



**FIAU**

M A L T A

FINANCIAL INTELLIGENCE ANALYSIS UNIT

# Annual Report

# 2012





# **ANNUAL REPORT 2012**

© Financial Intelligence Analysis Unit, 2013

**Address:**

**67/4, South Street  
Valletta VLT 1105  
Malta**

Reproduction is permitted provided the source is acknowledged.

Enquiries relating to this Report should be addressed to:

The Director  
Financial Intelligence Analysis Unit  
PO Box 213  
Valletta VLT 1000  
Malta

Telephone: (+356) 21 231 333  
Fax: (+356) 21 231 090  
E-mail: [info@fiumalta.org](mailto:info@fiumalta.org)  
Website: [www.fiumalta.org](http://www.fiumalta.org)



# FINANCIAL INTELLIGENCE ANALYSIS UNIT

## COMPOSITION OF THE BOARD OF GOVERNORS

### CHAIRMAN

Dr. Peter Grech LL.D.

### DEPUTY CHAIRMAN

Dr. Anton Bartolo LL.D.

### MEMBERS

Mr. Pierre Calleja  
Dr. Bernadette Muscat LL.D.

### SECRETARY

Dr. Manfred Galdes B.A., LL.M. (Leic.), LL.D.

### DIRECTOR

Dr. Manfred Galdes B.A., LL.M. (Leic.), LL.D.



LEFT TO RIGHT: Mr. Pierre Calleja, Dr. Anton Bartolo, Dr. Peter Grech, Dr. Bernadette Muscat, Dr. Manfred Galdes





# LETTER OF TRANSMITTAL TO THE MINISTER OF FINANCE, THE ECONOMY AND INVESTMENT

**Financial Intelligence Analysis Unit  
Valletta**

March 2013

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<sup>st</sup> December 2012.

Yours sincerely,



**Dr. Peter Grech**  
Chairman



# TABLE OF CONTENTS

<b>CHARTS AND TABLES</b>	8
<b>ABBREVIATIONS</b>	9
<b>STATEMENT OF THE CHAIRMAN</b>	10
<b>1. THE FINANCIAL INTELLIGENCE ANALYSIS UNIT</b>	12
Establishment and Composition	12
Functions	12
Structure of the Organisation	13
<b>2. OPERATIONS</b>	14
Financial Analysis	14
Statistics	14
International Co-operation	24
Compliance Monitoring	28
Money Laundering Cases	31
<b>3. MANAGEMENT AND TRAINING</b>	36
The Board of Governors	36
The Director	36
Training	36
<b>4. OTHER DEVELOPMENTS AND INITIATIVES</b>	38
Joint Committee for the Prevention of Money Laundering and Funding of Terrorism	38
FATF Recommendations	38
FATF Statements	38
Guidance Note on High-Risk and Non-Cooperative Jurisdictions	39
Amendments to the PMLFTR and the Implementing Procedures	39
<b>5. PARTICIPATION IN INTERNATIONAL FORA</b>	41
The European Union Committee on the Prevention of Money Laundering and Terrorist Financing	41
EU FIU Platform	41
The Egmont Group	41
MONEYVAL	42
Conference of the Parties to CETS No. 198	44



# CHARTS AND TABLES

<b>CHART 1</b>	Annual STR disclosures (2005 – 2012)	15
<b>CHART 2</b>	Requests for information made by the FIAU by type of initial disclosure (2012)	18
<b>CHART 3</b>	Number of requests for information made and number of unique cases in respect of which the requests were made - per category (2012)	19
<b>CHART 4</b>	Suspected predicate offences in cases forwarded to the Police (2012)	22
<b>CHART 5</b>	Comparative analysis of requests received and requests made by the FIAU (2005 – 2012)	25
<b>CHART 6</b>	Response time for requests received and requests made by the FIAU (2012)	26
<b>TABLE 1</b>	STRs and cases (2005 – 2012)	15
<b>TABLE 2</b>	STRs received by the FIAU per quarter (2005 – 2012)	16
<b>TABLE 3</b>	STRs filed by type of reporting entity in absolute numbers and as a percentage of the total number of STRs (2005 – 2012)	17
<b>TABLE 4</b>	Outcome of STRs and cases (2005 – 2012)	20
<b>TABLE 5</b>	Suspected predicate offences in cases referred to Police on suspicion of ML/FT (2005 – 2012)	21
<b>TABLE 6</b>	Requests for co-operation and assistance (2005 – 2012)	24
<b>TABLE 7</b>	Requests for co-operation and assistance (2012)	27
<b>TABLE 8</b>	On-site AML/CFT examinations conducted by category of subject persons and by authority (2012)	30
<b>TABLE 9</b>	Comparison in ratings conferred in the 3 <sup>rd</sup> and 4 <sup>th</sup> MONEYVAL evaluation of Malta	43



## ABBREVIATIONS

<b>ACR</b>	Annual Compliance Report
<b>AML/CFT</b>	Anti-Money Laundering and Combating the Financing of Terrorism
<b>CPMLTF</b>	Committee on the Prevention of Money Laundering and Terrorist Financing
<b>DDO</b>	Dangerous Drugs Ordinance
<b>DNFBP</b>	Designated Non-Financial Business and Profession
<b>EEA</b>	European Economic Area
<b>EU</b>	European Union
<b>FATF</b>	Financial Action Task Force
<b>FIAU</b>	Financial Intelligence Analysis Unit
<b>FIU</b>	Financial intelligence unit
<b>FT</b>	Funding of terrorism
<b>JCPMLFT</b>	Joint Committee for the Prevention of Money Laundering and Funding of Terrorism
<b>LGA</b>	Lotteries and Gaming Authority
<b>MFSA</b>	Malta Financial Services Authority
<b>ML</b>	Money laundering
<b>ML/FT</b>	Money laundering and funding of terrorism
<b>MLRO</b>	Money Laundering Reporting Officer
<b>MONEYVAL</b>	Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
<b>PEP</b>	Politically Exposed Person
<b>PMLA</b>	Prevention of Money Laundering Act
<b>PMLFTR</b>	Prevention of Money Laundering and Funding of Terrorism Regulations
<b>STR</b>	Suspicious Transaction Report
<b>TII</b>	Tied Insurance Intermediary
<b>VAT</b>	Value Added Tax



# STATEMENT OF THE CHAIRMAN

I have the honour to introduce the Annual Report of the Financial Intelligence Analysis Unit covering the Unit's activity in 2012.

The FIAU witnessed many developments in 2012 and a number of steps were taken in order to strengthen the Unit to meet its current and future challenges.

One of the most significant developments on the international level was the issuance of the revised FATF Recommendations in February 2012. As had been expected these posed a new challenge to all states needing to meet the new and improved international standards.

On Malta's specific situation, perhaps the most noteworthy development of the year was the conclusion and approval of the report on the fourth assessment visit to Malta conducted by a team from the Council of Europe MONEYVAL Committee between the 29<sup>th</sup> May and the 4<sup>th</sup> June 2011. The report was adopted at the 38<sup>th</sup> plenary meeting of MONEYVAL held in Strasbourg between the 5<sup>th</sup> and 9<sup>th</sup> March 2012.

When comparing the ratings obtained for the 31 FATF Recommendations reviewed in the course of the fourth round assessment of Malta with the ratings obtained for the same Recommendations at the third round evaluation adopted in September 2007, one can notice an increase in rating for 10 recommendations and a decrease in relation to another 3, whilst the same rating was kept for the remaining 18 recommendations reviewed. On examining more broadly the ratings obtained for all the 40 Recommendations and 9 Special Recommendations in the third and fourth round evaluations, one can notice that Malta is now compliant or largely compliant with all Recommendations and Special Recommendations. Malta has not been rated as being non-compliant on any ground of its assessment. Moreover Malta's mutual evaluation report at the time of its adoption could be considered to be one of the most favourable reports adopted by MONEYVAL in its fourth round of evaluations.

Needless to say, this field of regulation leaves little room for complacency. There is both much room and need for further action particularly with regard to the carrying out of a national risk assessment in the field, in the improvement of the quality of statistics relating to crime and to the overall cost of crime, in improving capability for the identification, freezing and confiscation of the proceeds of crime, in the prevention of the abuse of voluntary organisations for money laundering and related purposes, and in developing the administrative capacity for more effective enforcement and compliance monitoring.

It is significant that the year 2012 also saw the highest number of suspicious transaction reports ever received by the FIAU in any calendar year since the organisation was set up in 2002. There were 142 such reports which is practically double the average for the past years. This development is also attributable to the efforts made by the Unit to increase awareness of the obligation to file such reports among subject persons. This increase in STRs was also marked by an increase in the reports received from the non-financial sector (the so-called Designated Non-Financial Businesses and Professions) and particularly from company service providers, casinos, accountants, legal professionals, trustees and fiduciaries.

There was also an increase in the number of requests for information made to foreign FIUs from 142 in 2011 to 179 in 2012.

Annual Compliance Reports were completed and submitted to the FIAU for the first time in 2012 covering the period from January to December 2011. The receipt of such reports



facilitates the off-site compliance assessment exercise conducted by the FIAU's compliance officers and assists the FIAU in planning its on-site compliance examinations on a risk-sensitive basis.

The year under review also saw the setting up of the Compliance Monitoring Committee within the FIAU. This is an internal structure chaired by the Director and composed of the FIAU's compliance officers and a representative of the Legal and International Relations Section. The Committee is responsible to the Board. It is tasked with the evaluation of the findings of on-site compliance examinations conducted by both the FIAU and by other supervisory authorities on its behalf, and with the assessment of Annual Compliance Reports and other information obtained or otherwise received by the FIAU and relevant to compliance issues.

In the course of 2012 a total of 24 on-site compliance examinations were conducted by the FIAU or by the MFSA, or jointly by the two supervisory authorities. Three administrative sanctions were imposed on three subject persons (all credit institutions) for breaches of the Prevention of Money Laundering and Funding of Terrorism Regulations. Seventy-five subject persons received a formal reprimand during the same period.

The staff complement of the FIAU was increased to thirteen during 2012. This increase was aimed at strengthening the Unit's administrative capacity, and in particular its enforcement and monitoring capabilities as well as its ability to meet its demanding and numerous international and Community commitments.

The FIAU also continued to contribute to the training of the relevant professional sectors by organising two separate training programmes consisting of six afternoon sessions. In all over 300 persons received such training in 2012.

The sector broadly referred to as the 'financial services industry' has become a significant pillar of Malta's economy and of its socio-economic fabric. It is a sector which reaps many benefits but which, like many other fields of economic activity, sometimes navigates perilous waters. It certainly calls for proper regulation and strict professional discipline to survive.

In the circumstances the FIAU stands out as a small organisation with a considerable task. It performs that task within our economy's financial and budgetary constraints through a strategy involving various fields of operation that range from the analysis of reports received to monitoring of compliance by subject persons to training.

This report aims at giving as clear and comprehensive a picture as possible of the workings of the FIAU over what has proved to be a very eventful year in financial sectors.



**Dr. Peter Grech**



# 1. THE FINANCIAL INTELLIGENCE ANALYSIS UNIT

## Establishment and Composition

The FIAU is the national central agency responsible for the collection, collation, processing, analysis and dissemination of information with a view to combating ML/FT. It is also responsible for ensuring compliance of subject persons with the provisions of the PMLA (Chapter 373 of the Laws of Malta) and the Regulations issued under the Act.

Set up as an agency within the Ministry responsible for finance, the Unit enjoys full autonomy in its operations.

As stipulated in the PMLA, the FIAU is composed of a Board of Governors and a Director, with the Board being responsible for the establishment of the policy of the Unit and the Director being tasked with the responsibility of executing that policy. A number of operational sections have been established within the Unit's internal structures, enabling it to discharge its functions more effectively, including sections responsible for administration & I.T., financial analysis, compliance monitoring and legal and international relations.

The FIAU was established and became operational on 1<sup>st</sup> October 2002, by virtue of Legal Notice 297 of 2002, which brought into force comprehensive amendments to the PMLA enacted by means of Act XXI of 2001.

## Functions

Article 16 of the PMLA lists the functions of the FIAU, with the following three areas of responsibility being considered to be the most important:

### 1. The receipt and analysis of information on transactions or activities suspected to involve ML/FT

Institutions and persons that are subject to the obligations of the PMLFTR are required to disclose to the FIAU within the timeframes set out by law information on any knowledge or suspicion of ML/FT. Where such disclosures are made, an analysis is carried out by the Financial Analysis Section of the FIAU and if, following the collection of additional information from subject persons, public entities, other FIUs or any other person, this suspicion gives rise to a conclusion that a reasonable suspicion of ML/FT does in fact subsist, an analysis report is submitted to the Police for investigation.

### 2. The exchange of information and co-operation with local and foreign supervisory authorities and with other FIUs

The FIAU may exchange information either spontaneously or

on the basis of a request for information. For this purpose the FIAU may enter into bilateral and multilateral Memoranda of Understanding 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 monitoring on a risk-sensitive basis. On-site examinations are carried out by the Unit's compliance officers and by supervisory authorities acting on the FIAU's behalf. In both scenarios subject persons are informed by the FIAU of any shortcomings identified and a time period is given for any remedial action deemed necessary.

### Other areas of responsibility

Gathering of information on the financial and commercial activities in Malta with a view to detecting areas of activity which may be vulnerable to ML/FT.

Advising the Minister responsible for finance on all matters and issues related to the prevention, detection, investigation, prosecution and punishment of ML/FT.

The monitoring of developments in methods, typologies, and trends in order to provide guidance to subject persons.

The compilation of statistics and records, the dissemination of information and the issuance of guidance and procedures for the implementation of the provisions of the PMLFTR.

The promotion and provision of training on matters related to the prevention of ML/FT.

Advising and assisting natural and legal persons to develop effective measures and programmes for the prevention of ML/FT.

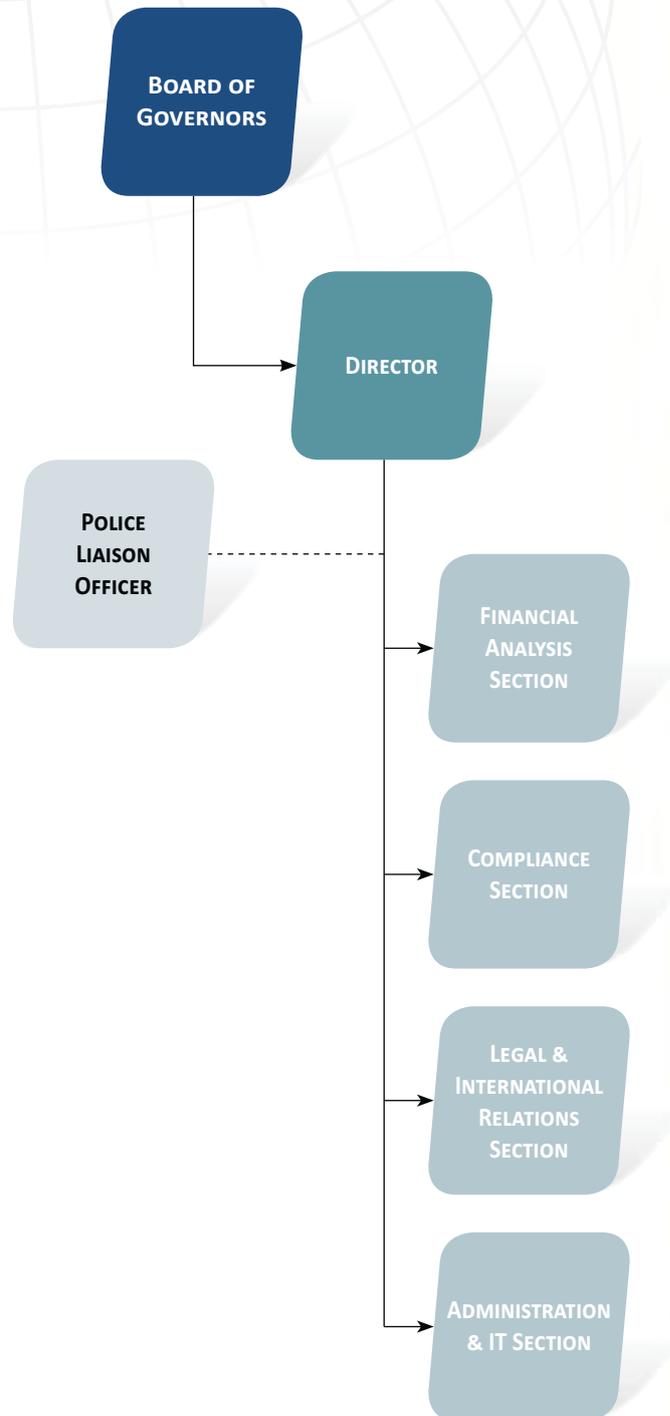
Participation in international fora, including the plenary and working group meetings of the Egmont Group and MONEYVAL and the meetings of the EU FIU Platform and the EU Committee on the Prevention of Money Laundering and Terrorist Financing.

