

**Financial Intelligence  
Analysis Unit  
Malta**

*ANNUAL REPORT*  
**2008**



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**Address**

**67/4 South Street  
Valletta VLT 1251  
Malta**

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Enquiries relating to this Report should be addressed to

The Director  
Financial Intelligence Analysis Unit  
P.O. Box 213 Valletta VLT 1000  
Malta

Telephone	00 (356) 21 231 333
Fax	00 (356) 21 231 090
Website	<a href="http://www.fiumalta.org">www.fiumalta.org</a>
e-mail	<a href="mailto:info@fiumalta.org">info@fiumalta.org</a>



## FINANCIAL INTELLIGENCE ANALYSIS UNIT



*from left to right:*  
Mr. Pierre Calleja, Mr. Herbert Zammit Laferla, Dr. Silvio Camilleri, Dr. Anton Bartolo, and Dr. Manfred Galdes

### Board of Governors

#### **Chairman**

Dr. Silvio Camilleri M.O.M, LL.D.

#### **Deputy Chairman**

Mr. Herbert Zammit LaFerla ACIB

#### **Members**

Dr. Anton Bartolo LL.D.  
Mr. Pierre Calleja

#### **Secretary**

Dr. Manfred Galdes B.A., LL.M., LL.D.

#### **Director**

Dr. Manfred Galdes B.A., LL.M., LL.D.

### Mission Statement

The Financial Intelligence Analysis Unit strives to be a leader in the prevention of money laundering and terrorist financing, thus contributing towards a safe and stable financial and economic environment. We work towards this mission through information collection, analysis and co-operation in the dissemination of information of suspected money laundering or terrorist financing related activities, thus supporting the domestic and international law enforcement investigative efforts.





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

**Financial Intelligence Analysis Unit  
Valletta**

March 2009

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 2008.

Yours sincerely,

**Dr. Silvio Camilleri**

Chairman





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## ABBREVIATIONS

AML/CFT	Anti money laundering and combating the financing of terrorism
CBM	Central Bank of Malta
CPMLFT	Committee on the Prevention of Money Laundering and the Financing of Terrorism (of the European Union)
EC	European Commission
EU	European Union
FATF	Financial Action Task Force
FIAU	Financial Intelligence Analysis Unit
FIUs	Financial Intelligence Units
LGA	Lotteries and Gaming Authority
MER	Mutual Evaluation Report
MFSA	Malta Financial Services Authority
MONEYVAL	Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
OSCE	Organisation for Security and Co-operation in Europe
PMLA	Prevention of Money Laundering Act
PMLFTJC	Prevention of Money Laundering and Funding of Terrorism Joint Committee
PMLFTR	Prevention of Money Laundering and Funding of Terrorism Regulations
SR	Special Recommendation
STRs	Suspicious Transaction Reports





## STATEMENT OF THE CHAIRMAN

During 2008 the Financial Intelligence Analysis Unit has continued to be actively engaged in the fight against money laundering and the financing of terrorism. The Unit has continued to be in the forefront in keeping Maltese legislation aligned to the ever evolving relevant international standards. Following a long and painstaking process of analysis, legislative proposals and constructive consultations with the relevant financial and non-financial operators, the FIAU proposed new overhauled regulations for the industry for the prevention of money laundering and financing of terrorism. The new regulations have now fully transposed the requirements of the EU Third Anti-Money Laundering Directive and the EC Implementation Directive into Maltese legislation. The new regulations received the approval of the Minister responsible for Finance and were published on 31<sup>st</sup> July 2008. The task was not an easy one but with the excellent co-operation and feed-back from the directly interested operators I believe we can be justifiably proud of the new and modern regulatory framework which is now in place.



The period under review in this report also saw considerable changes among the staff of the FIAU. Mr. Frank Caruana, who was the first Director of the Unit and who therefore was responsible for the nurturing of the development of the fledgling FIAU, retired at pensionable age. He was replaced by an eminently qualified successor in the person of Dr. Manfred Galdes, who is not new to the industry and who has had considerable experience working within the financial industry and in particular on anti-money laundering compliance issues. He immediately got down to the driver's seat and is already making his mark on the Unit.

There were other changes. Dr. Coralie Buttigieg, the former Legal and International Relations Officer, resigned her post to seek pastures new and her place was taken over by Dr. Michael Stellini who is also not new to the financial industry and who therefore brings to the Unit his particular insight and experience.

During 2008 the Unit also embarked on the further strengthening of its capabilities by setting up a new Compliance Section which will be responsible to monitor compliance by subject persons with domestic legislation and international standards. With the expanding of the remit of the Unit to financing of terrorism and the widening of the spectrum of subject persons, particularly where these are not already subject to monitoring by other regulatory or supervisory authorities, the Unit believes that the setting up of this new section is not only healthy for the system but obligatory. The first component of this section is Mr. George Cremona who has already integrated well into the Unit and has already set in developing this new section. It is planned that the Compliance Section will be further enhanced with additional staff in due course.

On behalf of my colleagues on the Board I most heartily welcome them all.

It has long been realised that money laundering activity cannot be effectively detected and repressed without efficient channels for the fast and secure exchange of information on an international level between the FIUs from all over the world. Such exchange has already been possible for some time over the EGMONT Secure Web but efforts have been ongoing for some time within the EU to further improve the possibilities of confidential information exchange between the FIUs of Member States through the FIU.NET project. These efforts came to a head during 2008 and the FIAU joined forces with the other FIUs from Member States in the setting up of this new net-



work. For this purpose the Unit had to upgrade its Information Technology systems and to liaise closely with promoters of the project in order to be able to benefit from and to contribute to the network.

In my statement for the 2007 Annual Report I had made reference to the first definitive conviction by the Criminal Courts for a money laundering offence. Since then there have been two other convictions during 2008, one of them following a contested trial by jury, both of which are briefly described in this year's Report. These first convictions for money laundering are vital. It is crucial that the investigating and prosecuting authorities receive the necessary guidance from the Courts. On the other hand it is essential that the Courts are exposed to the techniques and methods of money laundering by having to deal with more prosecutions so that as a result their understanding of the money laundering phenomenon is increased. I am confident that convictions for money laundering will in future cease to be a novelty and will no longer have to feature in my annual statements, except for statistical purposes.

**Dr. Silvio Camilleri**



## I - THE FINANCIAL INTELLIGENCE ANALYSIS UNIT

### I.1 Establishment

The FIAU was established and became operational in 2002, following amendments to the PMLA, Chapter 373 of the Laws of Malta. Being the national central agency in Malta responsible for the collection, collation, processing, analysis and dissemination of financial information with a view to combating money laundering and the financing of terrorism, the FIAU is pivotal in the national framework for the global fight against money laundering and the funding of terrorism. Although structurally the FIAU is an agency within the Ministry responsible for finance, the law provides for full autonomy for the Unit in its operational activities.

### I.2 Functions

Article 16 of the PMLA provides for the various functions and responsibilities of the FIAU. Three of these functions are recognised to be the core functions:

- It receives and analyses information on transactions suspected to involve money laundering or to be related to the financing of terrorism from institutions and persons who are subject to the obligations of the PMLFTR 2008 issued under the PMLA, and reports thereon to the investigating authorities where a reasonable suspicion of money laundering is identified.
- It exchanges information and co-operates with local and foreign supervisory authorities and with other FIUs, either spontaneously or through memoranda of understanding.
- It is responsible for overseeing compliance by persons and institutions in terms of the aforementioned Regulations. In doing so the Unit co-operates and liaises with local supervisory

authorities who can be appointed to act as agents for and on behalf of the FIAU in carrying out on-site sectoral compliance visits and examinations and to report thereon to the Unit.

Of the other responsibilities of the FIAU as detailed under Article 16 of the PMLA, of particular mention are the FIAU's responsibilities to analyse and assess information on financial and commercial activities to identify areas that are vulnerable to money laundering or the financing of terrorism; and to advise the Minister responsible for finance on legislative amendments necessary to counter identified vulnerabilities in the system, thus further harmonising the national anti-money laundering and funding of terrorism framework with current international standards. In this respect the FIAU has been instrumental in the revision of the PMLFTR which were issued in July 2008.



