

# **ANNUAL REPORT**

**of the**

**Financial Intelligence Analysis Unit**

**Malta**

**2003**

**FINANCIAL INTELLIGENCE ANALYSIS UNIT**

**FIRST ANNUAL REPORT**

**SEPTEMBER 2002 – DECEMBER 2003**

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## FINANCIAL INTELLIGENCE ANALYSIS UNIT

### BOARD OF GOVERNORS

Dr Silvio Camilleri	<i>Chairman</i>
Mr Herbert Zammit LaFerla	<i>Deputy Chairman</i>
Dr Anton Bartolo	<i>Member</i>
Mr Pierre Calleja	<i>Member</i>

### DIRECTOR

Mr Frank Caruana	<i>(also Secretary to the Board)</i>
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### FINANCIAL ANALYSTS

Mr George Farrugia  
Mr Daniel Gatt

### SUPPORT

Ms Irene Bugeja



**LETTER OF TRANSMITTAL  
TO THE MINISTER OF FINANCE & ECONOMIC AFFAIRS**

**FINANCIAL INTELLIGENCE ANALYSIS UNIT  
VALLETTA**

30<sup>th</sup> March, 2004

Dear Minister

In accordance with Article 42(1) of the Prevention of Money Laundering Act, *Cap 373*, 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 first financial year ended 31<sup>st</sup> December 2003.

Yours sincerely

**Silvio Camilleri**  
Chairman





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## **Chairman's Statement**

This first Annual Report of the Financial Intelligence Analysis Unit (FIAU) is intended to present an overview of the tasks and activities of the Unit, from 1 September 2002 to 31 December 2003. An important component of this Annual Report is the statistical analysis of Suspicious Transaction Reports (STRs) filed by the financial intermediaries, and, as from August 2003, other non-financial businesses or professions.

In one of my first public addresses as Chairman of the fledgling Financial Intelligence Analysis Unit I listed four forms of action which I believe should supplement the core activities of the Unit. These were *Co-operation*, *Co-ordination*, *Impulsion* and *Pro-action*.

Looking back over the past year I do believe that the Unit has indeed lived up to my expectations in this regard.

During the short time it has been in place the FIAU has built a sound working relationship with all the operators in the industry falling within its remit as well as with the now single financial regulator which is the Malta Financial Services Authority. It also took up immediately its role of co-ordinating the anti-money laundering activities on the island by undertaking a restructuring of the Prevention of Money Laundering Joint Committee, which had originally been set up by the Central Bank of Malta, in order to take into account the new actors and developments in the field.

Moreover, as the prime mover of anti-money laundering initiatives, the FIAU prepared amendments to the Prevention of Money Laundering Regulations in order to align them with international developments including the second EU anti-money laundering directive.

The Unit has brought to the fight against money laundering a significant quality change. This is manifested in the evident confidence which subject persons have shown in the Unit and in the quality of the reports prepared by the Unit's analysts and referred to the police.

This does not mean that there is no further room for improvement.

The police liaison officer needs strengthening. While the liaison officer was quickly appointed and, as projected, has contributed greatly towards a fuller assessment of suspicious transaction reports, he has kept his distance from the centre of operations of the FIAU with the consequence that he has not been in a position to directly assess the information in the possession of the Unit. This has rendered the efforts of the Unit to identify possible predicate offences more laborious and difficult than it would otherwise be.

Subject persons, which in terms of the Regulations are those persons and institutions subject to the Regulations, form the reporting base for suspicious transaction reporting. With the broadening of the reporting base through the 2003 revised Regulations, awareness of the statutory obligations assumes an even greater importance. It is the intention of the Unit to assist subject persons to comply with their obligations under the new Regulations. In the coming year the Unit will be more vigilant on its compliance function to assist all subject persons to implement and comply with all requirements. To date the Unit has relied on the co-operation of the supervisory authorities to monitor compliance, but the addition of a broad spectrum of non-financial businesses or professions not subject to any specific supervisory authority has rendered it necessary for the Unit to equip itself adequately to undertake off-site, and eventually on-site, monitoring of compliance by these additional subject persons.

In 2004 the FIAU will also endeavour to broaden its international relations. This should mainly serve to protect the financial and other systems from being used by money launderers thus undermining the Maltese economy.

Moreover, the substantial increase in the number of suspicious transaction reports as a result of the very setting up of the Unit as well as the anticipated additional increase in consequence of the wider reporting base have also required the Unit to pause and take stock of the situation in order to determine how it can continue to be effective in the near future. This has prompted the Unit to draw up a development plan for the next two years which, provided the necessary support is forthcoming, will further build up the Unit's capabilities which will enable it to face with success the challenges of the future.

