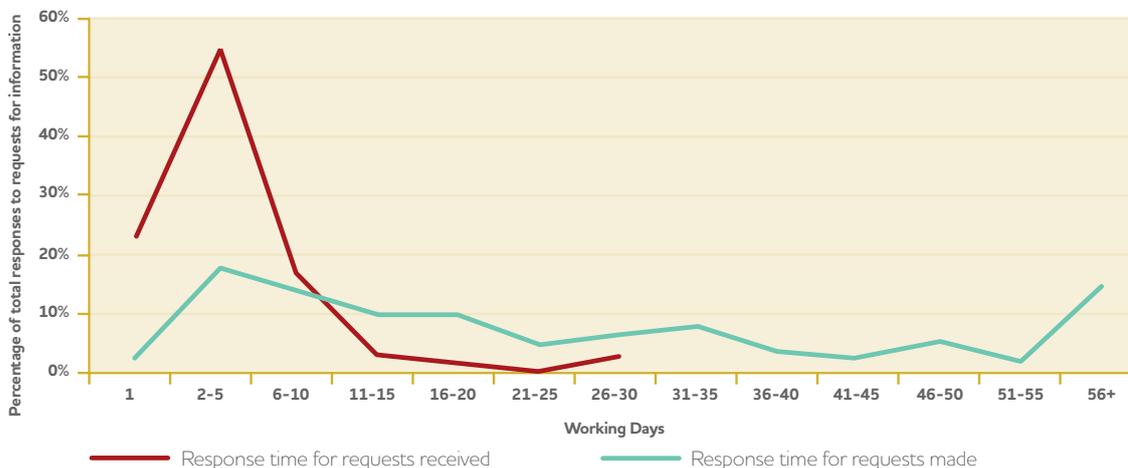
During 2013, of the 152 requests the FIAU made to foreign FIUs, a reply was received in respect of 128 requests by the end of the year, with 24 requests for assistance made by the FIAU still pending as at 31 December, 2013. Figures relating to the requests for information in respect of which a response was received are contained in **Table 7**.

Table 7: Timeliness of responses by foreign FIUs to requests for assistance made by the FIAU (2013)

Range of working days taken for the foreign FIUs to reply	Number of requests replied to within the specified range*	Percentage of requests replied to within the specified range
1	2	2
2-5	24	19
6-10	19	15
11-15	13	10
16-20	13	10
21-25	7	5
26-30	9	7
31-35	10	8
36-40	5	4
41-45	3	2
46-50	5	4
51-55	2	2
56+	16	13

*The figures refer to requests to which a reply was received by the FIAU. The figures do not include pending requests.

Chart 5: Response time for requests for assistance received and requests made by the FIAU (2013)



Requests for assistance made by the FIAU

As may be noted from **Table 8** below, the patterns observed in 2013 in connection with FIUs to which international requests for information were made are similar to those noted in 2012. During 2013, as in previous years, most requests for assistance the FIAU made were directed to FIUs of EU member states. Indeed, almost 49 per cent of the total number of requests for information that the FIAU made were addressed to FIUs in EU member states. The FIU of the United Kingdom, with 17 requests for assistance, was the largest recipient of requests made by the FIAU. This was followed by the FIUs of Italy and the United States of America with 11 requests for assistance each. The FIUs of Switzerland and the United Arab Emirates followed with nine requests for assistance each.

Requests for assistance by the FIAU can be further broken down as follows:

- Seventy-four requests for assistance were directed to FIUs in 18 European Union member states. This represents almost 49 per cent of requests made.
- Twenty-four requests for assistance were directed to FIUs in 12 European countries outside the EU. This represents almost 16 per cent of the requests.
- A further 24 requests were made to FIUs in nine countries in the Americas. This amounts to almost 16 per cent of the requests made.
- Twenty-three requests for assistance were made to eight Asian countries. This amounts to slightly more than 15 per cent of the requests for assistance made.
- Seven requests for assistance, which represent slightly more than 4%, were made to four African nations.

Table 8: Requests for assistance made by the FIAU to EU and non-EU FIUs (2012 and 2013)

	2012	2013
Number of requests received from EU FIUs	50	68
Number of requests received from non-EU FIUs	24	28
Total number of requests received by the FIAU	74	96
Number of EU FIUs which sent a request to the FIAU	16	20
Number of non-EU FIUs which sent a request to the FIAU	16	18
Total number of FIUs which sent a request to the FIAU	32	38
Average number of working days for the FIAU to reply	7	4

Requests for assistance made by foreign FIUs

The data recorded in relation to requests for assistance that were transmitted by foreign FIUs to the FIAU during 2013 followed the same trend as in 2012 in that the FIAU received the highest number of requests from EU FIUs. This may be noted in **Table 9**, which provides data on requests for assistance made by foreign FIUs of EU and non-EU countries during 2012 and 2013. Almost 71 per cent of requests for assistance referred to the FIAU originated from 20 EU countries. Almost another 20 per cent of requests for assistance originated from European countries that are not members of the EU. The above data indicates that 91 per cent of all requests received by the FIAU originated from countries in Europe.

The FIUs of Luxembourg and Italy made the most requests for assistance during 2013 with ten requests for assistance each. These were followed by the FIU of Lithuania, which made nine requests for assistance.

The requests for assistance by foreign FIUs to the FIAU can be summarised as follows:

- Sixty-eight requests for assistance were made by the FIUs of 20 EU countries. These represent almost 71 per cent of the requests for assistance received by the FIAU.
- Nineteen requests were made by the FIUs of ten European countries that are not members of the EU. These represent almost 20 per cent of the requests for assistance received.
- Three requests were made by FIUs from three Asian countries.
- Three requests were made by FIUs from two African countries.
- Two requests for assistance were made by the FIUs of two nations from the Americas.
- One request for assistance was received from the FIU of a country from the Oceania region.

