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1. Annex I – Act of 16th November 2000 on counteracting money laundering and terrorism financing

(Journal of Laws 2010, No 46, item 27603.153.1505 – consolidated text)

Chapter 1

General Provisions

Article 1. The Act lays down principles of and procedures for counteracting money laundering, counteracting terrorist financing, application of specific restrictive measures against persons, groups and entities, and obligations of entities involved in financial transactions in so far as collection and disclosure of information.

Article 2. Whenever the Act refers to:

- 1) obligated institution, it shall mean:
 - a) branches of a credit institution as defined in the Act of 29 August 1997 - Banking Law (Journal of Laws of 2002 No. 72 item 665, as amended)
 - b) any financial institution having its registered office in the territory of the Republic of Poland, branches of a financial institutions not having its registered office in the territory of the Republic of Poland as defined in the Act of 29 August 1997 - Banking Law,
 - c) national banks, branches of foreign banks as defined in the Act of 29 August 1997 – Banking Law,
 - d) the National Bank of Poland - in so far as the maintenance of bank accounts for legal entities, sale of coins, banknotes and numismatic items for collection and other purposes, gold buying and exchange of damaged legal tender under the Act of 29 August 1997 on the National Bank of Poland (Journal of Laws of 2005 No. 1 item 2, as amended)
 - e) electronic money institutions, branches of a foreign electronic money institution and any clearing agent operating under the Act of 12 September 2002 on electronic payment instruments (Journal of Laws No. 169 item 1385, as amended),
 - f) investment companies, custodian banks, as defined in the Act of 29 July 2005 on trading in financial instruments (Journal of Laws No. 183 item 1538, as amended),
 - g) foreign legal entities carrying out brokerage activities and commodity brokerage houses in the territory of the Republic of Poland as defined in the Act of 26 October 2000 on commodity exchanges (Journal of Laws of 2005 No. 121 item 1019, as amended), and any commercial companies referred to in Article 50a of the Act,
 - h) the National Depository for Securities S.A. – in so far as the maintenance of securities accounts,
 - i) entity operating in the field of games of chance, mutual betting and automatic machine games and automatic machines games of low prizes,
 - j) insurance companies in so far as life insurance, including any domestic insurer, main branches of an insurer from a non-EU member country, branches of an insurer from a EU-member country, life insurance intermediaries unless an insurer is responsible for their operations,
 - k) investment funds, investment fund management companies , as defined in the Act of 27 May 2004 on investment funds (Journal of Laws No. 146 item 1546, as amended)
 - l) cooperative savings and credit unions,
 - m) public operator within the meaning of the Act of 12 June 2003 - Postal Law (Journal of Laws of 2008 No. 189 item 1159; and of 2009 No. 18 item 97),
 - n) notaries in so far as notary's operations concerning trading in asset values, attorneys performing their profession, legal advisers practicing his profession outside their employment relationship with agencies providing services to the government authorities and local

- government units, foreign lawyers providing legal services apart from his employment, expert auditors, active tax advisers,
- o) entities operating in so far as accounts bookkeeping services,
 - p) entities providing currency exchange operations,
 - q) entrepreneurs engaged in: auction houses, antique shops, business factoring, trading in metals or precious/semi-precious stones, commission sale or real estate brokerage,
 - r) foundations,
 - s) associations with corporate personality established under the Act of 7 April 1989 - Law of Associations (Journal of Laws of: 2001 No. 79 item 855; of 2003: No. 96 item 874; of 2004: No. 102 item 1055; and of 2007: No. 112 item 766) and receiving payments in cash of the total value equal to or exceeding the equivalent of 15.000 EURO, originating also from more than one operation,
 - t) entrepreneurs within the meaning of the Act of 2 July 2004 on freedom of economic activity (Journal of Laws of 2007 No. 155 item 1095, as amended), receiving payment for commodities in cash of the value equal to or exceeding the equivalent of 15.000 EURO, also when the payment for a given product is made by more than one operation;
- 1a) beneficial owner, it shall mean:
- a) a natural person or natural persons who are owners of a legal entity or exercise control over a client or have an impact on a natural person on whose behalf a transaction or activity is being conducted,
 - b) a natural person or natural persons who are stakeholders or shareholders or have the voting right at shareholders meetings at the level of above 25% within such a legal entity, therein by means of block of registered shares, with the exception of companies whose securities are traded within the organised trading, and are subject to or apply the provisions of the European Union laws on disclosure of information, and any entities providing financial services in the territory of a EU-Member State or an equivalent state in the case of legal entities,
 - c) a natural person or natural persons who exercises control over at least 25% of the asset values - in the case of entities entrusted with the administration of asset values and the distribution of, with the exception of the entities carrying out activities referred to in Article 69 item 2 point 4 of the Act of 29 July 2005 on trading in financial instruments.
- 1b) entity providing financial services, it shall mean any obligated institution or another organization that has its legal address outside the territory of the Republic of Poland and which - on its own behalf and for its own account - under the authorization of a competent state-owned body exercising the supervision over such an entity, carries on business activities which include:
- a) acceptance of deposits or other repayable funds,
 - b) granting credits,
 - c) conclusion of financial lease agreements,
 - d) granting guarantees and securities,
 - e) trading - on its own account or on its client's account - in money market instruments, foreign exchange, options and future contracts,
 - f) participation in issuing financial instruments and provision of services related to such issues ,
 - g) advisory services provided to companies on capital structure, industrial strategy and on mergers and acquisitions,
 - h) brokerage in the money market,
 - i) portfolio management or investment advisory services,
 - j) storage and administration of financial instruments,
 - k) rental of safe deposit boxes;
- 1c) shell bank, it shall mean an entity providing financial services or engaged in equivalent activities, established in the territory of a country in which it does not have any legal address, in such a manner that its actual management and administration are performed, and where such an entity is not affiliated with any financial group operating legitimately;
- 1d) economic relations, it shall mean any relations of the obligated institutions with clients related to economic activities within the meaning of the Act of 2 July 2004 on freedom of economic activity, and which - at the time of their establishment - indicate long-term cooperation;

- 1e) carry out a transaction, it shall imply to the execution of orders or instructions of a client by the obligated institution;
- 1f) politically exposed persons , it shall mean the following natural persons:
- a) heads of state, heads of government, ministers, deputy ministers or assistant ministers, members of parliament, judges of supreme courts, constitutional tribunals and other judicial bodies whose decisions are not subject to further appeal with the exception of extraordinary measures, members of the court of auditors, members of central bank management boards, ambassadors, chargés d'affairs and senior officers of armed forces, members of management or supervisory bodies of state-owned enterprises – who hold or held these public functions, within a year since the day they ceased to meet the conditions specified in these provisions,
 - b) spouses of persons referred to in point (a), or persons staying with them in cohabitation, parents and children of the persons referred to in point (a) and the spouses of those parents and children or other persons staying in cohabitation with them,
 - c) who remain or remained in close professional or business co-operation with the persons referred to in point (a) and, or are co-owners of legal entities, and only ones entitled to assets of legal entities if they have been established for the benefit of those persons
 - domicile outside the territory of the Republic of Poland;
- 2) transactions, it shall mean performing – on someone's own or on someone else's behalf, on someone's own or someone else's account:
- a) deposits and withdrawals in cash or non-cash, including transfers of funds within the meaning of Article 2 point 7 of the Regulation No. 1781/2006, commissioned both in the territory of the Republic of Poland, and beyond it,
 - b) buying and selling foreign currency,
 - c) transfer of the ownership or asset values, including putting such values into consignment or as collateral , and transfer of asset values between bank accounts belonging to the same client,
 - d) a claim for shares or a claim for stock swap.
- 3) asset values, it shall mean means of payment, financial instruments within the meaning of Article 2, item 1 of the Act of 29 July 2005 on trading in financial instruments, as well as other securities or foreign exchange, property rights, movable asset values and immovable estate;
- 4) account, it shall mean any bank account, any account maintained at a financial institution, any account held in a credit institution, any account in a cooperative savings and credit union, any securities account and any cash account used for its service, any registry of fund participants, any record of participants of an investment fund;
- 5) transaction suspension, it shall mean any temporary restrictions on administering and using asset values, preventing from the performance of a specific transaction by the obligated institution;
- 6) account blockage, it shall mean temporary restrictions on administering and using all the asset values collected on the account, therein also by the obligated institution;
- 6a) account freeze, it shall mean prevention against transmission, conversion and use of asset values or carrying out transactions in a manner that might change their volume, value, location, ownership, possession, nature, destination or against any other change which may enable using such asset values;
- 7) (revoked);
- 8) cooperating units – it shall mean any government and local government authorities and other public organizational units, as well as the National Bank of Poland, the Polish Financial Supervision Authority and the Supreme Chamber of Control;
- 9) money laundering, it shall mean any deliberate action such as:
- a) conversion or transfer of asset values derived from criminal activity or from participation in such activity in order to conceal or disguise the illicit origin of asset values, or granting assistance to a person who participates in such activities in order to avoid legal consequences of actions undertaken by such a person,
 - b) concealment or disguise of the true nature of asset values or property rights associated with them, of their source, location, disposition and an event of their dislocation, being aware that these values are derived from criminal activity or participation in such activity,
 - c) acquisition, taking possession or use of asset values derived from criminal activity or participation in such an activity,

- d) complicity, attempt to commit, aiding or abetting - in the cases of behaviour referred to in a) - c);
 - even if the activities leading to attain those asset values were conducted in the territory of another country than the Republic of Poland;
- 10) terrorism financing, it shall mean an act referred to in Article 165a of the Act of 6 June 1997 - Penal Code (Journal of Laws No. 88 item 553, as amended);
- 11) equivalent country, it shall mean any country which is not a EU-member but applies provisions on money laundering and terrorist financing in line with the European Union law;
- 12) Regulation No 1781/2006, it shall mean the EC Regulation No. 1781/2006 of the European Parliament and the Council of 15 November 2006 on information on the payer accompanying transfers of funds (OJ L 345 of 08.12. 2006 point 1).

Article 2a. When determining the equivalent in EURO - as referred to in the Act – one shall apply the average rate announced by the National Bank of Poland for the currency in question at the day of the transaction or the day of disposal or the day of orderding the transaction.