### Financial Analysis

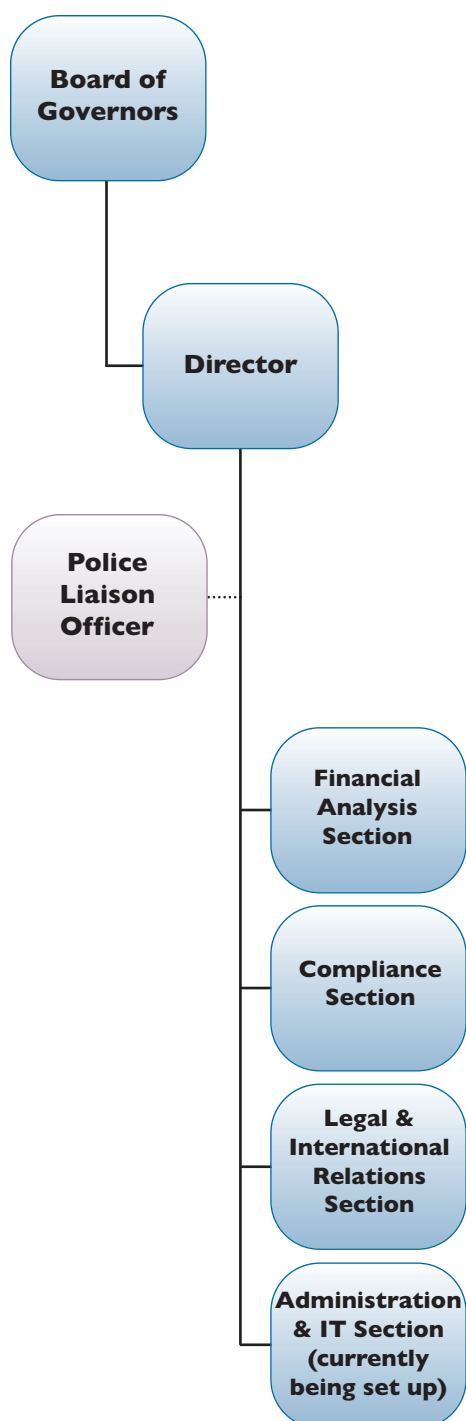
- Receives STRs.
- Seeks additional information in relation to STRs received.
- Conducts a financial analysis in relation to STRs.
- Draws up analytical reports on findings.
- Reports to the Police if a reasonable suspicion of money laundering subsists.
- Compiles statistics and records.
- Gathers information on the financial and commercial activities in Malta to detect areas of activity which may be vulnerable to money laundering and terrorist financing.

### Compliance Monitoring

- Monitors compliance of subject persons.
- Establishes compliance procedures for on-site examination and off-site monitoring, and collaborates with supervisory authorities in conducting on-site examinations on its behalf.
- Receives reports from supervisory authorities conducting on-site examinations on its behalf and co-operates with them on remedial action.
- Keeps abreast with developments in methods, typologies, and trends in order to provide guidance and feedback by transmitting updated information to subject persons.
- Issues guidelines.
- Disseminates information among subject persons.

### International Relations

- Oversight of exchange of information with foreign entities.
- Receives requests from foreign FIUs and makes requests to foreign FIUs for assistance.
- Co-ordinates the participation of the FIAU in international fora, including the Egmont Group, the EU FIU Platform, the EU Committee on the Prevention of Money Laundering and Terrorist Financing and MONEYVAL.
- Enters into Memoranda of Understanding with foreign FIUs.



### I.3 STRUCTURE OF THE ORGANISATION

#### Board of Governors

- Composed of the Chairman, Deputy Chairman and two other members.
- Appointed by the Minister responsible for finance – one person selected from each of four panels nominated by the:
  - Attorney General
  - Governor of the Central Bank of Malta
  - Chairman of the MFSA
  - Commissioner of Police.
- Chairman and Deputy Chairman are appointed from among Board members by the Prime Minister after consultation with the Minister responsible for finance.
- Lays down the policies of the Unit.

#### Director

- Responsible for the execution of the established policies and reports to the Board accordingly.
- Carries out all the other functions of the Unit not attributed by the PMLA to the Board and is assisted by permanent staff.
- Appointed by the Board upon a regular call for applications.
- Director attends meetings of the Board – he can participate in discussions but has no right to vote.

#### Police Liaison Officer

- A police officer not below the rank of Inspector, appointed in terms of Article 24 of PMLA.
- Assists the Unit in the analysis and processing of STRs and of information and intelligence data collected by the FIAU.
- May make available to the FIAU any information at the disposal of the police or which is part of the police records if relevant to the exercise of the FIAU's functions.
- Advises the FIAU on investigative techniques and on all law enforcement issues.

#### Financial Analysis Section

- Responsible for the analysis of suspicious transaction reports and preparation of analytical reports.

#### Compliance Section

- Ensures compliance with PMLA and PMLFTR by subject persons.

#### Legal & International Relations Section

- Advises on legal matters and manages the international aspects of the Unit's functions.



## 2 - OPERATIONS

### 2.1 Financial Analysis

In terms of the provisions of the PMLA, the FIAU receives and analyses STRs submitted to it by the persons or entities subject to the obligations under the PMLFTR. These reports relate to activities or transactions suspected to involve money laundering or the funding of terrorism. This function of the FIAU is deemed to be the core function, together with that of compliance monitoring and co-operation and exchange of information with the FIAU's foreign counterparts.

The FIAU processes STRs through a systematic analysis of the information contained in the STRs, supplemented by other relevant information that the FIAU may already possess or that it obtains by requesting other persons who, in the opinion of the FIAU, could be in possession of further relevant information.

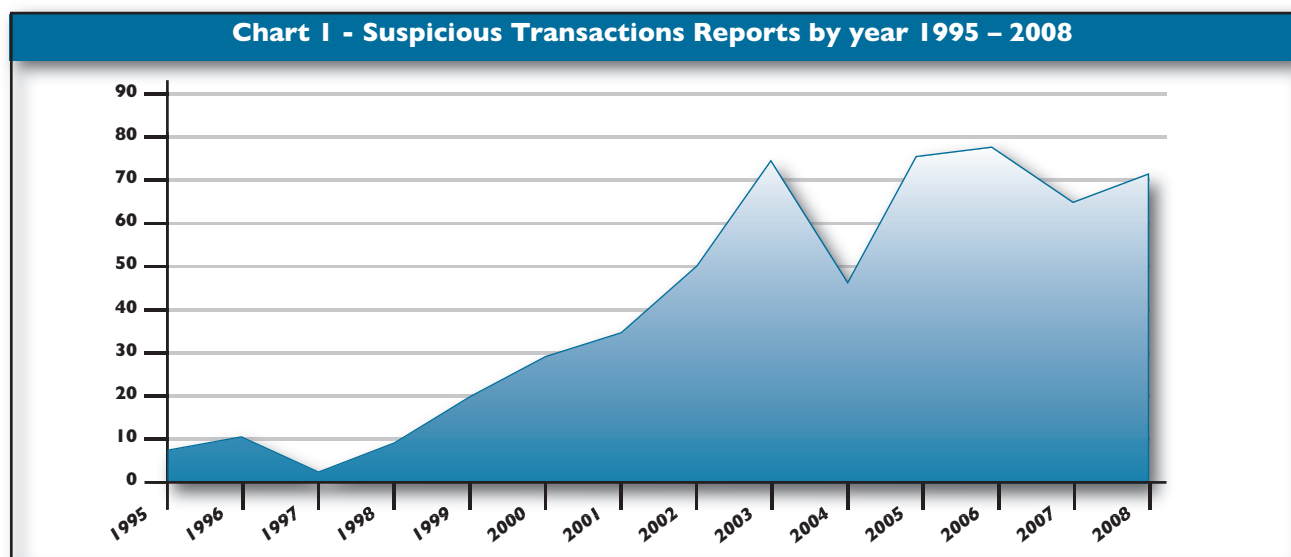
If the suspicion of money laundering or terrorist financing persists, the FIAU is required to forward its analytical report, together with all relevant information, to the Police for further investigations.<sup>1</sup> The FIAU also carries out overall analyses of the STRs to identify and draw patterns, trends

and typologies of money laundering or the financing of terrorism that could serve to assist institutions and the authorities themselves in the better monitoring of transactions trends and typologies, thus observing their obligations better.

#### Statistics

Sixty-nine (69) STRs were received by the FIAU during 2008, an increase of six reports (9.5%) over 2007. Comparing this figure with the number of STRs registered in previous years, it is noted that the trend identified during the previous four years seems to have continued with a slight increase (Chart 1).

In what may seem to be a variation from trends identified in previous years, where the last quarter of the year was invariably characterised by an increase in the number of STRs received after the summer trough, the improvement in the last quarter of 2008 was one of the lowest recorded since the FIAU was established in 2002 (Chart 2). This could possibly be attributed to the effects of the economic



<sup>1</sup> The STR itself is not forwarded to the Police with the analytical report as this is retained as a confidential document at the FIAU.



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**Chart 2 - Suspicious Transactions Reports by month – 2008**

activity in the global economic downturn on financial activity throughout the whole system, even though no studies were carried out to confirm this assumption. A closer analysis of trends during 2009 and beyond should give a clearer indication as to whether this was the case.

The sixty-nine (69) STRs filed with the FIAU during 2008 resulted in sixty-seven (67) cases being reported during the year<sup>2</sup>. This proportion is significantly above the average for previous years and is the highest figure recorded since 2003 as shown in Table I.

During 2008, the FIAU processed seventy-two (72) STRs which in total related to sixty-nine (69) cases. This figure includes STRs submitted to the FIAU in previous years but in respect of which the analysis had not been completed or closed by the end of 2007.