Table 9: Requests for assistance received by the FIAU from EU and non-EU FIUs (2012 and 2013)

	2012	2013
Number of requests made to FIUs of EU countries	88	74
Number of requests made to FIUs of non-EU countries	91	78
Total number of requests made by the FIAU	179	152
Number of EU FIUs to which a request was made by the FIAU	19	18
Number of non-EU FIUs to which a request was made by the FIAU	35	33
Total number of FIUs to which a request was made by the FIAU	54	51
Number of cases in respect of which requests were made by the FIAU	75	69
Average number of working days to reply to the FIAU	31	27

Table 10 contains data of all the requests for assistance the FIAU received and made during 2013. The table also indicates the jurisdiction of the FIU requesting assistance from the FIAU and the jurisdiction of the FIU from which the FIAU requested assistance. The number of requests received and made by the individual FIUs is also listed.

Table 10: Requests for co-operation and assistance (2013)

Requests received by the FIAU		Jurisdiction	Requests made to other FIUs	
Number	Replies		Number	Replies
1	1	Argentina	2	2
1	1	Armenia	-	-
2	2	Austria	2	2
-	-	Bahamas	1	1
1	1	Belarus	1	-
4	4	Belgium	3	3
-	-	Belize	2	1
1	1	Bermuda	-	-
1	1	Bosnia & Herzegovina	1	1
-	-	Brazil	1	1
-	-	British Virgin Islands	3	2
-	-	Canada	2	2
-	-	Costa Rica	1	1
5	5	Croatia	2	2
1	1	Cyprus	7	7
-	-	Czech Republic	5	5
1	1	Denmark	1	1
-	-	Estonia	1	1
1	1	Finland	-	-
5	4	France	-	-
2	2	Germany	4	4
-	-	Ghana	2	2
-	-	Gibraltar	2	1
-	-	Greece	1	1
-	-	Hong Kong	6	5
1	1	Hungary	-	-
1	1	Indonesia	1	-
-	-	Israel	2	2
10	10	Italy	11	8
4	4	Jersey	1	1
1	1	Latvia	6	5

Requests received by the FIAU		Jurisdiction	Requests made to other FIUs	
Number	Replies		Number	Replies
1	1	Lebanon	-	-
2	2	Liechtenstein	1	1
9	9	Lithuania	-	-
10	10	Luxembourg	-	-
-	-	Malaysia	1	1
4	4	Moldova	-	-
-	-	Monaco	1	1
-	-	Netherlands	1	1
1	1	New Zealand	-	-
-	-	Nigeria	1	-
-	-	Norway	1	1
-	-	Peru	1	1
-	-	Philippines	1	1
3	3	Poland	-	-
1	1	Portugal	3	3
1	1	Romania	1	1
1	1	Russia	3	1
2	2	San Marino	1	1
-	-	Serbia	2	2
2	2	Seychelles	3	3
1	1	Slovakia	2	2
1	1	Slovenia	-	-
1	1	South Africa	1	-
3	3	Spain	5	4
-	-	Sweden	2	2
1	1	Switzerland	9	7
1	1	Syria	-	-
-	-	Thailand	2	2
-	-	Turkey	1	1
-	-	United Arab Emirates	9	9
2	2	Ukraine	1	1
6	6	United Kingdom	17	15
-	-	United States of America	11	6
96	95	TOTALS	152	128

COMPLIANCE MONITORING

In addition to the receipt and analysis of STRs, as well as the exchange of information and co-operation with local and foreign supervisory authorities and other FIUs, one other core function of the FIAU, as stipulated in Article 26 of the PMLA, is its responsibility to monitor and ensure compliance by subject persons of their AML/CFT obligations, as specified under the PMLFTR and the Implementing Procedures. In the fulfilment of this responsibility, the Compliance Section of the FIAU conducts both off-site and on-site supervision of subject persons falling within the definitions of "relevant financial business" and "relevant activity" in terms of the PMLFTR.

In line with international standards and to better allocate the use of its resources, the FIAU has developed and adopted a risk-based methodology to monitor the level of compliance of subject persons, which allows the shifting of resources to those sectors and subject persons that are perceived to present a higher risk of ML/FT. For this purpose, information is sourced from off-site monitoring carried out through the review of ACRs and subject persons' internal procedures, on-site examinations carried out by the FIAU itself or by supervisory authorities on its behalf, and any other relevant information that is brought to the FIAU's attention.

Decisions relating to possible breaches of the PMLFTR and the Implementing Procedures by financial services operators and DNFBPs are taken by the Compliance Monitoring Committee, which is an internal body chaired by the Director of the FIAU and composed of the Legal & Compliance Manager, a Senior Legal & International Relations Officer, a Senior Compliance Officer and other officers from the Compliance Section. In 2013, the Committee convened regularly to review oversight assessments and to assess cases of potential breaches of the PMLFTR or the Implementing Procedures. All situations where deficient AML/CFT systems and controls were identified through on-site compliance examinations, off-site monitoring and other sources, were brought to the attention of the Committee for its review. The terms of reference of this Committee require that effective, proportionate and dissuasive sanctions be imposed when subject persons fail to comply with the relevant requirements.

On-site monitoring

The principal function of the FIAU's Compliance Section is the oversight and monitoring of compliance by subject persons, both financial institutions and

DNFBPs. As such, the principal aims are: to establish whether they have adequate AML/CFT policies and procedures in place that ensure the effective implementation of their obligations in terms of the PMLFTR and the FIAU's Implementing Procedures; to identify issues that may give rise to regulatory concerns; and to provide assistance to subject persons.

In carrying out its compliance monitoring function, the FIAU continues to co-operate and liaise with other supervisory authorities that undertake on-site examinations on behalf of the FIAU. The Unit however retains responsibility to analyse the findings of these examinations and to prepare the relevant compliance reports to ensure consistency in these reports and to enable the Unit to gather an overall understanding of the AML/CFT issues present in the different sectors covered. To this end the FIAU has entered into co-operation agreements with the Malta Financial Services Authority and the Lotteries and Gaming Authority as the regulators of the financial services and gaming sectors, respectively.

At the beginning of each year the FIAU's Compliance Section is responsible for developing a compliance programme on a risk-sensitive basis listing subject persons it intends to examine during the year.

An on-site AML/CFT compliance examination typically involves an interview with the subject person's MLRO to obtain information on the procedures adopted and his/her level of knowledge on the AML/CFT obligations; a meeting with other officers of the subject person to understand how the procedures are applied in practice; a review of a sample of customer files, as well as a review of the subject person's policies and procedures.