Reporting to the Police any suspicion of ML/FT where the FIAU becomes aware of any suspicious activity during the course of the discharge of its functions, even where the knowledge of the suspicious activity does not arise from a report filed in terms of the PMLFTR.



# STRUCTURE OF THE ORGANISATION

<b>Policy</b>	<b>Board of Governors –</b> Responsible for the policy to be adopted by the FIAU.
<b>Operational</b>	<b>Director –</b> Responsible for overseeing the operational functions of the FIAU and the execution of the policies established by the Board of Governors through the various Sections of the Unit:
	<b>Financial Analysis Section –</b> Responsible for the analysis of suspicious transaction reports and the preparation of analytical reports.
	<b>Compliance Section –</b> Ensures compliance by subject persons with the provisions of the PMLA and the PMLFTR.
	<b>Legal and International Relations Section –</b> Advises on legal matters and manages the international aspects of the Unit's functions.
	<b>Administration and I.T. Section –</b> Responsible for the Unit's administrative, accounting and IT set-up.
<b>Liaison</b>	<b>Police Liaison Officer –</b> A police officer tasked with the duty of making available police records insofar as these are relevant to the work of the FIAU and to assist the FIAU in the analysis and processing of STRs and other intelligence data.



## 2. OPERATIONS

### Financial Analysis

The wording of the FATF Recommendations, particularly Recommendation 29, leaves no doubt as to the reason why a FIU should be set up within a jurisdiction. Indeed, it is unequivocally stated that the FIU of a state is required to serve as a national centre for the receipt and analysis of STRs and other information relevant to ML, associate predicate offences and FT, and for the dissemination of the results of that analysis.

STRs received by the FIAU are subjected to a structured analysis carried out by financial analysts in accordance with internal procedures. The initial information received from subject persons is systematically supplemented with other relevant information that the FIAU may already possess or other administrative or law enforcement information requested from other persons or institutions in terms of law. Additional information may also be sought through requests for information made to the FIAU's counterparts in foreign jurisdictions.

The procedure in place for the analysis of suspicious transactions requires the officer carrying out the analysis to draw up a preliminary report and to present the findings to the Financial Analysis Committee, an internal body chaired by the Director and also composed of the Unit's financial analysts and an officer from the Legal and International Relations Section. The Committee is tasked with assessing the contents of the report and reaching a determination as to whether a reasonable suspicion of ML/FT subsists in terms of law. If the Committee determines that the requirements set out in the law have been satisfied, the analytical report, together with all relevant information, is submitted to the Police for further investigations. The STR received from subject persons, being a confidential document, is retained by the FIAU and is not submitted to the Police with the analytical report.

This same procedure is followed where the Unit draws up an analytical report on the basis of information in its possession which does not originate from a STR.

The FIAU carries out periodical overall analyses of the STRs where it tries to identify and draw patterns, trends and typologies of ML or FT, thus enabling the Unit to provide either general or specific feedback to subject persons where this is deemed appropriate and to inform the relevant authorities where serious trends or threats are identified. This exercise also serves to assist the FIAU in determining and quantifying the risks to which the Maltese

financial sector is being exposed and to make appropriate recommendations for remedial action to be taken. The Unit also maintains comprehensive statistical data which is updated on an ongoing basis.

A detailed review of the statistical data relating to financial analysis carried out during 2012 is contained in the following paragraphs, together with information on certain typologies and trends identified during the year under review.

### Statistics

The number of STRs received from subject persons during 2012 was 142. This makes it another record year in terms of STRs received and constitutes a 32.7 percent increase over the 107 STRs received during 2011. In terms of cases, the 142 reports have given rise to 103 new cases resulting into another increase of 13.2 percent over the previous year. These figures should also be seen in the light of the fact that the second half of 2011 was characterised by the abnormal receipt of 30 STRs from remote gaming companies which occurrence was not repeated in 2012.

In contrast with the figures for 2011 the disclosures made to the FIAU during the year under review, which were received from 12 different categories of subject persons, were evenly spread out throughout the year. In addition to the 103 cases received, the FIAU generated a further 17 cases which were triggered by information received by the FIAU from other sources including spontaneous information from foreign FIUs. Therefore, in total 120 new cases were subject to FIAU analysis during 2012.

The number of STRs received by the FIAU and the number of cases subject to analysis following the submission of a STR since 2005 are set out comparatively in Table 1, revealing clearly a considerable increase in the number of disclosures of suspicious transactions made to the FIAU and cases analysed in the past two years. Nonetheless, it should be noted that while the sharp increase of 2011 was attributed in the FIAU Annual Report 2011 to the sudden wave of disclosures made by remote gaming companies, the increase registered in 2012 is cross-sectoral and therefore certainly more positive in that conclusions of more awareness among subject persons and an increased inclination to report suspicious transactions can be reached. This development is likely to be attributable to the major efforts of the FIAU in providing training to officers of subject persons and the introduction of the requirement to submit an annual compliance report.



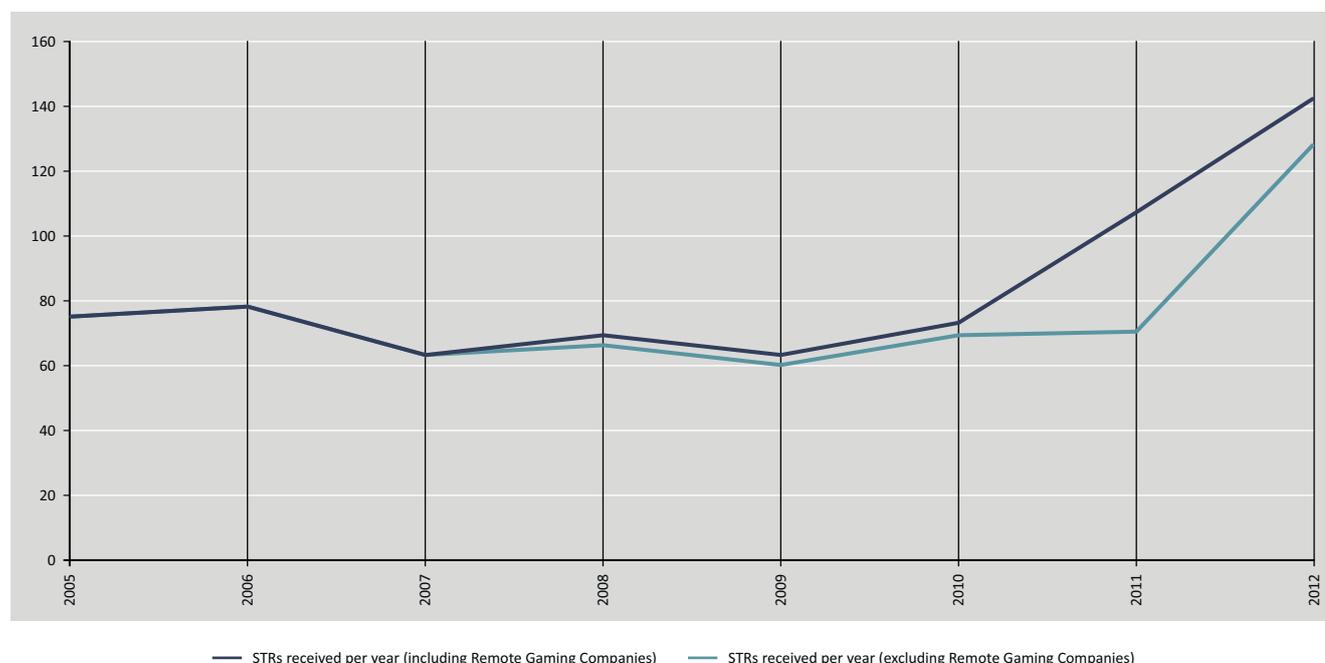
**Table 1: STRs and cases (2005 – 2012)<sup>1</sup>**

	2005	2006	2007	2008	2009	2010	2011	2012
STRs made by subject persons	75	78	63	69	63	73	107	142
Cases subject to analysis following STR submission	62	72	55	67	53	55	91	103
Cases subject to analysis on the basis of other information received by the FIAU	5	10	13	3	13	8	11	17
<b>Total number of cases subject to analysis</b>	<b>67</b>	<b>82</b>	<b>68</b>	<b>70</b>	<b>66</b>	<b>63</b>	<b>102</b>	<b>120</b>

Chart 1 below graphically demonstrates that the impact of the increase in reporting by remote gaming companies on the FIAU's overall figures is no longer relevant and therefore figures do not need to be qualified in this report. The overall increase in the number of STRs in 2012 is clearly illustrated in this Chart.

The improvement in the quality of reporting by subject persons and supervisory authorities referred to in the 2011 Annual Report was once again confirmed in 2012 with less defensive reporting and more detailed information being provided. It is also evident that subject persons are being more cautious in establishing potential links between prospective

**Chart 1: Annual STR disclosures (2005 – 2012)**



In terms of total figures, the 142 STRs filed during 2012 have given rise to an increase in the total number of STRs made to the FIAU since it was set up to 803, while the total number of cases has reached 670. The difference between the number of STRs made by subject persons and the number of cases analysed by the FIAU reveals that 39 STRs were either connected to cases which were already subject to an ongoing analysis or were subjected to an integrated analysis in conjunction with one or more other STRs in view of a potential or confirmed connection between the subjects of the reports or the transactions reported.

customers and reported crime. Specific training provided by the FIAU on reporting and specific feedback to subject persons in relation to STRs are likely to have contributed to this improvement.

A review of the period during the year when STRs were made reveals that there was no particular period when there was an alarming increase in suspicious activity. Indeed, disclosures were made evenly throughout the year. Figures are provided in Table 2.

<sup>1</sup> As from 2012, the statistical period reviewed in the FIAU Annual Report will be covering an eight-year period. Therefore the data range in the 2012 Annual Report reviews the period from 2005 to 2012. Earlier data can be accessed from the previous Annual Reports.



**Table 2: STRs received by the FIAU per quarter (2005 – 2012)**

	2005	2006	2007	2008	2009	2010	2011	2012
Quarter 1	21%	22%	27%	23%	24%	26%	14%	20%
Quarter 2	37%	29%	21%	36%	25%	23%	18%	30%
Quarter 3	16%	26%	27%	28%	21%	27%	40%	30%
Quarter 4	25%	22%	25%	13%	30%	23%	28%	20%

Notwithstanding the even distribution over larger periods, during July 21 STRs were received, a figure which is almost double the average of 12 monthly reports in 2012. This figure includes six reports made by company service providers and eight by credit institutions. While it may be stated that the receipt of such a large number of STRs during 2012 might have been considered solely attributable to the two training programmes organised by the FIAU in May and September, it should be noted that there was an equally substantial increase in the first half of the year which certainly could not be attributed to this development. Thus the likelihood that the increase in the total number of STRs should be maintained in future years is seen to be a realistic conclusion which would constitute an extremely positive development in the light of the findings of the MONEYVAL 4<sup>th</sup> Round Mutual Evaluation Report where it was stated that reporting in Malta is considered to be low.

### STRs by categories of subject persons

Table 3, appearing on page 17, lists the number of STRs submitted by each category of subject persons during the eight-year period from 2005 to 2012.

The main originator of STRs during 2012 was once again the category of credit institutions with 58 STRs, which is equivalent to 41 percent of all the reports received for the year. Considering the remarkable drop in reporting by credit institutions registered during 2011, the increase in reporting by 32 STRs is seen to be a clear indicator that the lower figures in 2011 cannot be considered to be a trend. Rather, this was a one-off event which cannot be attributed to any particular reason. On the other hand, the record number of disclosures made during the year is a clear confirmation that awareness and vigilance within this sector is on the high side.

Credit institutions in Malta have been categorised by the Central Bank of Malta into three main categories, namely

core domestic banks, non-core domestic banks, and international banks.<sup>2</sup>

As expected, the majority of the 58 STRs submitted by credit institutions were filed by core domestic banks. In fact, the total number of disclosures made by this category reached 38 during 2012. All the five credit institutions listed in this category filed a number of STRs during the year. Additionally, the number of STRs submitted by each core domestic bank appears to be in proportion to the bank's market share with the largest two banks accounting for most of the STRs submitted by the banks in this category.

A further 19 STRs were submitted by four of the eight non-core domestic banks, representing 33 percent of the 58 STRs received from credit institutions during 2012. It is to be noted however, that 10 of the 19 STRs originated from one bank. The STRs from this bank were predominantly related to the bank's provision of services to customers situated outside Malta. Another bank from this category submitted seven STRs, while two STRs were filed by another two banks. This uneven distribution of STRs received from this category could be attributed to the different risk appetite, the varying market share, and the type of clients serviced.

As anticipated, the lowest number of STRs was submitted by banks categorised as international banks, with only one disclosure being made. Banks within this category have virtually very limited links to the domestic economy, and typically provide back office services.

The FIAU has also noted a significant increase in the number of disclosures received from company service providers, trustees and fiduciaries. The increase in international business in this area exposes the Maltese financial sector to considerable risks and therefore a noteworthy increase in reporting is a highly positive development. The same can be said about the increase in reporting by independent legal professionals, accountants and auditors. At the same time,

<sup>2</sup> "The category "core domestic banks" consists of a set of banks which have strong links with the domestic economy, and are thus more systemically relevant. These banks have a widespread branch network, provide a full spectrum of banking services and are core providers of credit and deposit services in Malta. The "non-core domestic banks" play a more restricted role in the economy, as the volume of operations and the banking services they offer to residents are somewhat limited. In turn, "international banks" have virtually no links with the domestic economy." Central Bank of Malta: Financial Stability Report 2011 – page 47 – [http://www.centralbankmalta.org/updates/Downloads/pdfs/FSR\\_2011.pdf](http://www.centralbankmalta.org/updates/Downloads/pdfs/FSR_2011.pdf).



**Table 3: STRs filed by type of reporting entity in absolute numbers and as a percentage of the total number of STRs (2005 – 2012)**

Type of reporting entity	2005		2006		2007		2008		2009		2010		2011		2012		Total	
	No	%	No	%	No	%	No	%										
Credit Institutions	39	52	42	54	39	62	44	64	26	41	38	52	26	24	58	41	312	47
Financial Institutions	18	24	13	17	11	17	13	19	6	10	4	5	6	6	12	8	83	12
Investment Services Licensees	1	1	-	-	2	3	-	-	3	5	2	3	8	7	3	2	19	3
Insurance Licensees	10	13	3	4	2	3	2	3	-	-	4	5	5	5	-	-	26	4
Supervisory Authorities	5	7	12	15	1	2	1	1	3	5	3	4	6	6	4	3	35	5
Independent Legal Professionals	-	-	-	-	1	2	1	1	3	5	3	4	1	1	3	2	12	2
Remote Gaming Companies	-	-	-	-	-	-	3	4	3	5	4	5	37	35	14	10	61	9
Casino Licensees	-	-	-	-	-	-	-	-	1	2	2	3	6	6	6	4	15	2
Trustees & Fiduciaries	1	1	5	6	2	3	3	4	2	3	4	5	6	6	13	9	36	5
Real Estate Agents	-	-	1	1	-	-	-	-	2	3	-	-	-	-	-	-	3	-
Accounting Professionals	1	1	2	3	4	6	-	-	4	6	3	4	1	1	5	4	20	3
Regulated Markets	-	-	-	-	1	2	-	-	3	5	-	-	-	-	1	1	5	1
Company Service Providers	-	-	-	-	-	-	2	3	3	5	5	7	5	5	18	13	33	5
Others	-	-	-	-	-	-	-	-	4	6	1	1	-	-	5	4	10	1
<b>Total</b>	<b>75</b>	<b>100</b>	<b>78</b>	<b>100</b>	<b>63</b>	<b>100</b>	<b>69</b>	<b>100</b>	<b>63</b>	<b>100</b>	<b>73</b>	<b>100</b>	<b>107</b>	<b>100</b>	<b>142</b>	<b>100</b>	<b>670</b>	<b>100</b>

one cannot ignore the fact that there has been a rise in the incidence of individuals having a criminal record attempting to establish companies under Maltese law and seeking the assistance of Maltese professionals. The risk that the proceeds of criminal activity could be masked as profits of fictitious operations and the attempts to pass seemingly legitimate transactions through corporate structures set up by Maltese company service providers are seen to be on the increase and even more vigilance and circumspection is warranted in the circumstances.