The STRs processed during the year under review concerned one STR filed in 2006, twenty-seven (27) STRs (26 cases) filed during 2007, and 44 STRs (43 cases) filed during 2008. STRs filed in previous years and concluded in 2008 very often are the result of either further analysis

**Table I - STRs and cases (2003 to 2008)**

	2003	2004	2005	2006	2007	2008
<b>STRs</b>	76	46	75	78	63	69
<b>Cases</b>	58	43	62	72	55	67
<b>% of STRs</b>	76%	93%	83%	92%	87%	97%

<sup>2</sup> Since it is possible for more than one STR to be filed in respect of the same subject by the same or different persons or entities, the number of STRs may be higher than the number of cases.



once a report would have been already filed with the Police or instances where the analysis could not be concluded or the case closed due to the absence of additional relevant information at the time. Table 2 illustrates the annual breakdown of the treatment of STRs received during the year under review and the previous years. The analysis of another thirty (30) STRs resulted in a determination that a reasonable suspicion of money laundering did not subsist, meaning that no further action was taken by the FIAU. Such cases may be reopened should the FIAU become in possession of additional relevant information. In addition, two reports were received by the FIAU relating to two cases that were eventually considered not to be related to money laundering or to the funding of terrorism.

The number of cases resulting from STRs between 2003 and 2008 has therefore increased to three hundred and fifty-seven (357), with the number of cases referred to the Police reaching one hundred and forty-one (141). This amounts to forty percent of all cases. Moreover, during 2008, pursuant to the receipt of additional information on a STR that had been generated by the FIAU itself in 2006, the FIAU reopened the file for further analysis and subsequently sent an analytical report to the Police for further investigation.

The main source of the STRs received by the FIAU during 2008 remains the credit institutions (Chart 3). Indeed, during the year the FIAU received forty-four (44) STRs (63%) from credit institutions out of the sixty-nine (69) reports filed. This figure is comparable to the figure for 2007 when credit institutions had filed 62% of the reports received. It also confirms that trend resulting from the dominance of

credit institutions within the domestic financial system.

An analysis of the STRs received by category of subject persons indicates an increase of five reports in the case of credit institutions; two more reports submitted by non-bank financial institutions; an increase of three reports received from trustees and fiduciary companies; and three more reports received from the gaming industry (including casinos). These increases, however, were counterbalanced by decreases in the number of STRs filed by investment services licence holders, which sector filed two reports less than the previous year, and the professional category, who filed four reports less than in 2007. In addition, the FIAU received one STR less from the regulatory authorities. (chart 4)

### Typologies

The thirty-nine (39) cases referred to the Police were further analysed in order to determine the suspected underlying criminal activity on the basis of the information available to the FIAU. This enables the FIAU to identify trends and thus establish typologies for feedback to the industry.

The principal predicate crimes identified were drug trafficking, usury and undeclared income. In fact, seven cases which were referred to the Police were deemed to be related to drug trafficking, whereas four cases each were linked to usury and falsification of public documents in relation to income which was not declared for taxation purposes.

**Table 2 - Breakdown of STRs and cases (2003 – 2008)**

STRs	2003 <sup>1</sup>	2004	2005	2006	2007	2008
Referred to Police	17	23 <sup>a</sup>	28 <sup>b</sup>	24 <sup>c</sup>	24 <sup>d</sup>	41 <sup>e</sup>
Inconclusive Information	30	33	41	48	24	30
Not related to ML/FT	4	-	-	1	4	2
Ongoing Analysis	35	25	39	23	34	27

Refer to: (a) 20 cases; (b) 22 cases; (c) 21 cases; (d) 22 cases; (e) 39 cases  
<sup>1</sup> Includes STRs since October 2002





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Totals for the six-year period between 2003 and 2008 indicate that similar trends were maintained during 2008. In effect, the main suspected predicate offence over the past six years has constantly been drug trafficking, amounting to 16% of the total cases forwarded to the Police, followed by fraud/forgery (12%) and usury (11%).

The number of STRs filed was evenly spread among Maltese and foreign nationals. Analysis shows that twenty-five (25) of the STRs reported to the FIAU named Maltese nationals, whilst twenty-four (24) STRs were filed with regard to foreign nationals. A further five (5) STRs each involved both Maltese and foreign national individuals. The STRs concerning individuals therefore represent 78% of the total number of STRs. Only four STRs related solely to companies or other forms of legal persons, whilst eleven (11) reports were filed in respect of both companies and individuals.

In addition to the sixty-nine (69) STRs filed with the FIAU during 2008, the FIAU generated three further analytical reports of its own accord. In all three cases the FIAU concluded that the facts available to it did not sustain a reasonable suspicion of money laundering or the financing of terrorism.

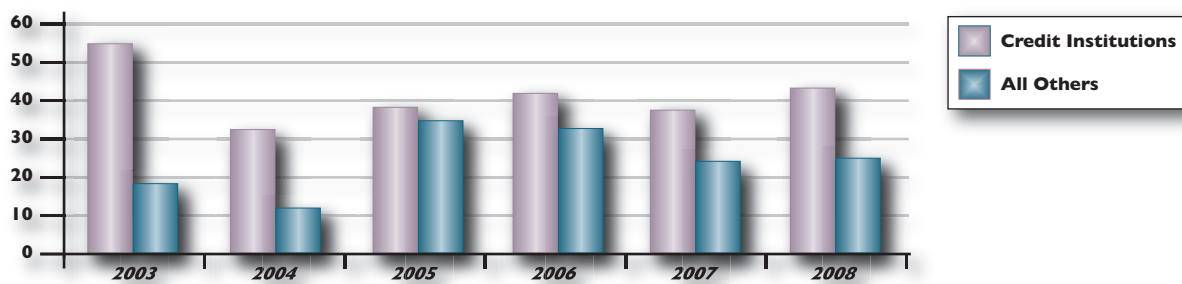
Further analyses of STRs received in connection with foreign nationals show a spread over countries from African, to Mediterranean onto eastern European origin. The results however indicate an increase in STRs related to nationals of African origin, giving rise to new areas of risk. Thus a deeper assessment was made in relation to the STRs concerning individuals of African origin. The preliminary conclusions of this assessment indicate that the reports lodged in respect of persons of West African origin tended to give more rise to a reasonable suspicion of money laundering or the funding of terrorism than reports in connection with persons of Eastern African origin.

**Table 3 - Main Predicate Offences (2003 - 2008)**

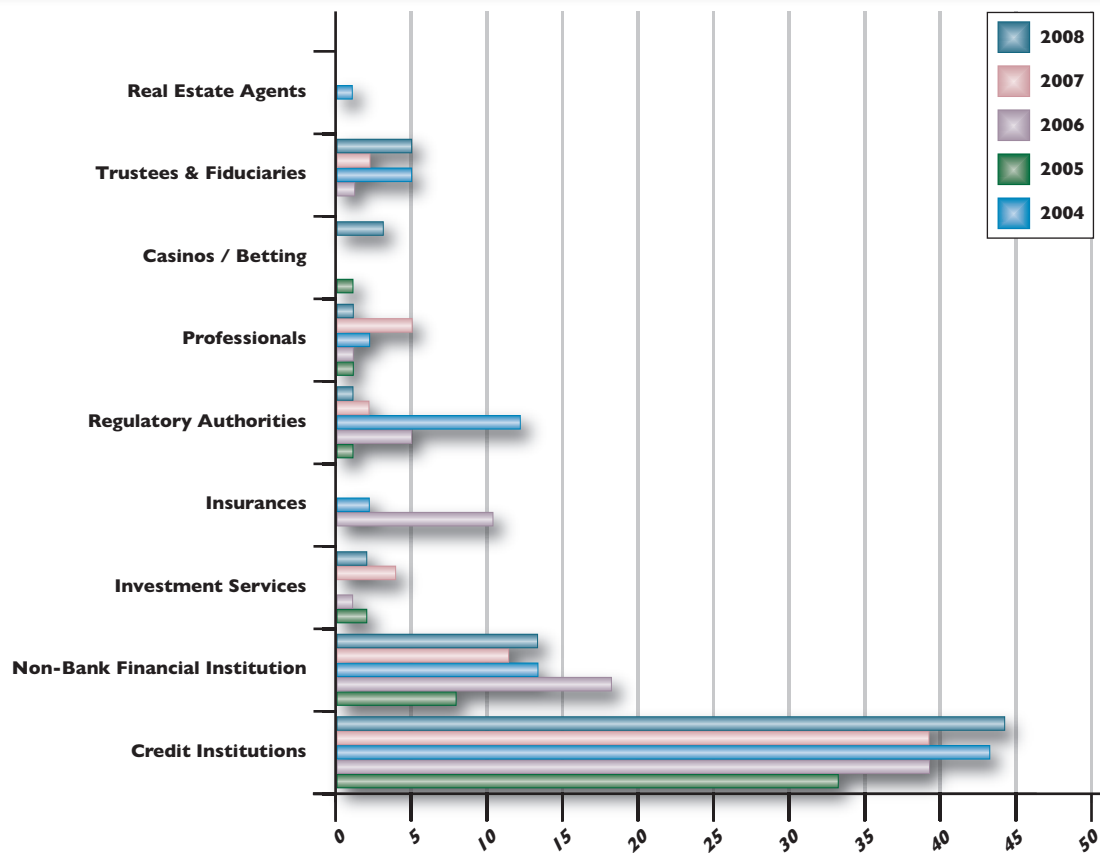
<b>Predicate Criminality</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
Fraud/Forgery	2	5	4	5	1	
Drug Trafficking	2	4		4	5	7
Organised crime	5	2	1		2	2
Usury	1	2	2	5	1	4
Unlicensed financial services	4	2	1		3	3
Undeclared Income		2	4			4
Funding of Terrorism	2		1		1	
Human Trafficking			1		1	2
Theft			4			
Identity theft				2	1	
Illegal gambling			1	2		1
Prostitution				2		
Unauthorised Investment service		2				
Compliance		1				
Phishing					1	
Others	1		3	1	6	16
<b>Total</b>	<b>17</b>	<b>20</b>	<b>22</b>	<b>21</b>	<b>22</b>	<b>39</b>