Chapter 2

Competent authorities responsible for counteracting money laundering and terrorist financing

Article 3. 1. A competent government authorities responsible for counteracting money laundering and terrorist financing, hereinafter referred to as “financial information authorities”, shall be:

- 1) a minister competent for financial institutions as the supreme authority of financial information;
 - 2) the General Inspector of Financial Information, hereinafter referred to as the ”General Inspector”.
- 2.The General Inspector shall be appointed and dismissed by the Prime Minister at the request of the minister competent for financial institutions.
- 3.The General Inspector is an Under-Secretary of State at the Ministry of Finance.
- 4.The General Inspector shall perform his duties with the assistance of an organizational unit established for this purpose within the structure of the Ministry of Finance.
- 5.The provisions of paragraph 1 do not infringe the provisions of the Act of 24 May 2002 on the Internal Security Agency and Intelligence Agency (Journal of Laws No. 74 item 676; and of 2003: No. 90 item 844, No. 113 item 1070 and No. 130 item 1188) defining duties of the Internal Security Agency and Intelligence Agency.

Article 4. 1. Duties of the General Inspector involve acquiring, collecting, processing and analyzing information in the manner prescribed by law, and undertaking actions aimed at counteracting money laundering and terrorist financing, particularly:

- 1) investigation of the course of transaction, which has raised reasoned suspicions of the General Inspector;
- 2) carrying out of the procedure for transaction suspension or bank account blocking;
- 3) adjudicating on the release of frozen asset values;
- 4) disclosure of information on transaction or requesting for it;
- 5) submission of documentation supporting suspicion on the commitment for criminal offense to legitimate bodies;
- 6) initiating and undertaking other measures to counteract money laundering and financing terrorism, including training provided to the personnel of the obligated institutions within the responsibilities imposed on these institutions;
- 7) monitoring of compliance with legal regulations on counteracting money laundering and terrorist financing;
- 8) cooperation with foreign institutions and international organizations dealing with anti-money laundering or combating terrorist financing;
- 9) impose penalties as referred to in the Act.

2. Responsibilities of the authority referred to in Article 15 items 2 and 3 of the Regulation No. 1781/2006, are executed by the General Inspector.

Article 4a. 1. The General Inspector submits an annual report on his activities to the Prime Minister within 3 month after the end of the year in question which is subject to the report.

2. The report referred to in paragraph 1, includes in particular: the number of transaction reported by the obligated institutions, a description of actions undertaken in response to such notifications and the number of cases for which the proceeding was carried out, the number of persons who faced the allegation on having committed the crime referred to in Article 165a or Article 299 of the Penal Code, and number of persons convicted of crimes, with and without legal validity referred to in Article 165a and Article 299 of the Penal Code, and the evaluation of asset values in respect of which either freezing, blockage, or suspension of transactions has been performed, or property seizure, confiscation or forfeiture has been adjudicated.

3. The Minister of Justice shall provide information to the General Inspector on the number of criminal prosecutions, the number of persons in respect to the proceedings instituted and convicted of crimes, with and without legal validity, referred to in Article 165a and Article 299 of the Penal Code, and on asset values in respect to which freezing, blocking, and suspension of a transaction has been performed, or property seizure, confiscation or forfeiture has been adjudicated - within 2 months after the end of the year in question and subject to the report.

4. After having submitted the report referred to in paragraph 1 to the Prime Minister, it shall be published by the minister competent for financial institutions on the website of the Public Information Bulletin of the Ministry of Finance.

Article 4b. 1. The General Inspector shall be exempted from performing his responsibilities referred to in Article 18 and 18a, and Article 21 paragraph 1, if there appears a circumstance of such nature that it could raise doubts as to his impartiality.

2. Such an exclusion takes place at the written request of the General Inspector submitted to the minister competent for financial institutions.

3. In the event of such an exclusion of the General Inspector, his responsibilities are taken over by the minister competent for financial institutions.

Article 5. 1. The minister competent for internal affairs and the Head of the Internal Security Agency, in consultation with the minister competent for financial institutions, may delegate employees or officers of the subordinate units and bodies, or under their supervision, to work in a unit referred to in Article 3 paragraph 4.

2. Detailed terms and conditions for so delegated employees and officers of the units and bodies subordinate to the competent minister of internal affairs, or being under his supervision, are governed by separate regulations.

3. The Minister of National Defence, in consultation with the minister competent for the financial institutions, may designate regular soldiers to be on duty in a unit referred to in Article 3, paragraph 4.

4. The Prime Minister shall determine, by regulation, detailed terms and conditions on delegating officers of the Internal Security Agency, therein data which should be included in the application that the General Inspector moves for to delegate an officer taking under consideration: the position assigned to the person delegated; the scope of his/her duties and responsibilities on this position and the proposed salary; data that such an order for the secondment of personnel should include, therein conditions and time-limits of delegation; and also types of powers and welfare benefits available to the officer delegated, along with the arrangements for payment of salary and other monetary claims determining the distribution of salaries and monetary claims paid either by the organizational unit of the Internal Security Agency or the organizational unit to which the officer is assigned.

5. The minister competent for internal affairs, in consultation with the minister responsible for financial institutions, shall determine, by regulation, detailed terms and conditions of the deployment of employees of the bodies and authorities subordinate to him/her, therein data which should be included in the application that the General Inspector moves for to delegate an employee taking under consideration: the position assigned to the person delegated; the scope of his/her duties and responsibilities on this position and the proposed salary; data that such an order for the secondment of personnel should include, therein conditions and time-limits of delegation; and also types of powers

and welfare benefits available to the officer delegated, along with the arrangements for payment of salary and other monetary claims determining the distribution of salaries and monetary claims paid either by the organizational unit of the Internal Security Agency or the organizational unit to which the officer is assigned.

6. Detailed rules and procedures on the designation of regular soldiers to be on duty in a unit referred to in Article 3 paragraph 4, as well as detailed rules for granting salaries and other benefits inherent at the time of service in this unit are defined in the Act of 11 September 2003 on the military service of regular soldiers (Journal of Laws No. 179, item 1750).

Article 6. (revoked)

Article 7. 1. When an audit proceeding is being carried out under the scope and according to the principles defined by the Supreme Chamber of Control, the General Inspector provides the auditors with the information obtained within the course of execution of the duties referred to in Article 4, on the grounds of a separate authorization of the President of the Supreme Chamber of Control.

2. In the event of the audit carried out the Supreme Chamber of Control, Article 34 shall apply.

Chapter 3

Responsibilities of the obligated institution

Article 8. 1. Any obligated institution conducting a transaction exceeding the equivalent of 15.000 EURO is required to register such a transaction, also if it is carried out by more than one single operation but the circumstances indicate that they are linked and that they were divided into operations of less value with the intent to avoid the registration requirement.

1a. In case of casino operators under the provisions of the Gambling Act of 19 November 2009 (Journal of Laws, No. 201, item 1540) , the obligation referred to in paragraph 1 involves purchase or sale of gambling chips of the value equivalent to at least 1.000 EUR.

1b. The transactions referred to in paragraph 1a shall apply to the regulations on the transactions referred to in paragraph 1 accordingly.

1c. (revoked)

1d. (revoked)

1e. The obligation referred to in paragraph 1 shall not apply to:

- 1) transfers from a deposit account to a time deposit account belonging to the same client at the same obligated institution;
- 2) transfers to a deposit account from a time deposit account belonging to the same client at the same obligated institution;
- 3) incoming transfers with the exception of bank transfers from abroad;
- 4) transactions related to the internal management of the obligated institutions;
- 5) transactions concluded on the interbank market;
- 6) events defined in Articles 9d paragraph 1;
- 7) banks associating cooperative banks, provided the transaction has been registered in the associated co-operative bank;
- 8) transactions of temporary lien to secure asset values, conducted for the duration of the lien contract with the obligated institution.

2. (revoked)

3. Any obligated institution conducting a transaction, the circumstances of which may suggest that it was related to money laundering or terrorist financing, is required to register such a transaction, regardless of its value and character.

3a. In the event that the obligated institution does not accept the disposition or order to conduct a transaction, the obligation referred to in paragraph 3 shall also apply if this institution is aware of or - with due diligence - should be aware of such a transaction in regard to the contract with its client.

3b. Any obligated institutions that are attorneys, legal advisers and foreign lawyers shall exercise the obligation referred to in paragraph 3 when they participate in transactions related to the provision of assistance to their clients, which is planning or carrying out transactions relating to:

- 1) buying and selling real estate or business entities ;
- 2) money management, securities or other asset values;
- 3) opening accounts or their management;
- 4) arrangements of payments and extra payments to the initial or share capital, arrangements of contributions to create or conduct business operations of companies or for their administration;
- 5) creation and operation of entrepreneurs in a different form of business organization, and also the management of.

4. The register of transactions referred to in paragraphs 1 and 3 shall be stored for a period of 5 years, calculating from the first day of the year following the year in which transactions were recorded. In the event of liquidation, merger, division and transformation of any obligated institution, the provisions of Article 76 of the Act of 29 September 1994 on accounting (Journal of Laws of 2009 No. 152 item 1223, No. 157 item 1241 and No. 165 item 1316) shall be applied in regard to keeping records and documentation.

4a. Any information on the transactions carried out by the obligated institution and documents related to such a transaction are stored for a period of 5 years calculating from the first day of the year following the year in which the last record associated with the transaction took place.

4b. Provisions of paragraphs 4 and 4a shall apply to the information recorded under paragraphs 3a and 3b accordingly.

5. ⁽⁴⁵⁾ The registration of transactions referred to in paragraph 1 shall not apply to the companies operating within real estate brokerage, electronic money institutions, foreign divisions of electronic money institutions, cash pool leaders, attorneys, legal advisers and foreign lawyers, and also auditors and tax consultants.

Article 8a. 1. Any obligated institution shall carry out ongoing analysis of the transactions carried out. Results of those analyses should be documented in paper or electronic form.

2. All the results of such analyses shall be kept for a period of 5 years, calculating from the first day of the year following the year in which they were conducted. In the event of liquidation, merger, division and transformation of any institution obligated to keep records, the provisions of Article 76 of the Act of 29 September 1994 on accounting shall apply accordingly.

Article 8b. 1. Any obligated institution shall apply financial security measures for its clients. Their scope is determined on the basis of risk assessment as for money laundering and terrorist financing, hereinafter referred to as “risk assessment”, resulting from the analysis, taking into account in particular type of a client, economic relationships, products or transactions.