The number of reports made by financial institutions licensed under the Financial Institutions Act was double that reported in the 2011 Annual Report. These disclosures were mainly related to transactions carried out in the performance of money remittance services.

The largest drop in the number of reports filed during 2012, as stated earlier, resulted in the case of remote gaming companies. The figures registered for 2012, nevertheless, are considered to be more commensurate with the perceived risks posed by the activities subject to reports made by operators within this sector. A marginal increase in the standard of reporting was noted in 2012 with fewer superficial and unsubstantiated reports being filed.

Other decreases in reporting were noted in the more traditional financial services sectors of investment services and insurance. In the latter case no STRs were made to the FIAU in 2012 in comparison to the 5 reports filed during 2011. Fewer reports were also made by supervisory authorities, while no STRs were received from real estate agents for the third year running.

### Persons in respect of whom disclosures were made

More than half of the cases dealt with by the FIAU either following the receipt of a STR or on the basis of information obtained from other sources related to activities or transactions carried out by natural persons while slightly more than one third of the cases were closely related to activities or transactions carried out by both natural and legal persons. Cases dealing only with the activities of legal persons constituted less than one-fifth of the cases subject to analysis in 2012.

In 74 percent of the cases dealt with by the FIAU there was the involvement of at least one individual or legal entity of foreign nationality or overseas registration. The nationality or place of registration varied from case to case, with 45 foreign countries being involved in total, including 15 EU member states.

### Requests for information

The STRs submitted to the FIAU normally contain the basic information available to the reporting entity that would have led to the suspicion. In most cases, this information is insufficient for the FIAU to be able to determine the existence of a reasonable suspicion of money laundering or funding of terrorism activities. Thus, in the course of the FIAU's comprehensive analysis of a case, additional information is sought by virtue of the extensive powers conferred by the PMLA from several persons, including persons subject to the PMLFTR, the Police, supervisory authorities, Government Ministries, departments, agencies and other public authorities.



The FIAU may also make a request for information to the aforementioned persons and entities following the receipt of an international request for information from a foreign FIU.

During the year under review a total of 2,570 requests for information were made by the FIAU, representing a 25 percent increase over 2011 which is attributable to the larger number of cases subject to analysis.

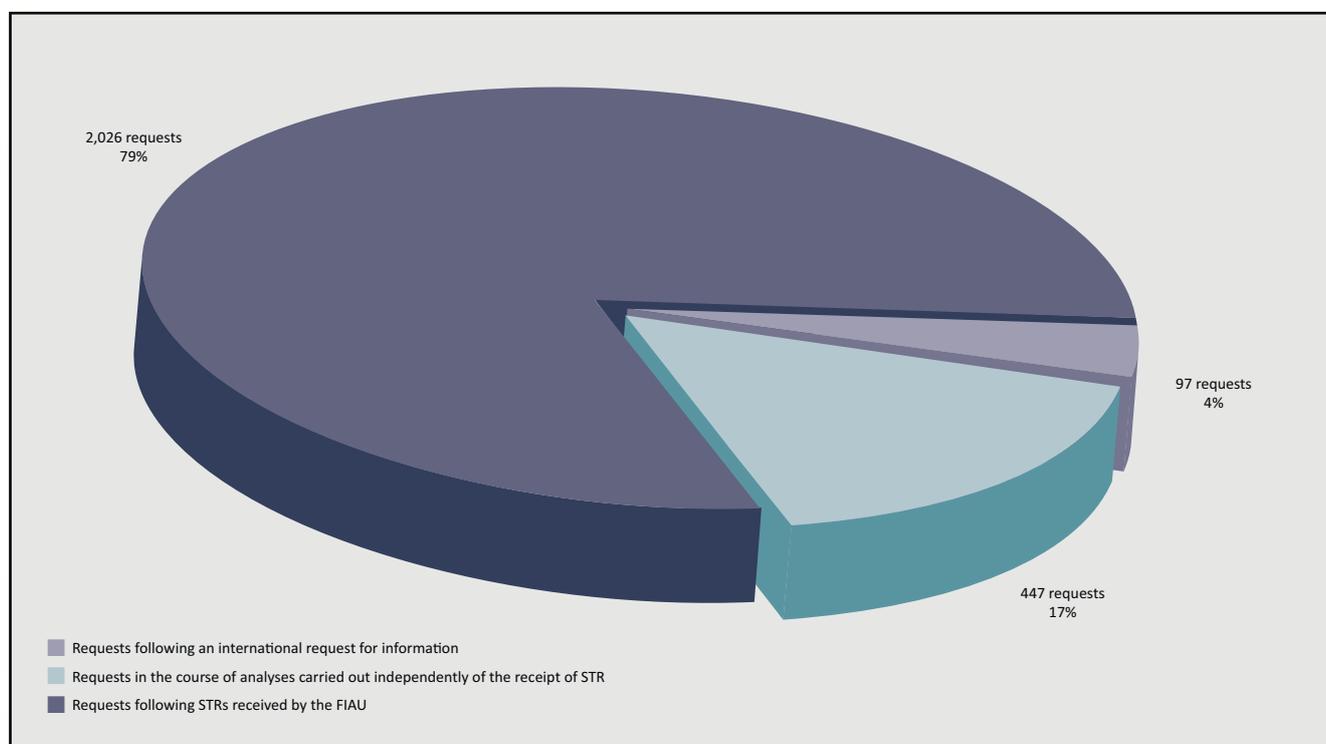
It may be noted from a review of Chart 2 below that 2,026 requests for information made in 2012 (79 percent) were made in relation to cases initiated following the receipt of a STR. On the other hand, requests for information made by the FIAU following the receipt of an international request for information from foreign FIUs amounted to a total of 97 requests (four percent).

Chart 3, on the next page, illustrates the number of requests for information made by the FIAU categorised by subject persons and also the number of cases in respect of which requests were made to each class of subject persons.

### Outcome of analyses

During 2012, the FIAU dealt with a total of 172 cases, a figure which includes 120 new cases the analysis of which started in 2012 and a further 52 cases which were ongoing as at the end of 2011.<sup>3</sup> This corresponds to an increase of 18 percent in the total number of cases dealt with by the FIAU in 2012 compared to 2011. The larger number of cases is attributable to the increases in both the number of cases received by the FIAU throughout the year as well as the rise in the number of cases which were subject to an analysis independently of the receipt of a STR.

**CHART 2: Requests for information made by the FIAU by type of initial disclosure (2012)**



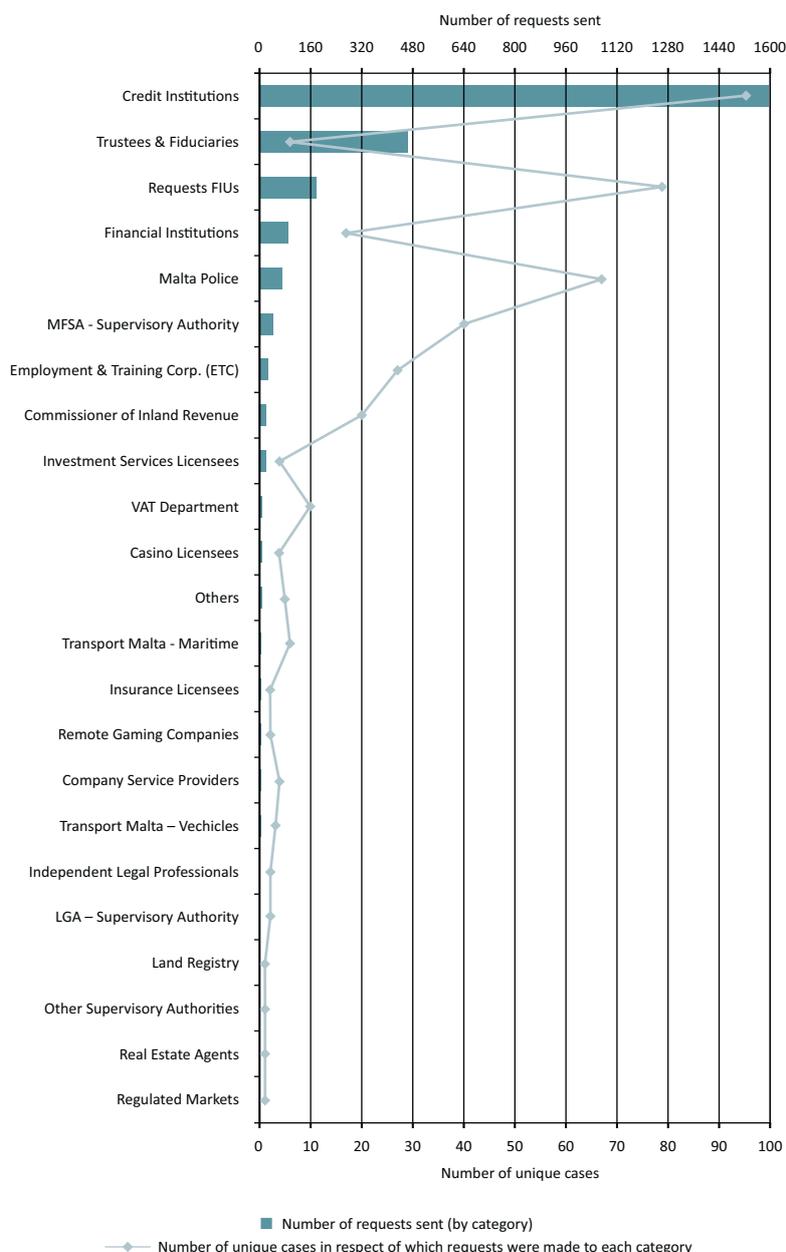
The requests for information made by the FIAU during the course of analyses carried out by the FIAU on the basis of information other than STRs increased from 123 in 2011 to 447 in 2012. This considerable increase in the number of requests for information is commensurate with the rise in the number of cases initiated by the FIAU in 2012 which did not originate from a disclosure by a subject person.

From the 172 cases which were dealt with, a total of 131 cases were finalised throughout the year. Figures show that despite the rise in the total number of cases dealt with by the FIAU in 2012, the average time-period taken to conclude the cases which were finalised in 2012 declined by a further 18 percent compared to the time-period for the cases concluded in 2011. As a result, only 41 cases remained outstanding as at 31<sup>st</sup> December 2012. This represents a 24

<sup>3</sup> According to the FIAU Annual Report of 2011, the total number of cases still being dealt with at the end of 2011 amounted to 54, however, in 2012 the FIAU received new information indicating that three separate cases which were being analysed in 2011 were in fact connected and were subsequently treated as one case in 2012.



**CHART 3: Number of requests for information made and number of unique cases in respect of which the requests were made - per category (2012)**



percent decrease when compared to the number of cases outstanding as at 31<sup>st</sup> December 2011.

Table 4, on the next page, provides detailed data regarding the outcome of the STRs and cases analysed by the FIAU covering the period from 2005 to 2012. From this table, one may note that during 2012 a total of 45 STRs which were received by the FIAU and which generated 23 individual cases were forwarded to the Police for further investigation. Credit institutions accounted for 39 percent of the STRs which were forwarded to the Police, followed by financial institutions licensed under the Financial Institutions Act which contributed to 13 percent of the

STRs. The remaining 48 percent of the STRs forwarded to the Police originated from eight different categories of reporting entities.

In addition to the 23 cases mentioned above, a further three cases which were initiated by the FIAU independently of the receipt of STRs were also forwarded to the Police for further investigation, meaning that during 2012, a total of 26 cases were passed on to the Police by the FIAU for investigation in terms of Article 31 of the PMLA.

The percentage of STRs which gave rise to the dissemination of information to the Police during 2012 as a proportion of the



**TABLE 4: Outcome of STRs and cases (2005 – 2012)**

Outcome of STRs and cases where STR was received from subject persons: 2005 - 2012																
	2005		2006		2007		2008		2009		2010		2011		2012	
	STRs	Cases														
Referred to Police for investigation	28	22	24	21	24	22	41	39	20	16	34	19	25	18	45	23
No reasonable suspicion of ML/FT - no further action	42	34	36	34	26	25	30	29	21	20	40	37	69	61	103	88
Report unrelated to ML/FT - no analysis carried out	-	-	1	1	4	4	2	2	-	-	-	-	-	-	6	4
Ongoing analysis	24	21	23	21	30	27	27	25	48	41	47	39	60	51	48	37
Outcome of STRs and cases where analysis was based on other information received by FIAU: 2005 - 2012																
	2005		2006		2007		2008		2009		2010		2011		2012	
	STRs	Cases														
Referred to Police for investigation	-	-	4	4	2	2	2	2	2	2	4	4	1	1	3	3
No reasonable suspicion of ML/FT - no further action	5	5	7	7	5	5	6	6	3	3	8	8	11	11	11	11
Report unrelated to ML/FT - no analysis carried out	-	-	-	-	-	-	-	-	-	-	-	-	1	1	2	2
Ongoing analysis	1	1	-	-	6	6	1	1	9	9	5	5	3	3	4	4
Outcome of all STRs and cases: 2005 - 2012																
	2005		2006		2007		2008		2009		2010		2011		2012	
	STRs	Cases														
Referred to Police for investigation	28	22	28	25	26	24	43	41	22	18	38	23	26	19	48	26
No reasonable suspicion of ML/FT - no further action	47	39	43	41	31	30	36	35	24	23	48	45	79	71	114	99
Report unrelated to ML/FT - no analysis carried out	-	-	1	1	4	4	2	2	-	-	-	-	1	1	8	6
Ongoing analysis	25	22	23	21	36	33	28	26	57	50	52	44	63	54	52	41

total STRs which were finalised during the year amounted to 28 percent, an increase of five percentage points compared to the equivalent ratio for the previous year.

### Suspected predicate offences

The suspected predicate offences identified in the cases which were forwarded to the Police for investigation during the period from 2005 to 2012 are provided in Table 5, while Chart 4 (see page 22) provides a representation in percentage terms of the suspected predicate offences identified in the cases which were forwarded to the Police during 2012.

In contrast with the situation that prevailed in previous years, one specific money-generating offence prevailed as the predominant suspected predicate in the cases forwarded to the Police during 2012. Indeed, it was noted that in the period under review, in fifty percent of the cases sent to the Police for further investigation for money laundering the suspected predicate offence was fraud. The type of fraud that gave rise to the suspicion of money laundering varied from case to case however the analytical reports disseminated to the Police included suspicions of laundering of funds originating from high-yield investment fraud, credit card fraud, fraudulent bankruptcy, VAT carousel fraud and stock fraud.



