

**Financial Intelligence Analysis Unit
Malta**

ANNUAL REPORT

2005

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FINANCIAL INTELLIGENCE ANALYSIS UNIT

BOARD OF GOVERNORS

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Chairman

Mr Herbert Zammit LaFerla

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Member

Mr Pierre Calleja

Member

DIRECTOR

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(also Secretary to the Board)

Our Mission

At the Financial Intelligence Analysis Unit we strive 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 suspected of 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**

FINANCIAL INTELLIGENCE ANALYSIS UNIT

VALLETTA

March, 2006

Dear Prime Minister and Minister of Finance

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 financial year ended 31st December 2005.

Yours sincerely

Dr Silvio Camilleri
Chairman

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STATEMENT OF THE CHAIRMAN

It has been another busy year for the Financial Intelligence Analysis Unit (FIAU). After a dip in the number of reports filed with the Unit in 2004, the number of reports has picked up sharply again during 2005 to the extent that the situation has returned to the previous levels. During 2004, the FIAU has also focused on its compliance monitoring function. Through its agency arrangements with the Malta Financial Services Authority (MFSA), the FIAU has received a considerable number of examination reports for its analysis. These included a number of reports specifically requested by the Unit itself. Negotiations were also initiated with the Lotteries and Gaming Authority in an effort to reach an understanding with it with a view to striking a similar cooperation compliance monitoring agreement. The FIAU has also drawn up plans to strengthen its resources to develop its own specialised compliance monitoring unit, thus being in a better position to monitor compliance by subject persons who do not fall under the competence of other regulators.

The past year is also the year which marks another milestone in the development of the FIAU. This has been the year in which the role of the FIAU has been enlarged even further to embrace the fight against the funding of terrorism. The FIAU was already able to cooperate and engage itself, on an intelligence basis, in respect of suspected funding of terrorism activity but, during the year, a clearer and more explicit legal basis for such cooperation and engagement has been laid down in the main legislation regulating the prevention of money laundering. Not only the legal basis was provided in the main legislation but measures were immediately taken to amend the Regulations themselves in order to extend the reporting obligation beyond the offence of money laundering to include the reporting of suspected funding of terrorism. These changes in the laws have realigned the FIAU with the EGMONT definition which had been revised to take into account the role of financial intelligence units in the prevention and countering of funding of terrorism which sprung to prominent public attention with the September 11 events. The Regulations were also extensively reviewed and their provisions adjusted as was necessary in the light of emerging new international standards in the area of the fight against money laundering and financing of terrorism whether from FATF, the European Union, the Council of Europe or the United Nations. The new Regulations came in force in early 2006.

Indeed, the legislative changes have provided the FIAU with ample opportunity to continue to take a leading role in the enhancement and continued construction and strengthening of the anti-money laundering framework in Malta. Under the active guidance and with the positive contribution of various members of the FIAU, the Criminal Code was amended in order that, for the first time, it contains specific criminal offences proscribing terrorist acts and funding of terrorism. Furthermore, regulations were prepared and made into law providing for mandatory declarations of cross-border transport of cash and monetary instruments. The law was also amended to ensure that the information generated by such declarations be accessible to the FIAU since such information could prove invaluable to the Unit in the exercise of its functions under the law. This kind of monitoring was expressly required by the FATF Special Recommendation IX.

The role of financial intelligence units in ensuring the integrity of the financial system is bound to increase as it has manifestly done over the years. The fact that FIUs have now become a permanent fixture of the administrative structure within a State has been acknowledged by an increasing number of international instruments. For the first time financial intelligence units have been specifically referred to in the revised 2003 FATF Recommendations. An entire section and an entire chapter have been dedicated to them in the 2005 revamped Council of Europe Convention. The third EU Anti-Money Laundering Directive specifically, explicitly and extensively refers to financial intelligence units in its provisions. Financial intelligence units are no longer discussed in international fora as part of a structure that is desirable to have, but rather as something that is indispensable in a country's anti-money laundering system. A State which fails to set up a financial intelligence unit and to continuously and unequivocally support it risks the censure of the international community and of international bodies and agencies having the role to act as guardians of the integrity of the global financial system.

Financial intelligence units are here to stay.

Dr Silvio Camilleri

1.0 THE FINANCIAL INTELLIGENCE ANALYSIS UNIT

The Financial Intelligence Analysis Unit (FIAU) was established as a government agency having a distinct legal personality through Act XXXI of 2001 which amended the Prevention of Money Laundering Act (PMLA), (*Cap 373*). As the authority responsible for receiving reports of transactions suspected to involve money laundering or the funding of terrorism disclosed by subject persons under the Prevention of Money Laundering and the Funding of Terrorism Regulations, 2003 (the Regulations), the FIAU is primarily responsible for the collection, collation, processing, analysis and dissemination of information with a view to combat money laundering and the funding of terrorism¹.