During a full-fledged examination the following areas are usually assessed:

- the customer due diligence measures adopted;
- the internal control mechanisms in place;
- the risk assessment and risk management procedures conducted by the subject person;
- the customer acceptance policy;
- the reporting procedures;
- the retention of records;
- the AML/CFT training attended by the MLRO and by the subject person's employees; and
- the procedures on the vetting of employees prior to being recruited.

In certain instances the FIAU compliance officers also conduct focused visits where specific AML/CFT areas

are assessed. Compliance officers also assess whether subject persons have implemented corrective measures in cases where deficiencies were identified during previous examinations.

Following an on-site compliance examination, the FIAU compliance officers draw up a compliance report outlining any deficiencies identified during the examination and any recommendations that need to be implemented so that these AML/CFT deficiencies are rectified.

A total of 53 on-site compliance examinations were conducted in 2013, as outlined in **Table 11**. The table indicates the visits conducted by the FIAU and those by the MFSA on behalf of the FIAU that covered AML/CFT aspects.

The number of compliance visits the FIAU conducted has increased in comparison to the previous year, with the FIAU placing additional focus in its compliance monitoring on DNFBPs, especially accountants/auditors, company service providers, notaries and real estate agents. This served to further increase their awareness of the AML/CFT obligations in terms of the Regulations.

The on-site compliance examinations conducted in 2013 resulted in the identification of a number of deficiencies in relation to non-compliance with the relevant requirements of the PMLFTR and the Implementing Procedures. The serious deficiencies, which warranted the imposition of a sanction, are outlined in the 'Sanctions' section below.

Table 11: On-site AML/CFT examinations conducted by category of subject persons and by authority (2013)

Sector	FIAU	MFSA	TOTAL
Administrators of Private Foundations	-	1	1
Accountants/Auditors	2	-	2
Collective Investment Schemes	-	6	6
Company Service Providers	3	-	3
Credit Institutions	1	4	5
Financial Institutions	-	2	2
Fund Administrators	-	3	3
Insurance Principals	-	1	1
Investment Service Providers	2	5	7
Legal Professionals	1	-	1
Nominee Companies	-	1	1
Notaries	3	-	3
Real Estate Agents	2	-	2
Regulated Markets/Central Securities Depository	-	1	1
Retirement Scheme Administrators	-	2	2
Tied Insurance Intermediaries	1	1	2
Trustees & Fiduciaries	2	9	11
TOTAL	17	36	53

Off-site monitoring

In addition to the on-site compliance examinations, the FIAU conducts off-site monitoring through the completion of desk reviews. These assessments reflect the processes of an on-site visit, though they typically focus on particular areas. In these cases, subject persons are required to provide specific documents and records, which are then scrutinised by compliance staff to complete their evaluation.

The information obtained from subject persons through the submission of the ACR is instrumental for the FIAU in carrying out its supervisory functions. Through the analysis of the report, which subject persons have been mandatorily obliged to submit within set timeframes as from 2012, it is possible for the FIAU to measure the intrinsic risk profile and risk management framework designed to mitigate these risks for each subject person. Additional information on the activities carried out during the previous year, including reporting, internal assessments and training, is also gathered.

In an effort to ensure that the ACR is not overly burdensome for subject persons, the FIAU redesigned the standard form and also introduced an abridged version for sole practitioners. Additionally, guidance notes were issued to facilitate completion of the form – which is now submitted electronically through the FIAU's web portal.

The aforementioned efforts have resulted in a decrease in non-reporting, and especially in the number of incomplete reports. Notwithstanding this, the Compliance Section will continue to take the necessary action against defaulters.

To enable the FIAU to perform its compliance function on a risk-sensitive basis, a model has been developed through which risk ratings are calculated quantitatively, based on the information detailed in the ACR, and implemented during the year under review. It is envisaged that the model will be fine-tuned following the completion of the NRA, details of which are reported in Chapter 4 of this report.

Sanctions

In the exercise of its compliance monitoring function, the FIAU has the power to impose sanctions on those subject persons that fail to comply satisfactorily with the provisions of the PMLFTR and the Implementing Procedures. The type of sanctions imposed, varying from administrative penalties to reprimands in writing

and other verbal or written warnings, as well as the amount of such sanctions, are determined by the Compliance Monitoring Committee.

In reaching its conclusions, the Committee takes a number of factors into consideration. These include the seriousness of the breach, whether it is a first-time breach by the subject person, whether the subject person remained in default despite any previous recommendations or warnings issued by the FIAU, as well as any other relevant factors surrounding the case.

During 2013, the FIAU took punitive measures against a number of subject persons that were found to be in breach of their obligations under the PMLFTR and the Implementing Procedures. The global amount of €81,500 was levied by way of administrative penalties on five subject persons from various sectors, namely a trust and fiduciary company, a company service provider, a credit institution, an insurance principal and a real estate agency.

The largest single penalty levied during the year amounted to €56,750. In this case the credit institution in question was penalised for numerous infringements, including the failure to adequately identify and verify the identity of the applicant for business, the failure to identify and verify the identity of the beneficial owner, the failure to obtain sufficient information on the purpose and intended nature of the business relationship, and the failure to scrutinise transactions adequately and determine the source of clients' funds, as well as to keep customers' records up to date in terms of its ongoing monitoring obligations.

The same credit institution was penalised a further €7,500 for other infringements. It was found to be in breach of its reporting obligations since it had, on one occasion, failed to submit an STR where there were "reasonable grounds to suspect" that a transaction may have been connected to ML/FT and, on another occasion, failed to submit an STR within the five working day period stipulated in the PMLFTR. Some of the customer due diligence deficiencies referred to above were also the subject of administrative penalties imposed on other subject persons, while other breaches involved the failure to reply to the FIAU's requests for information within five working days, the failure to appoint an MLRO in accordance with the requisites of the PMLFTR, and the failure to develop and establish an effective customer acceptance policy.

The Compliance Monitoring Committee resolved that a number of other infringements identified in 2013

warranted the imposition of a reprimand in writing. In all, three subject persons were reprimanded for not fulfilling certain requirements emanating from the PMLFTR and the Implementing Procedures relating to customer due diligence, the establishment of AML/CFT policies and procedures, risk assessment and risk management procedures, record keeping of transactions, and AML/CFT awareness and training. These reprimands were issued to an investment services company, an insurance broker and the same real estate agency referred to earlier.