**TABLE 5: Suspected predicate offences in cases referred to Police on suspicion of ML/FT (2005 – 2012)**

Suspected Predicate Offence	2005	2006	2007	2008	2009	2010	2011	2012	Total	% of Total
Drug Trafficking	–	4	5	7	1	2	1	1	21	11%
Fraud	3	2	1	–	5	6	3	13	33	18%
Forgery	1	3	–	–	–	–	–	–	4	2%
Usury	2	5	1	4	–	–	1	–	13	7%
Undeclared Income	4	–	–	4	–	1	2	1	12	7%
Unlicensed Financial Services	1	–	3	3	–	3	–	–	10	5%
Organised Crime	1	–	2	2	1	1	1	1	9	5%
Human Trafficking	1	–	1	2	–	–	–	–	4	2%
Theft	4	–	–	–	–	–	2	–	6	3%
Illegal Gambling	1	2	–	1	–	–	–	1	5	3%
Identity Theft	–	2	1	–	–	–	–	–	3	2%
Living off the earnings of Prostitution	–	2	–	–	1	–	–	–	3	2%
Phising	–	–	1	–	–	–	–	–	1	1%
Corruption	–	–	–	–	–	1	4	–	5	3%
Unknown	3	1	6	16	7	4	4	5	46	25%
Misappropriation	–	–	–	–	–	–	–	3	3	2%
Embezzlement	–	–	–	–	–	–	–	1	1	1%
<b>Total</b>	<b>21</b>	<b>21</b>	<b>21</b>	<b>39</b>	<b>15</b>	<b>18</b>	<b>18</b>	<b>26</b>	<b>179</b>	<b>98%</b>
Funding of Terrorism	1	–	1	–	1	1	–	–	4	2%
<b>Grand Total</b>	<b>22</b>	<b>21</b>	<b>22</b>	<b>39</b>	<b>16</b>	<b>19</b>	<b>18</b>	<b>26</b>	<b>183</b>	<b>100%</b>

Another prevalent underlying offence was misappropriation, with three cases being forwarded to the Police during 2012.<sup>4</sup> The suspected predicate offence on the basis of which money laundering was suspected in five other cases which were forwarded to the Police was unknown, however, adverse information on the subjects of these five cases in connection with various crimes was available to the FIAU.

### Typologies

A brief description of the cases forwarded to the Police for further investigation on the basis of a reasonable suspicion of money laundering is being provided in this section. The information being provided on these cases dealt with by the FIAU is principally meant to assist reporting entities in identifying warning signs which could indicate the existence of suspicious activity. The cases forwarded to the Police in 2012 involve a varied mix of typologies.

As in previous years, it can be observed that in numerous cases subject to analysis bank accounts were, in different ways and to varying degrees, potentially used by criminals to launder criminal funds. International wire transfers

supported by false invoices and documentation were also identified as having been used in a number of cases.

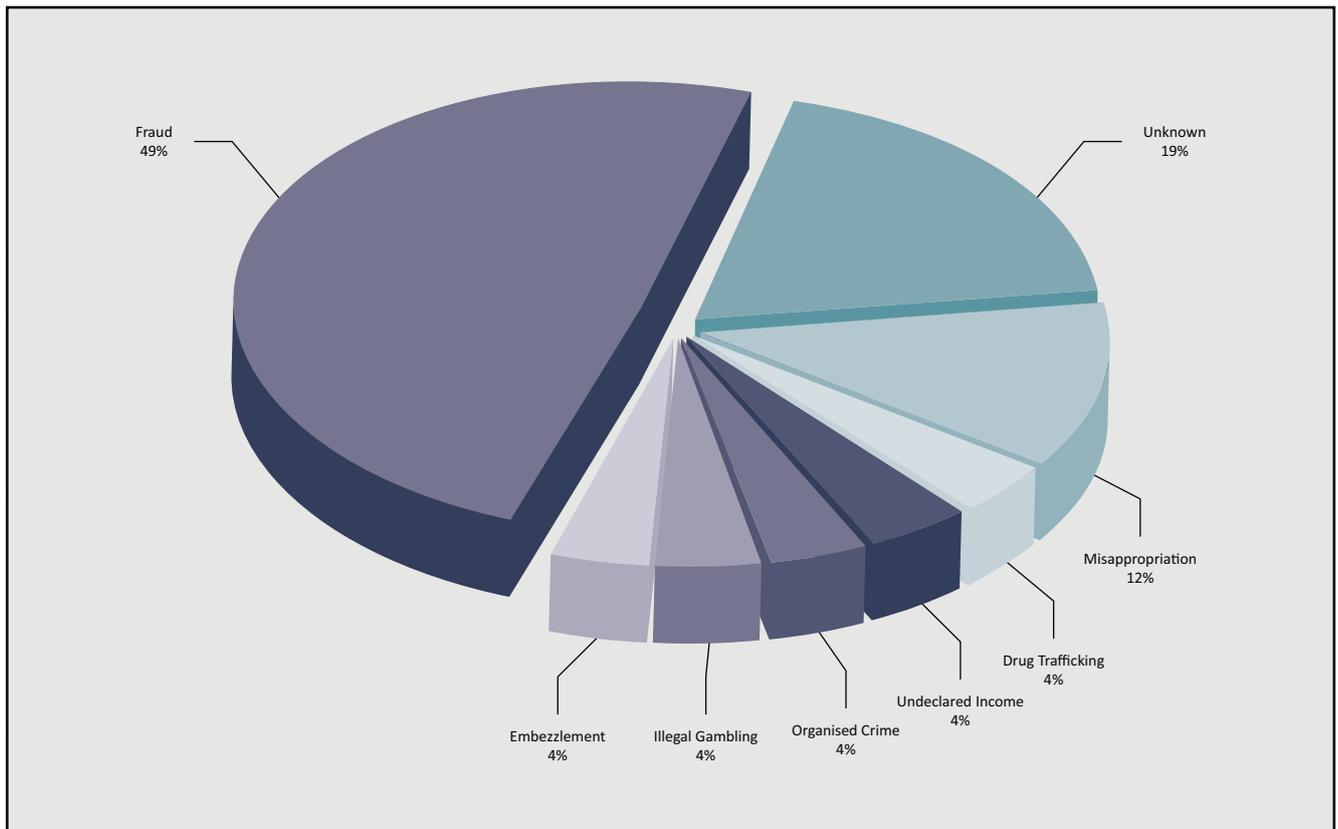
Once again, the use of complex company structures which would involve one or more companies registered under Maltese law has been observed. With the increase in the number of company service providers as well as the growth of the remote gaming industry, criminals seem to be creatively trying to explore and exploit newer areas of business in a growing financial centre.

The type of cases dealt with and the increased number of requests for co-operation made to the FIAU's foreign counterparts reveal that in the vast majority of cases a link was established with illegal operations taking place outside Malta. Indeed, several cases involved the use of a bank account opened with a bank established in Malta or a company established in Malta which only constituted a minor part of a larger set-up involving multiple jurisdictions. Such cases normally involve the use of the services of several financial operators and professionals in more than one country, thereby highlighting the importance of adequate customer due diligence being carried out at all levels.

<sup>4</sup> It is to be noted that in previous years, the predicate offences of misappropriation and embezzlement were included under the broader classification of "fraud".



**Chart 4: Suspected predicate offences in cases forwarded to the Police (2012)**



***Misappropriated funds being laundered through Maltese bank accounts***

Cases dealt with by the FIAU in 2012 included a number of cases of suspected laundering of misappropriated funds. The use of Maltese companies, some forming part of an international network, being used to launder the proceeds of tax fraud, corruption and misappropriation of public funds out of other countries was noted. The use of false or inflated invoices, false certificates, and shell companies and their bank accounts, at times held in other foreign jurisdictions, were identified as predominant factors in such cases. Also analysed were cases where funds received into local bank accounts for a particular and specific use (such as funds transferred to a legal professional to be kept in a clients’ account for a specified period and funds received for philanthropic purposes) were misappropriated and subsequently laundered in various manners, including through substantial cash withdrawals, settlement of debts and transfers to other third parties holding accounts in foreign jurisdictions.

***Suspicious behaviour at land-based casinos***

The FIAU dealt with cases of foreign nationals attempting to use the services of land-based casinos to deposit a large amount of cash, the origin of which was unknown. Attempts to exchange a large amount of cash denominated in high-

value notes such as €500 notes into gaming chips were noted. In such instances this would be followed by minimal gaming activity and a request to transfer the balance into bank accounts. It was noted that the subjects carried out other attempts in other casinos once their request was denied.

***PEPs, corruption and organised crime***

Cases analysed during 2012 falling under this category mainly involved foreign nationals who used Maltese companies and bank accounts as part of a larger set-up intended to launder funds obtained through corruption and/or organised crime. Subjects identified in such cases included renowned businessmen from European countries, individuals closely connected to PEPs, PEPs from countries known for their high levels of corruption and embezzlement and also individuals known to be directly or indirectly connected to criminal organisations.

Trends observed in these cases included the following *modus operandi* – the receipt of substantial amounts of funds supposedly representing the sale of shares of companies at an extraordinarily inflated price; the use of correspondent bank accounts with local credit institutions along with fictitious invoices and international wire transfers; the exercising of influence and control over Maltese companies to integrate criminal funds with legitimate business earnings; the acquisition of real estate



property and financial instruments with the proceeds of crime; and the setting up and operation of online websites providing forex or gaming services by persons involved in criminal activity and the receipt of potentially illicit funds in bank accounts held in the name of the entities providing these services with local credit institutions.

#### ***Use of online accounts held with companies carrying out licensed activities***

Several cases subject to analyses during the year involved the suspicion that companies licensed in Malta to provide online services were being used by the customers of such operations to launder criminal funds. Online gaming accounts and, to a lesser extent, online forex accounts being used by non-Maltese nationals raised a number of suspicions which were considered to constitute a reasonable suspicion of money laundering following analysis by the FIAU. The cases reviewed involved the deposit of fraudulent pre-paid cards followed by limited low-risk gaming and withdrawals to e-wallets, prohibited gambling practices such as chip dumping and the use of numerous accounts controlled by one individual opened under false identities using false identification, and the deposit of funds derived from credit card fraud with subsequent requests for outward payments to foreign bank accounts.

#### ***Laundering of proceeds of mass marketing fraud***

A number of cases subject to FIAU analysis in 2012 involved the potential laundering of the proceeds of mass-marketing fraud schemes targeting hundreds of persons through the use of websites or other forms of telecommunications. These cases typically involved the setting up by a foreign individual of a company or a number of companies registered in Malta, the holding of shares in a fiduciary capacity by a company licensed under the Trusts and Trustees Act and the opening of one or more bank accounts in the name of these entities. The fraudulent schemes were carried out through the use of mobile phone messages on a large scale as well the use of websites to market products and services. It was noted that in certain cases a considerable amount of transfers were claimed back by the customers and a number of complaints against the companies featured on internet websites. Wire transfers to accounts held in offshore jurisdictions as well as cash withdrawals in Malta were identified as the methods used to complete the laundering process following the receipt of the funds through fraudulent means. In one case, information obtained through international co-operation also indicated that the same subject of the FIAU case was being investigated for fraud in another EU member state.

#### ***Complex company structures and bank accounts in multiple jurisdictions***

The FIAU carried out various analyses of suspicious transactions or activities involving the use of complex webs

of companies, registered locally or overseas, some of which were shell companies. A number of cases analysed featured the use of loan agreements and international wire transfers as well as the use of fiduciaries and trustees licensed under the Trusts and Trustees Act. In one case a complex structure set up by non-nationals investigated in another EU member state involved nine trusts using three separate trustees licensed under Maltese law. Some of the trusts were initially set up abroad and then ownership was transferred to the Maltese trustees at a later stage. In this case a group of foreign entrepreneurs holding a substantial amount of assets in overseas jurisdictions transferred these assets to the Maltese trusts to conceal the ownership of the assets as part of a fraudulent bankruptcy scheme which deprived thousands of investors of millions of Euros.

Another case involved three companies, two of which were registered in Malta, having foreign ultimate beneficial owners residing in an EU country. It was discovered that one of the beneficial owners was convicted for his involvement in an international stock manipulation scheme amounting to over USD 10 million. Intelligence available to the FIAU suggested that the funds which were situated in the companies' bank accounts may have originated from illicit activities such as fraudulent investment schemes, and that the beneficial owners of the companies were likely to have been attempting to launder the funds through the Maltese banking system using a complex web of local and offshore shell companies, loan agreements and international wire transfers. Similarly, another case analysed involved the use of local companies and bank accounts in a high yield investment fraud scheme which targeted an international renowned company and raked in millions of Euros.

#### ***False invoicing and international wire transfers***

As already stated earlier, several cases analysed by the FIAU in 2012 involved the use of false invoicing in support of the movement of funds, the use of shell companies and international wire transfers. In certain cases, Maltese companies were identified to have been trading with numerous shell companies. In two separate cases the analysis carried out by the FIAU revealed that it was likely that the funds received in local bank accounts were the proceeds of a VAT carousel scheme as well as a tax evasion scheme.

#### ***Money remitters***

Services of money remittance service providers licensed to provide such services under Maltese law were also suspected to have been used by both Maltese and foreign nationals to remit substantial funds of illicit origin to individuals in foreign countries. In one case intelligence indicated that the subjects remitting the funds were involved in drug trafficking and the funds were most likely to be the proceeds of their criminal activity. Additionally in 2012, the FIAU analysed the



remittances made in favour of a known individual linked to fraudulent activity who was receiving substantial sums of money remitted by individuals from two EU countries and who had already been the subject of a FIAU case in the past.

## International Co-operation

International co-operation is a necessity in combating money laundering and financing of terrorism which phenomena are becoming ever more internationalised largely through the exploitation of a globalised financial sector. Cross-border trade has become easier and less cumbersome through the development of new technologies and products which are susceptible to being abused for criminal purposes. In order to address and prevent the misuse of such financial channels, the FATF Recommendations demand that FIUs (amongst other competent authorities involved in combating money laundering and financing of terrorism) are enabled by law and appropriately staffed and equipped to efficiently and effectively provide the widest possible range of international co-operation in relation to money laundering, related predicate offences and terrorist financing.

In line with the FATF Recommendations the FIAU is authorised by Article 16(1)(k) of the PMLA to exchange AML/CFT information with any foreign body, authority or agency which the FIAU considers to have functions equivalent or analogous to those of the FIAU. Moreover, the FIAU, being a member of the Egmont Group of Financial Intelligence Units, follows the *'Egmont Principles for Information Exchange between Financial Intelligence Units for Money Laundering and Terrorism Financing Cases'* and the *'Best Practices for the Exchange of Information between Financial Intelligence Units'* which have been issued in order to harmonise and systemise the exchange of information between member FIUs. Member States of the EU are also expected to adhere to Council Decision 2000/642/JHA concerning arrangements for co-operation between Financial Intelligence Units of the Member States in respect of exchanging information.

The FIAU mainly exchanges information through channels

set up by the Egmont Group and the FIU.Net Bureau within the Directorate-General for the Administration of Justice and Law Enforcement for the European Union. The Egmont Secure Web and the FIU.Net offer FIUs the possibility to share information making use of a secure and rapid system, therefore ensuring the confidentiality of information being exchanged while at the same time allowing such information to be exchanged promptly.

Although the FIAU is not bound by law to enter into Memoranda of Understanding or agreements in order to disseminate information, it actively seeks to conclude such formal arrangements with foreign authorities in order to enhance international co-operation particularly with those foreign authorities which are required to have such formal instruments in place to be able to exchange information. As at the end of 2012 the FIAU had entered into nine Memoranda of Understanding with the FIUs of Belgium, Cyprus, the Principality of Monaco, Latvia, Slovenia, Romania, San Marino, Canada and South Africa. During 2012 the FIAU was involved in negotiations with the Japan Financial Intelligence Centre of the National Public Safety Commission of Japan, which have led to the adoption of a final statement of co-operation to be signed in the first quarter of the year 2013. The FIAU has also opted to further negotiations with the Holy See, Panama and Russia with the aim of concluding Memoranda of Understanding in the near future.