The FIAU consists of a Board of Governors and a Director. The Board of Governors is responsible for establishing the policies of the Unit and to ensure that the Director executes such policies accordingly. It is also responsible for advising the Minister responsible for finance on all matters and issues relevant to the prevention, detection, investigation, prosecution and punishment of money laundering acts or the funding of terrorism. The Director is responsible for the execution of the policy established by the Board and carries out all of the other Unit's functions that are not attributed to the Board. The Director is assisted by a group of financial analysts and other support staff. The Commissioner of Police details a police officer to act as the liaison officer to the Unit.

The three main core activities of the FIAU are therefore to:

- receive and analyse financial information on transactions suspected of involving money laundering or related to the funding of terrorism and to report thereon;
- co-operate and exchange information with local and foreign supervisory authorities and foreign FIUs either through bilateral arrangements or spontaneously under conditions determined by the FIAU; and,
- monitor and ensure compliance by subject persons with their obligations under the Regulations.

¹ In February 2006 the Prevention of Money Laundering Regulations, 2003 were revised and retitled.

2.0 OPERATIONS

2.1 Core Operations

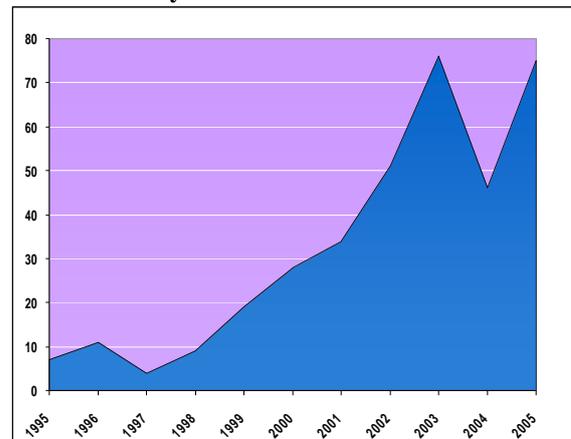
The core operations of the FIAU focus on the receipt of reports on transactions suspected to be related to money laundering or the funding of terrorism – Suspicious Transaction Reports (STRs) – and the analysis of these reports and any other relevant information that the FIAU may have in its possession or that it demands from other persons who could be in possession of such information. The objective of the analysis is to confirm or otherwise sustainability of the suspicion. If the suspicion remains, the law requires the FIAU to forward all available information to the Malta Police for further investigation. Upon request, the FIAU can give feedback to subject persons on STRs that they would have filed, provided that such feed-back, in the opinion of the FIAU, is not to the detriment of any ongoing investigation. To this effect the FIAU carries out an overall analysis of the STRs to identify and draw patterns and typologies of money-laundering or the funding of terrorism that could serve to assist institutions and the authorities in better monitoring and observance of obligations.

In its analysis of STRs the FIAU often seeks information from its foreign counterparts. It also receives requests for assistance from foreign financial intelligence units (FIUs). Upon receipt of such requests the FIAU conducts a thorough analysis of the request to establish whether the FIAU can assist the foreign FIU and to determine whether the information requested is already held by the FIAU. If necessary, the FIAU can request the information from subject persons that it deems could be in possession of information that may be relevant for assisting the foreign FIU. Information is exchanged on the basis of confidentiality and the use of information so exchange is often restricted to investigatory purposes. The FIAU treats these requests as STRs and during the compilation of the replies the Unit also considers whether the information disclosed by the foreign FIU and that obtained for the reply lead the FIAU to sustain a money laundering suspicion. Should a suspicion persist, an analytical report would be compiled, in consultation with the foreign FIU, for further investigation.

2.2 Statistics

The decline in the number of STRs filed in 2004 was reversed during 2005, with the FIAU receiving 75 STRs. This represents an increase of 63% over the previous year and restores the number of STRs to the levels of those received during 2003.

Chart 1 Suspicious Transactions Reports by Year – 1995 - 2005



The reports filed during 2005 translated into 62 cases. By contrast, the 46 STRs received during 2004 related to 43 cases whilst those for 2003 (76 reports) translated into 58 cases. Therefore, the sharp increase during 2005 in the number of STRs was also reflected in the number of cases. This makes 2005 the year during which the FIAU handled the highest number of cases. This notwithstanding, however, the ratio of cases to STRs reached 83% in 2005, slightly lower than that recorded for 2004 at 93%. On the other hand, whilst the overall level of the quality of reporting has continued to improve, the complexity of the operations reported in some STRs pushed further the need for more in-depth analysis and thus demanding more resources.

