

FIAU Update

April 2020



FINANCIAL INTELLIGENCE ANALYSIS UNIT

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The Financial Intelligence Analysis Unit (FIAU), an autonomous government agency, works incessantly to fulfil its primary objective - that of contributing to the fight against money laundering (ML) and funding of terrorism (FT).

The FIAU has two main functions – (i) that of receiving, requesting and analysing intelligence and providing information to the police, and assisting other domestic and foreign authorities; and (ii) that of supervising a large number of financial and non-financial service providers (subject persons) in order to ensure that they comply with their anti-money laundering and combating financing of terrorism (AML/CFT) obligations as set out in Malta’s laws.

Over the years the FIAU has grown and developed from a virtually unknown entity made up of three officials to a front-line organisation, today having over 70 highly qualified and motivated members of staff, with ongoing recruitment for additional human resources. The FIAU has also grown technologically with the implementation of dedicated and specialised IT tools.

The engagement with the European Banking Authority (EBA) and the European Commission (CION) enabled the FIAU to identify areas where improvements had to be made in order to improve its efficiency and effectiveness. The FIAU is also committed to address in a timely manner those recommendations made to it by MONEYVAL. The FIAU is working hard to ensure that it provides an effective contribution to the fight against ML and FT, and crime in general.

Over the recent past the FIAU, working with the EBA and the CION, has developed and is now implementing an Action Plan aimed at improving various aspects of its operations. These range from an ambitious development and restructuring plan, to revised processes and procedures, a new risk assessment tool and supervisory strategy to outreach and training initiatives.

The FIAU is of the view that within the limitations of confidentiality imposed by law, the public should be kept informed on the work and developments taking place at the FIAU. For this purpose the FIAU will, from time to time, be issuing informative updates to the public.



Increase in human resources

The FIAU has and continues to increase its human resources. The Intelligence and Analysis Section currently has 23 members of staff, earmarked to grow to 31 by June 2020. To accommodate this increase in personnel this Section was provided with new and larger offices within the FIAU premises. The Supervision and Enforcement Section currently has a staff complement of 29 in comparison to 10 as at end of 2018. The Section has a four year recruitment plan to increase the resources to 58 by 2022. Likewise the Legal Affairs Section has 9 officers within various grades, compared to 5 a year ago.



Investment in technological tools

In addition to the increase in human resources the FIAU is also investing in specialised software solutions. These include specifically designed analytical tools, a newly developed software used to carry out the risk assessment process, and cryptocurrency investigation software. Investment is currently ongoing on the development of more software solutions required by the FIAU to perform its functions in an effective manner.



Reorganization and restructuring

The Intelligence and Analysis Section underwent a significant structural change during 2019.

The increase in the section's human resources enabled the setting up of four dedicated teams focusing on different areas of the analytical process: (i) Processing and Prioritisation of STRs; (ii) Operations; (iii) Special Operations (including terrorist financing cases); and (iv) Strategic Analysis and International Cooperation. The financial analysis manual and procedures have also been revised.

The **Supervision and Enforcement Section** has also undergone restructuring during 2019 and was split into three different functions and teams dealing with (i) identification and assessment of ML/FT risks; (ii) supervision of compliance with AML/CFT obligations; and (iii) enforcement in relation to identified breaches of AML/CFT obligations. The supervisory function has also been split into 3 teams dealing with (i) credit and financial institutions; (ii) investments, virtual financial assets; and (iii) DNFBPs. This will allow better supervisory coverage across all sectors.