## Requests for assistance and co-operation

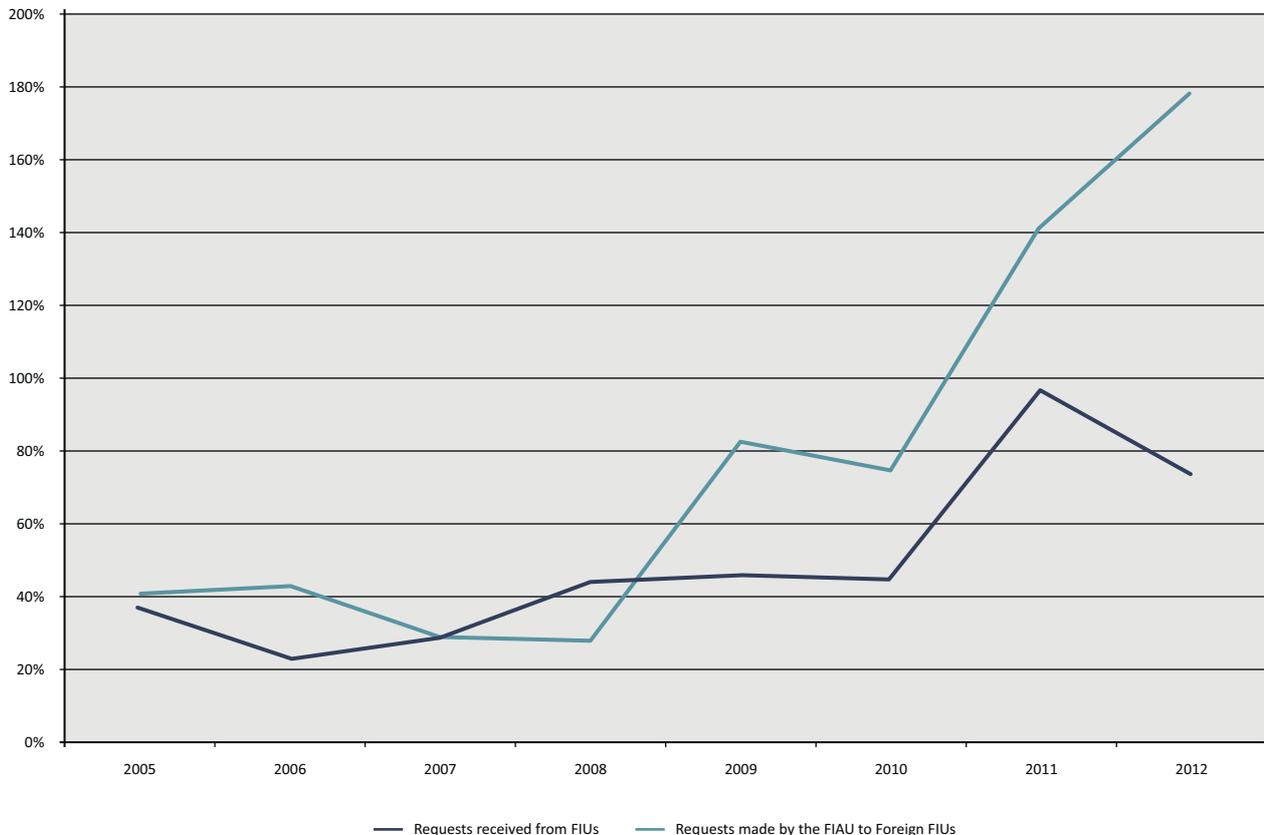
Figures for international requests for information made by the FIAU in 2012 reveal that 179 requests for information to foreign FIUs were made in connection with 75 cases, the highest number registered since the FIAU became operational in 2002. On the other hand, foreign requests made to the FIAU decreased from 97 in 2011 to 74 in 2012. The figures provided in Table 6 confirm that, with the exception of the years 2007 and 2008, the FIAU has consistently made more requests for information to foreign FIUs in the course of its own analyses than provided replies to international requests for information to assist

**TABLE 6: Requests for co-operation and assistance (2005 – 2012)**

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
2005	37	41	11%
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%
Total	395	620	57%



**Chart 5: Comparative analysis of requests received and requests made by the FIAU (2005 – 2012)**



investigations and the analysis of cases being carried out in foreign jurisdictions. Chart 5, above, provides a graphic representation of this trend.

The annual exercise carried out to establish the time taken by the FIAU to respond to requests for information made by foreign FIUs revealed that during 2012, in 43 percent of the cases where a request for information was made to the FIAU, the initial reply containing the main information requested was provided to the foreign FIU within one working day. It was also established that the average FIAU response time to international requests for information increased marginally from six working days in 2011 to seven working days in 2012.

A comparison of the timeframes with the responses by foreign FIUs to requests for information made by the FIAU, as illustrated in Chart 6 on page 26, reveals that the time taken by the FIAU to respond to a request for information by a foreign FIU is significantly shorter. Indeed, during 2012 only 3 percent of the international requests for information made by the FIAU were answered within one working day and another 19 percent of requests were dealt with within a period in excess of 56 working days. According to FIAU records, the average response time of foreign FIUs in relation to FIAU requests for information was 31 days.

### Requests for assistance made by the FIAU

The figures for 2012 reveal that once again most of the requests for co-operation made by the FIAU in 2012 were addressed to European FIUs. In fact, just over half of all the requests made by the FIAU were made to the FIUs of EU and EEA countries, together with another 15 percent being made to the FIUs of other European countries.

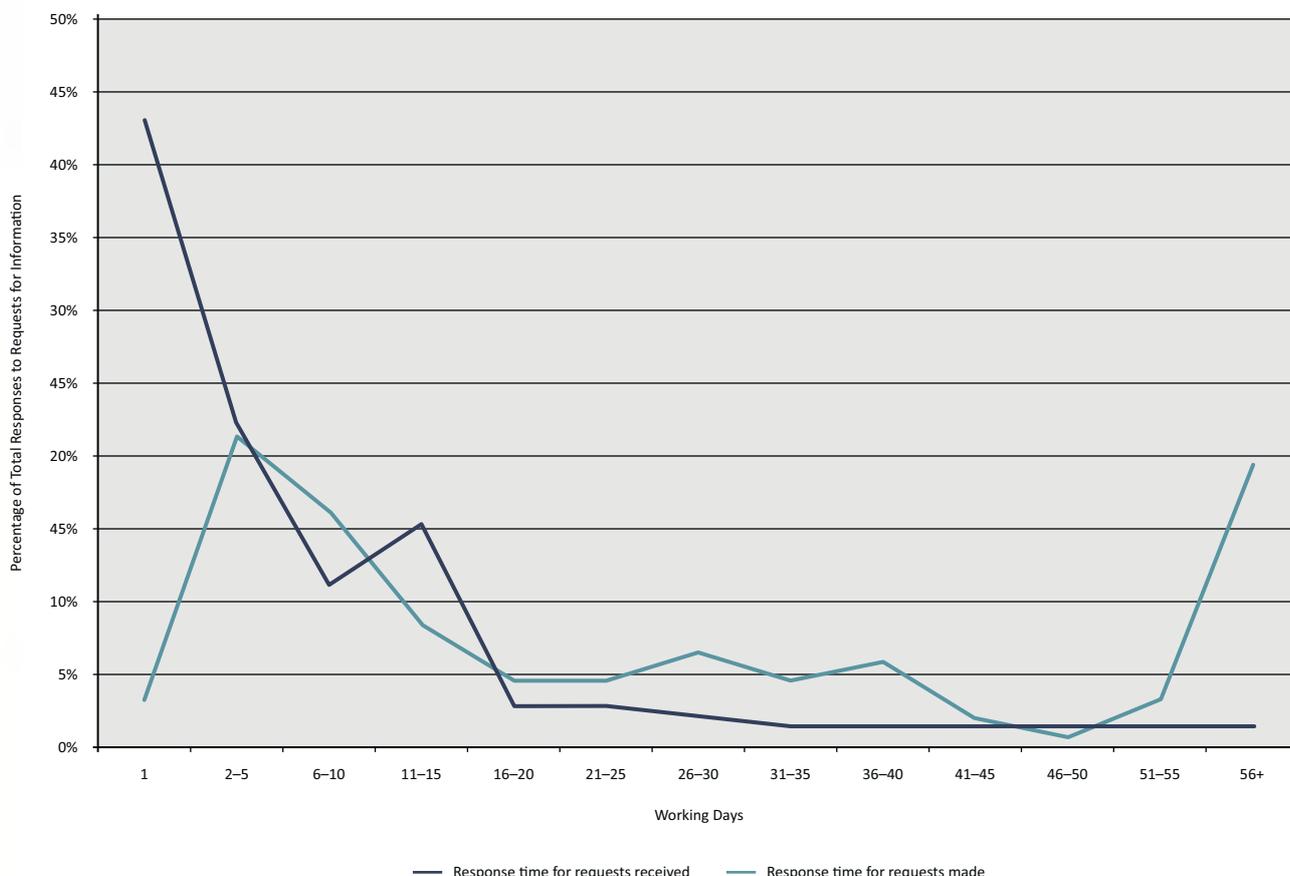
During the year under review, the highest number of requests for assistance was made to the Italian FIU, followed by the FIU of the United Kingdom and the FIUs of Switzerland, Spain and the United States of America.

The requests for information made by the FIAU are summarised hereunder:

- Eighty-eight requests to the FIUs of nineteen EU member states.
- Two requests to the FIU of an EEA state.
- Twenty-seven requests to the FIUs of eleven non-EU/EEA European countries.
- Thirty-five requests to twelve FIUs in the Americas.
- Nineteen requests to seven Asian countries.
- Eight requests to four African FIUs.



**Chart 6: Response time for requests received and requests made by the FIAU (2012)**



### Requests for assistance made to the FIAU

The figures being reported in relation to requests for assistance made to the FIAU during 2012 establish that even in the case of incoming requests for information, most requests (approximately 68 percent) originated from FIUs of EU and EEA countries while another 20 percent were made by FIUs of other European countries. Eight percent of the requests originated from FIUs of Asian countries, while only one request was received from a country in the Americas.

As in 2011, the FIU of Luxembourg was the FIU which sent most requests for co-operation. This FIU made nine requests for information to the FIAU, followed by the FIUs of the United Kingdom, France and Italy.

In all cases where a request for assistance is referred to the FIAU, it is standard procedure to carry out a preliminary analysis to determine whether the information contained in the request and the information collated by the FIAU in response to the foreign enquiry contain evidence that support suspicion that ML/FT may have been committed in breach of Maltese legislation. During 2012 no preliminary

analysis gave rise to the opening of a case requiring a more detailed analysis by the FIAU.

A summary of the number of international requests received by the FIAU during 2012 and the geographical location from where these requests originated is provided hereunder:

- Fifty requests from the FIUs of sixteen EU Member States.
- Fifteen requests from the FIUs of seven non-EU/EEA European countries.
- Six requests from the FIUs of six Asian countries.
- Two requests from two FIUs in African countries.
- One request from the FIU of a country in the Americas.

Figures relating to international requests for assistance made to foreign FIUs and requests for co-operation received by the FIAU during 2012 are being provided in Table 7 appearing below.



**TABLE 7: Requests for co-operation and assistance (2012)**

Requests received by the FIAU		Jurisdiction	Requests made to other FIUs	
Number	Replies		Number	Replies
-	-	Albania	1	1
-	-	Andorra	1	1
1	1	Argentina	1	1
3	3	Austria	5	4
-	-	Barbados	1	-
-	-	Belarus	1	1
3	3	Belgium	2	2
-	-	Belize	1	1
-	-	Bermuda	2	2
-	-	British Virgin Islands	6	6
3	3	Bulgaria	1	1
-	-	Cameroon	1	-
-	-	Canada	5	5
-	-	Cayman Islands	1	1
-	-	Croatia	2	2
-	-	Curacao	1	1
-	-	Cyprus	8	8
1	1	Czech Republic	4	4
5	5	France	2	1
1	1	Germany	5	5
-	-	Gibraltar	3	3
-	-	Hong Kong	5	4
-	-	Hungary	1	-
-	-	Ireland	2	2
1	1	Israel	3	3
5	5	Italy	15	8
4	4	Jersey	1	1
1	1	Kazakhstan	1	1
-	-	Latvia	1	1
-	-	Liechtenstein	2	2
2	2	Lithuania	4	4
9	9	Luxembourg	-	-
1	1	Malaysia	-	-
2	2	Moldova	-	-
1	1	Montenegro	-	-
1	1	Netherlands	5	4
-	-	Nigeria	2	2
-	-	Panama	4	1
-	-	Peru	1	1
1	1	Philippines	2	2
2	2	Poland	2	2
-	-	Portugal	3	3
1	1	Romania	2	2
3	3	Russia	1	1
1	-	San Marino	1	-
1	1	Senegal	-	-



-	-	Serbia	2	2
-	-	Seychelles	4	3
-	-	Singapore	1	1
2	2	Slovakia	2	1
3	3	Slovenia	-	-
2	2	Spain	11	10
1	1	Sri Lanka	-	-
1	1	Switzerland	12	12
1	-	Tunisia	1	-
-	-	Turkey	2	1
1	1	Turkmenistan	-	-
3	3	Ukraine	2	2
-	-	United Arab Emirates	5	5
7	7	United Kingdom	13	12
-	-	United States of America	11	11
-	-	Venezuela	1	1
<b>74</b>	<b>72</b>	<b>Totals</b>	<b>179</b>	<b>155</b>

## Compliance Monitoring

In its attempt to achieve the overarching aim of ensuring that subject persons operate in conformity with all the preventive measures prescribed by the AML/CFT legislation, Article 26 of the PMLA entrusts the FIAU with the function of monitoring compliance by subject persons falling within the definitions of 'relevant activity' and 'relevant financial business' under the PMLFTR. Within the internal structures of the FIAU this function is carried out by the Unit's Compliance Section which supervises and monitors both financial institutions and DNFBPs from an AML/CFT perspective, to ensure that they have appropriate policies and procedures in place and are aware of their obligations emanating from the PMLFTR and the Implementing Procedures. Such monitoring is conducted both through on-site compliance examinations as well as on the basis of off-site assessments.

On the basis of international best practice and in view of the large number of subject persons falling within the responsibilities of the FIAU, the Compliance Section uses a risk-based approach to carry out its compliance monitoring. Information to be able to carry out such risk assessment is obtained by the FIAU through on-site compliance examinations carried out by the FIAU and by supervisory authorities on its behalf, the off-site assessments carried out on the basis of the Annual Compliance Report (a new return required to be submitted by all subject persons) and any other documentation requested, as well as information obtained from supervisory authorities and public sources. Statistics in relation to disclosures made by subject persons and the contents of those disclosures also assist the FIAU in carrying out this function.

The information available on each subject person is utilised

to identify those subject persons and sectors which can be considered as posing a higher risk of ML/FT. The Unit's monitoring programme and supervisory actions are planned in accordance with the determined risk posed by subject persons. This approach makes it more possible for the FIAU to assess cross-sectoral compliance, to maximise sector coverage and to be more risk-focused.

The obligation by subject persons to submit an ACR was introduced in 2011, upon the issuance of the Implementing Procedures, with the first annual submission becoming due in 2012 covering the preceding calendar year. This report, which should be completed by the subject person's MLRO, enables the FIAU to collect relevant information on the subject person's compliance with the PMLFTR. The receipt of such reports assists the FIAU in the planning of its on-site compliance examination programme on a risk-sensitive basis and in fulfilling its duty to maintain comprehensive statistical data.

A further development which occurred during the year under review was the setting up by the Board of Governors of the Compliance Monitoring Committee, an internal body chaired by the Director of the FIAU and composed of the FIAU's compliance officers and a representative of the Legal and International Relations Section. The Committee was set up in order to periodically discuss compliance findings identified through on-site compliance examinations conducted both by the FIAU and by supervisory authorities on its behalf, from the assessment of the ACRs received as well as from other information obtained by the FIAU.

Following the review of such findings, the Committee identifies whether the PMLFTR or the Implementing Procedures have been breached and if this is the case, the Committee determines the seriousness of the breaches,



whether a sanction should be imposed for such breaches as well as the type and extent of such sanction. The Committee formally informs the Board of Governors of these decisions prior to communication to the relevant subject person.

## On-site monitoring

The purpose of conducting on-site AML/CFT compliance examinations is to verify the level of adherence with regulatory requirements, to identify issues which may give rise to regulatory concerns and to provide assistance to subject persons.

Article 27 of the PMLA empowers the FIAU to enter into arrangements with other supervisory authorities to carry out on-site compliance examinations on behalf of the FIAU. For this purpose the FIAU co-ordinates with the MFSA, as the supervisory authority for subject persons carrying out relevant financial business and for authorised trustees, and the LGA, as the supervisory authority of land-based casinos, in the carrying out of on-site compliance examinations on subject persons falling within their respective competences.