2. Financial security measures are not applied by:

- 1) the National Bank of Poland,
- 2) public operator referred to in Article 2 point 1 letter m) in the course of providing money transfer services.

3. Financial security measures referred to in paragraph 1, consist of:

- 1) client identification and verification of his identity on the basis of documents or information publicly available;
- 2) making attempts, with due diligence, in order to identify a beneficial owner and apply verification measures to identify the identity of, dependent on appropriate risk assessment, in order to provide the obligated institution with data required on the actual identity of a beneficial owner, including the determination of the ownership structure and dependence of the client;
- 3) obtaining information regarding the purpose and the nature of economic relationships intended by a client;
- 4) constant monitoring of current economic relationships with a client, therein surveying transactions carried out to ensure that transactions are in accordance with the knowledge of the obligated institution on the client and the business profile of his operations and with the risk; and, if possible, surveying the origins of assets and constant update of documents and information in possession.

4. Financial security measures are applied, in particular:

- 1) when concluding a contract with a client;
- 2) when carrying out transaction with a client with whom the obligated institution has not previously concluded any agreements of the equivalent of more than 15.000 EURO, regardless of whether the

transaction is carried out as a single operation or as several operations if the circumstances indicate that they are linked;

- 3) when there is a suspicion of money laundering or terrorist financing regardless of the value of such a transaction, its organizational form and the type of a client;
- 4) when there are doubts raised that the previously received data referred to in Article 9 are authentic and complete.

5. In the event the obligated institution cannot perform its duties referred to in paragraph 3 points 1-3, it does not carry out the transaction, it does not sign the contracts with a client or it terminates the previously concluded contracts, and submits to the General Inspector, in accordance with the predetermined form, information about such client, along with the information on the specific transaction, , where appropriate, taking into account the risk of money laundering and terrorist financing.

6. Any obligated institution – at the request of the financial information authority and the authorities referred to in Article 21 paragraph 3 - presents its financial security measures applied in regard to the risk of money laundering and terrorist financing.

Article 9. 1. The identification, referred to in Article 8b paragraph 3 point 1, includes:

- 1) in case of natural persons and their representatives: determination and recording of the features of such a document confirming on the basis of separate provisions the identity of the person: the first and last name, nationality and address of the person performing the transaction; furthermore, his/her PESEL; or, if the person has no PESEL number, his/her date of birth or the number of an identity document confirming the identity of an alien, or a country code if it was a passport presented;
- 2) in case of a corporation: recording of current data from the extract of the Court Register or another document indicating the (company's) name and organizational form of such a legal entity, its registered office and address, its tax identification number along with the first and last name and the PESEL number of the person representing this legal entity - or in the case of a person with no PESEL number, his/her date of birth;
- 3) in the case of organizational units without legal status: recording of current data from a document indicating the name, the organizational form, the registered office and address, tax identification number along with the first name, the last name and the PESEL number of the person representing this unit - or in the case of a person with no PESEL number, his/her date of birth;

2. The identification, referred to in Article 8b paragraph 3 point 1, shall also apply to transaction parties which are no clients and it includes determination and recording of their (companies') names or the first and last name and address, to the extent to which these data may be determined with due diligence by the obligated institution.

3. The identification, referred to in Article 8b paragraph 3 point 2, includes determination and record of the first and last name and address, along with other identifiers, referred to in paragraph 1 point 1, to the extent to which the obligated institution is able to determine it.

Article 9a.1. The verification, referred to in Article 8b paragraph 3 points 1 and 2, consists of verifying and confirming data referred to in Article 9 paragraphs 1 and 3, and is performed before entering into a contract with a client or prior to the transaction.

2. The verification, referred to in Article 8b paragraph 3 points 1 and 2, may be completed after having established an economic relationship only if it is necessary to ensure further business operations and where there is little risk of money laundering or terrorist financing determined on the basis of relevant analysis performed.

3. In the case of insurance operations, within life insurance, the verification of identity of a policy's beneficiary or a policy's holder may be performed at the time of payment or prior to effecting it or when such a beneficiary or such a holder intends to exercise his/her rights under such an insurance policy.

Article 9b. 1. In justified cases, it is possible to open an account without satisfying the requirement referred to in Article 8b paragraphs 1-4.

2. In the case referred to in paragraph 1, effecting any transaction by means of an account is acceptable after the conclusion of a contract on conducting this account.

Article 9c. In the case of a casino operator, within the meaning of the Gambling Act of 19 November 2009, the measures referred to in Article 8b paragraph 3 point 1 shall be applied at the entrance of a client to the casino, regardless of the value of gambling chips purchased for gaming.

Article 9d. 1. Any obligated institution, taking into account the risk of money laundering or terrorist financing, may waive the application of Article 8b paragraph 3 points 1-3:

- 1) when its client is an entity providing financial services and established in the territory of a EU-Member State or an equivalent country;
- 2) in relation to:
 - a) government bodies, local government authorities and execution bodies,
 - b) life insurance policies, where an annual premium shall not exceed the equivalent of 1.000 EURO, or a single premium shall not exceed the equivalent of 2.500 EURO,
 - c) an insurance policy consolidated with retirement insurance, provided that the terms and conditions of such a policy do not include a surrender clause, and that such a policy may not be used as a collateral for a loan or loans,
 - d) electronic money, within the meaning of the Act of 12 September 2002 on electronic payment instruments, if the maximum amount stored in the device does not exceed:
 - the equivalent of 150 EURO - in the case of a device that can not be recharged, or
 - the equivalent of 2.500 EURO per calendar year in question - in case of a device which can be recharged, provided that the redemption amount is at least the equivalent of 1.000 EURO per calendar year in question.

2. In the event that a client is a company whose securities are admitted to public trading on a regulated market in at least one European Union member state or in an equivalent country, the obligated institutions - taking into account the risk of money laundering or terrorist financing - may abridge the application of financial security measures to the cases and the measures set out in Article 8b paragraph 3 point 1 and paragraph 4 points 1 and 3.

3. In the cases referred to in paragraph 1 point 1 and points 2a and 2b, the obligated institution shall collect information to determine whether a client meets the requirements of these regulations.

4. To collect information, referred to in paragraph 3, Article 9k shall apply accordingly.

5. The minister competent for financial institutions may determine, by regulation, other categories of persons or activities than those specified in paragraphs 1 and 2, which are related to low risk of money laundering or terrorist financing, and for which it is possible not to apply the provisions of Article 8b paragraph 3 points 2-4 and paragraph 4 points 2 and 4, taking under consideration proper execution of required financial security measures by the obligated institution.

6. The minister competent for financial institutions shall define, by regulation, the list of equivalent countries, taking into account the necessity of ensuring correct implementation of security measures by the obligated institutions and of the assessment in so far as conformity of the state standards with money laundering and terrorist financing, established by international organizations.

Article 9e.1. Any obligated institution shall apply - on the basis of risk analysis - increased security measures against a client in the events which may involve a higher risk of money laundering or terrorist financing and particularly in the cases referred to in paragraphs 2-5.

2. If the client is absent, the obligated institutions - for the purposes of identification – shall apply at least one of the following measures in order to reduce the risk:

- 1) establishment of the identity of the client on the basis of additional documents or information;
- 2) additional verification of the authenticity of the documents or attestation of their compliance with the original copies by a notary public, a government body, a local government authority or an entity providing financial services;
- 3) ascertainment of the fact that the first transaction was conducted via the client's account in the entity providing financial services.

3. In terms of cross-border relations with institutional correspondents from countries other than the EU-member states and equivalent countries, any obligated institutions being a provider of financial services shall:

- 1) collect information allowing to determine the scope of operations, and whether a provider of financial services is supervised by the state;
- 2) assess measures taken by a provider of financial services who is a correspondent in so far as counteracting money laundering and terrorist financing;
- 3) prepare documentation defining the scope of responsibilities of each provider of financial services;
- 4) ascertain with respect to payable-through accounts - that a provider of financial services, who is a correspondent, conducted the verification of identity and has taken appropriate actions under procedures on the application of financial security measures in relation with clients having direct access to such a correspondent's bank accounts and that it is able to provide, on demand of the correspondent, any data related to the application of financial security measures in regard to a client;
- 5) establish cooperation, with the prior consent of a board of directors or a designated member of such a board or a person designated by such a board; or a person designated in accordance with Article 10b paragraph 1.

4. With regard to the politically exposed persons, the obligated institutions:

- 1) implement procedures based on risk assessment to determine whether such client is a person holding a politically exposed position;
- 2) apply measures, adequate to the risk determined by this obligated institution, in order to establish the source of asset values introduced to trading;
- 3) maintain constant monitoring of conducted transactions;
- 4) conclude a contract with a client after having obtained the consent of the board, the designated member of the management board or a person designated by the board or a person responsible for the activities of the obligated institution.

5. The obligated institutions may collect written statements on whether a client is a person holding a politically exposed position, which are given under the penal liability for providing data incompatible with the facts.

Article 9f. 1. No obligated institution, which is a provider of financial services, shall establish and maintain cooperation within correspondent banking with a shell bank.

2. No obligated institutions shall establish and maintain cooperation within correspondent banking with any obligated institution which is a provider of financial services concluding contracts on accounts with a shell bank.

Article 9g. Any obligated institutions shall apply appropriate measures of financial security in order to prevent money laundering or terrorist financing, which may arise from products or transactions allowing to maintain anonymity.

Article 9h. Each obligated institutions may rely on other entities in so far as the implementation of the obligations set out in Article 8b paragraph 3 points 1-3. The responsibility for such an implementation shall remain with the obligated institution.

Article 9i. 1. Any obligated institution conducting a transaction on the basis of an order or a disposition accepted or received by an entity providing financial services - having its legal address within the territory of the EU-member state or an equivalent country - may recognise the obligations referred to in Article 8b paragraph 3 points 1-3 as executed provided that it has assured the submission of copies of documents or information confirming the application of financial security measures at each request of the obligated institution.

2. At the request of the institution conducting the transaction, the obligated institution accepting an order or disposition makes copies of the documents and information referred to in paragraph 1 immediately accessible.

3. The obligated institution shall not apply the provisions of paragraph 1, where financial security measures have been implemented by an entity providing financial services connected to the transfer of funds.

4. In order to disclose the information referred to in paragraph 1, the provisions limiting disclosure of information covered by secrecy protected by law and resulting from relevant provisions because of the type of operations carried out by the obligated institution shall not apply.