I must take this opportunity to acknowledge the invaluable assistance and advice which I have received from my colleagues on the Board of the FIAU who have worked indefatigably and inexorably, notwithstanding their other onerous duties, in order to ensure the success of the Unit which today is firmly grounded on solid foundations. It is due to their efforts that the FIAU can look to the future with confidence and optimism. It would be remiss of me if I were to omit to give due credit to the small but energetic and enthusiastic team which makes up the permanent staff of the Unit and who constitute the backbone of the institution of which they are deservedly proud. They certainly deserve to be commended for their dedication in the way they applied themselves to the innovative tasks ahead of them and for the excellence of the quality of their analytical work.

Finally, I cannot close this first statement without giving due recognition to the assistance received from the Central Bank of Malta and the Malta Financial Services Authority in the setting up of the Unit. On behalf of my Board I would like to express my thanks and appreciation to the Chairmen of both institutions.

**Silvio Camilleri**

## **1. THE FINANCIAL INTELLIGENCE ANALYSIS UNIT**

### **1.1 STATUS**

The Financial Intelligence Analysis Unit (FIAU) is a government agency having a distinct legal personality. It is responsible for the collection, collation, processing, analysis and dissemination of information with a view to combat money laundering. It is the authority to whom reports of transactions suspected to involve money laundering are disclosed by subject persons under the Prevention of Money Laundering Regulations, 2003.

### **1.2 ESTABLISHMENT**

The FIAU was established by Act XXXI of 2001 which amended the Prevention of Money Laundering Act (PMLA), Chapter 373 of the Laws of Malta. All provisions of the amending Act were brought into force in October 2002 through the publication of Legal Notice No: 297 of 2002, when the FIAU became fully operational.

The FIAU is composed of the Board of Governors and the Director. Financial Analysts and other staff support the Director in carrying out the operations and activities of the Unit as established by the PMLA. In terms of Article 24 of the PMLA, a Senior Police Official is detailed to act as a liaison officer with the Unit. The PMLA provides for a maximum of six members on the Board, two of whom are appointed as Chairman and Deputy Chairman respectively. In accordance with the provisions of the PMLA, the current four members of the Board have been nominated by the Attorney General's Office, the Central Bank of Malta, the Malta Financial Services Authority and the Malta Police respectively. They discharge their duties in their own judgement and, by law, are not in any way subject to the direction or control of the authority which nominated them. The permanent staff is appointed by

the Board through a selection process following a call for applications.

### **1.3 DEVELOPMENT OF THE ACTIVITIES OF THE FIAU**

The FIAU has three core activity areas:

- a. Receive and Analyse financial information suspected of involving money laundering and Report thereon;
- b. Exchange Information; and
- c. Monitor Compliance by subject persons.

#### **a. Receive, Analyse and Report**

In the past year the FIAU has made sustained efforts to increase the awareness of financial and other intermediaries of the problems of money laundering and of the obligation of filing Suspicious Transaction Reports (STRs) where there is the least suspicion that a transaction they may be handling could be linked to money laundering activities. The creation of awareness among subject persons has been pursued on the basis of direct discussions with the subject persons conducted either on the initiative of the Unit or at the request of the subject persons themselves. The contacts established in this way permit an ongoing dialogue, which helps to enhance the state of awareness and the need to file STRs.

All STRs received are analysed by the FIAU. To this effect the Unit has created a database that contains all information on all STRs filed since the coming into force of the PMLA in 1994. This it did by taking over the databases previously held by the Central Bank of Malta and the Malta Financial Services Authority as the financial services supervisory authorities.

The analytical study of STRs is complemented by a summary of the

additional information obtained by or in the possession of the FIAU. This information assists the Unit to detect possible cases of predicate offences thus substantiating further any suspicion of money laundering. If the analytical study gives grounds for substantiation of the suspicion of money laundering, the analytical report and supporting documentation is forwarded to the Police for further investigation after being approved by the Board of Governors.

**b. Exchange of Information**

On the international side, the FIAU is empowered to co-operate and exchange information with its foreign counterparts. To facilitate this function the FIAU seeks to exchange memoranda of understanding (MoUs) with other jurisdictions particularly with those jurisdictions that can co-operate only on the basis of MoUs. The FIAU has already signed MoUs with Belgium, Cyprus and Monaco whilst another four MoUs are in process to be concluded with Australia, Bulgaria, Liechtenstein and Slovenia. On the domestic side, the FIAU is empowered to exchange information with the relevant supervisory and other authorities. In this regard the FIAU seeks to establish effective channels of co-operation with such authorities.

**c. Monitor Compliance**

In terms of the PMLA, the FIAU is the authority responsible to ensure that subject persons comply with the anti-money laundering obligations in accordance with the Prevention of Money Laundering Regulations. In order to carry out this role the Unit co-operates, co-ordinates and liaises with the relevant supervisory authorities. In this regard the Unit is in the process of establishing formal arrangements with the supervisory authorities, mainly the Malta Financial Services Authority and the Lotteries and Gaming Authority, to ensure the effective monitoring of compliance. On the other hand, the Unit has a responsibility to monitor those subject persons, such as the

legal and accountancy professions, that do not specifically have a supervisory authority. Whereas through the former the FIAU could make use of the resources of the relevant supervisory authority, the latter are taxing on resources of the Unit.