**Chart 3 - STRs filed by credit institutions as compared to other sectors (2003-2008)**



**Chart 4 - STRs filed per category of subject persons (2003-2008)**





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## 2.2 Money Laundering Convictions

Further to the judgement delivered by the Courts on 29 March 2007 in the case of the 'Republic of Malta-vs-Maria Abela', the Courts of Malta delivered two other money laundering convictions in 2008.<sup>3</sup> The first conviction was handed down by the Criminal Court on 15 February 2008 in the case of the 'Republic of Malta v. Carmen Butler and Stephanie Butler'. The second conviction was delivered by the Court of Magistrates (Criminal Judicature) on 27 November 2008 in the case of the 'Police-vs-Ariam Edilberto Lore'. The latter conviction resulted from a police investigation initiated through an analytical report prepared by the FIAU following a suspicious transaction report filed by a subject person.

The following is a brief outline of the two cases.

### Republic of Malta- vs- Stephanie Butler and Carmen Butler

Following a suspicious transaction report received by the Police, an investigation had been initiated in relation to Stephanie Butler in February 2002, prior to the establishment of the FIAU. It transpired that Stephanie Butler had carried out a considerable number of transactions involving a substantial amount of money on behalf of her father, who already had a criminal police record. This activity raised suspicion since Stephanie Butler was at the time unemployed and did not have any legitimate source of income.

Investigations revealed that the mother of Stephanie Butler, Carmen Butler, had actually carried out the transactions and deposited the money into Stephanie Butler's bank account. Mother and daughter were in fact thought to have connived to lend a legal and legitimate appearance to money acquired by the father through illegitimate and illegal means. The father, who had no bank accounts in his name, had apparently made arrangements with his wife and daughter involving the deposit of money in bank accounts and the acquisition of property and other goods.

The Criminal Court, after a trial by jury, found Carmen

Butler guilty of money laundering. Stephanie Butler was however acquitted. In laying down the punishment for the offence, the Judge considered Carmen Butler's claim that she only followed strict orders from her husband and, out of fear, never questioned the source of the funds. Carmen Butler's sentence of two years' imprisonment was consequently suspended for 4 years. The Court also took into consideration the fact that the accused had seemingly been the victim of a difficult family situation and had a clean criminal record. Moreover due to the health problems of the daughter and the fact that the husband was serving a long prison sentence in a foreign country, the Court felt that the presence of the accused was strongly needed within the family.

The Court ordered the confiscation of the *corpus delicti*, which amounted to circa €57,500 and ordered Carmen Butler to pay a fine of €5,679.34.

### Police-vs-Ariam Edilberto Lore

Mr Ariam Edilberto Lore had transferred two considerable sums of money to a beneficiary in Panama. The transfers were seen to be suspicious as the funds were sent through two separate branches of the same money remittance company and in each case two different addresses were given by Lore. Additionally, the age and nationality of Lore, when seen within the context of the particular transactions, were seen to further substantiate the thesis that the activity was suspicious.

The FIAU had carried out an analysis of the facts with the result that Lore was believed to have made a number of remittances to Panama. One of the beneficiaries was found to be another Panamanian national who is currently facing criminal proceedings in Malta. The FIAU compiled an analytical report and sent the report to the Police in accordance with the PMLA.

During the subsequent police investigations it had been confirmed that Lore had visited a local money remittance company on several occasions. During these visits he was accompanied by an unidentified third party who appar-

<sup>3</sup> For the case of the Republic of Malta-vs-Maria Abela refer to the FIAU 2007 Annual Report



ently used to instruct Lore to forward funds abroad under his direction.

Lore was eventually arraigned in court and charged with the offence of money laundering. After admitting to the charges, he was sentenced to two years and nine months imprisonment. The Courts found that there were no assets that could be confiscated. The FIAU is informed that the third party could not be identified and consequently no charges could be brought against him to date.

### 2.3 International Cooperation

The FIAU continues to attach high importance to its co-operation with foreign FIUs in consolidating the global fight against money laundering and the financing of terrorism. Indeed, this important element in the AML/CFT framework is embedded in the PMLA which provides for both spontaneous exchange of information or for continued assistance on the basis of bilateral arrangements. The FIAU further acknowledges that the exchange of information with and assistance to its foreign counterpart is an important requisite under its EGMONT membership.<sup>4</sup> It is within this context that the FIAU continues to be prepared to enter into bilateral arrangements through memoranda of understanding for the exchange of information and to assist other FIUs as and when requested. Information exchanged is, in principle, for intelligence purposes, although in specific circumstances and for justifiable reasons, and having taken into consideration a specific request by the requesting FIU, the FIAU may authorise the use of such information for investigation and prosecution purposes.

#### **Requests for co-operation and assistance**

In the course of its activities the FIAU requests the assistance of foreign FIUs as part of its analysis process to obtain information on foreign individuals and companies relevant to cases under investigation. The number of for-

foreign nationals involved in the STRs received makes it of utmost importance for the FIAU to seek such co-operation. Indeed, during 2008 the FIAU sought foreign assistance on 28 occasions from 15 FIUs in respect of 18 STRs. As at the end of the year however the FIAU had only received 19 replies to the 28 requests.

On the other hand during 2008 the FIAU received 44 requests for assistance from 29 foreign FIUs, up by 15 over 2007. As at end 2008 the FIAU had provided replies to 43 requests. The requests varied from general information to those being more specific and requiring elaborate analysis and compilation of information.

Requests for foreign assistance depend on the number, type and nature of STRs received and their respective analyses. In this respect the FIAU further assesses its requests for assistance in relation to the STRs received. Moreover, in order to also assess the level of cooperation, the FIAU takes into consideration the number of requests that it receives for assistance. The FIAU concludes that overall it finds a satisfactory level of cooperation, even though at times not as timely as may be necessary. Chart 5 depicts this analysis for the period 2003-2008.

An analysis of requests received for assistance and exchange of information may give rise for the FIAU to open its own investigation in cooperation with the requesting FIU.

Enquires received during 2008 did not lead the FIAU to initiate any investigation on its own accord. However, further analysis of an enquiry that was received during 2007 led the Unit to compile its own analytical report and file it with the Police in 2008.<sup>5</sup>

Table 4 lists all the requests for assistance sought and received by the FIAU. In seven instances there were reciprocal enquiries. Most of the interaction was with European countries, particularly EU Member States. The FIAU sought information from 11 EU Member States, and 2 other European countries out of 15 jurisdictions. The Unit received enquiries from 18 European jurisdictions out of 29 jurisdictions, 10 of which were EU Member States.

<sup>4</sup> The FIAU became a member of the EGMONT Group in July 2003.

<sup>5</sup> Such reports are not included in references throughout the Report on the number of STRs received and processed or in the analysis as reported in Table 2.



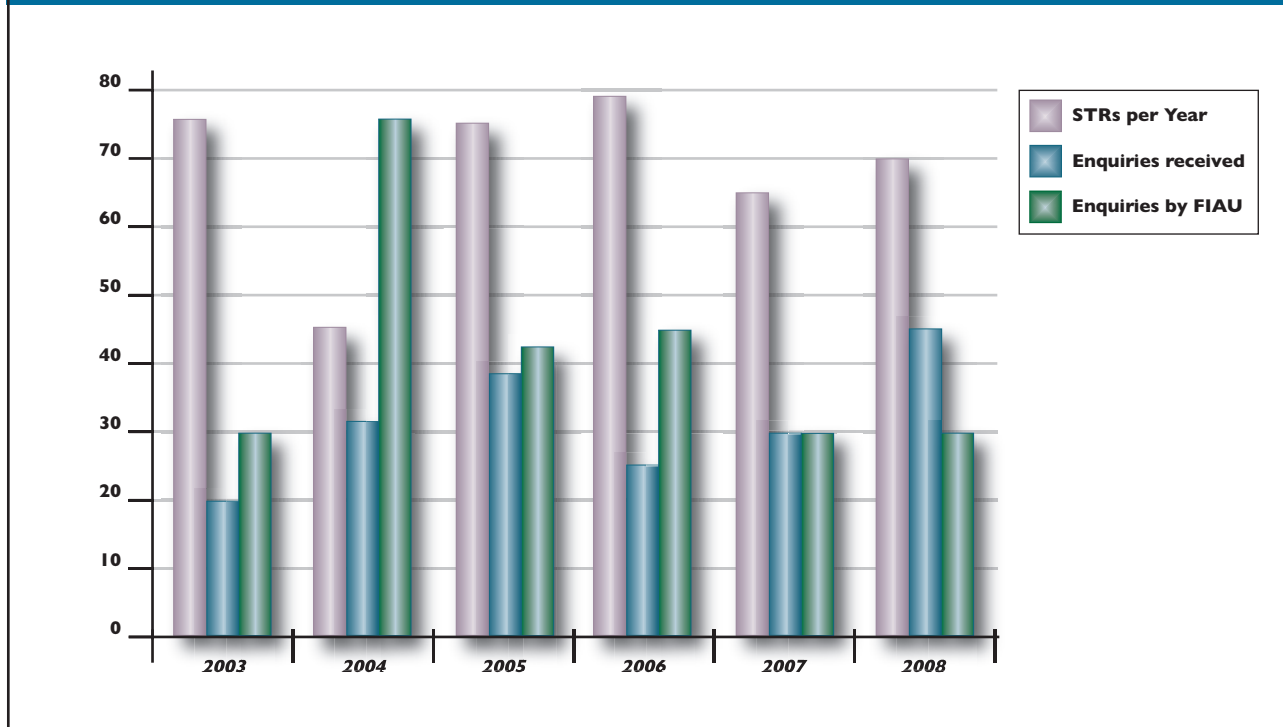
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**Table 4 - Requests for co-operation and assistance**