Article 9j. 1. Any obligated institution with its branches and subsidiaries in the territory of non-EU member states shall apply the financial security measures defined in the Act in those branches and subsidiaries.

2. In the absence of the possibility to fulfil obligation referred to in paragraph 1, any obligated institution shall carry out all the activities in order to effectively counteract money laundering and terrorist financing as provided for in the legislation of the countries referred to in paragraph 1.

3. Any obligated institution shall inform its subsidiaries and affiliates, referred to in paragraph 1, on any introduced internal procedures focused on counteracting money laundering and terrorist financing.

Article 9k. Information obtained as the result of the application of the measures referred to in Articles 8b and 9e is stored for a period of 5 years from the first day of the year following the year in which the transaction was carried out with the client. In the event of liquidation, merger, division or transformation of an obligated institution, the provisions of Article 76 of the Act of 29 September 1994 on accounting shall apply to the storage of documentation.

Article 10 (revoked).

Article 10a. 1. Any obligated institutions shall introduce a written internal procedure on counteracting money laundering and terrorist financing.

2. Such an internal procedure, referred to in paragraph 1, should contain, in particular, the determination of how the financial security measures shall be implemented, transactions registered, analyses performed and risk assessed, transaction information transmitted to the General Inspector, the suspension of transactions, account blocking and account's freezing carried out, and the manner in which the statements referred to in Article 9e point 5 received, if they are received, and how the information is stored.

3. When conducting analysis to determine risk value, any obligated institution should, in particular, include the criteria of the following nature:

- 1) economic - involving assessment of client's transaction in terms of its business activity;
- 2) geographic - involving performance of transactions unwarranted by the nature of business activity, concluded with the operators of the countries where there is a high risk of money laundering and terrorist financing;
- 3) objective - involving business activities of high-risk conducted by the client in terms of vulnerability to money laundering and terrorist financing;
- 4) behavioural - involving unusual behaviour of the client, in the situation in question.

4. Any obligated institution assures the participation of the employees, who perform duties related to counteracting money laundering and terrorist financing in this obligated institution, in training programs related to these duties.

Article 10b. 1. Any obligated institutions designates persons responsible for fulfilling the obligations specified in the Act. In the obligated institutions that are commercial capital companies, cooperative or state banks, the person responsible for fulfilling the obligations specified in the Act is a board member appointed by the management board, and in the obligated institutions, which are branches of foreign banks or credit institutions, it is a director of the branch.

2. When the obligated institutions exercises its business activity individually, a person responsible is a person performing this activity.

3. The provision of Article 10a shall apply accordingly to any obligated institution exercising its business activities individually.

Article 10c. 1. The provisions of Regulation No 1781/2006 shall not apply where a payment service provider of the recipient is able - by means of a unique reference number - to monitor back all the transfers of funds to the payer originating from a legal entity, an organizational unit without legal personality or a natural person, who has concluded a contract for the supply of goods and services with the recipient, even if amount of such a transaction does not exceed the equivalent of 1.000 EURO.

2. The provision of Art. 5 of Regulation No 1781/2006 shall not apply to a payment service provider having their legal address in the territory of the Republic of Poland with reference to transfers of funds to non-profit organizations, exercising charitable, religious, cultural, educational, social, scientific activities, if the transfer of funds does not exceed the equivalent of 150 EURO and takes place only in the territory of the Republic of Poland.

Article 10d.⁽⁶⁴⁾ Any obligated institution which are lawyers, legal advisers or foreign lawyers shall not apply the provisions of Article 8a, Article 8b paragraph 3 point 2-4, Article 9e paragraphs 1-3, Articles 9f-9j, Article 10a paragraphs 1-3, Articles 10b paragraph 1, and of Article 10c.

Chapter 4

Principles for providing information to the General Inspector

Article 11. 1. Any obligated institution provides information on transactions registered in accordance with Article 8 paragraphs 1 and 3 to the General Inspector. Such a provision involves sending or delivering data from the register of transactions referred to in Article 8 paragraph 4, also using computer data storage carriers.

2. (revoked).

3. Such information on transactions referred to in Article 8 paragraph 1 may be forwarded to the General Inspector through the agency of chambers of commerce associating obligated institutions and banks associating co-operative banks.

4. Information on the transactions referred to in Article 8, may be forwarded to the General Inspector through the agency of a territorially competent body of professional self-management of notaries, attorneys, legal advisers and foreign lawyers, if a national body of such a self-management body adopts a resolution determining detailed rules and a course of provision of such information to the General Inspector. Then the national self-management body submits the list of persons responsible for providing such information to the General Inspector.

5. The obligation to provide information on transactions covered by the provisions of the Act does not apply if lawyers, legal advisers and foreign lawyers, auditors and tax advisers represent their client on the basis of a power of attorney related to proceedings pending or provide advice for the purpose of such a proceeding.

Article 12 1. Information on the transactions recorded in accordance with Article 8 paragraphs 1 and 3 shall include in particular the following data:

- 1) trade date;
- 2) identification data of the parties to the transactions referred to in Article 9 paragraphs 1 and 2;
- 3) the amount, currency and type of the transaction;
- 4) numbers of account used to conduct the transaction if the transactions involved such accounts;
- 5) (revoked);
- 6) (revoked);
- 7) substantiation along with the place, date and manner of placing disposition in the event of providing information on the transactions referred to in Article 8, paragraph 3.

2. Information on the transaction registered in accordance with Article 8 paragraph 1 and 3, containing information specified in paragraph 1, shall be forwarded to the General Inspector:

- 1) within 14 days after the end of each calendar month - in the case of the transactions referred to in Article 8, paragraph 1;
- 2) immediately - in the case of the transactions referred to in Article 8, paragraph 3.

3. The provision of paragraphs 1 point 2 shall not apply to the transactions conducted on the regulated market within the meaning of the Act of 29 July 2005 on trading in financial instruments, with respect to the identification data of the party not being a client of this transactions.

Article 12a. In the case of transactions referred to in Article 8 paragraph 3, the obligated institution shall provide additional data in its possession about the parties of transactions, including information on their personal accounts and related to their business activity, not used in the subject transaction.

Article 13 The minister competent for financial institutions, in consultation with the minister competent for internal affairs, and after consultation with the President of the National Bank of Poland, determines, by regulation:

- 1) the form of the register referred to in Article 8 paragraph 4, the method of its conducting and the procedure for delivery of data from the register to the General Inspector;
- 2) the procedure for providing information on the transactions referred to in Article 8 paragraphs 1 and 3 to the General Inspector, when using computerized data storage carriers.

Article 13a. 1. At the written request of the General Inspector, any obligated institution shall immediately disclose any information about the transactions covered by the provisions of the Act. Such a disclosure consists in particular the provision of information about the parties of transaction, the content of documents, including the balances and turnovers on the account, provision of certified copies of theirs, or a disclosure of relevant documents for insight of the authorized employees of the unit referred to in Article 3 paragraph 4 in order to produce notes or copies.

2. The information referred to in paragraph 1, shall be forwarded to the General Inspector free of charge.

3. The General Inspector may request to be provided with the information referred to in paragraph 1 in an electronic manner.

Article 14. 1. (revoked).

2. The Prosecution Office, the Internal Security Agency, the Central Anticorruption Bureau and the units subordinated to the minister competent for internal affairs and supervised by him shall immediately inform the General Inspector, within the limits of its statutory authority, on all the cases involving:

- 1) receipt of information indicating suspicion of crimes having been committed as referred to in Article 165a and Article 299 of the Penal Code, in the form of a summary statement, not later than the end of the month following the month in which the information was obtained;
- 2) presentation of charges relating to the commitment of the crime referred to in Article 165a and Article 299 of the Penal Code;
- 3) initiation and completion of proceedings on the crime referred to in Article 165a and Article 299 of the Penal Code.

3. The information, referred to in paragraph 2, must indicate, in particular, the circumstances relating to the commitment of the crime and to the persons participating in it.

4. The General Inspector shall immediately notify the authorities referred to in paragraph 2 of the circumstances indicating the connection between the information obtained in the manner specified in this provision, and information on the transactions referred to in Article 8 paragraph 3, Article 16 paragraphs 1 and 1a, and Article 17.

Article 15 At the request of the General Inspector, all the cooperating units are obliged to provide, within their statutory authority, any information necessary to carry out his tasks in the field of prevention as referred to in Article 165a and Article 299 of the Penal Code.

Article 15a. 1. Within their statutory authority, the cooperating units, with the exception of the bodies referred to in Article 14 paragraph 2, are obliged to cooperate with the General Inspector within the prevention of the crimes referred to in Article 165a and Article 299 of the Penal Code, and to:

- 1) immediately notify the General Inspector on any suspicion involving committing money laundering and terrorist financing;
- 2) submit certified copies of documents relating to the transactions for which there is a suspicion that they are related to the commitment of crimes referred to in Article 165a and Article 299 of the Penal Code, along with the information on the parties of such transactions.

2. Any cooperative units are required to develop a manual of procedures to be carried out in the cases referred to in paragraph 1.

3. An fiscal control authorities, tax authorities and customs authorities shall immediately notify the General Inspector of any circumstances disclosed in the course of their business operations that may indicate activities aimed at the commitment of crimes referred to in Article 165a and Article 299 of the Penal Code.

4. The notification referred to in paragraph 1 point 1 and paragraph 3 should include, in particular, a description of the circumstances disclosed, along with the reasons why the notifier concluded that they might have been involved in carrying out activities aimed at the commitment of a crime referred to in Article 165a and Article 299 of the Penal Code.

5. The Border Guard and the Customs authorities shall provide the General Inspector with the information referred to in Article 5 of Regulation (EC) No 1889/2005 of the European Parliament and the Council of 26 October 2005 on controls of cash entering or leaving the Community (OJ L 309, 25.11.2005, point 9), and with the information contained in the declaration referred to in the regulations issued under Article 21 of the Act of 27 July 2002 - Foreign Exchange Law (Journal of Laws No. 141 item 1178, as amended). This information is provided accordingly through the agency of the Chief Commander of the Border Guard or the Head of the Customs Service within 14 day of the month following the month in which the import of cash in the territory of the Republic of Poland, or export of funds from the territory of the Republic of Poland, has been performed.