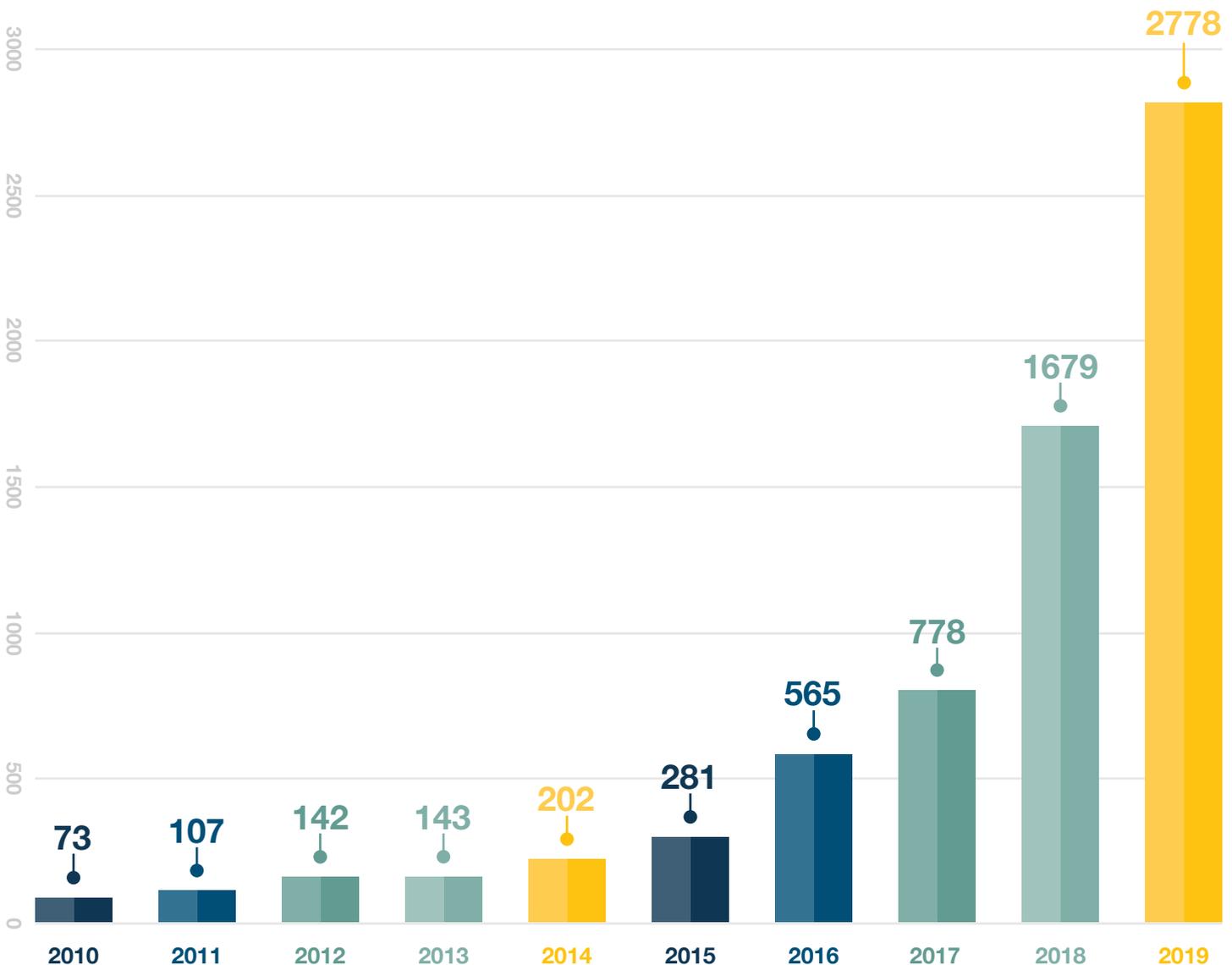
Similar restructuring has also been carried out within the **Legal Affairs Section** which has now been restructured into two teams – one dedicated to guidance and outreach and the other to legal and international relations. This was done to rationalize work and to ensure that there are sufficient resources being dedicated to guidance and outreach initiatives and to legislative developments.

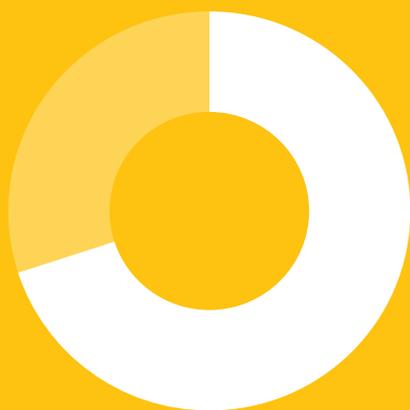


Increase in suspicious transaction reports

Over the years there has been a consistent increase in the number of Suspicious Transaction Reports (STRs) received. While in 2010 the FIAU received 73 STRs, in 2019 the FIAU received 2,778 STRs. The table below gives a very good picture of the increase of STRs over the years, particularly over the last 3 years. This is the result primarily of the work carried out by the FIAU to raise awareness amongst subject persons who are legally bound to submit STRs.