Requests received		Jurisdiction	Requests to FIUs	
Number	Replies		Number	Replies
1	1	Albania		
		Austria	3	3
5	5	Bulgaria		
		British Virgin Islands	1	
1	1	Chile		
		Cyprus	2	1
1	1	Egypt		
1	1	France		
1	1	Georgia		
2	2	Germany	1	1
		Gibraltar	1	
1	1	Guatemala		
1	1	India		
1	1	Isle of Man		
2	1	Italy	6	4
2	2	Bailiwick of Jersey		
1	1	Latvia		
1	1	Lebanon	1	
1	1	Luxembourg	2	2
2	2	FYR Macedonia		
		Netherlands	1	1
1	1	Nigeria		
1	1	Poland		
1	1	Portugal		
1	1	Qatar		
1	1	Romania	1	
2	2	Russia		
1	1	Serbia		
		Slovakia	1	1
1	1	St Vincent & Grenadines		
		Switzerland	1	1
2	2	Taiwan		
		Turkey	1	1
4	4	U.K.	3	3
2	2	U.S.A.	3	1
2	2	Ukraine		
1	1	Venezuela		
<b>44</b>	<b>43</b>	<b>Totals</b>	<b>28</b>	<b>19</b>



**Chart 5 - STRs filed as compared to enquiries received and made by the FIAU (2003-2008)**



## 2.4 Compliance Monitoring

An important function of the FIAU under the PMLA is that of ensuring that subject persons comply with their obligations under the PMLA and the PMLFTR. Institutions and persons subject to the obligations of the PMLFTR are required to have in place policies and procedures that ensure the effective implementation of the PMLFTR. The law charges the FIAU with the responsibility to monitor compliance and to co-operate and liaise with the relevant supervisory authorities to fulfil this responsibility.

### On site examinations

For the purposes of monitoring compliance by subject persons with the PMLFTR, the FIAU is required to make

both off-site assessments and on-site examinations. The law further provides that, for the purposes of on-site examinations, the FIAU can request the relevant supervisory authorities to undertake on-site examinations on its behalf and to report to it accordingly on the findings. To this effect the FIAU had entered into cooperation agreements with the MFSA and the LGA for the on-site monitoring and examination of the financial sector and the gaming sector respectively.

In terms of the agreement between the MFSA and the FIAU, both focused visits and other visits having an anti-money laundering and terrorism financing content were undertaken during the year, aimed at verifying compliance with the customer due diligence, record-keeping and reporting requirements of the PMLFTR. In total sixty (60) visits were conducted during the year under review, a sig-



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nificant increase from the thirty-nine (39) undertaken in 2007. A breakdown of the on-site visits carried out by the respective Supervisory Units of the MFSA is illustrated in Table 5

The examination reports received by the FIAU from the MFSA identified a number of shortcomings both in the set up and in the application of the internal procedures of some institutions, none of which however was seen to be of any serious concern. In consultation with the MFSA, the entities concerned were required to ensure the implementation of corrective measures. Implementation of such measures eventually forms part of follow up examination procedures.

On its part, the LGA focussed on the provision of training to Money Laundering Reporting Officers of entities licensed by it and on the review of their internal reporting

procedures. No focused visits, however, were conducted during the year under review.

### **Cooperation with supervisory authorities**

Throughout the year the FIAU continued to maintain effective ways of cooperation and sharing of information as necessary with the MFSA and the LGA, these being the two main supervisory authorities with specific relevance for the FIAU. To this effect various meetings have been held with the two supervisory authorities to discuss matters of mutual interest. In particular, the LGA and the FIAU discussed issues related to legislative procedures to cover e-gaming under the PMLFTR, whilst discussions were held with the MFSA on the application of certain aspects of the PMLFTR to the financial sector.

**Table 5 - On-site AML/CFT  
Compliance visits.**

<b>Institution</b>	<b>Number of Visits</b>
Credit Institutions	3
Financial Institutions	2
Insurers	2
Insurance Brokers	4
Tied Insurance Intermediaries	1
Tied Insurance Intermediaries - Banks	2
Investment Services	27
Trustees	15
Fiduciary Services	4



## 3 - MANAGEMENT AND TRAINING

### 3.1 The Board of Governors

During 2008 the Board of Governors held eleven (11) meetings. The Board discussed issues related to internal matters and policies. In particular the Board continued with the implementation of the three year restructuring plan. The process included the recruitment of a new Director. To this effect the Board also put in place the new section dealing with Compliance matters and a new section to be responsible for Administrative and IT issues. During the year the Board held various other meetings, including meetings with the industry, to discuss and consult on matters related to the new regulations which were published in July 2008. Moreover, towards the last quarter, members of the Board met with the Director to complete the Progress Report which was submitted to MONEYVAL for its plenary of December 2008.<sup>6</sup>

### 3.2 The Director

The new Director of the FIAU, Dr Manfred Galdes, took office on 24 July 2008. His first task was to put in place the new structure of the Unit which required the recruitment of new staff. In this regard the Director, together with the Chairman, was involved in various discussions with the Ministry responsible for finance. The Director continued to hold meetings with the industry and the supervisory authorities, particularly in the light of the implementation of the new regulations.

### 3.3 Resources

During 2008 the Legal and International Relations Officer, a newly recruited financial analyst and an administrative support officer resigned from the Unit seeking other jobs elsewhere. The FIAU recruited another Legal and International Relations Officer and an administrative support officer in replacement. The Unit also recruited a Compliance Officer. The latter recruitment initiates a new area for the FIAU in developing its own compliance monitoring section. Initially the FIAU intends to launch a compliance monitoring programme for those subject persons not currently

subject to supervision by the MFSA or the LGA. Going forward the FIAU intends to develop this function further with the aim of having the appropriate resources to undertake joint compliance monitoring with the MFSA and the LGA. Towards the end of 2008, the FIAU issued calls for application for the recruitment of a Financial Analyst and an Administrative and IT Officer. It is expected that this recruitment will be completed in early 2009.

### 3.4 Training

During the year the FIAU continued to participate in various seminars and training sessions to the industry. Members of the FIAU participated as speakers in awareness sessions organised by the industry. It is envisaged that in early 2009, the FIAU and the MFSA will be organising jointly a series of training seminars for all stakeholders on the new PMLFTR. Moreover, FIAU officials participated in providing training at overseas events at the invitation of international organisations.

In November 2008 the Director and the Deputy Chairman participated in a half-day anti-money laundering seminar organised by the Malta Institute of Management. The Director delivered a presentation on the changes introduced in the new regulations. The Deputy Chairman addressed matters related to the development and application of the risk based approach. The Seminar, which was highly attended, included other local and foreign speakers.





## 4 - OTHER INITIATIVES

### 4.1 The New Regulations

The Prevention of Money Laundering and Funding of Terrorism, which came in force on 31 July 2008, primarily transpose the Third EU Money Laundering Directive<sup>6</sup> and the EC Implementation Directive.<sup>7</sup> Other changes were made to implement recommendations arising out of the MONEYVAL Third Mutual Evaluation Report on Malta.

As detailed in the 2007 Annual Report, following the publication of a Consultative Document in November 2007, the FIAU received an encouraging response. Consequently, in early 2008 the Unit extended its consultation process by meeting the various stakeholders to understand better their comments and concerns. As a consequence the FIAU revised its initial proposals for the new regulations which were published after further consultation with the Ministry responsible for finance. The major change in the new regulations is the introduction of a risk-based approach for the application of customer due diligence. The PMLFTR provide for the application of simplified and enhanced due diligence and for the reliance on performance by third parties for customer due diligence in circumstances as defined.