6. The minister competent for financial institutions shall define, by regulation, the form and the manner of providing the information referred to in paragraph 5, taking into account the necessity for efficient provision of information collected by the Border Guard and the Customs Authorities to the General Inspector.

Article 15b. In reasoned cases, the General Inspector may request the tax authorities or the fiscal control authorities to investigate the legality of origin of certain asset values. The information on the results of the activities conducted shall be submitted to the General Inspector without delay.

Chapter 5

Procedure for transaction suspension and account blockage

Article 16. 1. Any obligated institution which received a disposition or an order of the transactions, or carried out such a transaction, or has any information about the intention to carry out such a transaction, for which there is a reasoned suspicion that it may be related to the criminal offense referred to in Article 165a and Article 299 of the Penal Code, is obliged to inform to the General Inspector in writing by passing all the data referred to in Article 12 paragraph 1 and Article 12a along with the indication of prerequisites in favour of suspension of the transaction or blockage of the account, and to indicate the expected date of the implementation. The provision of Article 11 paragraph 4 shall not be applied.

1a. Where the obligated institution, making the notification pursuant to paragraph 1, is not the institution which is to carry out the transaction, the notice shall also indicate the institution, which is to transact.

2. Upon the receipt of the notice, the General Inspector shall promptly confirm the receipt thereof in writing, stating the date and the time of collection of the notice.

3. Such a notification and a confirmation referred to in paragraphs 1 and 2 may be also provided on the information storage carrier.

4. Pending such a receipt of the request referred to in Article 18 paragraph 1, but no longer than for 24 hours after the confirmation of the receipt of the notification referred to in Article 16 paragraph 2, the obligated institution shall not carry out the transaction covered by the notice.

Article 16a. (revoked).

Article 17. If the notice, referred to in Article 16 paragraph 1, can not be made before performing - or during performing - a disposition or an order to carry out the transactions, the obligated institution

shall provide the information about the transaction immediately after its completion, giving the reasons for the prior absence of such a notice.

Article 18. 1. If from the notice referred to in Article 16 paragraph 1, it follows that the transaction to be carried out may be related to any criminal offense referred to in Article 165a and Article 299 of the Penal Code, The General Inspector may - within 24 hours of the date and time indicated on the confirmation referred to in Article 16 paragraph 2 - provide the obligated institution with a written request to suspend the transaction or block the account for no more than 72 hours from the date and time indicated on the confirmation thereof. At the same time, the General Inspector shall notify the competent public prosecutor on a suspicion of having committed a crime and shall provide him with any information and documents concerning the suspended transaction or the account blocked.

2. The request to suspend the transactions or to block the account may be issued only by the General Inspector, or a total of two employees of the unit, as referred to in Article 3 paragraph 4, authorized by the General Inspector in writing.

3. The transaction is suspended or the account blocked by the obligated institution immediately upon the receipt of the request referred to in paragraph 1.

4. The suspension of the transactions or the blockage of the account by the obligated institution, in the manner specified in paragraphs 1 and 3, shall not arouse any disciplinary, civil, criminal, or otherwise specified responsibility defined by separate provisions.

5. Saturdays, Sundays and public holidays shall not be included in the time limits referred to in paragraph 1.

Article 18a. 1. The General Inspector may submit a written request to the obligated institution to suspend a transaction or block the account without having previously received the notification referred to in Article 16 paragraph 1, if the information in possession of which he indicates the conduct of activities aimed at money laundering or terrorist financing.

2. In the case referred to in paragraph 1, the General Inspector may request the suspension of a transaction or block the account for no more than 72 hours after the receipt of the request by the obligated institution.

3. The provisions of Articles 18, 19 and 20 shall apply accordingly.

Article 19 1. In the event that the General Inspector receives the notification referred to in Article 18 paragraph 1 second sentence, the prosecutor may order, by decision, to suspend this transaction or block the account for a definite period, but no longer than 3 months from the day of the receipt of this notification.

2. In the decision referred to in paragraph 1, the General Inspector defines the scope, manner and time-limits of the suspension of the transaction or the blockage of the account. The decision may be appealed to the court competent to hear the case.

3. (revoked).

4. The suspension of transactions or the blockage of the account falls if before the expiry of 3 months from the receipt of the notification referred to in Article 18 paragraph 1 second sentence, a decision on asset values freezing will not be issued.

5. In the matters regarding suspension of transactions or account blocking not regulated by the Act, the provisions of the Code of Criminal Procedure shall apply.

Article 20 In the event that the account has been blocked or the transaction has been suspended with the breach of the law, the liability for damages resulting from it is borne by the Treasury under the terms defined in the Civil Code.

Article 20a. (revoked).

Article 20b. The provisions of Articles 19 and 20 also apply accordingly to pending criminal proceedings brought for a crime listed in Article 165a of the Criminal Code, when the notification received by the prosecutor comes from other sources.

Article 20c. Any obligated institution, at the request of the party ordering the transaction or of the account holder, can inform the party about the suspension of the transaction or the account blockage and indicate the authority which has requested for it.

Chapter 5a

Specific restrictive measures against persons, groups and entities

Article 20d. 1. Any obligated institution shall perform freezing of the asset values with due diligence, with the exception of movable and immovable property, on the basis of:

- 1) the European Union legislature imposing specific restrictive measures directed against certain persons, groups or entities, and
- 2) regulations issued pursuant paragraph 4.

2. Any obligated institution, while performing such freezing, submits all the data in its possession and related to the freezing of asset values to the General Inspector, electronically or in paper form.

3. The provision of Article 20 shall apply accordingly for freezing asset values.

4. The minister competent for financial institutions - in consultation with the minister competent for foreign affairs - may indicate, by regulation, persons, groups or entities which are subject to such freezing as referred to in paragraph 1, taking into account the necessity to comply with the obligations under international agreements or resolutions of international organizations binding the Republic of Poland, and bearing in mind the necessity of combating terrorism and counteracting terrorism financing.

5. Hereby, the Inter-Ministerial Committee of Financial Security is established, hereinafter referred to as “the Committee”, acting under the auspices the General Inspector. The Committee acts as a consultative and advisory body within the scope of application of specific restrictive measures against persons, groups and entities.

6. The objective of the Committee shall be, in particular, to present proposals on the inclusion or removal of persons, groups or entities from the list of persons, groups or entities referred to under paragraph 4.

7. The Committee shall consist of the representatives of:

- 1) the minister competent for financial institutions;
- 2) the minister competent for public finance,
- 3) the minister competent for foreign affairs,
- 4) the Minister of Justice,
- 5) the Minister of National Defence;
- 6) the minister competent for internal affairs;
- 7) the minister competent for economy;
- 8) the President of the Polish Financial Supervision Authority;
- 9) the President of the National Bank of Poland,
- 10) the Head of Internal Security Agency;
- 11) the Head of the Central Anti-Corruption Bureau;
- 12) the General Inspector.

8. The bylaw on the operating mode and work procedures of the Committee shall be set out by the Committee.

9. Any person, group or entity on the list, provided under paragraph 4, may step forward with a justified motion to the minister competent for financial institutions, for the removal from the list. Such a motion is subject to the opinion given at the immediate meeting of the Committee.

10. In the case of freezing asset values based on the list of persons, groups or entities referred to under paragraph 4, the General Inspector shall - if it is possible - immediately inform the person, the group or the entity whose asset values has been frozen on the fact. Such information should include justification of the act of freezing funds as well as an instruction on how to take further actions in order to be removed from the list, appeal or nullify freezing of asset values.

Article 20e. 1. In the event of freezing asset values, any person, group or entity which:

- 1) is not mentioned in the acts of the European Union implementing specific restrictive measures or on the list of persons, groups or entities referred to under Article 20d paragraph 4, or

2) is in a difficult life or material situation

- such a person, group or entity may request the General Inspector to be released from freezing of asset values.

2. In the event referred to in paragraph 1 point 1 the total release from freezing asset values shall be determined.

3. In the event referred to paragraph 1 point 2, provided the minister responsible for foreign affairs does not object, and after consulting the Committee, the General Inspector may determine a total or a partial release from freezing asset values, if it is not contrary to the binding resolutions of international organizations.

4. The objection referred to in paragraph 3, is filed, by decision, within 14 days since the receipt of the argument of the General Inspector. In particularly substantiated cases, the General Inspector, at the request of the minister for foreign affairs, extends the deadline for motion filing to 30 days from the date of the receipt of the argument from the General Inspector.

5. In the case referred to in paragraph 1 point 1, the General Inspector shall decide on the release from freezing asset values ex officio.

6. In order to establish the facts and circumstances referred to in paragraph 1, all the cooperating units are required to provide all their assistance, including the submission of the copies of any necessary documents.

7. The decision on the release from freezing asset values shall be by decision of the General Inspector.

8. The appeal against the decision of the General Inspector referred to in paragraph 7, shall be filed to the minister competent for financial institutions within 14 days after the receipt of the notification about this decision.

9. The proceedings shall unfold according to the provisions of the Code of Administrative Procedure.

10. The decision made by the minister competent for financial institutions may be appealed at the administrative court.

Chapter 6

Control of obligated institutions

Article 21. 1. The control of compliance of the obligated institutions – except from the National Bank of Poland – with the obligations within counteracting money laundering and terrorist financing is exercised by the General Inspector.

2. Such a control shall be carry out by employees of the unit, referred to in Article 3 paragraph 4, hereinafter referred to as “inspectors”, authorized in writing by the General Inspector, following the presentation of an auditor business identification card, hereinafter referred to as the “inspector’s ID”, and a written authorization.

3. The control referred to in paragraph 1 may also be carried out, within the frameworks of the surveillance and control performed on terms and procedures specified in separate provisions, by:

- 1) the President of the National Bank of Poland - in relation to currency exchange operators;
- 2) the Polish Financial Supervision Authority;
- 3) the competent heads of custom offices - in relation to operators organizing and exercising games of chance, mutual bets, and operations involving automatic machine games and automatic machine games of low prizes;
- 4) presidents of appeal courts – in relation to notaries public;
- 5) the National Savings and Credit Cooperative Union;
- 6) competent voivods and governors - in relation to associations;
- 7) tax audit authorities.

3a. Imposing penalties relating to the violations identified by the control, referred to in paragraph 3, falls within the jurisdiction of the General Inspector.

3b. Any entity, mentioned in point 3, submits its schedules of controls to the General Inspector within two weeks following their completion.