Table 1 STRs and Cases – Oct 02-Dec 05

	Oct 02- Dec 03	2004	2005
STRs	76	46	75
Cases	58	43	62
% of STRs	76%	93%	83%

During 2005 the FIAU referred 28 reports, constituting 22 cases to the Police for further investigations. Another 41 STRs (34 cases) resulted in inconclusive information for the sustainability of the suspicion, with the reports remaining at the FIAU. On the other hand 39 STRs (37 cases) were still being analysed by end 2005. A breakdown of the STRs received during 2005 is presented in Table 2 with comparative figures since the FIAU was established in October 2002.

Table 2 Breakdown of STRs -Oct 02 to Dec 05

STRs	Oct 02- Dec 03	2004	2005
Referred to Police	17	23 ^a	28 ^b
Inconclusive Information	30	33	41
Not related to Money Laundering	4	–	–
Ongoing Analysis	35	25	39

^a Refer to 20 cases

^b Refer to 22 cases

The main source of STRs filed with the FIAU during 2005 remains the credit institutions. Thirty nine of the 75 STRs filed in 2005 were disclosed by seven credit institutions. This

amounts to 51% of the total STRs and, although a decrease over 2004 (72%), it is in line with the trend of the previous years. In absolute terms the number of STRs filed by credit institutions increased from 33 in 2004 to 39 in 2005 (an 18% improvement) while the share of all subject persons increased significantly. Chart 2 compares the reporting by subject person for the period 2003-2005

A significant increase was registered in the disclosures filed by the insurance sector. Up to 2004 the insurance sector had only filed one report as compared to the 10 filed during 2005. Another noticeable increase occurred in the STRs filed by other non-bank financial institutions which during 2005 filed 18 reports compared to a total of 12 which had accumulated since the coming into force of anti-money laundering legislation in 1994. Furthermore, during 2005, the FIAU generated five reports on its own initiative while the other supervisory authorities did not file any STRs. The latter reports generated by the FIAU are not included in the statistics for the year.

Chart 3 shows the number of STRs filed by credit institutions in relation to the rest of subject persons since 1994. While for the entire period credit institutions accounted for 78% of total STRs with the rest of the reporting agents at 22%, the increase by the latter during 2005 has pushed the percentage up which resulted in a seven percentage points decline in the credit institutions' portion. These changes indicate that the sectors other than credit institutions are becoming more vigilant in implementing the anti-money laundering measures.

Chart 2 STRs filed by Subject persons for the years 2003-2005

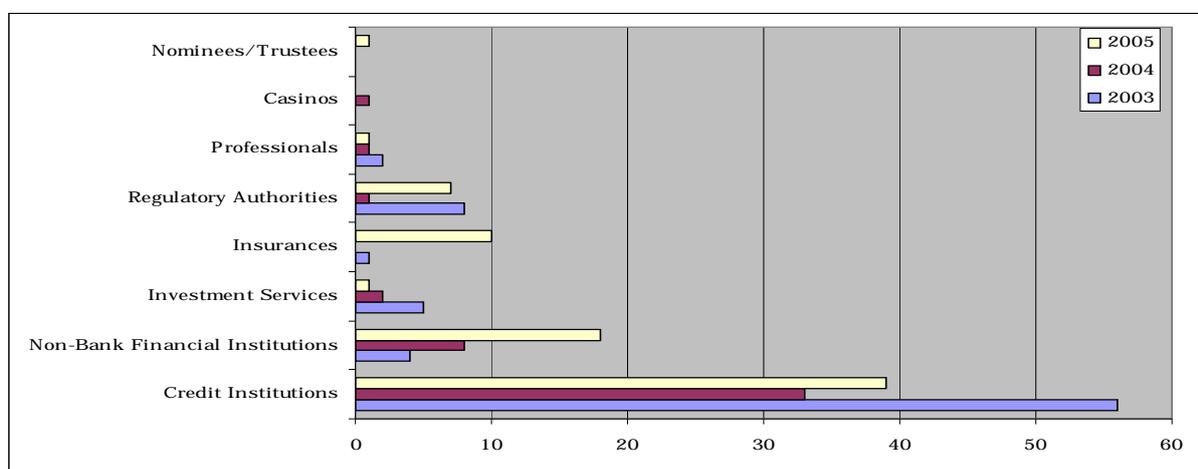
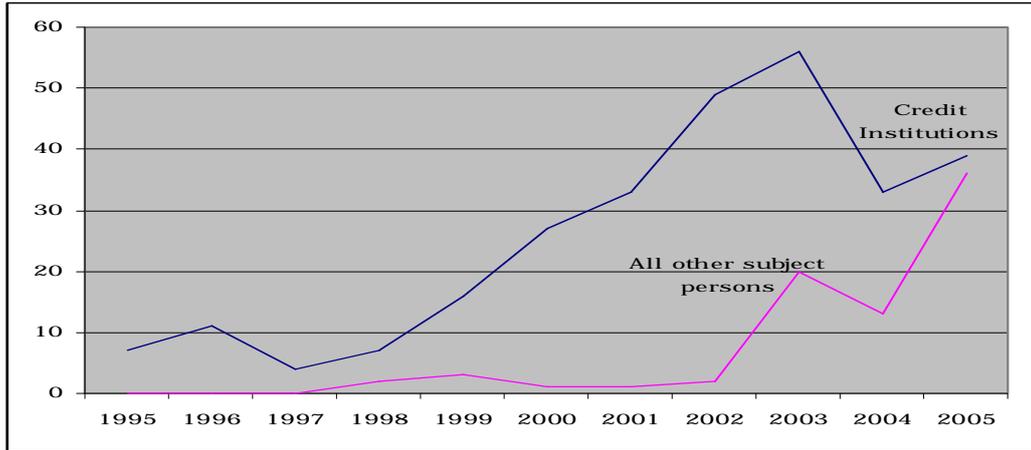