Moreover in June 2012 the PMLFTR was amended to include the 'Quality Assurance Oversight Committee appointed by the Accountancy Board under the Accountancy Profession Act' as a supervisory authority, although the FIAU and the Accountancy Board have not yet entered into a formal co-operation agreement outlining the Accountancy Board's responsibilities once it will be acting as agent for the FIAU in the supervision of auditors for AML/CFT purposes.

Notwithstanding the fact that the MFSA and the LGA are empowered to act as agents of the FIAU for the purpose of compliance monitoring, the FIAU, through its Compliance Section, also has a very important role to play in the carrying out of on-site assessments. Keeping in mind the annual compliance programme of the supervisory authorities, a separate plan is drawn up by the FIAU at the beginning of each year listing the compliance visits it intends to carry out independently. The need for the carrying out of additional on-site examinations may arise during the course of the year, which could either give rise to comprehensive AML/CFT visits or else focused visits addressing specific obligations. In particular, with the anticipated increase in resources in this area over the coming three years more emphasis will be placed by the FIAU on increasing the number of on-site examinations of persons and entities which are not subject to supervision by any other supervisory authority.

In the course of a comprehensive on-site compliance examination, the MLRO and possibly other key officers of the entity are interviewed and an assessment is carried out of the internal procedures of the subject person. Compliance officers assess the extent to which the subject person is fulfilling its obligations under the PMLFTR and the Implementing Procedures. The subject person is asked to

produce a number of customer files for inspection, selected randomly by the officers carrying out the examination, as well as a copy of the AML/CFT procedures manual. The systems of the subject person are also examined in detail and interviews are at times conducted with the employees of the subject person.

Following the on-site compliance examination, the FIAU draws up a report containing the findings of the examination, the shortcomings identified and any recommendations which are deemed necessary for the subject person to be brought in line with the PMLFTR. Where on-site compliance examinations are conducted entirely by the MFSA or the LGA without the participation of the FIAU, the officers of the supervisory authority forward all the information obtained in the course of the compliance examination and their findings to the FIAU to enable the Unit to draw up such report and to determine whether any action is necessary to rectify any breaches of the PMLFTR by the subject person. The report is then sent to the directors of the subject person who have the possibility of making representations in the event that they do not agree with any of the findings set out in the report. Where any shortcomings are identified, the subject person is required to rectify these shortcomings within a specified period of time and report on the measures adopted to rectify the shortcomings. Additional action may be taken by the FIAU where the subject person is considered to be in breach of the PMLFTR or the Implementing Procedures.

During the year under review a total of 24 on-site compliance examinations were carried out by the FIAU, by the MFSA, or jointly by the two authorities. No AML/CFT on-site compliance examinations were conducted by the LGA either on its own or jointly with the FIAU during 2012. Table 8 illustrates the total number of on-site examinations conducted by category of subject persons and by authority.

This table shows that the FIAU carried out five independent on-site compliance examinations while a further three examinations were conducted jointly with the MFSA. Moreover, the MFSA carried out a further 16 on-site AML/CFT compliance examinations on behalf of the FIAU. Although the total number of on-site compliance examinations carried out is lower than the figure in 2011, the number of on-site compliance examinations carried out individually by the FIAU and the MFSA is slightly higher than the previous year.

The lower number of on-site compliance examinations by the FIAU in 2012 is mainly attributable to the fact that during the year under review more emphasis was placed on off-site monitoring. Indeed, during the year under review the Compliance Section had to dedicate a significant part of its time to the drawing up of the Annual Compliance Report and to the introduction of systems to process the information collated. The administrative burden on the



**TABLE 8: On-site AML/CFT examinations conducted by category of subject persons and by authority (2012)**

Sector	FIAU	MFSA	Joint visit - FIAU and MFSA	Total
Collective Investment Schemes	-	1	-	1
Company Service Providers	1	-	-	1
Credit Institutions	1	2	1	4
Financial Institutions	-	1	-	1
Insurance Brokers	-	3	1	4
Insurance Principals	-	1	1	2
Investment Services	-	2	-	2
Legal Professionals	1	-	-	1
Real Estate Agents	1	-	-	1
Tied Insurance Intermediaries	-	1	-	1
Trustees & Fiduciaries	1	6	-	7
<b>Total</b>	<b>5</b>	<b>17</b>	<b>3</b>	<b>25</b>

resources of the FIAU was significant in view of the fact that this was the first year that the submission of this report became due. The Compliance Section was also actively involved in the preparation and delivery of the AML/CFT courses provided during the year.

The principal shortcomings identified by the FIAU, following its assessment of the findings resulting from the on-site compliance examinations, related to incomplete customer due diligence, poor or insufficient ongoing monitoring procedures, lack of formally documented customer acceptance policies, risk-assessment and risk-management procedures, failure to carry out an assessment as to whether certain jurisdictions meet the criteria of a reputable jurisdiction, as well as the failure by the MLRO and the employees of subject persons to receive AML/CFT training. The most serious shortcomings which warranted the imposition of a sanction are outlined in a separate section hereunder.

### Off-site monitoring

Off-site monitoring is carried out on the basis of desk reviews of the information available to the FIAU of the procedures put in place by subject persons, together with information relating to the types of business relationships and occasional transactions carried out. In order to further assist the FIAU in carrying out its off-site compliance monitoring function, subject persons are now required to submit the ACR containing information and data on the activities of the subject person. This information, as explained earlier, allows the FIAU to assess compliance at a *prima facie* level from its own offices and to carry out on-site examinations on a more risk-sensitive basis.

The ACRs received in 2012 were reviewed by the members of the compliance team, who also looked at the overall

data relating to financial institutions and DNFBPs, as well as each of the different categories of persons subject to the PMLFTR. The following conclusions have been drawn from the analysis of the information received:

On a general level it is immediately apparent that financial institutions have on average the highest compliance rating scores on virtually all the measures. On the other hand, there seem to be two distinct sub-categories amongst DNFBPs, with companies (including trustees and fiduciaries, company service providers, casino licensees, audit and accountancy firms, as well as law firms) outperforming sole practitioners (including individual auditors, external accountants, tax advisors, notaries and other legal professionals), which clearly seem to be the category that is struggling most to reach an acceptable level of compliance.

Although a number of sole practitioners referred to above do perform adequately on a handful of compliance measures, the lack of formalised policies and procedures amongst the majority of these subject persons not only contributes to their poorer performance overall, but is also of concern to the FIAU, more so given the fact that they form the largest category of subject persons. The introduction of a procedures manual and a customer acceptance policy will go a long way in ensuring better AML/CFT compliance in this area. The real estate sector would also need to take similar measures, as they too clearly are not meeting the standards established by the Regulations and Implementing Procedures.

Amongst financial institutions it is only a small minority of insurance entities (most notably TII companies) and even fewer collective investment schemes that have not reached the required standards in this area. Once again, the introduction of a procedures manual and a customer acceptance policy, together with more adequate systems for



ongoing monitoring are considered to be the necessary first steps towards developing appropriate AML/CFT systems.

Though perhaps not surprising, the fact that just under half of the internal STRs were generated singularly by credit institutions in 2011 not only raises some questions on the effectiveness of the AML/CFT systems in place by other subject persons, but also on the efficacy of the training provided. Conceivably, this does not apply to the casino sector as the four licensed casinos between them filed just over a tenth of all internal reports during 2011, a significant amount given the fact that there are over 2,000 persons subject to the PMLFTR.

As a consequence of the above, the majority of STRs are submitted to the FIAU by the banking sector. This trend is in line with statistics reported in other EU and non-EU countries and therefore, in itself, it should not raise any concerns. Nonetheless, although other entities conducting relevant financial business and relevant activity have also submitted a number of reports to the Unit, this is not always consistent with the apparent risk profile of their respective customers.

In terms of customers, the majority of subject persons handle clients, be they natural or legal persons, that are identified and verified on a face-to-face basis. Not surprisingly, the incidence is much higher amongst DNFBPs, who also have an above-average incidence of local customers.

Generally speaking financial institutions usually record a higher incidence of customers who are identified and verified on a non face-to-face basis, with around half claiming to do so. This is also a common occurrence amongst company service providers and law firms. Naturally, such categories deal with foreign customers where the incidence exceeds the 90 percent mark amongst credit institutions, collective investment schemes, trustees and fiduciaries, company service providers, law firms, companies offering auditing and accountancy services. All land-based casinos also deal with foreign clients although these are dealt with on a face-to-face basis.

From the ACRs received just over one in ten claimed to deal with politically exposed persons, though this ranged from none in the case of individual TILs to around half in the case of credit institutions.

Besides the cases of non-reporting of the ACR, the Compliance Section has ascertained that a number of subject persons have either not completed the report in its entirety and/or have misreported. Such issues will continue to be addressed on a case-by-case basis.

## Sanctions

The FIAU is empowered to impose administrative penalties

or formal reprimands on subject persons if they are found to be in breach of the PMLFTR or the Implementing Procedures, and has the power to impose the administrative sanctions without recourse to a court hearing. These sanctions are applicable to all categories of persons subject to the PMLFTR.

Following the identification of breaches of the PMLFTR and the Implementing Procedures in the course of the FIAU's on-site and off-site compliance examinations carried out in 2012, the FIAU took action against various categories of subject persons that resulted in the issuance of a number of administrative sanctions and formal reprimands.

Administrative sanctions totalling €11,150 were imposed on three credit institutions for failing to abide by the PMLFTR. The nature of these infringements included the failure to complete customer due diligence, the failure to develop and establish an effective customer acceptance policy and the failure to provide, within five working days, information to the FIAU as requested.

A number of subject persons were also formally reprimanded by the FIAU during the year under review. In fact three credit institutions were reprimanded for breaches involving the failure to apply enhanced due diligence measures, failure to comply with the provisions under the PMLFTR when entering into correspondent banking relationships and the lack of AML/CFT training to employees. It is pertinent to note that two of these credit institutions were also the subject of an administrative sanction as referred to above.

A large number of subject persons were also reprimanded for failing to submit the ACR for the year 2011, being an obligation of subject persons under the Implementing Procedures. In total, 75 subject persons were served with written warnings.

## Money Laundering Cases

### Judgements

During the year 2012, the courts of criminal jurisdiction delivered ten judgments in cases where persons were charged with the offence of money laundering while another two decisions regarding pleas of nullity of the action in criminal proceedings for money laundering were delivered. Of notable importance was the Court of Criminal Appeal's judgment of the 19<sup>th</sup> January 2012 in the *Police vs Carlos Frias Mateo* which overturned the previous judgement of the Court of Magistrates of the 5<sup>th</sup> August 2011. In this case the court of second instance carried out an analysis of Article 3(3) of the PMLA which shifts onto the accused the onus to prove the lawful origin of funds, proceeds or property in situations where evidence is produced by the prosecution showing that reasonable explanation for the possession of such funds, proceeds or property. This interpretation was then cited and upheld in a subsequent judgment.



**The Police  
vs  
Carlos Frias Mateo**

**Court of Criminal Appeal  
19<sup>th</sup> January 2012**

An appeal from a judgement delivered by the Court of Magistrates (Malta) as a Court of Criminal Judicature on the 5<sup>th</sup> August 2011 was lodged by the Attorney General on the basis that the first Court had misinterpreted the facts and applied the law incorrectly.

The first court had found the defendant guilty of not declaring to custom authorities a sum of money in cash equal to or exceeding €10,000 when leaving Malta, however it did not find him guilty of ML. He had been accused of this offence since, according to the charges, he had failed to give a plausible explanation as to the origin of the funds found in his possession.

The court of first instance, in its judgement had held that the accused had to give a plausible explanation of the origin of the funds he was carrying with him and he was required to do so only after the prosecution would have managed to establish beyond reasonable doubt the existence of a link between the accused and the underlying criminal activity (drug trafficking in this case). The prosecution argued that this reasoning was incorrect since if the link had to be proven beyond reasonable doubt, there would be no purpose for the bringing of evidence to prove the legitimate origin of the funds, as the offence of ML would have already been proven.

The Court of Criminal Appeal disagreed with the first court's conclusion. It was held that since Article 2(2)(a) of the PMLA did not require the prosecution to provide evidence of a conviction in relation to the underlying criminal activity, the prosecution merely had to prove that the cash found in the possession of the accused was not consistent with his earnings. The prosecution was not required to provide evidence of the origin of the money, even if the money had been obtained illegally.

The Court further held that what the prosecution was required to provide was *prima facie* evidence that there was no logical and plausible explanation as to the provenance of the cash. Once this was proven, the burden of proof should have shifted onto the accused.

An examination by the Court of Appeals of the evidence provided by the accused revealed that such evidence amounted to the *prima facie* evidence required to shift the burden of proof on to the accused. Since the accused had

not provided a reasonable explanation as to the provenance of the money, according to the Court he should have been found guilty of ML.

The Court of Appeal therefore reversed the judgement of the Court of Magistrates and sentenced the accused to three years imprisonment and ordered him to pay a fine of €20,000. Additionally, the Court ordered the forfeiture of the cash involved in the case and of all the other property of the accused in terms of Article 3(5) of the PMLA.

**The Republic of Malta  
vs  
Lorraine Vella**

**Criminal Court  
13<sup>th</sup> February 2012**

The accused had been intercepted by the Police whilst she was in her car in the company of another woman. Upon the carrying out of searches on the vehicle, various objects related to substance abuse and possible trafficking as well as monies and other valuables were identified by the Police. Moreover, upon further investigation the Police managed to trace other funds which the accused had in a safe deposit box held with a bank.

On the basis of these facts the defendant was accused of various offences including the laundering of money derived from drugs in contravention of the Dangerous Drugs Ordinance, the laundering of money derived from criminal activities (amongst which prostitution) in contravention of the PMLA, the use and trafficking of drugs, prostitution and the commission of immoral acts in public, with the last two charges being based on a separate report made by a third party.

With regards to the ML charges, the accused had failed to show that the funds and property were derived from legitimate acts. In fact, during the investigations carried out by the Police it had transpired that the accused did not have any lawful earnings in Malta or elsewhere which could justify the possession of such funds.

The Court found the accused guilty of all charges, including ML as established under the DDO and the PMLA. She was sentenced to ten years imprisonment and required to pay a fine amounting to €23,000 along with judicial expenses related with the appointment of experts which totalled €1,953. Moreover the Court ordered the forfeiture in favour of the Government of the property involved in this case as well as all other movable or immovable property of the accused.



**The Republic of Malta**  
**vs**  
**Eduardo Navas Rios**

**Criminal Court**  
**9<sup>th</sup> March 2012**

Investigations on various individuals carried out by the Police led to the discovery that funds were being transferred from Malta to Panama in various ways. The accused also featured in another money laundering investigation in which the Police established that he had given a considerable sum of money to a Maltese citizen to be deposited in her account, which money the accused eventually admitted were stolen from his cousin Georgie Neville Navas.

The accused, in seeking to substantiate the lawful origin of the funds, said that he ran a car importation business in Panama and had also, since 2007, acquired a permit to work in Malta. The Police established that the type of jobs carried out by the accused and the short span of time during which he held such jobs could not have been enough for him to earn the funds in question legitimately.

The accused was arraigned in court and charged with ML, aggravated theft and holding a firearm and ammunition without the necessary permit.

The Court, in its judgement held that the accused was guilty of ML and aggravated theft, however he was cleared of the charges of being in possession of a firearm and ammunition without a permit. The accused was sentenced to imprisonment for a term of four years and six months and to the payment of a fine amounting to €10,000. The Court also ordered the forfeiture of all property related to the commission of the said crimes as well as all property in general of the accused.

This case is subject to an appeal before the Court of Criminal Appeal.

**The Police**  
**vs**  
**Grace Ngome**

**Court of Magistrates (Malta)**  
**as a**  
**Court of Criminal Judicature**  
**13<sup>th</sup> April 2012**

The accused was apprehended at the Malta International Airport just before her departure on a flight to Brussels after she failed to declare to the Controller of Customs that

she was in possession of a sum equivalent to or exceeding €10,000 as required by Maltese law.

Besides the charge of carrying a substantial amount of undeclared cash in breach of the Cash Control Regulations (Legal Notice 149 of 2007), the accused was also charged with the commission of ML.