The Prevention of Money Laundering Joint Committee, which was initially established by the Central Bank of Malta in 1994 to ensure the smooth implementation of the Prevention of Money Laundering Regulations at the time, was restructured and reconstituted with the establishment of the FIAU. The Committee, which now includes representatives of all sectors of subject persons, meets regularly under the chairmanship of the Director of the FIAU. The objective of the Committee is to serve as a discussion forum where subject persons may discuss issues and any problems or difficulties encountered in the implementation of the Regulations. The Joint Committee also serves as a forum for the discussion of proposals to update legislation, regulations and implementation procedures. Indeed the Committee is currently in a process of consultation prior to the updating and consolidation of the guidance notes to the financial services industry and the issue of new guidance notes to the non-financial subject persons recently obliged to report suspicious transactions in accordance with 2003 revised Regulations.

**1.4 UPDATING THE LEGAL BASIS**

The Maltese anti-money laundering framework is based on three tiers. The Prevention of Money Laundering Act that criminalises the act of money laundering and establishes the FIAU (Box 1), The Prevention of Money Laundering Regulations (Box 2) that oblige subject persons to identify and report suspicious transactions, and the Prevention of Money Laundering Guidance Notes that provide for the implementation of the Regulations.

The Prevention of Money Laundering Act, 1994

The PMLA was extensively amended in 2001 to provide for the establishment of the FIAU.

During the period covered by the Report the FIAU has not made recommendations for any further amendments since the need did not arise.

**Box 1:**

**PREVENTION OF MONEY LAUNDERING ACT, 1994**

The Prevention of Money Laundering Act (the Act) which was first enacted in 1994 and subsequently extensively amended in December 2001, is divided into two main parts complemented by two schedules. In the introduction the Act defines in detail money laundering on the basis of the European Union Directive 91/308 of June 2001 whilst extending predicate offences beyond the drug related 1998 United Nations Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances (UN Vienna Convention). The First Schedule to the Act establishes the drug related predicate offence in terms of Article 3(1)(a) of the UN Vienna Convention, whereas the Second Schedule provides a broad list of predicate offences. A person can be convicted of a money laundering offence even in the absence of a judicial finding of guilt in respect of the underlying criminal offence.

Under the title *Investigation and Prosecution of Offences*, the First Part of the Act criminalises the offence of money laundering. The penalty on conviction of money laundering is a fine of MTL1 million or imprisonment for a period not exceeding 14 years, or both. Additional powers of investigation are given to the investigating agency (Police) through the application by the Attorney General to the Criminal Court for an Investigation Order. The persons indicated in such orders have the power to have access to and demand from the persons mentioned in the Order any information that may be required to complete an investigation on a reasonable suspicion of money laundering. The Attorney General may also apply to the courts for an Attachment Order wherein the suspect is prohibited from transferring or disposing of any movable or immovable property for thirty days. Once a person is accused of a money laundering offence all his/her property is frozen and is administered by the Court. Contravention of any such orders is punishable by one year imprisonment or an MTL 5,000 fine or both. When a person is convicted the assets may be forfeited depending on the sentence. The Act further provides for assistance and co-operation in connection with offences cognizable by courts outside Malta. The Act also empowers the Minister to issue rules and regulations for the better carrying out of the provisions of the Act.

Part Two of the Act establishes the Financial Intelligence Analysis Unit and provides for its set-up, powers and functions. The Unit is a government agency having a distinct legal personality. It is the authority responsible for the administration and implementation of Malta's anti-money laundering regime with the investigative powers and authority remaining in the domain of the Police. The Unit consists of two main organs, being the Director (and his permanent staff) and the Board of Governors. The six members of the Board are appointed by the Minister of Finance, four of whom are respectively nominated by the Attorney General, the Governor of the Central Bank of Malta, the Chairman of the Malta Financial Services Authority and the Commissioner of Police. All Board members discharge their duties in their personal capacity and are not subject to the direction of any person or authority. The Unit has the power to co-operate and exchange information with supervisory authorities and other foreign bodies having similar responsibilities. A Police Officer nominated by the Commissioner of Police acts as the liaison officer between the Unit and the Police.

### Prevention of Money Laundering Regulations 2003

The Prevention of Money Laundering Regulations issued in 1994 were modelled primarily on the European Union Directive 91/308/EEC of June 1991 on the prevention of the use of the financial systems for the purpose of money laundering. In December 2001, the European Union revised its 1991 Directive through Directive 2001/97/EC. One of the major tasks ahead for the FIAU upon its establishment was therefore the alignment of the domestic anti-money laundering regulations with the new

standards. This task assumed even further importance with the June 2003 revision of the 40 Recommendations of the Financial Action Task Force (FATF)<sup>1</sup> on the prevention of money laundering. During 2003 the FIAU therefore embarked on this major task in consultation with the interested parties. This resulted in a thorough overhaul of the 1994 Prevention of Money Laundering Regulations, which were replaced in August 2003 by the issue of Legal Notice 199<sup>2</sup> by the Minister of Finance and Economic Affairs.