Chart 3 STRs filed by credit institutions as compared to other sectors – 1995 - 2005



2.3 Requests for co-operation and Assistance

The FIAU attaches great importance to co-operation and exchange of information with its foreign counterparts as a means of enhancing the global fight against money laundering and the funding of terrorism. During 2005 the FIAU received 37 requests for assistance from 26 foreign FIUs. The requests varied from requests for general information to those requiring an analysis of the information required. On the basis of such requests the FIAU has generated five suspicious transaction reports, drawing up analytical reports to be referred to the Police for further investigations. By the end of the year the FIAU had replied to all the requests received.

The increase in STRs during 2005 was not however reflected in the number of requests for assistance which the FIAU sought from foreign FIUs. This indicates that most of the STRs related to domestic suspected transactions with no cross-border connections. Indeed, the number of enquiries to foreign FIUs varies not only with the amount of STRs received but mostly with the cross-border element of the transactions disclosed. During 2005, by contrast to the 76 requests for 2004, the FIAU placed 41 enquiries for assistance with foreign FIUs of 22 countries. Chart 4 shows the total number of enquiries received and sought by the FIAU for the period 2003-2005. Whilst in 2004 it was noted that some FIUs claimed that because of legislative prohibitions certain requested information could not be released, the FIAU noted that during 2005 there appears to be some improvement in the quality of replies.

Chart 4 Requests for cooperation and assistance 2003 - 2005

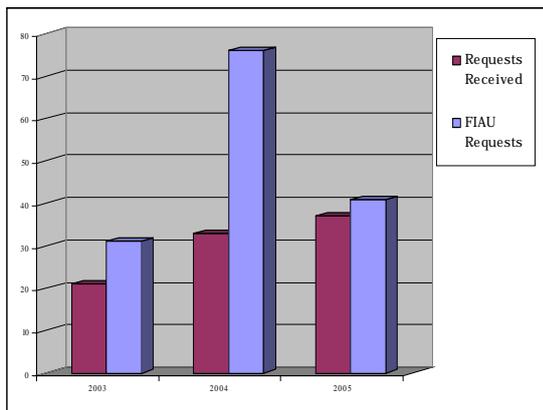


Table 3 lists all the requests for assistance received and sought by the FIAU. The 26 countries that asked for assistance were mainly European, whilst in the case of 11 countries there were reciprocal enquires.