3c. At the request of the minister competent for public finance, the General Inspector shall carry out control as referred to in paragraph 1- in relation to obligated institution applying for license or permit, provided for in Gambling Act of 19 November 2009.

4. A written report about the results of the control referred to in paragraph 3, within compliance with the provisions of the Act, shall be forwarded to the General Inspector within 14 days following its completion.

4a. The General Inspector may request the entities listed in paragraph 3, to provide certified copies of the documentation collected during an audit.

5. The minister competent for financial institutions shall stipulate, by regulation, the standard pattern form of the inspector's ID and shall determine the rules for its issuance and replacement.

Article 22. 1. At the request of an inspector, any obligated institution is required to disclose all the documents and materials necessary within the course of the audit referred to in Article 21 paragraph 1, with the exception of documents and materials containing information covered by state secrecy.

2. Any obligated institution shall provide proper conditions for carrying out a control, in particular: the immediate presentation of the documents requested and materials for their inspection and timely delivery of explanations by the staff of the unit.

3. The inspectors shall be entitled to:

- 1) access the facilities and premises of the obligated institution in the presence of the body under inspection;
 - 2) have insight to documents and to other evidence documentation covered by the scope of the control and to obtain their certified copies;
 - 3) demand oral and written explanations, within the range of the control, from the employees of the obligated institution.
3. The inspectors, in the course of performing control activities, have right to the protection provided for in the Penal Code for public servants.

Article 23. Each inspector is authorized to move freely within the premises of the obligated institution without having to obtain a pass and is not subject to personal control.

Article 24. 1. The director of the unit, referred to in Article 3 paragraph 4, presents, in a post-control protocol, the results of the control to the head of the obligated institution or a person authorized by the latter within 30 days from the date of the control completion.

1a. Prior to the presentation of the final post-control protocol, the director of the unit, referred to in Article 3 paragraph 4, may apply to the obligated institution to submit, within the prescribed period of time, additional clarification in writing in regard to any irregularities found during the inspection.

1b. The period specified in paragraph 1 does not include the period from the date of dispatch of the letter referred to in paragraph 1a, to the date of the receipt of additional explanation.

2. Such a post-control protocol includes findings of fact, evaluation of the controlled operations, including any irregularities concluded and the indication of persons responsible for them, and conclusions and recommendations following the control.

Article 25. 1. Any obligated institution is entitled to notify the General Inspector of any reasoned objections to the findings contained in the post-control protocol.

2. Any objections shall be reported in writing to the General Inspector within 14 days after the receipt of the post-control protocol.

3. After having considered the objections, the General Inspector shall submit his written opinion to the applicant of such an objection within 30 days since the receipt thereof.

4. The obligated institution shall send to the director of the unit referred to in Article 3 paragraph 4, within the term indicated in the post-control protocol, the information on the manner the post-audit recommendations have been executed or reasons for their failure indicating the anticipated date of their execution.

5. In the case any objections under paragraph 1 have been lodged, the deadline referred to in paragraph 4 is calculated from the date of the receipt of the opinion of General Inspector.

Article 26. (deleted).

Article 27. The written information on the results of the control referred to in Article 21 paragraph 1 shall be submitted by the General Inspector to:

- 1) the authorities exercising supervision over the obligated institutions;
- 2) the authority appointed to prosecute crimes and offenses, in the event of any reasoned suspicion of the commitment a crime or an offense.

Chapter 7

Protection and disclosure of collected data

Article 28. (revoked).

Article 29. In order to disclose any information in the manner and extent provided by the Act to the General Inspector, the regulations restricting the disclosure of confidential information shall not apply to, except the data falling under state secrecy. In order to provide data falling under state secrecy, the regulations governing their protection shall apply.

Article 30. Any information received and provided by the financial information authority, as provided for in the Act, shall be subject to the protection as required by separate laws governing the rules for their protection.

Article 30a. 1. The financial information authority, employees and persons performing activities for the unit referred to in Article 3 paragraph 4, are required to maintain the confidentiality of the information that was disclosed to them in the course of their operations in accordance with the principles and procedures specified in separate regulations.

2. Maintenance of confidentiality referred to in paragraph 1 applies even after the termination of the employment in the unit referred to in Article 3 paragraph 4, and even if the activities were performed on its behalf on the basis of civil law contracts.

Article 31. 1. If the suspicion of having committed any crime referred to in Article 165a and Article 299 of the Penal Code, results from the information in possession of the General Inspector, its processing or analysis, the General Inspector shall notify the public prosecutor on a suspicion of crime commitment and at the same time shall provide him with the evidence supporting this suspicion.

2. Where the basis of the notification referred to in paragraph 1 had been the information on the transaction - as referred to in Article 8 paragraph 3, Article 16 paragraph 1, or Article 17 - provided by the obligated institution or a cooperating unit, as referred to in Article 15a paragraph 1, the General Inspector shall submit the information on that fact to it, no later than within 90 days from the submission of this notification.

Article 32. 1. Any information collected in the manner and within the scope of the provisions of the Act is disclosed for the purposes of criminal proceedings to the courts and prosecutors - at their written request - by the General Inspector.

2. In order to verify data contained in the notification related to the suspicion of a crime commitment, referred to in Article 165a and Article 299 of the Penal Code, the prosecutor may request the General Inspector to provide information protected by law, including bank or insurance secrecy, also during the verifying proceeding conducted pursuant to Article 307 of the Code of Criminal Procedure.

3. If the General Inspector is not in possession of information enough to let the prosecutor issue the order in the subject matter of the initiation of preliminary proceedings relate to the case of a crime referred to in Article 165a and Article 299 of the Penal Code, the request referred to in paragraph 2 can be directed to the obligated institution.

Article 33 1. The General Inspector shall submit, with reservation to paragraph 1a, the information in his possession on the written and reasoned request of:

- 1) the minister competent for internal affairs or persons authorized by him,
- 2) the Heads: the Internal Security Agency, the Intelligence Agency, the Military Counter-Intelligence Service, the Military Intelligence Service and the Central Anti-Corruption Bureau or any persons authorized by them

- in terms of their statutory powers.

1a. The information referred to in Article 8 paragraph 1 is submitted by the General Inspector to the minister competent for internal affairs and the Heads: the Internal Security Agency, the Intelligence Agency, the Military Counter-Intelligence Service, the Military Intelligence Service and the Central Anti-Corruption Bureau, at their written and reasoned request made with the consent of the Attorney General.

2. Information about the transactions covered by the provisions of the Act may be disclosed by the General Inspector at the written and reasoned request of:

- 1) the General Inspector of Fiscal Control, directors of fiscal chambers and the directors of the fiscal control offices - only to the extent of their statutory duties;
- 2) the President of the Polish Financial Supervision Authority or persons authorized by him - only in matters related to the exercise of banking supervision, in matters relating to the exercise of supervision over the insurance activities and investment firms and custodian banks - within the meaning of the Act of 29 July 2005 on trading in financial instruments - and the entities referred to in Article 71 paragraph 1 of the Act, foreign legal entities performing brokerage activities in the territory of the Republic of Poland in the field of trading in stock exchange commodities of commodity brokerage houses for the purposes of the Act of 26 October 2000 on commodity exchanges, and in relation to investment funds, investment fund management companies and the National Depository for Securities S.A.;
- 3) directors of customs chambers - only in matters concerning the enforcement of customs debt and tax liabilities resulting from the economic exchange with foreign countries;
- 4) (revoked);
- 5) (revoked);
- 6) (deleted);
- 7) the President of the National Savings and Credit Cooperative Union or persons authorized by him - only in matters related to the exercise of supervision over the activities of cooperative savings and credit funds;
- 8) (revoked);
- 9) (deleted);
- 10) the President of the Supreme Chamber of Control – to the extent necessary to carry out auditing procedures.

3. In the events defined in paragraphs 1 and 2, the General Inspector may provide information on the transactions covered by the provisions of the Act, on his own initiative.

4. In terms of information covered by banking secrecy, the General Inspector shall provide and disclose information to the bodies referred to in paragraph 2 in accordance with the scope of powers and the procedure set out in the Act of August 29, 1997 - Banking Law (Journal of Laws of 2002: No. 72 item 665, No. 126 item 1070, No. 141 item 1179, No. 144 item 1208, No. 153 item 1271, No. 169 items 1385 and 1387, and No. 241 item 2074; and of 2003: No. 50 item 424, No. 60 item 535 and No. 65 item 594).

5. Information relating to the introduction of asset values originating from money laundering and terrorist financing to the financial system may be disclosed by the General Inspector for foreign institutions referred to in Article 4 paragraph 1 point 8, on a reciprocal basis, in the manner specified in bilateral agreements concluded by the General Inspector, and also by a computerized data storage carriers.

6. Anyone who came into possession of information obtained pursuant to paragraphs 1-3 is required to protect the information protected by law, according to the principles and procedures laid down in separate regulations. Maintenance of confidentiality also applies after employment termination, performing activities under the contract or termination of civil service.

7. The obligation to maintain the confidentiality about the information obtained on the basis of the Act, to which the provisions of separate laws governing the protection do not apply, also covers the personnel of the obligated institutions, commerce chambers associating the obligated institutions, banks associating cooperative banks and all the persons performing activities on their behalf under civil law contracts. Maintenance of confidentiality also applies after termination of employment or cessation of activities based on civil law contracts.

Article 34 Any disclosure of information to unauthorized parties, including the parties of the transaction or the account holders; on the fact that the General Inspector has been informed about the transactions, the circumstances of which indicate that asset values may be derived from money laundering; or on the accounts of entities for which there is a reasoned suspicion that they have a connection with terrorist financing; or on transactions made by these entities, is prohibited.

Chapter 7a **Pecuniary penalties**

Article 34a. Any obligated institution, with the exception of the National Bank of Poland, which:

- 1) fails to register the transaction referred to in Article 8 paragraph 1, fails to provide the General Inspector with the documents relating to this transactions or fails to store the records of the transactions or documents relating to this transaction for the required period of time,
 - 2) fails to carry out risk analysis essential for the application of appropriate financial security measures,
 - 3) fails to apply financial security measures,
 - 4) fails to store documented results of the analysis for the required period of time,
 - 5) fails to meet the obligation to provide the participation of employees in a training program,
 - 6) fails to timely comply within the post-audit conclusions or recommendations,
 - 7) establishes and maintains cooperation with a shell bank.
- shall be subject to pecuniary penalties.