#### **Box 2:**

##### **PREVENTION OF MONEY LAUNDERING REGULATIONS, 2003**

The Regulations apply to legal or natural persons carrying out any activity related to banking or other financial services (defined as *relevant financial business*) and the legal and accounting professions, dealers in real estate and precious stones and metals and fiduciary activities (defined as *relevant activity*)<sup>3</sup>. Such persons are defined as *subject persons*.

The Regulations specify the minimum procedures that a subject person is required to establish and follow to be compliant with the obligations under the Regulations when forming a business relationship. These requirements concern procedures for:

- Identification;
- Record-keeping;
- Internal reporting;
- Disclosure of suspicious transactions to the FIAU.

Subject persons are also obliged to take the necessary measures to provide the appropriate training to keep their employees aware of:

- The procedures required by the Regulations and any additional relevant policies established by the subject person; and
- The provisions of the Prevention of Money Laundering Act and the Prevention of Money Laundering Regulations.
- The recognition and handling of suspected money laundering transactions.

<sup>1</sup> The FATF was established by the G7 Summit that was held in Paris in 1989 in response to mounting concern over money laundering. The FATF is an inter-governmental body whose purpose is the development and promotion of policies, both at national and international levels, to combat money laundering and terrorist financing. The 40 Recommendations were first issued in April 1990 providing a comprehensive set of standards to be followed in a plan for a co-ordinated global fight against money laundering.

<sup>2</sup> LN 199 of August 2003, entitled The Prevention of Money Laundering Regulations 2003, totally replaced LN 195 of 1994 as amended in 2000 and in 2002.

Identification procedures require the evidence of identity of the applicant for business and, where the business is to be undertaken on behalf of another, the evidence of the beneficial owner. Such evidence is deemed satisfactory where it can be established that the applicant is the person who he claims to be. Subject persons are required to retain records of such evidence including evidence of subsequent transactions for a minimum period of five years commencing from such dates as established by the Regulations. For the purpose of reporting procedures, the Regulations require subject persons to appoint a Money Laundering Reporting Officer (MLRO). The MLRO is responsible to receive internal reports on suspected transactions, to examine such reports in the light of all relevant information and to disclose such information to the FIAU where the information available indicates that any person has or may have been engaged in money laundering.

<sup>3</sup> The Regulations are extended to casinos through the Lotteries and Gaming Regulations.

### The Guidance Notes

In May 2003 the FIAU revised the Guidance Notes to Credit and Financial Institutions<sup>4</sup> updating them to reflect the new reporting structure established through the setting up of the Unit. These Guidance Notes, together with those issued to the insurance and investment services sectors, need further updating to reflect the new Regulations. The FIAU plans to undertake this updating during 2004. The review will also consolidate the guidance notes and take into consideration the newly included non-financial businesses and professions. Preliminary work has already started through consultations within the workings of the Prevention of Money Laundering Joint Committee.

### **1.5 INTERNATIONAL CO-OPERATION**

The FIAU attaches great importance to co-operation and sharing of information with its foreign counterparts in the global fight against money laundering. To this effect the FIAU seeks to establish effective procedures, within the provisions allowed by law, to facilitate such co-operation through MoUs. The FIAU further seeks to actively participate in international fora that assist the Unit to share information and to develop

further the international element of the local anti-money laundering regime.

### The Egmont Group

The Egmont Group is the global association of national financial intelligence units (Box 3) currently comprising eighty four jurisdictions. The FIAU, which is an administrative one, was admitted as a member of the Egmont Group at the Plenary Assembly of July 2003. The aim of the Egmont Group is to create a forum which assists the national programmes of FIUs to combat money laundering.

The support consists essentially in the streamlining of the exchange of information and co-operation between the national financial intelligence units.

A standard memorandum of understanding outlining the procedures to be followed is often used as the formal basis for the exchange of information between the individual financial intelligence units. The conclusion of a Memorandum of Understanding must comply with the relevant national legislation.

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<sup>4</sup> It must be noted that the obligations under the anti-money laundering Regulations were extended to casinos through the Lotteries and Gaming Act Regulations 1998.



An additional benefit of being a member of the Egmont Group is the availability of access to the Egmont Secure Website which

includes money laundering intelligence on suspects encountered by the member FIUs.

**Box 3:**

**TYPES AND FUNCTIONS OF FINANCIAL INTELLIGENCE UNITS**

The Egmont Group defines an FIU as “a central, national agency responsible for receiving (and, as permitted, requesting), analysing and disseminating to the competent authorities, disclosures of financial information: (i) concerning suspected proceeds of crime; or (ii) required by national legislation or regulation; in order to counter money laundering.” This definition clearly identifies an FIU as distinct from the other components but an integral part of a country’s anti-money laundering regime. Thus it clearly separates the FIU from other types of government or other authorities.

The main functions of an FIU are to receive suspicious transaction reports of money laundering, the analysis of such reports and the compilation of analytical reports for further investigations, and the exchange of information with equivalent counterparts abroad for the purpose of countering money laundering.