In addition, administrative action will be taken against subject persons who had not complied with their duty to submit the ACR which was due in 2013.

MONEY LAUNDERING CASES

This section contains a review of court judgments delivered in 2013 in which persons were convicted for money laundering offences, and other court decisions that are of particular relevance in determining the elements of the offence of money laundering, in assessing the applicability of the *nebis in idem* rule to cases of money laundering and in examining the circumstances in which the burden of proof can be shifted onto the accused.

The Republic of Malta
v.
Eduardo Navas Rios
Court of Criminal Appeal
9 May, 2013

On 9 March, 2012, Eduardo Navas Rios was found guilty of money laundering and aggravated theft. Navas Rios was sentenced by the Criminal Court to a term of imprisonment of four years and six months and to the payment of a fine (*multa*) of €10,000. Navas Rios subsequently appealed from the Criminal Court's decision and requested the Court of Criminal Appeal to reverse the judgement on both counts.

The Court of Criminal Appeal re-affirmed the first court's decision and confirmed the guilty sentence on the basis of the same considerations expressed in the judgement of the Criminal Court. It had been determined that the accused had not given any reasonable explanation to prove the lawful origin of substantial funds he had transferred to another individual, and therefore it had been concluded that the origin of the funds was to be considered illicit, more

so when considering that the amount in question was disproportionate when compared to the income generated from the accused's employment. According to the Court of Criminal Appeal, this rationale constituted sufficient legal basis for a determination of guilt for the offence of money laundering. The guilty verdict for aggravated theft was, however, reversed and as a consequence, the imprisonment term was reduced to three years and ten months.

The Police
v.
Alfred Delia and Marco Delia
Court of Magistrates (Malta)
as a Court of Criminal Judicature
23 May, 2013

Freddie and Roderick Delia were convicted of drug trafficking in 2005 and were subsequently charged with other drug related offences. From the investigations carried out by the Police, it transpired that Freddie and Roderick Delia were making use of high-value vehicles, which were registered in the names of convicted drug traffickers' father, Alfred Delia, and their brother Marco Delia. The court judgement reveals that in the light of this information the Police decided to extend their investigations to also cover Alfred and Marco Delia.

Through these investigations, it became apparent that no reasonable explanation could be given to justify the acquisition of luxury vehicles, especially when the economical activity of these two individuals was taken into account. On this basis the Executive Police pleaded that Alfred and Marco Delia had purchased the vehicles using the proceeds of the illicit activities carried out by Roderick and Freddie Delia. Consequently, Alfred and Marco Delia were charged with money laundering before the Court of Magistrates.

In its determination of the case, the Court made reference to the decision of the Court of Criminal Appeal in *Il-Pulizija vs Carlos Frias Mateos* of 19 January, 2012, which had established that the onus to prove that the provenance of the funds is legitimate in terms of Article 3(3) of the Prevention of Money Laundering Act would shift onto the accused once the prosecution established, on a *prima facie* basis, that there was no logical or plausible explanation for the origin of the funds.

The Court of Magistrates in this case determined that the Police had produced sufficient evidence to prove

on a *prima facie* basis that the funds with which the vehicles were bought did not have a licit origin and that these funds could be linked to the illegal activities of Freddie and Roderick Delia. On this basis, the Court held that the onus to prove the legitimacy of the origin of the funds shifted onto the accused. Since they had, in fact, failed to prove the funds' legitimacy, they were found guilty of money laundering.

Alfred Delia and Marco Delia were both sentenced to imprisonment for a term of 18 months and ordered to pay a fine (*multa*) of €5,000 each. The Court also ordered the forfeiture in favour of the Government of Malta of the vehicles in question and ordered the accused to pay judicial expenses related to the appointment of experts.

The Republic of Malta

v.

Christian Grech

Court of Criminal Appeal

12 December, 2013

Christian Grech faced various charges before the Court of Magistrates, including that of having lived off the earnings of the prostitution of another person. The accused was also accused before the Criminal Court of acts of money laundering for having transferred sums of money believed to have illicit origins to various persons in Russia. Grech invoked the *nebis in idem* principle before the Criminal Court, arguing that he could not be tried twice for the same acts since, on the one hand, he was being tried before the Court of Magistrates for living off the earnings derived from prostitution and before the Criminal Court for having laundered the same proceeds of prostitution.

The Criminal Court rejected the defendant's plea, concluding that the acts leading to the two offences were different and did not overlap. In the Criminal Court's view, the proceeds of the criminal activity (in this case living off the earnings of prostitution) constituted part of the criminal activity itself, while the laundering of such funds (which was deemed to have taken place through the transfer of the funds) constituted a separate offence. The court's reasoning was also based on the provisions of Article 2(2) of the Prevention of Money Laundering Act, which states that a person can be convicted separately for money laundering as well as the underlying criminal activity from which money laundering subsists.

The defendant appealed from this decision, arguing that the physical act of deriving benefit from the act of prostitution, to the extent of being able to make a living thereof, was identical to the physical element of money laundering whereby a person converts for his own benefit proceeds which are of illegitimate origin. The defendant argued that the physical element of both offences was identical and thus the *nebis in idem* principle should apply.

The Court of Criminal Appeal rejected this argument and confirmed the decision of the Criminal Court, retaining that the acts underlying the two offences were distinguishable and separate, even though the same proceeds originating from the same criminal act of prostitution were being handled. The Court of Criminal Appeal, in reaching its judgment, stated that the provisions of Article 2(2) of the Prevention of Money Laundering Act could not be overlooked. This provision clearly states that a person can be convicted of both money laundering and the underlying criminal activity from which proceeds were derived and which led to the same person being accused of money laundering.

3. MANAGEMENT & TRAINING

THE BOARD OF GOVERNORS

Ten meetings of the Board of Governors were held in 2013 during which the policy-making body within the structure of the FIAU oversaw the activities of the Unit and took high-level decisions on a number of matters falling within the competence of the Unit. Having also a coordinating AML/CFT role within the country and a consultative role to Government, general trends and statistics were reviewed to ascertain the proper functioning of the mechanisms set up for the prevention of ML/FT and the applicable legislative framework.