Article 34b. 1. Any obligated institution that contrary to the following provisions of Regulation No 1781/2006:

- 1) Articles 5-7, does not ensure that the transfer of funds is accompanied by complete information on the payer,
 - 2) Article 8, does not have effective procedures in place to detect the absence of information on the payer
 - 3) Article 9, does not inform the General Inspector on the fact of regular neglecting to provide relevant information on the payer by payment service provider of the recipient,
 - 4) Article 12, when acting as go-between as a payment service provider, does not preserve all the information accompanying transfers of funds received on the payer,
 - 5) Article 14, does not respond completely to the request of the General Inspector on the information on the payer accompanied with transfers of funds, and does not provide the General Inspector with the relevant documents requested by him.
- shall be subject to pecuniary penalties.

2. The obligated institution is subject to the same penalty if - contrary to Article 20d paragraph 1 – it does not freeze the asset values of a person, group or entity or does not provide the General Inspector with all the data available to reasoning the freezing of asset values.

Article 34c. 1. The penalty shall be imposed by decision of the General Inspector at the amount not higher than 750.000 PLN, and in the event of a breach referred to in Article 34a point 5 not higher than 100.000 PLN.

2. When determining the amount of such a pecuniary penalty, the General Inspector shall take into account the nature and the extent of violations, the previous operation of the obligated institution and its financial capacity.

3. Pecuniary penalty is the revenue of the state budget.

4. If the violation referred to in Article 34a is found by the General Inspector in the course of the control, only one pecuniary penalty may be imposed.

5. Proceedings on inflicting pecuniary penalty are carried out under the provisions of the Code of Administrative Procedure.

6. The decision of the General Inspector may be appealed against to the minister competent for financial institutions within 14 days of its receipt.

7. Pecuniary penalties are subject to the enforcement of payment under the provisions of the enforcement procedure in the administration within the scope of the enforcement of pecuniary obligations.

8. In any undetermined matter, the provisions of Section III of the Act of August 29, 1997 - Tax Ordinance (Journal of Laws of 2005 No. 8 item 60, as amended) shall be applied accordingly for the pecuniary penalty.

9. The information about the pecuniary penalty imposed shall be communicated to the institution supervising the activities of the obligated institution.

Chapter 8

Penal provisions

Article 35 1. Any person who acts on behalf of or in the interest of the obligated institution contrary to the provisions of the Act fails to:

- 1) register a transaction, to submit documentation relating to this transaction to the General Inspector or to store the register of such transactions or documentation relating to this transaction for the required period of time,
 - 2) maintain financial security measures, in accordance with the procedure referred to in Article 10a paragraph 1, or to store information obtained in connection with the implementation of financial security measures,
 - 3) notify the General Inspector about the transactions referred to in Article 16 paragraph 1,
 - 4) suspend a transaction or block an account,
 - 5) introduce the internal procedure referred to in Article 10a paragraph 1,
 - 6) designate a person responsible in accordance with Article 10b paragraph 1,
- shall be subject to the punishment of imprisonment of up to 3 years.

2. Anyone who, contrary to the provisions of the Act, discloses the information collected in accordance with the authorization of the Act to any unauthorized persons, any account holder or any person to whom the transaction relates to or uses this information in any other manner inconsistent with the provisions of the Act shall be subject to the same punishment.

3. If the perpetrator of an act referred to in paragraphs 1 or 2 acts unintentionally, he/she shall be subject to a fine.

Article 36. Anyone acting on behalf of or in the interest of the obligated institution, contrary to the provisions of the Act:

- 1) refuse to submit information or documents to the General Inspector,
 - 2) submits false data to the General Inspector or hides real data on transactions, accounts or persons,
- shall be subject to the punishment of imprisonment from 3 months to 5 years.

Article 37. Who commits an act described in Article 35 paragraphs 1 or 2, or in Article 36 causing substantial damage, shall be subject to the punishment of imprisonment from 6 months to 8 years.

Article 37a. 1. Whoever hinders or obstructs exercising control activities referred to in Chapter 6 shall be subject to a fine.

2. (revoked).

Chapter 9

Amendments to existing regulations. Transitional and final provisions.

Article 38. The Act of 28 July 1990 on insurance activities (Journal of Laws of 1996: No. 11 item 62; of 1997: No. 43 item 272, No. 88 item 554, No. 107 item 685, No. 121 item 769 and 770, and No. 139 item 934; of 1998: No. 155 item 1015; of 1999: No. 49 item 483, No. 101 item 1178 and No. 110 item 1255; and of 2000: No. 43 item 483; No. 48, item 552; No. 70 item 819 and No. 114 item 1193) is amended as follows: (changes omitted).

Article 39. In the Act of 14 February 1991 - The Notary Law (Journal of Laws No. 22 item 91; of 1997: No. 28 item 153; of 1999: No. 101 items 1178; and of 2000: No. 48 item 551 and No. 94 item 1037), § 4 of the following content has been added to Article 18:

"§ 4 The obligation to maintain confidentiality does not apply to the information disclosed pursuant to the provisions on counteracting the introduction of asset values originating from illegal or undisclosed sources into financial trading"

Article 40. In the Act of 28 September 1991 on fiscal control (Journal of Laws of 1999 No. 54 item 572 and No. 83 item 931; and of 2000: No. 70 item 816 and No. 104, item 1103), point 1a of the following content has been added to Article 34a item 1:

"1a) the General Inspector of Financial Information - in accordance with the provisions on counteracting the introduction of asset values originating from illegal or undisclosed sources into financial trading."

Article 41. In the Act of 29 July 1992 on games of chance, mutual wagering and slot machine games (Journal of Laws of 1998: No. 102 item 650, No. 145 item 946, No. 155 item 1014 and No. 160 item 1061; and of 2000: No. 9 item 117 and No. 70 item 816), in Article 11 item 6 after the words "of the minister competent for public finances" the words "of the General Inspector of Financial Information" have been added;

Article 42. In the Act of 13 October 1995 on the terms of registration and identification of taxpayers and tax remitters (Journal of Laws No. 142 item 702; of 1997: No. 88 item 554; of 1998: No. 162 item 1118; and of 1999: No. 83 item 931) item 6 of the following content has been added to in Article 15 item 2:

"6) to the General Inspector of Financial Information - to perform his duties arising from the provisions on counteracting the introduction of asset values originating from illegal or undisclosed sources into financial trading."

Article 43. In the Act of 6 June 1997 - Penal Code (Journal of Laws No. 88 item 553 and No. 128 item 840; of 1999: No. 64 item 729 and No. 83 item 931; and of 2000: No. 48 item 548 and No. 93 item 1027), in Article 299: (changes omitted).

Article 44. In the Act of 21 August 1997 - Law on Public Trading in Securities (Journal of Laws No. 118 item 754, No. 141 item 945; of 1998: No. 107 item 669, No. 113 item 715; and of 2000: No. 22 item 270, No. 60 items 702 and 703, No. 94 item 1037, No. 103 item 1099, No. 114 item 1191) item 5 of the following content has been added to Article 161:

"5. The scope and the principles for the provision of confidential information and constituting professional secrecy disclosed to the General Inspector of Financial Information by the Commission, is governed by a separate act"

Article 45. The Act of August 29, 1997 - Banking Law (Journal of Laws No. 140 item 939; of 1998: No. 160 item 1063 and No. 162 item 1118; of 1999: No. 11 item 95 and No. 40 item 399; and of 2000: No. 93 item 1027, No. 94 item 1037 and No. 114 item 1191) is amended as follows: (changes omitted).

Article 46. In the Act of August 29, 1997 - Tax Ordinance (Journal of Laws No. 137 item 926 and No. 160 item 1083; of 1998: No. 106 item 668; of 1999: No. 11 item 95 and No. 92 item 1062; and of 2000: No. 94 item 1037) item 2a of the following content has been added to Article 297 in § 1 after point 2:

„2a) to the General Inspector of Financial Information – according to the provisions on counteracting the introduction of asset values originating from illegal or undisclosed sources into financial trading"

Article 47. In the Act of August 29, 1997 on the protection of personal data (Journal of Laws No. 133 item 883; and of 2000: No. 12 item 136 and No. 50 item 580) point 2a of the following content has been added in Article 43 item 1, after point 2:

"2a) processed by the General Inspector of Financial Information,"

Article 47a. Within the period from 31 March, 2002, to 31 December, 2002, the provisions of the Act shall also apply to the exchange of the parred media of exchange in national currencies for media of exchange parred in EURO, made under the provisions of the Act of 25 May 2001 on the consequences associated with introducing common EURO currency in some Member States of the European Union (Journal of Laws No. 63 item 640), including the National Bank of Poland.

Article 47b. Within the period from 1 December 2002 to 31 December 2003, the obligation to register the transactions referred to in Article 8 item 1 shall not apply.

Article 48. (Deleted).

Article 49. The Act shall enter into force after 6 months from the date of the notice, except:

- 1) Articles 3-6, Article 13 and Article 15 which shall enter into force after 14 days from the date of the notice;
- 2) (deleted);
- 3) Article 45 point 3 letter b in so far as considering Article 106 items 4 and 5, which shall enter into force on 31 December 2003.

¹⁾ Within the scope of its regulation, this Act shall implement the following directives of the European Communities:

- 1) Directive 91/308/EEC of 10 June 1991 on the prevention of use of the financial system for the purpose of money laundering (OJ L 166 of 28.06.1991),
- 2) Directive 2001/97/EC of 4 December 2001 amending Directive 91/308/EEC on the prevention of the use of the financial system for the purposes money laundering - Commission Declaration (OJ L 344, 18.12.2001).

Data considering publishing of the European Union juristic acts, included in this law, since the day of the accession of the Republic of Poland to the European Union, relate to the publications of those acts in the Official Journal of the European Union (special edition). ⁽¹³⁴⁾

2. Annex II – General Inspector of Financial Information Annual Report 2009

General Inspector of Financial Information Annual Report 2009



REPUBLIC OF POLAND MINISTRY OF FINANCE REPORT OF THE

General Inspektor of Financial Information on implementation of the Act of 16 November 2000 on counteracting money laundering and terrorism financing in 2009

1. INFORMATION ON TRANSACTIONS

On the basis of the *Act of 16 November 2000 on counteracting of money laundering and terrorism financing* (Dz. U. of 2003, no. 153, item 1505 as amended; hereinafter referred to as the Act), the General Inspector of Financial Information obtains from the obliged institutions and cooperating units, collects, processes and analyses information in the mode specified by the Act and undertakes activities to prevent money laundering and terrorism financing. In particular, GIFI examines the course of transactions which might be related to money laundering (i.e. to the crime referred to in Article 299 of the *Penal Code*) or terrorism financing (i.e. crime referred to in Article 165a of the *Penal Code*). General Inspector of Financial Information (hereinafter referred as GIFI) performs his/her duties through the Department of Financial Information, an organizational unit established to that end within the structure of the Ministry of Finance. Together they constitute a Polish financial intelligence unit according to the nomenclature used in the European Union legal acts (FIU – Financial Intelligence Unit).