Following an admission of guilt by the accused on both charges, she was sentenced to one year imprisonment. A fine of €6,151 was also imposed together with an order to reimburse the expenses involved in the nomination of experts in this case totalling €2,042.96. The Court also ordered the confiscation of the amount of money found in possession of the accused which exceeded the €10,000 limit.

**The Republic of Malta**  
**vs**  
**Christian Grech**

**Criminal Court**  
**14<sup>th</sup> May 2012**

In this case the Criminal Court considered a number of pleas raised by the defendant including the plea that the criminal action for ML brought against him was null since he had not yet been convicted of the underlying criminal offence (a separate trial had not yet been concluded). The accused insisted that since there was no conviction for the predicate offence, there could be no proof that the funds that had been transferred had derived from criminal activity.

The Criminal Court did not accept the plea of nullity. Indeed, it held that in criminal proceedings for ML, the prosecution is required to prove beyond reasonable doubt that: (i) the accused committed a predicate offence and (ii) the accused committed any of the acts constituting ML as defined under the PMLA and that he knew that the property was the proceeds of a criminal activity – *“Li jrid isir matul il-proċeduri tal-akkuża tal-Money Laundering huwa li jkunu ippruvati - kemm quddiem ġurija u kemm quddiem ġudikant- u l-provi jridu jsiru ‘l hemm minn kull dubju raġonevoli*  
(a) *Li l-akkużat wettaq ir-reat li għandu x’jaqsam ma l-underlying criminal activity u*  
(b) *Li l-akkużat għamel waħda jew aktar mill-azzjonijiet prospettati taħt id-definizzjoni ta’ money laundering kif jidhru fil-Kap. 373 u li kien jaf li l-proprjeta’ (bid-definizzjoni ampja taqħha kif tidher fil-Kap 373) kienet ġejja minn attivita’ kriminali.”*

A conviction for the underlying criminal offence is not one of the elements of the offence and this is spelled out clearly



in Article 2(2) of the PMLA which states unequivocally that a person may be convicted of a ML offence even in the absence of a judicial finding of guilt in respect of the underlying criminal activity, the existence of which may be established on the basis of circumstantial or other evidence. The law goes on to emphasise that it is not incumbent on the prosecution to prove a conviction in respect of the underlying criminal activity and that it is not necessary to establish precisely which underlying activity had been carried out.

This case is subject to an appeal before the Court of Criminal Appeal.

**The Police**  
**vs**  
**Miriam Helena Parmanand**  
  
**Court of Magistrates (Malta)**  
**as a**  
**Court of Criminal Judicature**  
**20<sup>th</sup> July 2012**

The accused was arrested at the Malta International Airport after she was found to be carrying money in cash amounting to €20,835 on leaving Malta and she had failed to declare this amount to the Controller of Customs in accordance with Maltese law. When she was asked to provide evidence on the origin of the funds the accused explained that it was normal for her to be in possession of such sums of money as she considered herself financially well-off given that she owned several businesses with her husband. She informed the Police that she had visited Malta with the intention of spending a five-day holiday during which she intended to purchase expensive clothing and jewellery. However, due to an unforeseen family matter, she had to suspend the holiday abruptly.

The defendant was arraigned and charged with the failure to declare to customs authorities the possession of a sum of money in cash equal to or exceeding €10,000 when leaving Malta and for committing the offence of ML.

The Court found the accused guilty of the first charge and ordered the payment of a fine amounting to €5,208.75 as well as the forfeiture in favour of the Government of Malta of the sum of €10,835 (the amount exceeding €10,000 which was found in her possession in violation of the Cash Control Regulations).

In relation to the second charge, the Court referred to the judgement of the Court of Criminal Appeal of the 19<sup>th</sup> January 2012 in *The Police vs Carlos Frias Mateo* in which the Court had examined the level of proof required in the case presented by the prosecution for the burden of proving the legitimate origin of the funds to be shifted on to the accused in possession thereof. The Court held that in this case the prosecution had failed to prove that at least *prima facie* the money found in possession of the accused could have been linked to some form of criminal activity and it also failed to bring enough evidence for it to be established that the means of the accused did not justify her being in possession of such funds.

In the absence of such *prima facie* evidence, the onus of proof of legitimacy of the monies could not be shifted onto the accused, who had albeit insisted that her financial means and social standing justified the possession of such funds. The Court hence acquitted the defendant from the charge of ML.

**The Republic of Malta**  
**vs**  
**Domingo Ricardo Duran Navas**

**Criminal Court**  
**2<sup>nd</sup> October 2012**

The accused, a Panamanian citizen, was apprehended by the Police after he presented himself to a drug pick up, the delivery of which was being monitored by the Police. Upon further investigations, the Police traced a number of transactions which were effected by the accused and by another person presumably on behalf of the accused, and also established that the accused had made use of funds to buy or rent movable and immovable property whilst in Malta.

When required to justify the origin of the funds, the accused failed to provide a reasonable explanation to show that the funds were derived from legitimate sources. The Court was therefore requested to establish the guilt of the accused of the offence of ML, which the Court effectively did, sentencing him to a term of imprisonment of three years and six months and to the payment of a fine (multa) of €5,000. The Court also ordered the forfeiture in favour of the Government of Malta of all the property involved in the said crime and other monies or movable and immovable property belonging to him.



**The Republic of Malta  
vs  
Morgan Ehi Egbomon**

**Criminal Court  
24<sup>th</sup> October 2012**

The case once again involved the arrest of a person at the Malta International Airport who was seeking to leave Malta with a large amount of money which was undeclared and with other suspicious possessions.

In trying to determine whether the source of the undeclared funds were legitimate, the Police were informed by the accused that he traded in clothes in Hungary and that he had obtained the money from his uncle who intended buying property in Malta in partnership with an Italian person. According to the defendant, the Italian person had not shown up for a planned meeting with him, and so he decided to return to Hungary. The defendant also failed to provide evidence of any employment or business in Malta or elsewhere which could justify the lawful origin of the funds and other possessions.

In the light of these circumstances, the accused was charged with ML and the failure to declare the possession of cash in excess of the legal limit upon departure from Malta. It was claimed that a reasonable explanation had not been given showing that the funds and property were derived from legitimate sources and hence the burden of proof of legitimacy should be borne by the accused.

The defence pleaded that with regards to the charges of ML, the bill of indictment should be considered null and void since the Attorney General made no reference to the underlying criminal activity which allegedly gave rise to ML and hence it was claimed that there was no antecedent *actus reus* on which money laundering could be based. The accused drew an analogy between the crime of receiving stolen goods and money laundering in that for both offences to subsist the criminal origin of the goods or funds must be established and mere suspicion was not enough.

In the Criminal Court's decision on the pleas raised by the defence, the Court made reference to the Court of Criminal Appeal's judgement of the 19<sup>th</sup> January 2012 in the *Police vs Carlos Frias Mateo* and dismissed the plea of nullity raised by the defence.

Moreover, the defence pleaded that the accused was being charged with the offence of ML on the basis of a presumption arising from his failure to provide a reasonable indication that the funds found in his possession were derived from a lawful source, which presumption according to the defendant violated his fundamental human rights. A constitutional case requesting that Article 3(3)<sup>5</sup> of the PMLA and Article 22(1C)(b)<sup>6</sup> of the DDO be declared to be in violation of Article 6 (right to a fair trial) of the European Convention on Human Rights was therefore filed by the accused.<sup>7</sup>

After hearing all the pleas raised the Criminal Court put off the case *sine die* to await its turn to be heard by trial by jury.

<sup>5</sup> This article cross-refers to Article 22(1C)(b) of the DDO rendering it applicable to proceedings of money laundering under the PMLA.

<sup>6</sup> "In proceedings of money laundering under paragraph (a), where the prosecution produces evidence that no reasonable explanation was given by the person charged or accused showing that such money, property or proceeds was not money, property or proceeds derived from drug trafficking offences, the burden of showing the lawful origin of such money, property or proceeds shall lie with the person charged or accused".

<sup>7</sup> The Civil Court dismissed the claims made by the applicant in its judgement of the 14<sup>th</sup> October 2010 and this judgement was confirmed on appeal by the Constitutional Court in its decision of the 16<sup>th</sup> March 2011.



## 3. MANAGEMENT AND TRAINING

### The Board of Governors

The Board of Governors met regularly in 2012 with ten meetings being held during the year. In fulfilling its functions as the policy-making body within the structures of the Unit, the Board dealt with numerous policy-related issues and oversaw the activities of the Unit through its regular meetings.

### The Director

The plans for the restructuring of the Unit continued to be implemented throughout the year, especially through the increase in staff complement dedicated to compliance work. More efficient working procedures continued to be established and the training of staff continued to be given high priority within the organisation.

In implementing the policies established by the Board, efforts were made to reach the following goals – the strengthening of collaboration with supervisory authorities; the enhancement of internal procedures for the carrying out of analytical work, off-site compliance monitoring and on-site compliance examinations; the provision of adequate guidance to the various sectors falling within the scope of the PMLFTR; the enhancement of internal procedures regulating the steps to be taken when breaches of regulations are identified; the introduction of internal mechanisms for the processing of information received through the Annual Compliance Report; the drawing up of proposals to the Ministry of Finance, the Economy and Investment on changes to legislation considered necessary for compliance with Malta's international commitments and adherence to international standards; increased participation in the work of MONEYVAL and the Egmont Group; a continuing commitment to the development of EU policy in the area of AML/CFT through the FIAU's participation at meetings of the CPMLTF and the FIU Platform; the adoption of an increased effort to ensure that all subject persons within the financial and non-financial sector are made aware of the extent of their responsibilities under the PMLFTR.

During the year a Development Plan for the period 2013 – 2015 was drawn up and approved by the Board of Governors.

### Training

#### Training received by the staff of the FIAU

An enhanced effort was made throughout the year to ensure that FIAU staff continued to receive training on relevant areas and topical issues both in Malta and abroad.

In January, a number of FIAU officers attended a five-day training programme organised by MFSA in collaboration with the U.S. Securities and Exchange Commission entitled *Enforcement and Oversight Training Programme* which dealt with techniques for the oversight and inspection of market participants and the investigation and enforcement actions in relation to broker dealers, investment advisers, investment companies and funds. Training was also received in the area of funds, financial regulation and on the US Foreign Account Tax Compliance Act and the exchange of information implications of such legislation.

Two compliance officers participated in a seminar organized by the European Institute of Public Administration on recent developments in the AML/CFT efforts within the EU. This seminar, which was held in Maastricht, the Netherlands on the 13<sup>th</sup> and 14<sup>th</sup> December 2012, focused primarily on the revised FATF Recommendations and the proposal for the introduction of a new 4<sup>th</sup> AML EU Directive.

Upon the introduction of new analysis software during the year, the financial analysts within the Financial Analysis Section received training on the functions, capabilities and the operation of the analysis software which was delivered by the software developers at the FIAU offices over a five-day period.

In addition, two financial analysts attended courses in Enhanced Investigations Skills organised by the National Policing Improvement Agency of the United Kingdom between the 20<sup>th</sup> and 24<sup>th</sup> February in London and between the 26<sup>th</sup> and 30<sup>th</sup> March in Coventry. Tuition fees for these courses and travel expenses were sponsored by the British High Commission. The main topics dealt with during these courses were – the management of complex financial investigations in accordance with legal and procedural requirements, advanced techniques for gathering intelligence and evidence and the criminal use of company structures and finance systems to launder and conceal criminal assets. Officers within this section also participated in a number of webinars dealing with investigative tools and techniques.

Officers from the Legal and International Relations Section participated in a joint workshop organised by MONEYVAL and the Eurasian Group following the issuance of the revised FATF Recommendations in February 2012. The workshop, which was aimed at briefing the respective country members on the most important changes brought about by the revised recommendations and their implications, was held in Strasbourg, France between the 19<sup>th</sup> and 21<sup>st</sup> September



2012. A presentation was delivered by the Senior Legal and International Relations Officer in the course of the workshop on the impact of the revised recommendations 5, 6 and 8 on Malta and any changes to law, regulation or procedures that such revised recommendations might require.

Internal training was also provided by the Legal and International Relations Section to all members of staff of the FIAU during which the changes brought about by the revised recommendations were analysed and discussed.

### Training provided by the FIAU

One of the most important goals set for 2012 was that of providing comprehensive training to all subject persons on the fundamentals of AML/CFT measures and the contents of the FIAU Implementing Procedures. A lot of effort and resources were allocated for this purpose, especially since this function of the FIAU is seen to be of major importance

in ensuring that subject persons are informed of their obligations and of the manner in which such obligations are to be fulfilled.

General training to subject persons both in the financial and non-financial sector was provided in four separate sessions of a training programme designed and delivered by FIAU officials. These four courses, which covered various aspects of the AML/CFT regime in an appreciable level of detail, were spread over six afternoon sessions over a three-month period between May – July and September – November and attracted over 300 participants.

FIAU personnel also delivered presentations on different aspects of AML/CFT during a number of other events organised by other entities, including a PricewaterhouseCoopers training course and the KPMG AML Roundtable.



*The FIAU AML & CFT Training Programme (2012)*



## 4. OTHER DEVELOPMENTS AND INITIATIVES

### Joint Committee for the Prevention of Money Laundering and Funding of Terrorism

Representatives of the FIAU, supervisory authorities, law enforcement authorities and other public entities having AML/CFT responsibilities and representatives of subject persons interact on a regular basis through their participation in meetings of the Joint Committee for the Prevention of Money Laundering and Funding of Terrorism, an *ad hoc* committee that brings together all the stakeholders in the prevention of ML/FT in Malta. This committee provides a platform for discussion, consultation and exchange on the implementation of AML/CFT standards and best practices. The Committee, which is chaired by the Director of the FIAU, meets at least four times during every calendar year.

The first meeting of the JCPMLFT for this year was convened shortly after the adoption by the MONEYVAL plenary of Malta's fourth round mutual evaluation report during the 38<sup>th</sup> MONEYVAL plenary meeting held between the 5<sup>th</sup> and the 9<sup>th</sup> March 2012. Consequently, the findings contained in the report were discussed at length during the course of this meeting. The members were informed of the positive ratings which Malta achieved and of the FIAU's intention to formulate an action plan to address the deficiencies identified, which plan would require the input of various entities involved in the prevention of ML/FT in order to be actuated.

At subsequent meetings the JCPMLFT served as a consultation forum wherein various proposed amendments to the PMLA and PMLFTR were put forward and discussed. The mechanism for the postponement of suspicious transactions as stipulated in Article 28 of the PMLA and the prohibition of disclosure as laid down in Regulation 16 of the PMLFTR were two aspects of the Maltese AML/CFT legislation which were being revised with the JCPMLFT's involvement and which featured prominently at various meetings during 2012. Indeed, common draft amendment proposals which shall be put forward for enactment during 2013 were drawn up taking into consideration the various views and suggestions brought forward during consultation at the JCPMLFT.

Other noteworthy issues which were included in the agenda for the meetings held in 2012 related to the outsourcing of the MLRO function by certain collective investment schemes, and the guidance notes issued by the FIAU on the manner in which certain obligations under the PMLFTR are to be carried out within the context of the public documents issued by the FATF on high risk and non-cooperative jurisdictions.

The process of drafting sector-specific implementing procedures was also dealt with at JCPMLFT level with various representatives giving periodical updates on progress being made. It is worth noting that although during 2012 no sector-specific implementing procedures were published, considerable progress has been made in this regard with some draft implementing procedures approaching their final stages of adoption.

### FATF Recommendations

The Financial Action Task Force is an inter-governmental body established in 1989 which is tasked with the establishment of worldwide standards and the promotion of measures against money laundering, terrorist financing and the proliferation of weapons of mass destruction.

In 1990 the FATF had drawn up and issued the Forty Recommendations which have since then garnered international recognition. Initially they sought to address the misuse of the financial systems to launder money derived from drug trafficking, however this scope was widened to include further underlying criminal activities. Another major development in October 2001 saw the FATF include in its remit the financing of terrorism through the development of the eight (later nine) special recommendations.