THE DIRECTOR

The recommendations of the MONEYVAL Fourth Round Report on Malta adopted by the MONEYVAL plenary in 2012 took centre stage during the year with various operational and legislative initiatives being taken to address the shortcomings that had been identified. These included extensive work on the preparation of a draft bill and a draft legal notice containing various comprehensive amendments to the PMLA, the Criminal Code and the PMLFTR for presentation to Government in 2014 and the implementation of a reorganisation plan for the FIAU.

The first stage of the reorganisation plan approved by the Board of Governors saw the appointment of a Financial Analysis Manager and Legal & Compliance Manager to oversee the work of the respective sections within the FIAU. These and other actions taken during the year have established the foundations for the restructuring of the organisation and for the additional strengthening of the Unit planned for the coming years.

The NRA project entrusted to the FIAU was initiated during the year. Various human resources were allocated to this project in view of its importance at a national level and the significance of its conclusions, particularly in enabling the country to strengthen its AML/CFT structures, and to provide assistance to subject persons required to adopt a risk-based approach.

As from 2013 it is now possible for STRs, ACRs and MLRO details sheets to be submitted to the FIAU electronically. The FIAU's redesigned website, in fact, now caters for the receipt of these documents in electronic format directly on an FIAU designated server in a secure and protected manner. The new website, which also offers quick and easy access to essential information related to the prevention of ML/FT, forms an integral part of the FIAU's ongoing

efforts to enhance the availability of such information to subject persons and other interested parties.

In the area of training and awareness-raising, the orientation of the FIAU was shifted to the area of DNFBPs with several workshops and seminars being organised for specific sectors. The supervision and monitoring of compliance by subject persons was also treated as a priority area during the year with an increase in the number of on-site examinations, and particular attention being afforded to the non-financial sector.

TRAINING

Training received by FIAU staff

In view of the broad scope of the FIAU's functions and its necessary interaction with the different entities subject to the AML/CFT regulations, and the rapid pace with which rules within these sectors change, training of staff is a priority for the FIAU. The evolving landscape of international standards, legislation and best practices within the AML/CFT sphere also requires consistent efforts to keep abreast with developments, even to be able to keep subject persons informed of impending changes. To this effect, throughout the year various officers of the FIAU attended a number of training seminars, workshops, conferences and courses.

Officers within the FIAU's Financial Analysis Section were involved in training events linked to their analytical role, including the three-day conference organised by the Association of Certified Anti-Money Laundering Specialists (ACAMS) in Amsterdam on 19-21 June, which focused primarily on AML/CFT regulatory updates, the latest financial crime trends and the strategies to be undertaken to strengthen an institution's AML/CFT systems.

Compliance staff participated in the information seminar delivered by MFSA staff on 13 February on the proposed amendments to the Trusts and Trustees Act, the workshop dealing with international sanctions organised by the Institute of Financial Services on 20 and 21 June, the 2013 Malta International Financial Crime Forum on 5-6 June and the KPMG Biennial Financial Services Conference on 26 November. On 24 and 25 October, two compliance officers participated in a seminar entitled "Anti-Money Laundering in the EU", held in Trier, Germany. The main topics dealt with during this training seminar, organised by the Academy of European Law (ERA), included the proposed fourth anti-money laundering directive and legislative challenges faced by prosecutors and defence counsels in money laundering cases.

Following the issuing of a proposal for a fourth anti-money laundering directive and a revision of the regulation dealing with fund transfers in February, the European Commission organised a one-day conference on 15 March which was attended by two FIAU officers. The conference provided an opportunity to examine these proposals and their impact on EU Member States also in the light of the new FATF Recommendations published in February, 2012.

Compliance officers and other officers of the FIAU participated in several other training initiatives on various related subjects organised by the Chamber of Advocates, Society Education, the Institute of Financial Services and the Institute of Legal Studies. Staff members were also encouraged to attend courses on presentation skills and business writing.

On 8 August, all the staff of the FIAU took part in a one-day training event, which focused on the writing of professional reports, aimed at achieving more effective communication. Follow-up sessions were then held on a one-to-one basis.

Training provided by the FIAU

The FIAU once again dedicated extensive resources to the training of officers of subject persons through its assistance to representative bodies in the organisation of AML/CFT workshops and the participation of its officers at a number of events. Emphasis was placed during the year on the provision of sector-specific training, in line with the FIAU's policy to raise awareness within particular sectors and to target the specific issues faced by those businesses and professions.

For this purpose, the FIAU jointly conducted training courses in conjunction with the Notarial Council, the Malta Institute of Accountants and the Chamber of Advocates. During these events, the professionals represented by these bodies were provided with detailed presentations and training material specific to the AML/CFT obligations as they are applicable to their particular sector.

These training events focused on the general AML/CFT obligations of notaries, lawyers, accountants and auditors under Maltese legislation and on their obligation to submit a compliance report on an annual basis to the FIAU.

During this same year AML/CFT awareness raising sessions were also carried out which were specifically designed for CSPs and operators in the gaming sector. An event was in fact organised jointly with the MFSA immediately prior to the entry into force



"Fighting money laundering and terrorist financing: new framework, future challenges"
European Commission Conference, Brussels, March, 2013



of the Company Service Providers Act. The seminar sought to provide guidance on the obligations of CSPs what was then a proposed bill and other relevant laws, among which AML/CFT regulations. The FIAU officers delivered presentations on various aspects of the obligations under the PMLFTR. The Director of the FIAU also addressed gaming operators during the 2013 Malta iGaming Seminar.

During the 2013 Malta International Financial Crime Forum organised by the ICC Commercial Crime Services, the Director of the FIAU was invited to address the participants on the changing landscape of customer due diligence and AML/CFT supervision. He was also a speaker during a break-out session at the KPMG Biennial Financial Services Conference during which he examined the specific risks, threats and vulnerabilities to which the Maltese financial services sector is exposed.

The Deputy Chairman of the FIAU, the Director and two compliance officers also participated in other training events for all categories of subject persons organised by firms providing AML/CFT consultancy services.