Number of STRs per Year





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Cooperation with national competent authorities and foreign financial intelligence units (FIUs)

The FIAU has also seen an unprecedented increase in the number of requests for information received from domestic competent authorities primarily regulatory and supervisory authorities. These requests normally relate to information required in the course of conducting due diligence checks. During 2019 the FIAU replied to such requests in relation to over 3,000 individuals and entities.

Cooperation with foreign FIUs is fundamental to the global fight against ML and FT. The FIAU has consistently provided replies to foreign FIUs within a week in 70% of cases. The FIAU also spontaneously shares information with its counterparts. 1548 spontaneous reports were shared with counterpart FIUs in 2019, and by the end of February this year, almost 600 spontaneous intelligence reports have been disseminated to counterpart FIUs.

Risk assessment

The assessment of ML/FT risk of every institution and person subject to compliance supervision (subject persons) by the FIAU, forms the basis for the risk-based approach to supervision. During the first quarter of 2019, a new risk assessment process with the objective of strengthening the risk-based approach to supervision was introduced. A new framework and methodology for risk assessment and scoring were adopted. Through this methodology, risk data of all the subject persons in Malta (approximately 2,300 subject persons), is gathered from multiple sources including, from information provided by the subject persons themselves by means of Risk Evaluation Questionnaires (REQs).

The new risk assessment methodology is being implemented by means of a new technological solution consisting in a central repository of information and risk data pertaining to all subject persons and an automated risk assessment process. The data collected from multiple sources is evaluated, measured and weighed in order to derive the overall risk profile of each subject person. Through this automated system, the FIAU is also in a position to constantly update risk profiles of subject persons on an ongoing basis and as soon as new emerging risk data is received.

Supervisory strategy

The FIAU has put in place a new risk-based supervisory strategy and methodology. A number of improvements have been implemented in order to strengthen the FIAU's supervisory practices. These include (i) determining the intensity, frequency and method of supervision from the results of the risk assessment carried out, with high risk subject persons being subject to more frequent and more in-depth examinations; (ii) enhanced cooperation with MFSA and MGA through increased sharing of information and the implementation of the supervisory plan; (iii) review of the supervisory process to enhance the quality, effectiveness and consistent application of supervisory procedures, particularly when supervisory actions are conducted by other supervisory authorities on behalf of the FIAU.

Enforcement

In response to recommendations made by the European Banking Authority and MONEYVAL, the FIAU has strengthened its enforcement function. Policies and enforcement procedures have been revised with the aim of streamlining the enforcement process and making it more effective. A new Sanctions Policy has been adopted and the Compliance Monitoring Committee, which identifies breaches and decides on

the administrative measures to be imposed, has been strengthened through new governing rules. The FIAU has also elaborated an enforcement categorisation tool and a sanctions tool to assist the Compliance Monitoring Committee to establish the type of administrative measures to be applied and to quantify pecuniary fines. These tools enable the FIAU to impose consistent, proportionate, effective and dissuasive administrative penalties as required by European law and international standards.

Cooperation with other supervisory authorities

Cooperation between the FIAU and the Malta Financial Services Authority (MFSA) and the Malta Gaming Authority (MGA) has been strengthened, with both the MFSA and MGA assisting and supporting the FIAU in its supervisory function. The FIAU is also engaging closely with the MFSA in relation to the authorisation of credit and financial institutions in order to identify any ML/FT risks and concerns at the application stage. The FIAU also assists the MFSA and MGA in their assessment of suitability of Money Laundering Reporting Officers prior to their engagement by financial and gaming service providers.



Transposition of the 5th Anti-Money Laundering Directive and other relevant legislation

The FIAU has always been heavily involved in proposing new, and amendments to, AML/CFT legislation. The FIAU has in fact prepared the amendments required to the Prevention of Money Laundering Act (PMLA) and the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR). These amendments are now in force. While most of these amendments relate to the transposition of the 5th Anti-Money Laundering Directive (5th AMLD), other amendments have addressed issues that had been highlighted by MONEYVAL. The composition of the FIAU Board of Governors has also been changed with the addition of members nominated by the Malta Gaming Authority and by the Commissioner for Revenue while the Attorney General is no longer part of the Board.



Guidance documents

One of the recommendations made by MONEYVAL is to increase the awareness of all subject persons on the ML/FT risks specific to their sector. MONEYVAL identified trust and company services providers, legal professionals, accountants and auditors, and real estate agents, as being sectors that should be prioritized when it comes to the FIAU's outreach drive. In response, the FIAU has taken a number of initiatives to further strengthen subject persons' understanding of the ML/FT risks they face.