The different types of FIU structures may be included in the above definition. There are mainly four different types of structures (Police, Judicial, Mixed and Administrative).

A *Police* type of FIU is one where the reporting institution discloses the information directly to the law enforcement authority, that is, the police. This type of FIU is usually part of the enforcement authority. This type of structure is called direct reporting because there is no intermediary between the enforcement authority and the reporting institution. Both the analytical and the investigative functions are performed by the Police. One of the main advantages of this type of FIU is the immediate access and information available apart from speed of action. On the other hand, very often subject persons are more cautious and reluctant to file reports and spontaneously disclose information to this type of FIU which often lacks the necessary financial analytical skills.

In the *Judicial* structure the FIU is embedded in the public prosecutor’s (or attorney general’s) office. There is therefore no intermediary step and the prosecutor’s office receives disclosures and charges the police to investigate.

In the case of a *Mixed* FIU, a joint police/prosecution unit receives disclosures, analyses them, investigates and prosecutes.

In the *Intermediary* or *Administrative* type of FIU the reporting institution files the report with the FIU which has an independent structure with the powers and duties to interact with all relevant authorities to fulfil its functions. An Administrative FIU receives suspicious reports which it analyses and processes before passing on for investigation and prosecution by the relevant agencies. It therefore acts as an *intermediary* or *clearing house* for the analysis and filtering of information and performs a selection function before investigations by the Police. (Source: *Egmont Group*)

**Note:** The Maltese FIU is of the Administrative type. This type of FIU was specifically selected taking into consideration the local industry environment and the positive experience of other jurisdictions which have established an administrative type of FIU. The successful results contained in this report for the first year of its operation justify this selection.

### The Council of Europe MONEYVAL Committee

The Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL)<sup>5</sup> uses a mutual evaluation<sup>6</sup> and peer pressure system to review the laws and practices employed by those Council of Europe member states which are not members of the Financial Action Task Force (FATF). Its aim is to harmonise legal, financial and punitive measures in these member states, relying on the relevant international standards for this purpose.

Malta was a founder member of MONEYVAL and, through the FIAU Chairman, held the presidency of this Committee for the maximum two consecutive terms up to December, 2003. Malta fully participates in this Committee with the sole aim of improving compliance with international standards and to enhance co-operation between jurisdictions through their FIUs.

### European Union Money Laundering Contact Committee

Since the establishment of the FIAU, the Unit has been participating in an observer status in the EU Money Laundering Contact Committee (MLCC). The terms of reference of the MLCC is to discuss current anti-money laundering international standards and to ensure a level playing field in the implementation of the EU anti-money laundering Directives. The MLCC also makes recommendations for proposals for the updating of the EU anti-money laundering Directives. The Committee is currently working on proposals for a third EU anti-

money laundering Directive. Through its participation in this Committee, the FIAU contributes to these proposals whilst safeguarding the domestic interests.

### **1.6 DEVELOPMENT PLAN**

Having established the initial administrative and operational procedures for fulfilling its main role of receiving, analysing and reporting on suspicious transactions, during 2003 the FIAU started looking forward to developing its structure and resources to fulfil its other responsibilities emanating from the law whilst strengthening its main role. As already detailed above, the responsibilities of the FIAU can be grouped as those relating to:

- (i) Compliance by subject persons and relations with supervisory authorities;
- (ii) Financial analysis and reporting to law enforcement;
- (iii) Legal and international obligations including relations with international bodies and other FIUs; and
- (iv) Liaison with the Police.

To this effect in November 2003 the Board of Governors approved proposals for a development plan that would provide a new structure to the FIAU that would enable it to better meet its responsibilities and obligations under the law.

Under the proposed plan, which was submitted to the Minister of Finance and Economic Affairs in November 2003, the FIAU will have four main sections:

<sup>5</sup> Previously known as the PC-R-EV Committee.

<sup>6</sup> Malta has been evaluated in the first round of evaluations (September 1998) and the second round (January 2002). A third round evaluation for Malta under the new methodology is scheduled for 2005.

- (i) *Compliance Section* - apart from the monitoring of subject persons the section will also be responsible for advising and assisting subject persons, drawing up guidance notes and compliance procedures, developing training and awareness programmes, liaising with Money Laundering Reporting Officers and supervisory authorities and dealing with other related issues.
- (ii) *Financial Analysis Section* – dealing with the collection and analysis of financial analysis data, receiving and analysing STRs, and liaising with the investigating agencies.
- (iii) *Legal Affairs and International Relations Section* – apart from providing legal advice to the Unit and assisting the

Chairman in advising the Minister on money laundering offences and legislation, the section will be responsible to liaise with foreign FIUs, draw up and consider MoUs and deal with matters related to foreign requests for assistance.

- (iv) *Administration and Support Section* – mainly responsible for general office administration and the maintenance and administration of databases, IT development and software applications.

The Development Plan also gives consideration to the need to increase office space for the FIAU to house a full complement of nine full time officials within a two year period.