4. OTHER DEVELOPMENTS & INITIATIVES

JOINT COMMITTEE FOR THE PREVENTION OF MONEY LAUNDERING AND FUNDING OF TERRORISM

The JCPMLFT is an *ad hoc* committee that provides a platform for discussion and brings together various competent authorities involved in the fight against ML/FT and representatives of subject persons. The Committee, which is chaired by the Director of the FIAU, meets at least four times a year. In 2013, the JCPMLFT met on 28 February, 31 July, 24 September and 3 December.

The meetings of the JCPMLFT served as a platform for consultation on a number of important developments such as the EU Commission's AML/CFT legislative proposals for a fourth AML directive proposal and for a revision of the fund transfer regulation. Discussions were also held on ways of improving the mechanisms in place for the suspension by the FIAU of suspicious transactions. The Committee also kept under review the steps being taken by representative bodies to draw up sector-specific guidance to be included under Part II of the FIAU Implementing Procedures.

Other relevant issues that were discussed during the meetings of the JCPMLFT were the use of E-Residency Cards for customer due diligence purposes, the application of simplified due diligence for beneficial owners of pooled accounts, difficulties in adhering to the reporting obligation during stipulated time frames, participation of the private sector in the NRA project, actions to be taken by Maltese practitioners and financial institutions to adhere to recommendations by MONEYVAL and the interoperability between AML/CFT provisions and the sanctions regime.

THE NATIONAL RISK ASSESSMENT

The FIAU has been tasked by the Government of Malta to lead the NRA, an exercise aimed at identifying, assessing and understanding the ML/FT risks faced by the jurisdiction as a whole. The results of this national project will allow the authorities to develop effective and risk-based policies and actions, and to prioritise and allocate the available resources in the most efficient way so that the identified risks can be properly managed and mitigated.

On an international level, the FATF has been placing increasing emphasis on the assessment of ML/FT risks so that national strategies, policy decisions and actions would correspond to the risks faced by each jurisdiction.

The decision to carry out a NRA in Malta is in line with Malta's firm long-term commitment to adopt the highest standards in the area of prevention of ML/FT and it is a further step in the range of actions being taken to adhere to the revised FATF Recommendations issued in February 2012, which Recommendations place a much stronger emphasis on the implementation of a risk-based approach.

From a European perspective, the EU Commission's proposal for the fourth anti-money laundering directive issued on the 5th February 2013 also requires Member States to conduct a NRA – the results of which will be of guidance to subject persons in conducting their own risk assessment, which will also become mandatory.

For the purposes of this exercise, the FIAU is working in collaboration with the World Bank, and is therefore using the NRA Tool that has been specifically developed by the World Bank for such assessments. Although the tool is a self-assessment tool made up of a number of separate modules, experts from the World Bank will be providing the necessary technical assistance throughout the three different phases of the project.

As part of the exercise, and in line with the World Bank methodology, a NRA Working Group has been set up. Besides FIAU staff, who are leading the different assessment groups, the Working Group includes representatives from:

- Government Ministries (Ministry for Finance and the Ministry for the Economy, Investment and Small Business);
- Supervisory Authorities (Malta Financial Services Authority and the Lotteries & Gaming Authority);
- Office of the Attorney General;
- Registry of the Courts of Criminal Judicature;
- Malta Police (Economic Crimes Unit, Counter Terrorism Unit, Legal Unit and the Drug Squad);
- Tax Authorities (Inland Revenue Department and VAT Department);
- Central Bank of Malta;
- Malta Stock Exchange;
- Customs Department;
- University of Malta (Department of Criminology);
- Industry Bodies and Associations (Chamber of Advocates, College of Stockbrokers, Federation of Estate Agents, Institute of Financial Services Practitioners, Malta Bankers' Association, Malta Funds Industry Association, Malta Institute of Accountants, Malta Insurance Association, Malta Insurance Managers Association, Malta Remote Gaming Council and the Notarial Council); and
- A number of selected practitioners within the financial services industry.

Working Group members have been subdivided into the following seven assessment groups, each focussing on specific areas:

- Threat Analysis;
- National Vulnerability;
- Banking Sector Vulnerability;
- Securities Sector Vulnerability;
- Insurance Sector Vulnerability;
- Other Financial Institutions Vulnerability; and
- Designated non-Financial Businesses and Professions Vulnerability.

The first phase of the project consisted of an initial three-day workshop, which was held between 20 and 22 November 2013. During this workshop four World Bank officials provided detailed explanations of the NRA tool and assessment methodologies. Working Group members were given the opportunity to familiarise themselves with and work on the model templates, which were tailored to take specific account of local realities.

During the initial workshop Working Group members also adopted an action plan for the subsequent stages. This included deadlines for the finalisation of data collection, dates when each of the assessment



National Risk Assessment Workshop in November, 2013

groups could meet to review the data and complete the templates, details of when the draft assessment would be sent to the World Bank Team for review and when this would subsequently be finalised.

The project entered into its second stage towards the end of 2013, with Working Group members actively collecting the necessary data and re-evaluating the inputs and assessments that were made during the initial workshop. Once completed, the fully populated templates will be reviewed by NRA Working Group members, who will then start drafting the report on the findings. This work will be sent to World Bank officials for their input and further guidance.



The third and final stage will comprise another three-day workshop in 2014. The risk assessment results will be discussed and reviewed, with a view to further improving, refining and calibrating the findings. During this same workshop NRA Working Group members will develop risk-based action plans, discuss implementation issues and challenges, and generate realistic solutions. A strategy for the effective use of the NRA results will also be formulated.

In terms of the agreed timeframes, the FIAU is confident that it could wrap up the exercise by the fourth quarter of 2014.

THE EU COMMISSION'S PROPOSAL FOR A FOURTH ANTI-MONEY LAUNDERING DIRECTIVE AND A FUND TRANSFER REGULATION

On 5 February, 2013, the EU Commission adopted two proposals to reinforce the EU's existing rules on anti-money laundering and fund transfers through the revision of Directive 2005/60/EC and Regulation (EC) No 1781/2006, respectively. To a large extent both proposals take into account and reflect the revised FATF Recommendations issued in February, 2012.

It is worth noting that in the text of both proposals greater emphasis is being placed on the risk-based approach, and the granting of further discretion to both member states and subject persons to mould their AML/CFT measures on the basis of the risk assessments they conduct.