The following paragraphs highlight some of the more important changes in the new regulations.<sup>8</sup>

#### Regulation 2(1)

*The 2008 Regulations introduce new definitions for “beneficial owner”, “trust and company service providers”, “Community”, “EEA State” and “shell bank” and revised definitions for “applicant for business”, “business relationship”, “occasional transaction”, “supervisory authority”, “Case 2”, “Case 3”, “Case 4”, “relevant financial business”, “relevant activity” and the definition of “supervisory authority”.*

#### Regulation 2(1)

*“Relevant activity” now also includes trust and company service providers and persons trading in goods where payment in cash amounts to or exceeds €15,000.*

#### Regulation 2(1)

*The definition of “relevant financial business” has been extended to include administrators of collective investment schemes, the activities of the Central Securities Depository and branches established in Malta whose head offices are located in or outside the European Community carrying out any of the activities listed as “relevant financial business”.*

#### Regulation 2(3)

*The applicability of the Regulations has been extended to also cover relevant financial business and relevant activity when undertaken through the internet or through other electronic means.*

#### Regulation 3

*The FIAU has been granted the power to determine, on the basis of strict criteria, the non-applicability of the Regulations in relation to financial activities undertaken on an occasional or very limited basis where there is little risk of money laundering or terrorism financing.*

#### Regulation 4(1)(c)

*The requirement for subject persons to establish ade-*

<sup>6</sup> Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. OJ L309, 25.11.2005, p 15

<sup>7</sup> Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of “politically exposed persons” and for technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis. OJ L214, 04.08.2006, p 29.

<sup>8</sup> A detailed reading of the law, however, is absolutely necessary in order for one to be in a better position to understand the impact of the Regulations and the changes that may need to be effected to internal procedures to ensure compliance with the detailed provisions.



quate policies and procedures on internal control, risk assessment, risk management, compliance management and communication is no longer a matter of best practice but has now been included in the Regulations.

#### **Regulation 4(2)**

Subject persons are also required to introduce appropriate due diligence procedures to be applied when recruiting new employees.

#### **Regulation 5(2)**

Regulation 5(2) now recognises as an offence committed by a legal person a situation of non-compliance with the PMLFTR when committed by that legal person due to lack of supervision or control being exercised by a senior official of that legal person.

#### **Regulation 6(1), (2), (4)**

A prohibition has been imposed on subject persons carrying out relevant financial business from establishing or acquiring branches or majority-owned subsidiaries in a jurisdiction that does not meet the criteria of a reputable jurisdiction. Subject persons are also required to communicate their internal procedures to their branches or majority-owned subsidiaries situated in a reputable jurisdiction and to apply to them equivalent anti-money laundering and funding of terrorism measures. The FIAU has been granted the power, in collaboration with the relevant supervisory authority, to require the closure of the branch or the subsidiary where these are situated in a reputable jurisdiction but the subject person is unable to apply additional AML/CFT measures in their regard.

#### **Regulation 7(1)**

The requirement of identification and verification of the applicant for business has now been included as part of the wider duty of implementing customer due diligence measures.

#### **Regulation 7(1)(d) and Regulation 7(2)**

Ongoing monitoring of the business relationship has become mandatory.

#### **Regulation 7(6)**

The concept of the revised customer due diligence measures is to apply to all new customers and to existing customers on a risk-sensitive basis.

#### **Regulation 7(7)**

During the business relationship, if doubts arise as to the veracity or adequacy of customer identification information obtained previously or if changes have occurred in the circumstances surrounding the business relationship, the customer due diligence measures are required to be repeated.

#### **Regulation 7(8)**

Subject persons may now determine the extent of the application of customer due diligence measures on a risk-sensitive basis.



### **Regulation 8(2), (3), (4)**

*In certain exceptional situations listed in the Regulations it is now possible to depart from the general requirement that the verification of the applicant for business and the beneficial owner is to take place before the establishment of the business relationship or the carrying out of an occasional transaction.*

### **Regulation 8(5)**

*The Regulations establish the actions that need to be taken by the subject person where that subject person is unable to comply with certain customer due diligence requirements. A provision has also been included excluding auditors, accountants, tax advisors, notaries and members of the legal profession faced with the situation where the customer due diligence cannot be completed from the obligation of terminating the business relationship and reporting to the FIAU provided that the subject person is acting in the course of ascertaining the legal position of his client or is performing the responsibilities of defending or representing the client in, or concerning, judicial proceedings.*

### **Regulation 10**

*The concept of simplified customer due diligence has been crystallized under the new legal provisions, thus allowing subject persons to apply simplified customer due diligence in the specific cases and within the parameters established by the Regulations. In these cases, subject persons are expected to gather sufficient information to establish that the client qualifies accordingly.*

### **Regulation 11**

*Regulation 11 defines the circumstances under which enhanced customer due diligence should be applied, also strengthening the measures to be implemented in the establishment of non face-to-face transactions. With reference to the enhanced customer due diligence measures applicable in the case of politically exposed persons, the additional requirements are limited to politically exposed persons residing in another Member State of the European Community or in any other jurisdiction.*

### **Regulation 12**

*The concept of reliance for customer due diligence to be undertaken by third parties has been broadened, thus enabling subject persons to rely on wider categories of third parties, albeit subject to certain limitations and conditions.*

### **Regulation 13(7)**

*Subject persons are now specifically required to have systems in place that enable them to respond fully and rapidly to enquiries from the FIAU or from supervisory or other relevant competent authorities. Information that should be kept in this regard includes whether a business relationship with a specified person has been maintained during the previous five years and the nature of that relationship.*

### **Regulation 14(1), (2)**

*The new Regulations impose a mandatory obligation for the maintenance of comprehensive statistical data and to make such statistical data available to the FIAU.*



### Regulation 14(4)

Regulation 14(4) has broadened the instances for feedback to be provided by the FIAU to subject persons. This new provision empowers the FIAU, wherever practicable, to provide timely feedback on the effectiveness of the suspicious transaction reports, other information received in terms of the Regulations and the effectiveness of statistical data. This provision, however, must be interpreted within the context of the provisions of the PMLA, particularly Article 32.

### Regulation 15(4)

Subject persons are required to provide the details of the Money Laundering Reporting Officer and of any designated employee to the FIAU and to the relevant supervisory authority. Moreover, it has been specified that the Money Laundering Reporting Officer is to be an officer of the company who is “of sufficient seniority and command”.

### Regulation 15(6)

The maximum period within which an STR is to be filed has been extended by two working days. In accordance with the new Regulations, a report is required to be filed as soon as is reasonably practicable, but not later than five working days from when the suspicion first arose.

### Regulation 15(8)

The Money Laundering Reporting Officer or other designated employee is required to maintain a record of the reasons why an internal report was not filed with the FIAU and to present the reasons in writing, upon request, to the FIAU or any other entity acting on behalf of the FIAU for the purpose of monitoring compliance.

### Regulation 16(1), (2), (3)

In maintaining the prohibition of disclosure as appropriate in cases where an STR has been filed or other facts reported to the FIAU (“tipping off”), besides introducing the possibility of such disclosure to supervisory authorities and to law enforcement agencies, the new PMLFTR also contemplates the possibility of disclosures between other subject persons under certain conditions.

## 4.2 The Voluntary Organisations Act

The Voluntary Organisations Act, Chapter 492 of the Laws of Malta, providing for the regulation and administration of voluntary organisations, came into force in December 2007. In the light of observations made by MONEYVAL in the Third Round MER of Malta with regards to compliance with the FATF SRVIII on non-profit organisation, during 2008 the FIAU evaluated the provisions of the Act against the obligations under FATF SRVIII.<sup>9</sup> As a result the FIAU has made proposals for legislative amendments to the Act. These proposals are currently under review by the Office of the Attorney General.

## 4.3 The Prevention of Money Laundering and Funding of Terrorism Joint Committee

The PMLFTJC is an *ad hoc* committee set up to provide a forum for discussion and exchange of views with a view to develop effective anti-money laundering standards and practices in compliance with the PMLFTR.

The Committee is composed of representatives of associations and bodies representing subject persons, together with representations of the Police, the Office of the Attorney General, the MFSa and the CBM. The PMLFTJC, which meets under the chairmanship of the Director of the FIAU, is not a policy-making body. The

<sup>9</sup> FATF SRVIII requires countries to review the adequacy of their laws and regulation to prevent the use of non-profit organisation for money laundering or financing of terrorism activities.



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terms of reference of the PMLFTJC stipulate that the Committee's primary role is to discuss matters of interest in the development of the anti-money laundering and funding of terrorism regime and to make relevant recommendations to the FIAU.

The transposition of the EU Third Anti-Money Laundering Directive continued to dominate the meetings in the first half of the year. The representative bodies actively contributed in the debates that stemmed from the transposition of the provisions of the Directives, particularly where the clauses required policy decisions to be taken by Member States. A number of proposals made by stakeholders during the consultation process, in fact, resulted in amendments to the final draft of the Regulations.

During the second half of the year, having reassessed the objectives of the PMLFTJC, members agreed that the Committee should also serve as a forum for exchange of knowledge by members on their specialised areas of competence. In pursuance of this initiative, presentations were delivered during the last two meetings of the year by the FIAU and by the representative of the Malta Police. The Director of the FIAU presented a brief overview of the salient features of the new Regulations, which was followed by a discussion on the challenges faced by subject persons in the implementation of the new obligations. The representative of the Malta Police presented details of sanitised cases investigated by the Police pursuant to the filing of STRs. This presentation was well received, especially by representatives of subject persons, as it gave an insight into the difficulties encountered by the Police in their investigations. As a result Members discussed fine tuning of the reporting procedures in order to address these difficulties.