## 2. OPERATIONS OF THE FIAU

### 2.1 SEMINAR TO LAUNCH FIAU

In an effort to assist the industry understand the new anti-money laundering infrastructure and to explain the functions, operations and powers of the FIAU as established under the new legislation, in January 2003 the FIAU, in conjunction with the Malta Financial Services Authority, organised its first seminar. The Seminar, under the title *The Role and Responsibilities of Financial Intelligence Units in Combating Money Laundering*, was aimed for representatives of subject persons that at the time were obliged to observe the Prevention of Money Laundering Regulations and those that were due to be included in the revised Regulations which were eventually issued in August 2003. The Seminar, which was well attended and chaired by Mr H Zammit LaFerla, FIAU Deputy Chairman, was opened by the Minister of Finance, the Hon. John Dalli, who dwelt on the then proposed changes to the anti money laundering Regulations whilst reaffirming the commitment of the government to combat money laundering and the financing of terrorism.

The discussion panel was composed of five speakers. The introductory addresses were delivered by Prof J V Bannister, Chairman Malta Financial Services Authority, who referred to the global extent of money laundering and the possible use of electronic means of payments and funds transfer by money launderers and Dr Silvio Camilleri, Chairman FIAU, who gave a detailed overview on the setting-up of the FIAU and its importance in the country's anti-money laundering regime. The first speaker, Dr

Anton Bartolo, board member of the FIAU, explained the new legal provisions concerning the FIAU, followed by Mr Frank Caruana, director FIAU, who explained the operations of the Unit. Dr Andrè Camilleri, Director General MFSA, finally spoke about the co-operation that needs to exist between all players in order to ensure an effective implementation of the anti-money laundering regime.

The guest speaker for the seminar was Mr Boudewyn Verhelst, Deputy Director of the Belgian Financial Intelligence Processing Unit<sup>7</sup>. Mr Verhelst spoke about the international dimension of financial intelligence units with particular emphasis on the Egmont Group, of which the Belgian FIU is a founder member.

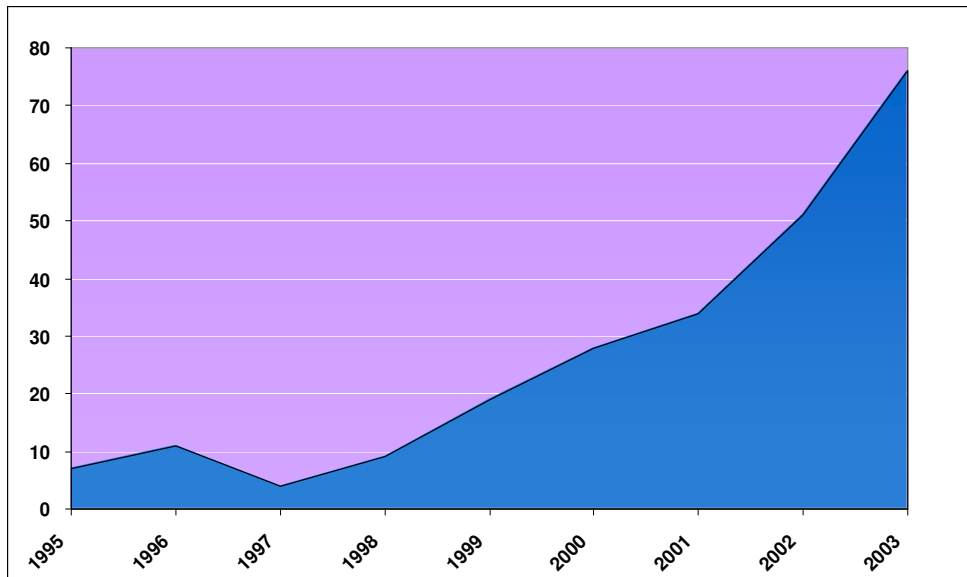
### 2.2 ANALYSIS OF SUSPICIOUS TRANSACTION REPORTS

The establishment of the FIAU has brought about an immediate positive reaction in the disclosure of information and the submission of Suspicious Transaction Reports (STRs) in Malta. Since the first legislation in 1994 obliging operators in the financial sector to report transactions suspected of involving money laundering and up to the establishment of the FIAU reports were filed directly with the Police. The number of reports on suspicious transactions involving money laundering has since gradually increased reaching a total of 239 reports as at date of reporting. As can be seen in Chart 1, the submission of STRs peaked in 2003.

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<sup>7</sup> The Belgian FIU, through Mr B Verhelst, extended continued support and assistance to the Maltese authorities in setting-up the FIAU.