Sector specific guidance for those active in the area of Virtual Financial Assets has been issued;

A Guidance Paper has been issued on risk factors, mitigating measures, red flags and case studies addressed to all those subject persons active in the real estate sector. Special focus is given to notaries and real estate agents;

Sector specific guidance for Company Service Providers is at an advanced stage and, apart from setting out how subject persons within this sector can apply AML/CFT obligations, the guidance will provide a list of high risk factors and red flags as well as case studies;

Sector specific guidance for accountants and auditors is also being finalised. This will include risk factors, mitigating measures, red flags and case studies relevant to the sector;

Two guidance documents for lawyers and notaries are also being finalized. These will assist with determining whether a given service falls within the scope of AML/ CFT obligations;

The FIAU's guidance document on red flags and suspicious activities related to terrorism financing is being revised and updated into a fully-fledged guidance document on terrorism financing;

The sector specific guidance for credit institutions is being revised, and will also cover financial institutions;

Guidance addressed to remote gaming operators is also being reviewed to reflect changes that have taken place within the sector;

The FIAU has also initiated work on an informal guidance note to answer pertinent questions and concerns on the legal regime surrounding reporting.



Outreach and training initiatives

In an effort to better address the concerns raised and recommendations made by MONEYVAL, the FIAU has dedicated time and resources towards outreach initiatives:

The Joint Committee for the Prevention of Money Laundering and Funding of Terrorism has been reconvened. This forum brings together representatives of the different sectors subject to AML/CFT obligations and the relevant authorities, and allows the FIAU to reach out and consult with the sectors and provide updates on its work;

A sub-committee of the above Joint Committee has been created for the purpose of identifying and discussing emerging trends and red flags in terrorism financing, leading to the issuing of a Guidance Document on Terrorism Financing;

The FIAU participated in a training session on AML/CFT for notaries held in conjunction with the Notarial Council and the Council of Notaries of the European Union. During this session the FIAU gave practical examples of red flags, typologies and risk factors associated with the notarial profession

Between October 2019 and February 2020, **FIAU officials attended eight training sessions addressed to credit institutions, trust and company services providers, gaming operators and other sectors**, while FIAU officials continue to deliver presentations and interventions, and participate in panel discussions, in conferences and training events organized by third parties and representative bodies;

Public private partnership initiatives

The FIAU recognises the importance of interacting with the private sector. It has therefore engaged in public private partnerships. FINREP is a public private initiative aimed at conducting strategic analysis involving the private sector. A number of credit institutions are involved in this initiative. The FIAU has also launched the AML/CFT Consultants Forum, bringing together a number of AML consultants, advisors and key officials from within the FIAU. The Consultants Forum is a public private initiative aimed at creating a dialogue between the FIAU and AML/CFT consultants that provide professional consultancy services to subject persons. Other meaningful public private partnership initiatives are also being considered.

Cash restriction

As has been announced by government, legislation will be introduced to impose restrictions on cash payments in particular sectors. The FIAU was charged with implementing the said policy and the PMLA has been amended to extend the FIAU's functions to monitor compliance with restrictions on payments in cash. The FIAU is at present conducting research on the implementation of similar restrictions in other EU Member States and will shortly initiate the process of drafting the necessary legislation.

International fora

The FIAU is also highly involved in international fora. FIAU officials attend and actively contribute at a wide range of international AML/CFT-related meetings, including meetings of the EU Commission's Expert Group on Money Laundering and Funding of Terrorism and other meetings with the Commission, meetings of the Standing Committee on Anti-Money Laundering and Countering Terrorist Financing of the European Banking Authority (AMLSC), the EU FIU Platform, MONEYVAL, the Egmont Group of FIUs, and the FATF.



FIAU to administer the central, bank and payment account register

The 5th AMLD requires member states to put in place by the 10th September 2020 a centralised automated mechanism which allows the identification, in a timely manner, of any natural or legal persons holding or controlling payment accounts, bank accounts identified by IBAN and safe deposit boxes. **The FIAU has been tasked with the setting up and administration of this Register.** For this purpose the PMLA has been amended to empower the FIAU to establish, manage and administer centralised automated mechanisms allowing for the retrieval of data and information on any person holding or controlling payment or bank accounts or any person making use of safe custody services offered by credit institutions. Extensive research and consultations on both the legal and technical aspects have already taken place and work is ongoing for the procuring of the specialised software solution required.