Other aspects addressed during the meetings were those relating to third country equivalence; the study on feedback provided by the authorities and among the authorities which was sponsored by the European Commission; and the developments taking place within the EU CPMLTF.

#### 4.4 FATF and MONEYVAL Statements

During 2008 both the FATF and MONEYVAL issued public statements on jurisdictions and other areas that raised concern for the global fight against money laundering and the financing of terrorism, drawing attention to the deficiencies of the AML/CFT regimes in these jurisdictions.

The first statement issued by the FATF was published on 28 February 2008 and expressed the FATF's concern regarding Uzbekistan's removal of an effective AML/CFT regime. The FATF called upon Uzbekistan to restore its AML/CFT regime whilst urging all jurisdictions to advise their financial institutions of the risk posed by Uzbekistan. In the meantime, the FATF welcomed the commitment and progress made by Iran, Pakistan, Turkmenistan, São Tomé and Príncipe, and the northern part of Cyprus with respect to their AML/CFT regimes, urging them to continue addressing deficiencies and to work closely with the international community on these issues.

The FATF released another statement on 16 October 2008 which again highlighted the actions taken by Iran, Uzbekistan, Turkmenistan and the northern part of Cyprus in relation to their AML/CFT regimes, whilst drawing attention to the remaining deficiencies. The FATF reaffirmed its public statement of 28 February 2008 regarding the money laundering and financing of terrorism risks posed by Pakistan, and São Tomé and Príncipe.

The FATF undertook to assist these jurisdictions in establishing a robust AML/CFT regime in accordance with international standards and urged its members to strengthen preventive measures to combat the risks still present in the said jurisdictions.

MONEYVAL initiated a similar approach in accordance with Step VI of its Compliance Enhancing Procedures. The first statement was issued on 12 December 2008 with respect to Azerbaijan. In its statement MONEYVAL expressed its concern on the deficiencies of Azerbaijan's draft AML/CFT law and urged Azerbaijan to urgently legislate against money laundering and the financing of ter-



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rorism and to bring its AML/CFT legislative process in line with key international standards. MONEYVAL called upon its members to advise all financial institutions to pay special attention, by applying enhanced due diligence, to transactions with persons and financial institutions from or in Azerbaijan in order to address the ML/FT risks.

The FIAU took immediate steps to ensure that all FATF and MONEYVAL statements be brought to the attention of all subject persons. Indeed all statements were prominently placed on the FIAU's website and circulated to all credit and other financial institutions individually with a note to take measures to ensure compliance thereto. As to the other persons and entities falling within the scope of the Maltese AML/CFT laws, the FIAU forwarded the statements to all the representatives of subject persons sitting on the PMLTFJC. The members of the Committee were asked to circulate these statements and to bring contents to the notice of all their members.

#### 4.5 First MONEYVAL Progress Report

According to the Rules and Procedures of MONEYVAL, twelve months following the adoption of the MER, Member States are expected to present a Progress Report detailing progress achieved in implementing recommendations made in the MER.<sup>10</sup> The Third Round MER for Malta was adopted by the MONEYVAL Plenary in its 24<sup>th</sup> Meeting held in Strasbourg from 10-14 September 2007. The mutual evaluation is primarily based on the FATF 40+9 Recommendations but it also includes other reference documents such as the EU relevant anti-money laundering Directives.

Progress achieved is reported on a predefined questionnaire which was submitted to the Maltese authorities in October 2008. The questionnaire consists of five parts covering specific recommendations, questions related to the Third Money Laundering Directive (2005/60/EC) and the Implementation Directive (2006/70/EC) and statistics relating to suspicious transaction reports, investigations, prosecutions and convic-

tions of money laundering.

In the case of Malta the Progress Report required the authorities to report on progress achieved in relation to money laundering offences, customer due diligence, suspicious transaction reporting and the criminalisation of terrorist financing. It also required development regarding the recommendations made with respect to politically exposed persons (PEPs), cross border correspondent relationships, the notion of attempted transactions, and the inclusion of originator information related to wire transfers amongst others.

The Malta Delegation presented the Progress Report at the MONEYVAL 28 Plenary held in Strasbourg between 8-12 December 2008 where it was adopted and eventually published on the MONEYVAL web-site.

The Progress Report evidences the significant progress that has been made in the Maltese AML/CFT regime in the areas identified in the MER. A number of shortcomings had been addressed in the 2003 revision of the Regulations. However the adoption of the PMLFTR,<sup>11</sup> together with amendments to the Criminal Code<sup>12</sup> and the PMLA further addressed any remaining recommendations.

#### 4.6 European study on feedback structures involving EU FIUs.

During 2008 the FIAU participated in a study commissioned by the EC entitled "Best practices in vertical relations between the FIUs, law enforcement services and money laundering and terrorist financing reporting entities in order to indicate effective models for feedback on follow-up to and effectiveness of suspicious reports." The study, which is a continuation of the study initiated by the EU FIU Platform, involved a detailed analysis of the area of feedback provided by authorities involved in the fight against money laundering and terrorist financing within the EU Member States, with a particular focus on FIUs.

<sup>10</sup> Available on the FIAU website: [www.fiumalta.org](http://www.fiumalta.org)

<sup>11</sup> Legal Notice 180 of 2008

<sup>12</sup> Cap. 9 of the Laws of Malta



The objective of the study was that of identifying the practices that have proved to be effective in each country and any shortcomings or obstacles to the improvement of existing feedback structures. The results of this study are to be used to identify measures that can be applied in order to improve efficiency of existing feedback systems within the European Union. Consequently, the EC would be better informed to eventually set guidance for efficient feedback structures within the EU.

The fact-finding exercise, which was carried out over a period of six months by B & S Europe (Brussels) on behalf of the EC, started with a round of interviews conducted by anti-money laundering experts highlighting the issue of feedback on a national and an international level, followed by a desk analysis and, finally, an analysis of the relevant legal structures of the Member States.

A member of the project team, Mr Jan Beens, Senior Advisor Anti-Money Laundering with the Netherlands FIU, visited Malta between 28 and 30 April to carry out an on-site assessment consisting of a structured dialogue with the relevant stakeholders, including supervisory authorities, subject persons and law enforcement authorities. During the three-day visit Mr Jan Beens also held meetings with the Board of Governors of the FIAU. The FIAU acted as a contact point between the project team and the local institutions throughout the study. The official results of the study have not yet been published.<sup>13</sup>

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<sup>13</sup> See also Section 5.3 of the Report.



## 5 - Participation in International Fora

In pursuance of its international obligations, the FIAU participates actively in relevant international fora. Such participation enables the FIAU to establish and maintain contact with its counterparts; to follow developments in international standards, and, where appropriate, to try to influence standards, policies and regulations from the earlier stages of their promulgation.

The FIAU has been a member of the Egmont Group since 2003, and is represented on the EU committees covering the areas of money laundering and the financing of terrorism. In addition, FIAU Board members together with a representative from the CBM and the Malta Police form the Malta Delegation to the MONEYVAL Committee.

### 5.1 EU Committee on the Prevention of Money Laundering and Terrorist Financing

The CPMLTF was established in terms of Article 41 of the Third Money Laundering Directive with the objective of assisting the EU Commission in the implementation of the Directive.

During 2008 the CPMLTF met five (5) times in Brussels. The FIAU has participated actively in all meetings.

One of the recurring themes on the agenda of the CPMLTF during 2008 was the implementation by Member States of the FATF SR VII and SR IX within the EU single market (one jurisdiction) concept<sup>14</sup>. The objective of the discussions within the CPMLTF was to obtain Members' support for the approach of the EC in relation to a number of issues raised by members of the FATF in considering transactions between EU Member States as equivalent to national transactions within the EU borders.

Within the context of SR IX, on 17 April 2008 the CPMLTF held a seminar on the use of cash with the aim of increasing the understanding of the threat of payments in cash and the physical transportation of cash from the money laundering and terrorist financing perspective. Participants discussed best practices regarding control mech-

anisms applied by public authorities and by the financial institutions, and explored ways of increasing cooperation at European level. The seminar was concluded with the Chairman reminding Member States that it was essential to have operational systems in place in order to implement SR IX properly. The EU provided for cross-border cash movements through Regulation (EC) No 1889/2005. Domestically, Legal Notice 149 of 2007 provides for certain administrative provisions of this Regulation.

The CPMLTF proposed that the EC should present a common approach with respect to discussions with the FATF in relation to SR IX. Members were therefore requested to comment on the amendments to the methodological criteria on SR IX that was circulated by the FATF Secretariat.

The issue of 'equivalent third countries' remained on the agenda of the CPMLTF. The discussions led to an agreement between the Members on a Common Understanding on third country equivalence which led to a common list of countries outside the EU to be considered as equivalent third countries. Further to this Common Understanding the FIAU issued a Guidance Note for subject persons, linking this list to the concept of 'reputable jurisdiction' and its interpretation under the PMLFTR. The Guidance Note is available on the FIAU's website.