Table 3 Requests for Co-operation and Assistance - 2005

Jurisdiction	Requests Received		FIAU Requests	
	Number	Replies	Number	Replies
Austria	1	1	–	–
Belgium	2	2	–	–
Belize	–	–	1	1
British Virgin Islands	1	1	1	1
Bulgaria	1	1	1	1
Costa Rica	–	–	1	1
Croatia	1	1	–	–
Cyprus	–	–	1	–
Czech Republic	2	2	–	–
Dominican Rep	1	1	–	–
Estonia	1	1	–	–
Finland	2	2	–	–
FYR of Macedonia	1	1	–	–
Gibraltar	–	–	1	1
Hungary	1	1	1	–
Isle of Man	3	3	1	–
Italy	–	–	4	3
Jersey	4	4	–	–
Latvia	–	–	1	1
Lebanon	1	1	3	3
Luxembourg	1	1	–	–
Monaco	–	–	1	1
Netherlands	1	1	2	1
Norway	–	–	1	1
Poland	1	1	–	–
Romania	1	1	–	–
Russia	2	2	3	3
Serbia	1	1	–	–
Spain	–	–	1	1
Switzerland	1	1	–	–
Taiwan	–	–	1	1
Turkey	1	1	2	2
UAE	1	1	2	2
UK	2	2	9	8
Ukraine	1	1	1	1
USA	–	–	2	2
Venezuela	2	2	–	–
Totals	37	37	41	35

3.0 ACTIVITIES

3.1 Compliance Assessments

The PMLA imposes upon the FIAU the responsibility of ensuring that subject persons comply with the provisions of the Regulations. The number of subject persons subject to the Regulations, and hence to compliance monitoring by the FIAU, is broad and continues to increase in both the financial and the non-financial sectors. The latter includes designated non-financial businesses and professions (DNFBPs) identified under the Regulations as those persons carrying out a *relevant activity* as defined. Table 4 lists some of the main subject persons.

The PMLA provides that, for the purposes of monitoring compliance by subject persons with the Regulations, the FIAU can undertake both *off-site* assessments and *on-site* examinations. The law further provides that, for the purposes of undertaking 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 their findings. For this purpose, during 2005, the FIAU continued to strengthen and implement its cooperation agreements with other supervisory authorities. Further to the agreement signed with the Malta Financial Services Authority covering the financial sector, during 2005 the

FIAU initiated discussions with the Lotteries and Gaming Authority to agree on a similar co-operation agreement covering the gaming sector.

Table 5 Subject Persons – Compliance Reports – 2005

Type of Institutions	Reports
Credit Institutions	12
Insurance Entities	9
Investment Services	38
Other Institutions	14

During 2005, as a result of the agreement signed with the Malta Financial Services Authority, the FIAU received 73 examination reports. These include reports on examinations carried out at those institutions specifically identified by the FIAU. The process initiated by the FIAU during 2004 on *off-site* monitoring through the use of compliance surveys and questionnaires was continued during 2005 with on-site compliance visits being carried out at selected real estate agents.

Table 4 Subject Persons - Financial and non-financial sectors

Financial Sector		Non Financial Sector	
Type	No	Type	No
Credit Institutions	18	Lawyers & Solicitors	746
Insurance companies, broking firms and sub-agents	497	Notaries	175
Investment Services	161	Auditors and Accountants	1,600
Other Institutions	11	Casinos	3
		Real Estate Agents	154
		Trustees	16
		Others	10
	687		2,704

Data as reported in the MONEYVAL Mutual Evaluation Questionnaire

3.2 Training

During 2005 the FIAU continued to invest in training its own staff and to provide training to the industry in general as required under the law. The FIAU attaches great importance to both types of training.

As part of the internal staff training, members of the Unit participated in a number of events aimed at enhancing their knowledge and experience in anti-money laundering and the funding of terrorism analysis and reporting whilst also enabling them to participate in both domestic and international fora.

Furthermore, in March 2005 two officials of the Unit participated in a training seminar organised in Strasbourg by the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures, (MONEYVAL). The objective of the training was to develop expertise for participation as examiners in the mutual evaluation process of the MONEYVAL Committee in its third round mutual evaluation of its Member States. The third round mutual evaluation process is being undertaken under the new methodology for evaluation as developed by the FATF. Two members of the FIAU Board of Governors also delivered lectures during these training for evaluators' sessions. During the year the two FIAU officials participated as law enforcement and financial examiners for the evaluation of the Czech Republic and Albania respectively.

The FIAU has also participated by delivering presentations during training sessions organised by the industry. These included sessions organised by the real estate sector, investment services providers, and credit institutions. Furthermore, following the introduction of the regulations on the cross-border movement of currency in early 2005, the FIAU was heavily involved in providing training to senior officials of the Customs Department. This training was organised jointly between the FIAU and the Comptroller of Customs. An annual event where the FIAU delivers a paper on anti-money laundering and the funding of terrorism is the training workshop on 'Banking and Finance in Small States'. This workshop is organised locally

by the Islands and Small States Institute in collaboration with the Banking and Finance Department of the University of Malta with the participation of representatives of small Commonwealth States.