The latest major development in this sphere was the adoption at the FATF plenary meeting in February 2012 of a revised set of recommendations which amalgamate in one document the money laundering recommendations and the nine terrorism financing special recommendations, fusing together the common concepts. Other changes of notable importance are the inclusion within the remit of the FATF of a further area of concern being the proliferation of weapons of mass destruction as well as the strengthening of the concept of a risk-based approach, which enables countries and stakeholders to distribute and differentiate their means and efforts to combat ML/FT between specific areas in accordance with the risk posed.

### FATF Statements

Jurisdictions considered as having serious deficiencies in the application of AML/CFT measures are monitored by the FATF on an ongoing basis through a process which assists these countries to address the identified shortcomings. In the course of this process, public notices are issued which list those jurisdictions which have deficiencies and advise the international community on the measures that need to be implemented in order to counteract the higher risk



posed by such jurisdictions. During 2012, in accordance with normal practice, the FATF issued a revised version of its two public documents three times during the year.

## Guidance Note on High-Risk and Non-Cooperative Jurisdictions

In April 2012 the FIAU issued a guidance note aimed at assisting subject persons in their obligation to assess and determine the ML/FT risks posed by specific jurisdictions in particular those identified in the public documents issued by the FATF.

This guidance note is habitually circulated to stakeholders along with the notification of every FATF public documents issued by the FIAU. Jurisdictions identified in these public documents are split into three categories in the guidance note as follows: Category 1 – jurisdictions with strategic AML/CFT deficiencies to which counter-measures apply; Category 2 – jurisdictions which have not made sufficient progress to address AML/CFT deficiencies or developed a relative action plan with the FATF to do so; and Category 3 – jurisdictions that would have developed an action plan with the FATF and manifest a high-level political commitment to address their AML/CFT deficiencies.

The guidance note outlines the obligation of subject persons to include the ML/FT risks posed by these jurisdictions in their customer acceptance policy and to adopt the necessary enhanced customer due diligence measures on a risk-based approach, depending on the link between a particular business relationship or transaction and such jurisdictions and the categorisation of such jurisdictions by the FATF.

In relation to jurisdictions listed under Category 1 and 2, the guidance note specifies that these should not be considered as reputable jurisdictions and that the notions of simplified due diligence, reliance provisions or permissible disclosures shall not apply to any business relationship or transaction connected with such jurisdictions and moreover subject persons may not establish or acquire branches or majority owned subsidiaries in any such jurisdictions. Vis-à-vis jurisdictions falling under Category 3, the guidance note indicates that the above measures are to be implemented when they are deemed necessary and their implementation is not an outright requirement.

## Amendments to the PMLFTR and the Implementing Procedures

Minor amendments were effected to the PMLFTR by virtue of Legal Notice 202 of 2012 issued on 5<sup>th</sup> June 2012. The main purpose of these amendments was to transpose into Maltese law the amendments to the EU Third Anti-Money Laundering Directive (Directive 2005/60/EC) brought into

force by the European Union Omnibus Directive (Directive 2010/78/EC). In addition to these amendments, the legal notice also contains other minor amendments for the better regulation of persons and entities subject to the PMLFTR.

The amendments mainly relate to the inclusion within certain existing requirements in the Third Anti-Money Laundering Directive of the reference to the European Supervisory Authorities (the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority) and the laying down of certain obligations on Member States to cooperate with these Authorities. The following are the main obligations introduced by the Amending Directive:

- 1) The requirement of Member States to notify the European Supervisory Authorities, in addition to the existing requirement to notify the other Member States of the EU as well as the European Commission, whenever a determination is made in terms of Article 11(4), 16(2), and 28(7) of the Third Anti-Money Laundering Directive that a third country imposes requirements equivalent to those laid down in the Third Anti-Money Laundering Directive and supervises credit or financial institutions for compliance with such requirements. This requirement is transposed by amending Regulation 2(4) of the PMLFTR.
- 2) The requirement introduced by virtue of an amendment to Article 31(2) which states that Member States shall, in addition to informing other Member States and the European Commission, also inform the European Supervisory Authorities of cases where the legislation of a third country does not permit a credit or financial institution to apply to its branches or majority-owned subsidiaries situated in such third countries, customer due diligence and record keeping measures which are equivalent to those laid down in the Third Anti-Money Laundering Directive. This requirement is transposed by amending Regulation 6(3), which was renumbered as Regulation 6(4).
- 3) The power of the European Supervisory Authorities, by virtue of the amendments to Articles 31(4) and 34(3), to develop regulatory technical standards to be adopted by the European Commission, to specify the type of additional measures referred to in Article 31(3), the minimum action to be taken by credit and financial institutions where the legislation of the third country does not permit the application of the measures required under Article 31(1). This provision is transposed by introducing Regulation 6(3) in the PMLFTR.
- 4) The new requirement of competent authorities under Article 37a to cooperate with and provide any information to the European Supervisory Authorities to enable them to carry out their duties under the Third Anti-Money



Laundrying Directive, Regulation (EU) No 1093/2010, Regulation (EU) No 1094/2010 and Regulation (EU) No 1095/2010. This provision is transposed by introducing Regulation 2(5) in the PMLFTR.

Other amendments include the introduction of the Quality Assurance Oversight Committee established by the Accountancy Board under the Accountancy Profession Act (Cap. 281 of the Laws of Malta) within the definition of “supervisory authority”, thereby enabling the exchange of information between the FIAU and the Quality Assurance Oversight Committee for the purposes of the compliance monitoring of auditors under the PMLFTR. In addition, following discussions with the MFSA, provision has been made for the limitation of the applicability of the PMLFTR

in respect of protected cell companies carrying on business in accordance with the Companies Act (Cell Companies Carrying on Business of Insurance) Regulations (Legal Notice 243 of 2010) to long term insurance business and to the extension of the applicability of the PMLFTR in respect of incorporated cell companies and incorporated cells carrying on long term business in accordance with the Companies Act (Incorporated Cell Companies Carrying on Business of Insurance) Regulations (Legal Notice 558 of 2010).

The Implementing Procedures were amended on 20<sup>th</sup> April 2012, with the main change being the integration of the Guidance Note on High-Risk and Non-Cooperative Jurisdictions within Part I of the Implementing Procedures. Other minor amendments were carried out for clarification purposes.



## 5. PARTICIPATION IN INTERNATIONAL FORA

### The European Union Committee on the Prevention of Money Laundering and Terrorist Financing

The CPMLTF was set up by virtue of Article 41 of Directive 2005/60/EC of the European Parliament and of the Council (3<sup>rd</sup> AML Directive) to support the EU commission in the implementation of this directive. FIAU officials represent the Government of Malta on this committee which is convened five times annually.

The agenda of the CPMLTF meetings during 2012 was dominated by the revision of the 3<sup>rd</sup> AML Directive as the CPMLTF was extensively involved in discussions on this review process. CPMLTF members amongst other stakeholders were requested by the Commission to give their feedback and contribute in the revision of the 3<sup>rd</sup> AML Directive by indicating any shortcomings they identified in the application of the directive as well as areas which could need clarification. The main themes identified by the Commission through such comments and proposals were presented for consultation at the various meetings of the CPMLTF throughout this year.

These discussions contributed to the adoption of a report from the Commission to the European Parliament and the Council on the application of Directive 2005/60/EC on the 11<sup>th</sup> April 2012. Initially it was envisaged that the new directive proposal would be adopted in October 2012 however, this process was delayed and the proposal is expected to be issued within the initial weeks of 2013.

The revised recommendations issued by the FATF in 2012 also featured extensively throughout this year's CPMLTF meetings and relative discussions were combined with those on the revision of the 3<sup>rd</sup> AML Directive, given the broad influence that such recommendations have on the adoption of AML/CFT measures.

### EU FIU Platform

The EU Financial Intelligence Units Platform was set up in 2006 with the aim of providing an informal platform for FIUs of EU member states to be able to discuss common issues and enhance further co-operation. The FIAU was represented at the two meetings of the FIU Platform held during the year.

The key issues which characterised the 2012 meetings were the integration of FIU-Net<sup>8</sup> within Europol, the interpretation of paragraph 22(b) of the interpretative note to FATF Recommendation 16 and the potential changes to the 3<sup>rd</sup> AML Directive which may have a direct or indirect impact on FIUs.

As the FIU-Net project for the years 2010 – 2013 financed by the EU Commission was drawing to an end, the way forward was examined and discussions were held on whether FIU-Net's functionality should be embedded within the Europol system or else whether a further grant should be requested from the Commission to extend the FIU-Net project and seek to enhance co-operation with Europol at a slower pace. The two possible scenarios, the technicalities and the implications involved were extensively debated within the FIU Platform as well as within specific sounding groups and further updates are expected at the forthcoming meeting of the FIU Platform in February 2013.

Another matter which was discussed extensively during one of the meetings in 2012 was the requirement under FATF revised Recommendation 16 which imposes an obligation on money or value transfer service providers to file suspicious transaction reports in all the jurisdictions within which they operate and which are affected by a suspicious transfer. This requirement means that money or value transfer service providers present in various jurisdictions have to comply with diverse reporting mechanisms. Possible solutions were discussed with the favoured approach being that of further enhancing co-operation between FIUs to exchange STR information.

During the course of the meetings, FIUs were also invited to exchange views on issues affecting FIUs in the discussions concerning the revision of the 3<sup>rd</sup> AML Directive.

### The Egmont Group

The FIAU participated in the 20<sup>th</sup> Plenary of the Egmont Group from 9<sup>th</sup> to 13<sup>th</sup> July 2012 which was hosted by the Russian Federal Service of Rosfinmonitoring in Saint Petersburg. The Egmont Plenary and Heads of FIUs Meeting, held annually, bring together the Egmont member FIUs and observer organizations for training and in-depth discussions to further the development of the international FIU network.

<sup>8</sup> FIU.NET is a decentralised computer network which enables FIUs within EU member states to exchange information and enhance co-operation to strengthen their fight against ML/FT.



The FIAU, which has been a member of the Egmont Group since 2003, has in recent years been participating actively in the workings of the Legal Working Group which is tasked with the review of the candidacy of potential members and the handling of all legal aspects and matters of principle within Egmont, including co-operation between FIUs. During 2012 efforts were also made to start to contribute to the work of the Operational Working Group, with the FIAU being represented for the first time at the meetings of this Working Group during the July Plenary.

The Plenary, which was attended by more than 300 participants, was chaired by Mr. Boudewijn Verhelst, Chair of the Egmont Group, and Mr. Yury Chikhanchin, Head of Rosfinmonitoring Russia. FIUs from 109 jurisdictions and 17 international organizations were represented. Besides the meetings of the Legal Working Group and the Operational Working Group, the FIAU also participated in the Regional meeting for European FIUs, Regulatory Project Team meetings, the plenary sessions and the Heads of FIUs meetings.

During the course of the Plenary, four FIUs were welcomed into the Egmont Group as new members, bringing the Egmont Group membership to 131. The new members are ANIF Gabon, AMLU Jordan, CTAF Tunisia and FMD Tajikistan.

Eight training sessions were delivered during the week focusing on topics of operational concern to FIUs. These included regulatory issues and money laundering risks related to the real estate sector; the role of FIU information within different legal systems and how to manage information exchange between different systems; the AML/CFT risks and preventative measures associated with new financial products; a presentation on the findings of the joint World Bank/Egmont Group study on the FIU power to postpone a suspicious transaction; the management of

the relationship between FIUs and various law enforcement agencies, including cooperation with law enforcement and anti-corruption agencies; the importance of providing reporting entities with timely and meaningful feedback and ways of achieving this; a practical session on how to use the IT Working Group's Financial Information System Maturity Model to assess an individual FIU's needs; and an overview of the operational and analytical methods used by Egmont members.

## MONEYVAL

### Fourth round mutual evaluation report

The report on the fourth assessment visit of Malta conducted by MONEYVAL between the 29<sup>th</sup> May and the 4<sup>th</sup> June 2011 was adopted at the 38<sup>th</sup> plenary meeting held in Strasbourg between the 5<sup>th</sup> and 9<sup>th</sup> March 2012.

The fourth round of assessment, which is expected to continue during 2013, does not consist of a full review of all the FATF recommendations and the nine special recommendations but is rather intended to be an evaluation of the key and core recommendations as well as those other recommendations for which countries received non-compliant (NC) and partially compliant (PC) ratings at the previous 3<sup>rd</sup> round evaluation.

The evaluation report rates compliance with the FATF forty and nine special recommendations in accordance with four categories ranging from non compliant (NC) to partially compliant (PC), largely compliant (LC) and compliant (C). When comparing the ratings obtained for the 31 recommendations reviewed at the fourth round assessment of Malta with the ratings for the same recommendations in the previous third round evaluation report adopted in September 2007, an increase in rating can be noted in



*20<sup>th</sup> Plenary of the Egmont Group of Financial Intelligence Units, Saint Petersburg, (Russia)*



relation to 10 recommendations and a decrease in relation to another 3, whilst the same rating was kept for the remaining 18 recommendations.

On examining the ratings obtained for all the 40 plus 9 recommendations in the third and fourth round evaluation reports, it transpires that Malta is now compliant or

largely compliant with 40 out of the 40 plus 9 special recommendations and that Malta has not been rated as non-compliant with any recommendation. Malta's mutual evaluation report at the time of its adoption had been the best report adopted by MONEYVAL in its fourth round. A table comparing the ratings of the 3<sup>rd</sup> and 4<sup>th</sup> round mutual evaluation reports is being provided below.

**TABLE 9: Comparison in ratings conferred in the 3<sup>rd</sup> and 4<sup>th</sup> MONEYVAL evaluation of Malta**

	Recommendations	3rd Round Rating	4th Round Rating
R1	Money Laundering Offence	LC	C
R3	Confiscation and provisional measures	LC	PC
R4	Secrecy laws consistent with the recommendations	C	C
R5	Customer due diligence	LC	LC
R6	Politically exposed persons	PC	LC
R7	Correspondent banking	NC	C
R10	Record Keeping	C	C
R13	Suspicious transaction reporting	PC	PC
R16	Designated non-financial businesses and professions (DNFBPs)	PC	PC
R17	Sanctions	LC	PC
R18	Shell banks	PC	LC
R21	Special attention for higher risk countries	PC	LC
R22	Foreign branches and subsidiaries	NC	C
R23	Regulation, supervision and monitoring	LC	LC
R24	DNFBPs – Regulation supervision and monitoring	PC	PC
R25	Guidelines and feedback	PC	PC
R26	The FIU	C	C
R29	Supervisors	LC	C
R30	Resources, integrity and training	LC	LC
R31	National co-operation	C	C
R32	Statistics	LC	LC
R35	Conventions	LC	LC
R36	Mutual legal assistance	C	C
R40	Other forms of co-operation	C	C
SRI	Implement UN instruments	LC	LC
SRII	Criminalise terrorist financing	LC	LC
SRIII	Freeze and confiscate terrorist assets	LC	PC
SRIV	Suspicious transaction reporting	NC	PC
SRV	International co-operation	C	C
SRVII	Wire transfer rules	PC	C
SRVIII	Non-profit organisations	NC	PC



## Mutual Evaluations

During the year an FIAU compliance officer took part in the fourth round evaluation of Lithuania, as a financial expert. The on-site visit, which was coordinated by the Central Bank of Lithuania, was held between the 23<sup>rd</sup> and the 27<sup>th</sup> April. During the on-site visit, meetings with various representatives from governmental entities and supervisors such as the Bank of Lithuania, the prosecutor general's office, the police department, the state enterprise centre of registers, the gaming control authority and also representatives from the private sector were held. The mutual evaluation report of Lithuania which was partially prepared by the FIAU compliance officer as financial expert as well as the report drafted by the senior legal and international relations officer as part of the fourth round mutual evaluation of Moldova held in 2011, were

successfully approved at the 40<sup>th</sup> plenary meeting of MONEYVAL held between the 3<sup>rd</sup> and 7<sup>th</sup> December 2012.

## Conference of the Parties to CETS No. 198

### Assessment Report of Romania

The Director of the FIAU was appointed to act as reviewer on issues relating to the functioning of the FIU in the assessment of Romania's effective application of the principles established by the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198). The report drawn up by the team of reviewers was adopted by the Conference of the Parties during its fourth meeting held in Strasbourg on the 12<sup>th</sup> to 14<sup>th</sup> June.