During the last quarter of 2008 the CPMLTF launched a survey on 'compliance at a group level' with the anti-money laundering standards. This survey aims at identifying the barriers created by national law or national supervision practices for the compliance by financial institutions with the AML/CFT requirements at group level in an EU cross-border context. These barriers may lead to operational problems as well as to increased cost. The results of the survey are yet to be published.

In the course of its meetings the CPMLTF briefed its Members on the FATF activities and dedicated time in preparation for the FATF plenary meetings. Members agreed to report on an ongoing basis on the state-of-play of their national transposition of Directive 2005/60/EC.

<sup>14</sup> SR VII deals with 'wire transfers' and the information that should accompany such transactions. SR XI deals with 'cash carriers' on the physical cross-border transportation of currency and bearer negotiable instruments.





## 5.2 FIU.NET Project

The FIU.NET was set up with the aim of improving exchange of information between Member States. It provides a secured network for the efficient exchange of sensitive information related to money laundering and financing of terrorism between the FIUs of the EU. The project is spearheaded by the FIU.NET Bureau and funded by the Directorate-General for Freedom, Justice and Security, EU FIUs and the Dutch Ministry of Justice.

Following the approval of the Ministry responsible for Finance for the FIAU to join FIU.NET, the FIAU initiated the process for the implementation of the system within its information technology framework. In collaboration with FIU.NET Bureau, the FIAU acquired the necessary electronic equipment and updated its IT systems which will enable the proper functioning of the system. The FIU.NET is expected to be installed and launched by the FIAU in early 2009.

## 5.3 EU FIU Platform

The EU FIU Platform is an informal group set up in 2006 by the EC, which gathers FIUs from the Member States. Its main purpose is to facilitate cooperation among the FIUs. The European Commission participates in the Platform and provides support.

The FIAU participated actively in all meetings of the FIU Platform held during 2008 where two reports of particular interest were presented. These were the result of work conducted by the FIU Platform throughout 2007 and 2008.

The first report is entitled 'Feedback on Money Laundering and Terrorist Financing Cases and Typologies'. The FIAU was involved in the preparation of this report along with the Austrian, Estonian, Slovene and UK FIUs. The purpose of this report is twofold: a) it takes stock of existing arrangements concerning feedback on money laundering and terrorist financing in Member States of the European Union; b) it identifies various instances where feedback

needs to be provided and recommends good practices to be followed in such circumstances. A draft report was prepared in February 2008.<sup>15</sup>

The second report is entitled 'Confidentiality and Data Protection in the Activity of FIUs'. It was prepared by the Belgian and French FIUs. The aim of the report is to identify any convergence points and any conciliation difficulties between legislation on the fight against money laundering and terrorism financing on the one hand, and legislation on personal data protection on the other.

## 5.4 Joint FATF/MONEYVAL Experts' Meeting on Typologies

The FIAU participated in the 7<sup>th</sup> Joint FATF/MONEYVAL Experts' Meeting on Typologies which was held in Monaco between 24 and 26 November 2008. The meeting was opened by Mr. Antonio Gustavo Rodrigues, the President of the FATF. In his speech Mr. Rodrigues stressed the importance of typologies meetings, stating that these are a critical tool to achieve a dynamic framework of adequate standards. Moreover he stated that the collective knowledge and expertise gathered for the meeting represents a powerful weapon in the anti-money laundering and counter-terrorist financing effort and helps build the foundation for national and international efforts. HSH Prince Albert II of Monaco and Dr Vasil Kirov, Chairman of MONEYVAL also addressed the assembly.

The meeting brought together over one hundred and fifty experts from fifty countries and international organisations and was divided into four separate workshops. The first three workshops focused on the ways in which money launderers operate through the securities industry, sporting clubs and money service businesses respectively and examined emerging trends and patterns of behaviour in these areas. The topic of the fourth workshop was the creation of a global threat assessment.

The FIAU participated in the money service businesses workshop which explored the operations and vulnerabil-

<sup>15</sup> See also Section 4.6 of the Report



ities of this sector. A series of sanitised cases of money laundering through money service business were presented which led to a discussion on identified techniques and methods for money laundering in this sector. The experiences and principles of current regulatory regimes of money service businesses and their influence on AML/CFT were also discussed, where the FIAU gave a presentation on the regulation of financial institutions in Malta. A report on the findings of the workshop is due to be released in 2009. The report will be posted on the FIAU website.

## 5.5 The Egmont Group

The Egmont Group of FIUs was formed in 1995 as an informal international gathering of financial intelligence analysis units. The total number of FIUs from around the world that have become members of this international grouping now stands at 108. The FIAU became a member of the Egmont Group in 2003.

Dr Anton Bartolo, member of the Board of Governors, represented the FIAU at the 16th Egmont Group plenary held in Seoul, Korea between the 25 and 29 May 2008. The event was hosted by the Korea Financial Intelligence Unit and the plenary meeting was addressed by a number of high level officials, including the President of the FATF and the Prime Minister of the Republic of Korea.

The plenary session considered and discussed a number of issues concerning the Egmont Group and its members, including the final conclusions on the structuring of the Egmont Group into a more formal body with a governing statute and permanent secretariat. A number of presentations and discussions on various topics related to the fight against money laundering and the financing of terrorism were delivered, including a session on corruption. The Plenary included the participation of FINCEN, Kofiu, World Check, the Qatar FIU, the UK Charities Commission, SOCA and WB/UNODC.

The FIAU was also represented at the Heads of FIU meeting, the Legal Working Group meeting and the Regional Meeting for Europe.

## 5.6 MONEYVAL

During 2008 three Plenary meetings were held in Strasbourg in April, July and December. During the Plenary meetings MONEYVAL adopted nine Third Round MERs and nine progress reports. The Malta Delegation participated in all Plenary meetings.

At the 28<sup>th</sup> Plenary, held between 8 and 12 December 2008, the Malta Delegation presented its first Progress Report which was adopted by the Plenary.

On 1-3 October MONEYVAL held a training session for evaluators. This session was attended by 39 delegates from 15 MONEYVAL countries. There were no participants from Malta. The FIAU Deputy Chairman participated as a trainer for four Modules related to the application of customer due diligence; the implementation of internal controls; wire transfers transactions; and regulation and supervision measures. A further module was delivered comparing the EU Third Anti Money Laundering Directive to the FATF-40 Recommendations.

As noted in Section 5.4 above on 24-26 November a joint FATF/MONEYVAL typologies meeting was held in Monaco. Dr Michael Stellini, Legal and International Officer, represented the FIAU. Dr Stellini delivered a presentation on the domestic framework for the regulation of money remitters and exchange bureaux. The meeting was attended by 180 experts from 50 countries.

As a member of the Permanent Experts Review Group, the Deputy Chairman reviewed nine draft MERs. The Review Group is responsible to examine all reports to ensure consistency and quality and to advise the Secretariat, the Chairman, the Evaluation Team and the Plenary accordingly. During 2008 one of the senior financial analysts reviewed three MERs in his temporary role as a member of the *ad hoc* Review Group.

In October 2008, following amendments to the Terms of Reference of MONEYVAL by the Committee of Ministers, the Deputy Chairman was appointed as a scientific expert for fi-



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nancial issues.<sup>16</sup> As a result, the Deputy Chairman resigned from the Malta Delegation to MONEYVAL and was replaced by Mr Anthony P Cortis, Financial Stability Department, CBM.

### 5.7 FATF Meetings

The Council of Europe is an associate member of the FATF, represented through a MONEYVAL delegation. The MONEYVAL delegation that participates in the FATF Plenary meetings includes the Chairman and the Secretariat and five other delegates. During 2008 the FIAU was not represented on the MONEYVAL delegation.

### 5.8 Organisation for Security and Co-operation in Europe

Between 15 and 16 September 2008 the OSCE organised

a follow up to the OSCE Public-Private Partnership Conference under the title 'Partnership of State Authorities, Civil Society and the Business Community in Combating Terrorism'. The Conference was held in Vienna, Austria.

The Deputy Chairman formed part of the Council of Europe delegation to the Conference where he acted as moderator for one of the three sessions which addressed issues related to 'Public-Private Partnerships in Countering the Financing of Terrorism'. The session included presentations by a representative of the FATF, a representative of the civil society, a representative of the industry and a representative of a firm of auditors. The presentations were followed by a plenary discussion. The other two sessions addressed issues related to 'Public-Private Partnerships in protecting critical infrastructures and major events against terrorist attacks', and 'Public-Private Partnerships with civil society and the media in countering terrorism and violent extremism'.

<sup>16</sup> MONEYVAL has four scientific experts: Professor William Gilmore, Professor of International Criminal Law, University of Edinburgh, UK (Legal issues); Mr Boudewijn Verhelst, Deputy Director CTIF/CFI, Attorney General, Belgium (law enforcement issues); Mr Giovanni Ilacqua, Deputy Head of Suspicious Transactions Analysis Division, Banca d'Italia (financial issues) and Mr Herbert Zammit LaFerla, Director Financial Stability Division, Central Bank of Malta (financial issues).