3.3 The Prevention of Money Laundering Joint Committee

The Prevention of Money Laundering Joint Committee is a forum which brings together representatives from those agencies, authorities, and the industry, under the chairmanship of the Director of the FIAU, to discuss and exchange views on developments in anti-money laundering and the funding of terrorism standards, regulations and obligations with a view of assessing their effectiveness and to make recommendations on best measures for implementation. The Committee also offers an efficient forum for bringing forward the different views and operational experience of subject persons thus contributing to formulate comprehensive and all-inclusive guidance for the industry whilst assisting the FIAU to ensure a level standard of implementation.

During 2005 the Committee held seven meetings. The main topics on the agenda continued to be current anti-money laundering issues of mutual interest. Most of the discussions during the year focused on the Third Anti-Money Laundering Directive of the European Union and its implications for the local industry. Another item thoroughly discussed during the meetings was the change in domestic legislation that took place during the year. As the consultative medium, the Committee contributed heavily to the proposals for a review of the Regulations and other related legislation during 2005. The Committee also initiated a thorough update of the existing guidance notes including the drawing up of new guidance for the non-financial sector.

3.4 Domestic and International Contacts

The FIAU continues to attach great importance to co-operation with other relevant domestic and foreign authorities. On the domestic side, further to the meetings of the Prevention of Money Laundering Joint Committee, the FIAU continued to meet with other relevant

authorities that have an interest in the fight against money laundering. On the international side, during the year, the FIAU was visited by officials from France, the United Kingdom and the United States of America. The FIAU also held discussions with representatives of the European Union Anti - Fraud Office, (OLAF)

and the Support for Improvement in Government and Management (SIGMA). The FIAU also participated in the mutual evaluations of Malta undertaken by the Council of Europe GRECO Committee on corruption and MONEYVAL Committee on money laundering; the European Union on Terrorism; and Europol on police matters and operations.

4.0 PARTICIPATION IN INTERNATIONAL FORA

4.1 The Money Laundering Contact Committee

The Money Laundering Contact Committee (MLCC) of the European Union continued with its active role during 2005 through a number of meetings and discussions for making recommendations to the EU Commission on the preparation of the Third Directive on the prevention of money laundering and the financing of terrorism. Since Malta joined the European Union the FIAU has been participating in the meetings of the MLCC, which are held periodically in Brussels. During most of the six meetings held during the year the main topic continued to be the finalisation of the Third EU Anti-Money Laundering Directive and its implementation. Other ongoing discussions concerned the EU position on the FATF Special Recommendation VII on wire transfers and Special Recommendation VIII on non-profit organisations. During the year, the MLCC also discussed FATF membership of the ten new Member States. This item is of particular importance to Malta considering that some of the new Member States have already officially applied for membership.

Following the publication of the Third EU Directive (2005/60/EC) on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing on 26th October 2005, the MLCC has been restructured and renamed as the Committee on the Prevention of Money Laundering and Terrorist Financing (CPMLTF). In order to better assist the EU Commission in implementing the provisions of the Third Directive, the terms of reference of the new Committee have also been revised and broadened such that its responsibilities now include that of giving advice and an opinion on implementing measures proposed by the Commission. As such the number of meetings planned for 2006 has been increased to ten. The change in the terms of reference of the CPMLTF and the increase in meetings will place higher demands on participants from

Member States. The FIAU will therefore be allocating more resources to this role.

4.2 The EGMONT Group

As a member of the worldwide EGMONT Group since 2003, the FIAU participated in the 13th Plenary of the Group which was held in Washington DC in June 2005 marking its 10th anniversary. The EGMONT Group now comprises 101 national FIUs. Dr. A. Bartolo, a member of the Board of Governors of the FIAU, represented the Unit both in the meetings of the Heads of FIUs and in the Plenary. The meeting mainly discussed issues related to the strategic restructuring and funding of the Group and the admission of new member FIUs. The Plenary session was characterised by break-out workshop sessions on specific topics. Dr Bartolo delivered a presentation on the role of FIUs and supervisory authorities in supervising entities subject to anti-money laundering and financing of terrorism obligations, which was the theme of one of the workshops.

4.3 The Council of Europe MONEYVAL Committee

During 2005 staff of the FIAU, together with members of the Board, formed part of the Malta Delegation to the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL). During the year the Committee held its 16th and 17th Plenary Meetings in Strasbourg with the main items on the agenda being the discussions of the third round mutual evaluation reports. As already mentioned, two staff members of the FIAU participated as evaluators during 2005 whilst a member of the Board represented MONEYVAL in the evaluation of Hungary which was undertaken by the International Monetary Fund under the co-operation agreement that had been concluded between MONEYVAL and the Fund.