The Commission's proposal for a fourth AML directive seeks to cover new sectors, such as the gaming sector, which to date is not subject to the EU's third AML directive, except for casinos. The proposal also lowers the cash-dealing threshold applicable to traders in goods when compared to the current directive. The text of the proposal has clarified a number of concepts and brought about further certainty and harmonisation in the application of the relevant provisions.

Other notable changes include the obligation on member states to carry out a national risk assessment, the broadening of the provisions dealing with PEPs, the obligations on legal entities and trustees of express trusts to obtain and hold information on beneficial ownership, the strengthening of provisions that regulate the exchange of information between FIUs and other competent authorities, and the reinforcement of sanctioning powers, particularly through the introduction of a minimum set of administrative sanctions, which member states are required to implement to sanction infringements of national provisions.

The fourth AML directive proposal is currently being discussed by the European Parliament and the Council of the European Union, a process that will eventually lead to the adoption of the final legislative instrument. The review process in relation to the proposed fund transfer regulation has not yet been initiated and is expected to start during 2014. Upon

the entry into force of the fourth AML directive, member states would then have a two-year period within which to transpose the relative provisions into national law, while the funds transfer regulation would be directly applicable within 20 days from publication.

FATF STATEMENTS

One of the initiatives of the FATF aimed at reducing the international exposure to ML/FT risks is the monitoring and identification of jurisdictions that are deemed to have AML/CFT deficiencies and shortcomings. This process also serves to put pressure on non-cooperative jurisdictions to comply with international AML/CFT standards and to draw up credible and achievable plans to rectify these deficiencies.

The FATF identifies these jurisdictions through the publication of two public documents, which are issued following FATF plenary meetings three times a year. During 2013, these public documents were issued on 22 February, 21 June and 18 October. The FIAU ensures that these documents are accessible at all times to all subject persons by making them available on its website and circulating them, together with a dedicated guidance note, directly among subject persons or through their representatives on the JCPMLFT.

AMENDMENTS TO THE IMPLEMENTING PROCEDURES

During 2013, the Implementing Procedures Part I were amended to allow collective investment schemes that do not have a physical operational set-up in Malta (other than their registered address and a board of directors), which do not engage any employees and which are not directly involved in the acceptance and processing of subscriptions and the collection of funds from investors, to outsource their AML/CFT obligations to the entity providing administration services.

These amendments also provided guidance on what is intended by the terms "a collective investment scheme marketing its units or shares" under paragraph (f) of the definition of "relevant financial business", bringing this definition in line with the definition of the term "marketing" under the Alternative Investment Fund Managers Directive (Directive 2011/61/EU).

These changes broadened the scope of applicability of the PMLFTR to cover all collective investment

schemes, the units or shares in which are offered to or placed with investors, whether directly or indirectly by the scheme itself or by other third parties on behalf of the scheme. The changes were brought about through the introduction of a new Chapter 9 and the insertion of two additional paragraphs to Section 6.1.

No amendments to the PMLA or the PMLFTR were carried out during the year.

ASSESSMENT OF THE IMPLEMENTATION OF THE COUNCIL OF EUROPE CONVENTION ON THE LAUNDERING, SEARCH, SEIZURE AND CONFISCATION OF THE PROCEEDS OF CRIME AND ON THE FINANCING OF TERRORISM (CETS NO. 198)

The Conference of the Parties to the Council of Europe Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and on the Financing of Terrorism (CETS No. 198), held in June, 2013, decided to proceed with the assessment of the implementation of the Convention by Malta, through a review process leading to the adoption of a report to be adopted during the plenary meeting to be held in June, 2014.

The Maltese authorities were therefore involved in providing responses to a questionnaire detailing action taken by Malta to fulfil its obligations under the Convention. Various texts of relevant legislation, regulations, guidance and other documents that

would assist the rapporteurs in carrying out their assessment were also provided. The questionnaire was compiled by the Office of the Attorney General and the FIAU, and submitted by the Ministry of Foreign Affairs to the Secretariat of the Conference of the Parties through Malta's Permanent representation to the Council of Europe.

SUSTAINABLE DEVELOPMENT

In terms of Article 7(3)(c) of the Sustainable Development Act (Cap. 521 of the Laws of Malta), the Director of the FIAU has been designated as the Sustainable Development Focal Point of the Unit. In fulfilling this role, the Director will assist the permanent secretary within the Ministry of Finance, who acts as a Sustainable Development Co-ordinator, in developing the Ministry of Finance's position in relation to any request by the Ministry for Sustainable Development, the Environment and Climate Change.

In recent years, the FIAU has implemented a number of environmental policies aimed at contributing towards the effort in the conservation of energy and the reduction of carbon pollution. Actions taken include the introduction of a policy mandatorily requiring double-sided printing, the installation of energy-efficient lighting elements and air-conditioners, as well as the activation of energy saving features on all monitors and printers to ensure that they switch to sleep mode when not in use.

In the year under review, the FIAU also began segregating waste through the use of degradable recycling bags. A decision was also taken for the 2013 Annual Report to be released only in digital format (and circulated by means of USB cards), thereby reducing paper consumption and minimising costs.

5. PARTICIPATION IN INTERNATIONAL FORA

THE EXPERT GROUP ON MONEY LAUNDERING AND TERRORIST FINANCING

In the light of the provisions of the Treaty of Lisbon, which modified the Commission's executive powers, the Committee on the Prevention of Money Laundering and Terrorist Financing started to be convened exclusively on occasions where member states would be required to assist the Commission in exercising its implementing powers. The CPMLTF's advisory role was taken over by the Expert Group on Money Laundering and Terrorist Financing, which is now involved in advising the Commission on the setting out and implementation of its AML/CFT policy, a task previously undertaken by the CPMLTF.

Two EGMLTF meetings under this revised format were held on 10 June and 4 October and the last meeting of the CPMLTF under the previous set-up was held on 8 February, 2013. The FIAU represented the Maltese Government on both these committees.

The EU Commission's proposal for a fourth AML directive featured extensively in all CPMLTF and EGMLTF meetings in 2013. The Commission used this forum to update member states' representatives on the progress of discussions that were being held within the European Parliament's committees and the European Council. These committees also constituted an important platform to discuss and tentatively reach common positions on issues that would be brought up in subsequent FATF plenary sessions.