SUSPICIOUS TRANSACTION REPORTS BY YEAR



In October 2002 the legislative amendments establishing the FIAU as the authority responsible to receive and analyse suspicious transaction reports came into effect. The first two months saw an immediate 20% increase in the average monthly reports. By 2003 the average increased by 58% over the period prior to the establishment of the FIAU. A total of 76 reports were filed with the FIAU during 2003 and a total of 86 since its establishment in October 2002 averaging at 6 reports per month over the 14 months under review. This encouraging increase contrasts with an average of less than 2 reports per month for the previous period since 1995. This phenomenon has been experienced by other countries following the establishment of their FIUs, particularly in those having an administrative type of FIU. It is mostly attributed to the fact that subject persons often feel more confident in making reports to an administrative FIU that filters such reports rather than directly to the

enforcement authorities. Presumably this is consequential to the confidentiality aspect particularly in the financial sector. It is also attributable to the comfort experienced by subject persons who seek consultation and guidance from the Unit when they require doing so.

The FIAU processes all STRs through its database and immediately opens a financial analysis investigation for each case. Out of the 86 STRs that the Unit received during the 14 months under review, 17 cases were referred to the Police for further investigation. Another 30 were not pursued further due to inconclusive information sustaining the suspicion of money laundering whilst 4 reports were referred back to the reporting subject persons as these were not related to a money laundering activity<sup>8</sup>. At the end of the year there were 35 reports which were still under analysis.

<sup>8</sup> Such reports often refer to investment scams (e.g. Nigerian fraud scams). Subject persons are therefore advised to refer such issues to their regulator. The FIAU however still keeps record of such reports.

**TABLE 1**  
**BREAKDOWN OF STRS**

Oct 2002 - Dec 2003	
Not Related to Money Laundering	4
Referred to Police	17
Inconclusive Information	30
Ongoing Analysis	35

The above results are encouraging for the first year of operations of the Unit. The FIAU intends to continue to promote awareness of the preventive money laundering measures and obligations to subject persons in a drive to increase the average reporting. On the other hand the Unit is also expecting an increase in results during 2004 as the new range of subject persons develop their internal procedures and increase their level of vigilance to comply with the new Regulations.

### 2.3 REQUESTS FOR CO-OPERATION

In addition to the above mentioned reports, the FIAU has also received and responded to a total of 21 requests from 10 foreign FIUs<sup>9</sup> for the exchange of information and assistance in their financial investigations of money laundering activities. In two cases this co-operation resulted in freezing the assets of suspected non-national money launderers held in Malta.

On its part, the FIAU also sought information and assistance from foreign FIUs in its financial analysis and investigations of suspicious transaction reports filed with it. During the period covered the FIAU sought assistance and information on several cases amounting to thirty one requests being made to twenty-four different jurisdictions. The

FIAU has received information to twenty five of its requests from eighteen jurisdictions. The FIAU notes that although the number of replies was significant, in some instances the quality of information was not sufficient or merely known public information.

### 2.4 STATISTICS

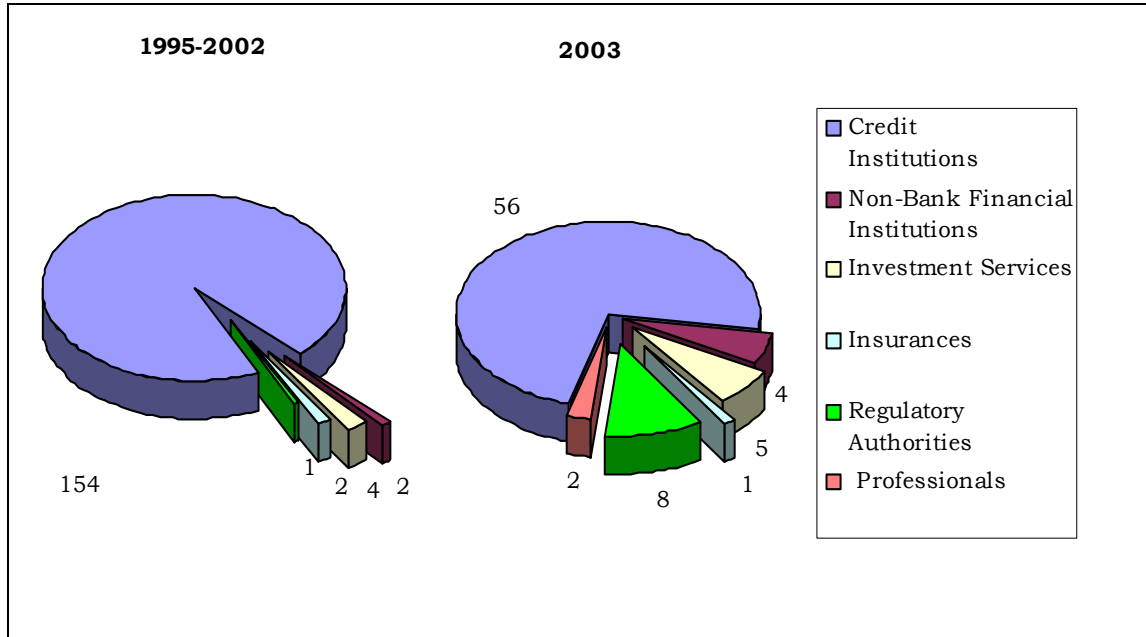
As already explained under Section 2.2 above, STRs filed by reporting institutions peaked in 2003. As can be seen from Chart 2, credit institutions remained the main contributors. During the period 1995 to 2002 credit institutions were responsible for 154 or 94.48% of the total 163 STRs filed with the relevant authorities. This corresponds to an annual average of approximately 19 reports being filed by credit institutions out of an annual total average of 20 reports. As further shown in Chart 2, during 2003 credit institutions filed a total of 56 reports out of a total of 76 reports. Although in absolute terms, the reports filed by credit institutions is notably higher than the previous registered average, this works out to a share of 73.68% which is lower than that registered for the period 1995 – 2002. However further analysis of the data in Chart 2 indicates a corresponding increase in reports filed by other institutions.