5.0 CHANGES IN LEGISLATION

5.1 Cross-Border Cash Movement Regulations

Following the enactment of the External Transactions Act, *Cap 233*, (ETA) which has removed exchange controls, in December 2004 the Minister responsible for finance brought into force, as from 1st January 2005, the regulations on the control of cash movements across the Maltese borders. The regulations had been issued in November 2004 through Legal Notice No 463. The term 'cash' in the regulations includes physical cash and other monetary instruments as defined in the ETA. The regulations require disclosure to the Comptroller of Customs on a pre-set form for the inward and outward movement of cash equal to or in excess of Lm5,000. False declarations or non-disclosures constitute an offence and are subject to a fine equivalent to 25% of the value represented, but not exceeding Lm20,000. Undeclared cash is also subject to seizure by the Customs authorities. Furthermore, the regulations require the Comptroller of Customs to forward all declarations to the Central Bank of Malta. The FIAU has access to the information in these declarations held on a database at the Central Bank of Malta.

5.2 The Criminal Code

Act VI of 2005, which came into force in June 2005, introduced a new Sub-title V to Title IX of Part II of Book First of the Criminal Code, *Cap 9*, entitled *Of Acts of Terrorism, Funding of Terrorism and Ancillary Offences*. The new provisions define and criminalise acts of terrorism and the funding of terrorism, including the use and possession of money or other property for the purpose of terrorism and funding arrangements whereby money or other property is made available, or is to be made available, to another for use for the purpose of terrorism. Sanctions vary from fines ranging between Lm5,000 (Euro11,500) to Lm1 million (Euro 2.3 million) and/or imprisonment ranging from four years to life, or both fine and imprisonment, depending on the gravity of the offence.

5.3. The Prevention of Money Laundering Act

Act VI of 2005 has also amended the PMLA to vest the FIAU with powers, functions and responsibilities over transactions suspected to involve the funding of terrorism as defined in the Criminal Code. Further amendments introduced during 2005 to the PMLA replaced the Second Schedule to the Act, removing the list of predicate offences and introducing an all criminal offence approach.

5.4 The Prevention of Money Laundering Regulations, 2003

The Prevention of Money Laundering Regulations were first issued in 1994 following the enactment of the PMLA. The 1994 Regulations were amended in 2000 and in 2002. These amendments clarified issues related to customer identification and record keeping whilst introducing new procedures providing for the operations of the FIAU. The 1994 Regulations, which transposed the First European Union Anti-Money Laundering Directive 91/308/EC of June 1991, were applicable only to the financial sector. In 2003, the 1994 Regulations were repealed and replaced by the Prevention of Money Laundering Regulations, 2003 which enhanced the previous Regulations to implement the Second European Union Anti-Money Laundering Directive 2001/97/EC. Thus, the new Regulations extended the scope of their applicability to other persons or professions (legal, accountancy, real estate agents and dealers in precious stones or metals), apart from the financial sector. In the meantime, the Gaming Sector remained governed separately by the Gaming Act Regulations of 1998, issued in terms of the Gaming Act, *Cap 400*, which extended the applicability of the 1994, and eventually the 2003, Regulations to casino licence holders.

Since the 2003 revision, there have been a number of domestic and international developments, amongst which are the revised FATF - 40 Recommendations; the international

pressure for countries to implement preventive measures against the financing of terrorism in terms of the FATF 9-Special Recommendations; the introduction of the offence of the “funding of terrorism” in the Criminal Code and the consequent amendments to the PMLA, that have raised the need to revise the Regulations of 2003.

In this regard, in terms of its obligations under the PMLA to advise the Minister responsible for Finance on all matters and issues relevant to the prevention, detection, investigation, prosecution and punishment of money laundering and the funding of terrorism offences, during 2005 the FIAU launched a revision of the Regulations. The main objective of the revision was the introduction of preventive measures for the funding of terrorism; the introduction of new elements such as a risk based approach and enhanced due diligence for high risk customers; and the

integration within the main Regulations of the anti-money laundering obligations for casino licence holders currently under the Gaming Act Regulations.