Other notable matters that featured on the agenda of these three meetings were the exchange of information between FIUs, the Court of Justice of the European Union's decision delivered in *Jyske Bank Gibraltar Ltd v Administración del Estado* (Case C-212/11), which had an important bearing on the FIUs' power to gather information, the EU Commission's plan to propose a legislative instrument to harmonise the criminalisation of money laundering and the assessment of FATF Recommendation 32 (cash couriers) as one EU supranational jurisdiction.

EU-FIU PLATFORM

The EU-FIU Platform is a forum that brings together the EU FIUs with the participation of the EU Commission. This forum offers EU FIUs the opportunity to discuss matters of mutual interest and enhance the co-operation between them. During 2013, two EU-FIU Platform meetings were held on 7 February and 3 October, during which the FIAU was represented.

During these meetings representatives from EU FIUs were updated on current issues of AML/CFT importance, such as the steps being taken by the EU Commission to possibly propose the issuance of a Criminalisation Directive and the process of adoption of a proposal for a fourth AML Directive. During the discussions and negotiations that took place within this forum, EU FIUs were able to adopt a common position on the Commission's fourth AML directive proposal. This common position was presented to the Presidency of the European Council in a bid to influence discussions that were taking place within the European Council and also gave EU FIUs the possibility to put forward their position on this proposal, especially where the provisions relating to the work of FIUs were concerned.

Another issue that was discussed extensively during both these meetings was the state of affairs of negotiations that were taking place between FIU.Net and Europol in a bid to reach a common understanding to embed the FIU.Net system for the exchange of information within the organisation of Europol without undermining the autonomy of EU FIUs. This common understanding was subsequently adopted during the EU-FIU Platform meeting of 3 October, 2013.

To conclude discussions on this common understanding and the EU FIUs' common position on the proposed fourth AML directive, two other dedicated EU FIU meetings were held. These two meetings were held on 27-28 May, 2013, and on 20 September, 2013, and the FIAU was represented at both meetings.

In addition, EU FIUs continued to discuss the technical developments of the FIU.Net system for the exchange of information. These technical enhancements are intended to facilitate the sharing of information between EU FIUs. To this end a pilot project involving the FIUs of Luxembourg and France was initiated.

THE EGMONT GROUP

The Egmont Working Group and Committee Meetings, and a special Heads of FIU inter-sessional meeting took place in Ostend (Belgium) between 20 and 25 January. During the week, the Egmont Committee, all the Working Groups, the Corporate and Legal Charter Review Teams and the Heads of FIUs met. The meetings were attended by over 200 delegates from 73 FIUs, including 6 observer FIUs and ten international organizations. The FIAU was represented at the Heads of FIUs meetings, the Legal Working Group and the Operational Working Group.



The 2013 Plenary Meeting, hosted by the South African Financial Intelligence Centre in Sun City from July 1 to 5, was the first to be held in the Africa region. The Egmont Plenary and Heads of FIU Meeting brought together the Egmont member FIUs and observer organisations for training and in-depth discussions to further the development of the international FIU network. For the first time since the FIAU became a member of the Egmont Group, a number of circumstances made it impossible for the FIAU to participate in the Egmont plenary.

During the course of the plenary, eight FIUs were welcomed into the Egmont Group as new members, bringing the Egmont Group membership to 139. The new members are CTRF (Algeria), BFIU (Bangladesh), UIF (Bolivia), CENTIF (Burkina Faso), Seychelles FIU, CENTIF (Togo), FIU Trinidad and Tobago, and the AIF (Holy See / Vatican City State). Representatives from the eight new jurisdictions were formally welcomed by the Co-Chairs at the Heads of FIU Meeting. During the Heads of FIU meeting the new Egmont Charter, a document seen to constitute the basis and framework for the Group's future organizational development, was agreed to.

The FIAU was represented at a typology workshop organised by the Egmont Group dealing with the financial analysis practices of FIUs which are currently in place which was held in Strasbourg between 19 and 21 October.

MONEYVAL

During the December MONEYVAL plenary, the Deputy Chairman of the FIAU was elected to serve as Chairman of MONEYVAL for a two-year term. Dr Bartolo is the head of the Maltese delegation to MONEYVAL and has formed part of the delegation ever since this committee (formerly committee PC-R-EV) was established in 1997. This is the second time Malta holds the Presidency of MONEYVAL, the position having also been held by the Hon. Chief Justice Dr Silvio Camilleri (who was Attorney General at the time). The election as Chair of MONEYVAL

continues to re-affirm Malta's commitment in this area at an international level.

The Director of the FIAU participated in all three MONEYVAL plenary sessions held in April, September and December as part of the Maltese delegation. During the course of the year, Malta acted as rapporteur country in relation to the first 4th Round Progress Report submitted to MONEYVAL by Cyprus and the first 3rd Round Progress Report submitted to MONEYVAL by the Isle of Man (Crown Dependency of the United Kingdom).

In addition, a financial analyst participated in the typology workshop organised by MONEYVAL at the Council of Europe in Strasbourg between 19 and 21 October dealing with the methods used by organised criminal groups to launder illegally earned profits and the potential regional vulnerabilities.



21st Plenary of the Egmont Group of Financial Intelligence Units
Ostend, October, 2013

Typologies Workshop, Strasbourg,
October, 2013

Mutual Evaluations

In 2013, a senior financial analyst took part in the fourth round mutual evaluation of Romania as a law enforcement expert. On-site visits were held in Bucharest between 25 May and 1 June. During these visits, which were co-ordinated by the National Office for Prevention and Control of Money Laundering (Romania's FIU), the FIAU official, together with other evaluators, met with Romanian representatives from the NOPCML, the National Bank of Romania, the Financial Supervisory Authority, the General Prosecutor's Office, the Ministry of Internal Affairs, the Ministry of Foreign Affairs, the Ministry of Public Finance, the Romanian Intelligence Service, the National Registry, the Committee for the Supervision of Currency Exchange Offices, the Stock Exchange, the Customs Authority, the Border Police and the Financial Guard.

Other meetings were held with members of the judiciary and representatives from the financial and non-financial sectors. The final report will be presented for the review and approval of the MONEYVAL plenary in June, 2014.



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