<sup>9</sup> Belgian (3); Cyprus (1); Guernsey (3); Hungary (1); Isle of Main (4); Jersey (5); Latvia (1); Slovenia (1); Switzerland (1) and United Kingdom (1).

For the period 1995 – 2002 the share of reports filed by all the other institutions reached 9 reports or 5.52% of the total for the period, an average of one report per year. In

contrast, data for 2003 shows an increase to 20 reports or a share of 26.32% of the total reports for the year.

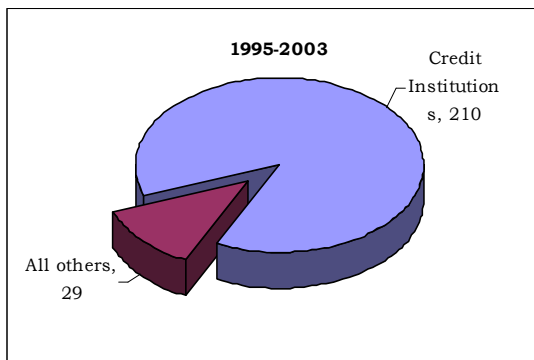
**CHART 2**  
**STRs COMPARED PRIOR TO FIAU AND POST FIAU**



As can be seen from Chart 3, for the period 1995 – 2003 credit institutions filed 210 reports out of the total of 239 reports, being a share of 87.8% with the share of the all other subject persons rising to 12.2%. Therefore, on average, for the period 1995 – 2003, out of the 27 reports filed annually, 23 reports

were filed by credit institutions with the average balance of 4 reports being filed by other reporting subject persons. As already mentioned, it is expected that the latter will increase with the coming into force of the new Regulations which have broadened the base of subject persons obliged to file STRs.

**CHART 3**  
**STRs SINCE 1995 BY SECTOR**



The 76 STRs received by the FIAU during 2003 translated into 58 cases out of which 28 STRs concerned 10 different cases. A further breakdown of these 10 cases shows that 5 cases included 2 STRs each, 2 cases with 3 STRs each with the final 3 cases capturing 4 STRs each. The major part of the multiple reports came from credit institutions. It is however encouraging to note that the rest of the cases carried reports filed by other non-bank financial institutions and professions. In one particular case the FIAU has also received two requests for assistance from two foreign FIUs.

Table 2 below gives a breakdown of requests for mutual assistance. As mentioned in Section 2.3 above, the FIAU received 21 requests for assistance whilst itself having sought assistance on 31 instances. As can be seen from the Table seven cases concerned common jurisdictions where it is encouraging

to note that reciprocity has been extended in five cases. Where reciprocity has not been extended the FIAU seeks to establish the reasons why, particularly where such reciprocity is not extended from jurisdictions that are members of the Egmont Group.

**TABLE 2**  
**REQUESTS FOR MUTUAL ASSISTANCE**

Jurisdiction	Requests Received		FIAU Requests	
	Number	Replies	Number	Replies
Austria	-	-	1	1
Belgium	3	3	-	-
British Virgin Islands	-	-	1	1
Cyprus	1	1	2	2
Estonia	-	-	1	-
Germany	-	-	1	1
Gibraltar	-	-	1	1
Guernsey	3	3	1	-
Hong Kong	-	-	1	1
Hungary	1	1	1	-
Ireland	-	-	1	-
Isle of Man	4	4	2	2
Italy	-	-	1	1
Jersey	5	5	-	-
Latvia	1	1	1	1
Liechtenstein	-	-	3	3
Lithuania	-	-	1	1
Netherlands	-	-	1	1
New Zealand	-	-	1	1
Russia	-	-	1	-
Slovenia	1	1	-	-
Spain	-	-	1	1
St. Vincent & Grenadines	-	-	1	-
Sweden	-	-	1	1
Switzerland	1	1	2	2
UK	1	1	3	3
USA	-	-	1	1
<i>Totals</i>	21	21	31	25



The increases in the aggregate number of suspicious transaction reports filed, the diversification of reporting subject persons that have submitted these reports and the consolidation of these reports into cases complemented by the number of requests for

mutual assistance are indicative of the positive efforts of the FIAU during its first full year of operations to increase reporting awareness, establish foreign contacts and cooperate in the global fight against money laundering.