Conscious of the importance of the involvement of the industry in the review process, during 2005 the FIAU launched an extensive consultation process with the industry and other stakeholders with an interest in the matter. The consultation period, which included a written consultation process, was very positive with the majority of the proposals of the industry being incorporated in the amendments to the Regulations as eventually proposed to the Ministry of Finance for publication. In summary, the final proposals for amendments included an amendment to the title of the Regulations; an amendment to twelve existing Regulations; and the introduction of three new Regulations²

² The revised Prevention of Money laundering and Funding of Terrorism Regulations, 2003 came in force in February, 2006 through legal Notice 42 of 2006.

6.0 MONEYVAL MUTUAL EVALUATION

As a member of the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL), Malta was evaluated under the first and second round mutual evaluation process. The first evaluation was undertaken in September 1998 with the second one following in January 2002. MONEYVAL has now launched the third round mutual evaluation programme undertaken under the new methodology introduced by the FATF and endorsed by the International Monetary Fund and the FATF Style Regional Bodies (FSRBs). As an FSRB, MONEYVAL has endorsed and is now implementing the new methodology.

The third round mutual evaluation of Malta was carried out between the 14th and 19th November 2005. Prior to the evaluation, the FIAU was extensively involved in coordinating and contributing to the Mutual Evaluation Questionnaire (MEQ). The MEQ is a standard questionnaire developed by the FATF in consultation with FSRBs, the IMF and the World Bank and adopted by MONEYVAL in its third round mutual evaluation process. The co-ordination of the MEQ brought together contributions by the relevant ministries, Government departments, supervisory authorities, and other bodies together with the FIAU itself. On 22nd June 2005 the FIAU organised a half day seminar for all interested parties wherein the mutual evaluation process and the preparations for the completion of the MEQ were explained in detail. The MEQ was completed and submitted to the MONEYVAL Secretariat during October 2005.

The evaluation team that visited Malta was composed of expert examiners from Estonia for law enforcement, Liechtenstein for legal matters and Bulgaria for the financial sector, together with a representative of the FATF from the United Kingdom, also for the financial sector. The FIAU hosted the evaluation team jointly with the Malta Financial Services Authority. The evaluation team held various meetings with the relevant authorities and selected sectors of the industry. A final meeting was held with the FIAU where an *aide-memoire* on the initial findings of the evaluation was, in principle, agreed upon.

It is expected that the Third Round Mutual Evaluation Report of Malta will be presented for discussion and adoption by the MONEYVAL Plenary during the first half of 2006. According to the MONEYVAL regulations, the Report will be made public within three months of adoption by the Plenary.

BOX 1 – Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures - MONEYVAL

The Committee of Experts on the Evaluation of Anti-money Laundering Measures – MONEYVAL (formerly PC-R-EV) was established by the Council of Europe (CoE) in 1997. It is composed of those CoE Member States that are not members of the Financial Action Task Force, although a MONEYVAL Member State that eventually becomes a member of the FATF may decide to remain also a member of the Committee.

The current CoE Member States that are members of MONEYVAL are Albania, Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Georgia, Hungary, Latvia, Liechtenstein, Lithuania, Moldova, Malta, Poland, Romania, Russian Federation (who is also an FATF member), San Marino, Serbia and Montenegro, Slovakia, Slovenia, 'The Former Yugoslav Republic of Macedonia', and Ukraine. The Government of each Member State appoints three experts on the Committee with responsibilities in financial supervision, law enforcement and legal matters. The Presidency of the FATF also appoints two experts from FATF countries for a period of two years. The Committee is also assisted by three scientific experts in the respective fields

The principal objective of MONEYVAL is to ensure that Member States have effective systems in place to counter money laundering and terrorist financing. It does this through self and/or mutual evaluation questionnaires and periodic on-site visits both for member and applicant states. Mutual evaluations ensure compliance by member states with all relevant international anti-money laundering and countering the financing of terrorism standards in the legal, financial and law enforcement sectors. Its reports provide highly detailed recommendations on ways for evaluated countries to improve the effectiveness of their domestic frameworks to combat money laundering and terrorist financing and to co-operate internationally in these areas.

MONEYVAL has completed two rounds of mutual evaluations of its members by 2004 with all reports having been adopted. It has now launched a third round mutual evaluation process, expected to be completed by 2007, based on the adoption of the New Methodology developed by the FATF. The third round will cover both money laundering and terrorist financing measures.

In accordance with the rules and regulations of the Committee, three months following the adoption of the evaluation report by the Plenary, the report is made public. Also, a year following adoption, each country submits a written progress report on measures taken on the implementation of the findings of the evaluation report. Through its compliance enhancement procedures, the Committee ensures that serious deficiencies resulting from the mutual evaluation process are addressed effectively.