1.1. Suspicious transactions

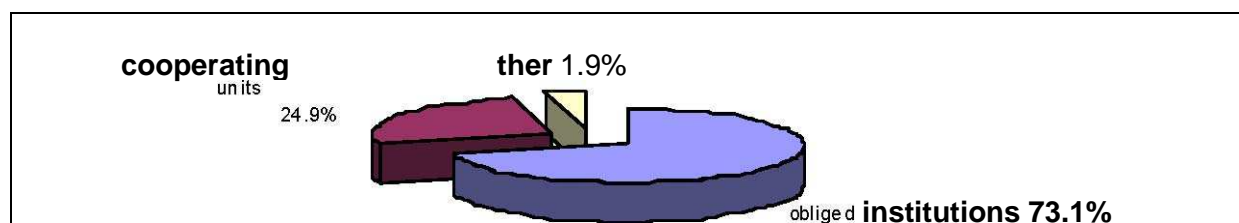
In 2009, there were 1862 descriptive reports on suspicious activities and transaction (so called SAR - Suspicious Activity Reports) registered in the General Inspector of Financial Information IT system, which were linked with currently carried out analytical proceedings. A characteristic feature of SAR is that individual reports contain description of several, dozen and so and even several hundred transactions (usually they are related to each other via parties to transactions, circumstances of transactions, similar period of their completion and/or involvement of the same assets) and their circumstances which in the view of the reporting institution/unit may be related to money laundering or terrorism financing. Reports often contain additional data and documents, substantiating suspicions and aiming at facilitation of proceedings (e.g. account history, copies of transaction documents etc.).

Table No. 1 – Number of descriptive reports received in 2001 – 2009

Reports source	Obliged institutions	Cooperating units	Other sources	Total
2001 (from 07)	102	115	14	231
2002	358	237	19	614
2003	739	211	15	965
2004	860	521	16	1397
2005	1011	500	15	1526
2006	1351	530	17	1898
2007	1244	648	28	1920
2008	1287	460	68	1815
2009	1362	464	36	1862

Data for 2009 in respect of SARs confirm stabilization of number of the reports submitted to GIFI in this mode observed last years.

Diagram No. 1 – Descriptive reports sources in 2009 (SAR)



Similarly to previous years, most of the SARs received from obliged institutions came from banks.

Table No. 2 – Division of descriptive reports from obliged institutions according to the types of IO

Type of institution	Number of SARs	Percentage share
Bank, branch of foreign bank	1300	95,45%
Brokerage house or other entity not being a bank running brokerage activity	21	1,54%
Insurance companies, headquarters of a foreign insurance companies	6	0,44%
Company running leasing or factoring activity	5	0,37%
Cooperative savings and credit unions	23	1,69%
Notary	2	0,15%
Investment fund management companies or investment fund	1	0,07%
Law office	3	0,22%
Money exchange office	1	0,07%
Total	1362	100,00%

As far as the banks are concerned, over a half (54.71%) of reports of this type originated from six banks i.e.

- 1) BZ WBK S.A.
- 2) PEKAO S.A.
- 3) PKO BP S.A.
- 4) Bank Millennium S.A.
- 5) Bank Handlowy w Warszawie S.A.
- 6) BRE Bank S.A.

Compared to information on individual suspicious transactions, descriptive reports contain more detailed description of transactions with substantiation of circumstances indicating aroused suspicion of the obliged institution. Consequently, it facilitates quick verification of data in other sources of

information and quick preparation and submission of report on suspicion of committing a crime under Article 299 of the *Penal Code* to the Public Prosecutor's Office.

In 2009, GIFI received from obliged institutions 10904 reports on suspicious transactions including 10864 reports which were marked as Suspicious Transaction Reports on Money Laundering i.e. STR-ML and 40 reports marked as Suspicious Transactions Reports on Terrorist Financing i.e. STR-TF. Division of their number in each month of 2009 is presented in Diagram No. 2 and division of the number of transactions according to types of obliged institutions is presented in Diagram No. 3. Every year, GIFI notes decrease in number of transactions submitted by the obliged institutions via electronic way marked as Suspicious Transactions Reports on Money Laundering or Terrorist Financing. Analysis of these transactions from previous years showed a large number of errors (detailed data can be found in GIFI reports from previous years) in submitted data (both of technical as substantial nature), made by obliged institutions during transactions classifications. Activities undertaken by GIFI and cooperation with obliged institutions lead to significant decrease in number of errors with simultaneous improvement of the quality of information provided. Analogous analysis of data for 2009 indicates elimination of most of the above mentioned errors and reaching stable number of SARs submitted to GIFI.

Diagram No. 2 – Number of new suspicious transactions sent to GIFI in each month of 2009 (STR)

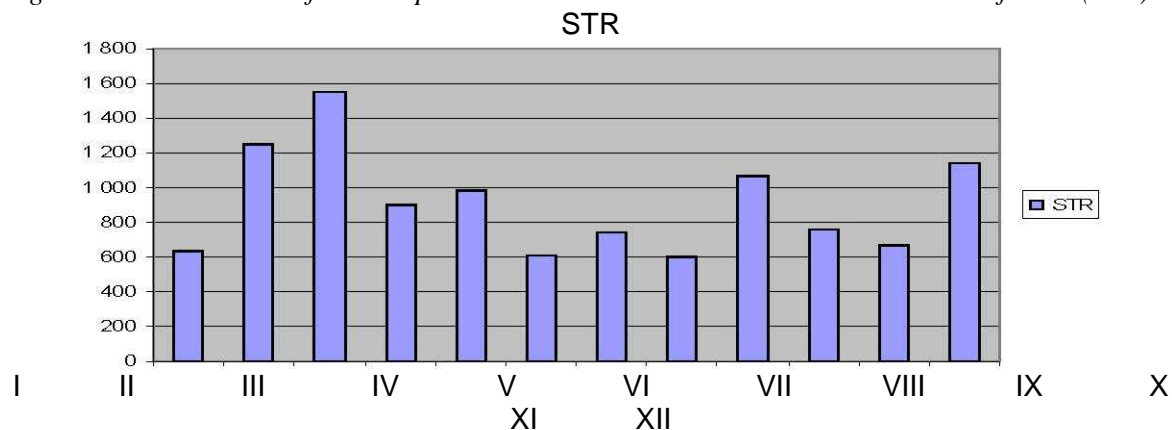
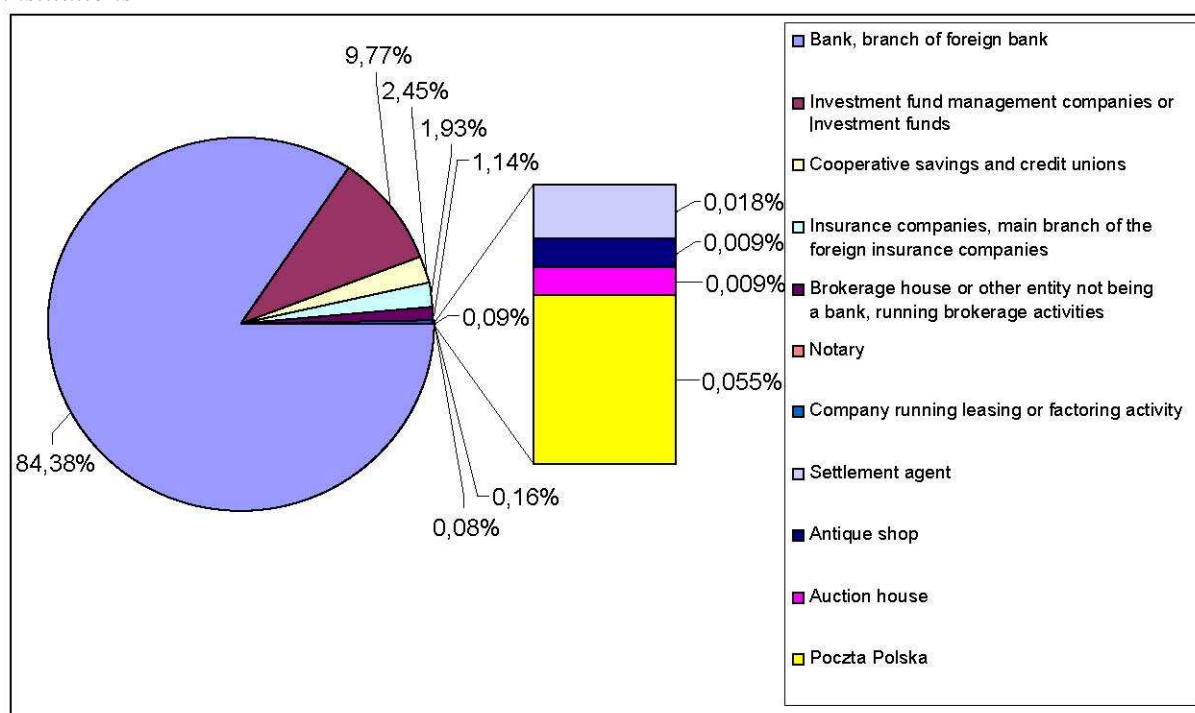


Diagram No. 3 -Division of number of suspicious transactions (STR) according to the types of institutions



A large number of these reports was related to previously sent descriptive reports. Almost 85% of

reports on individual suspicious transactions was sent by banks, then the investment funds, cooperative savings and credit unions and insurance companies.

Information received by General Inspector of Financial Information from obliged institutions is sometimes incomplete and devoid of some data significant from the case examination point of view. It happens that institutions do not attach possessed additional information on entities involved in suspicious transactions (including information on other transactions) and that they substantiate their suspicions of linkage with money laundering or terrorist financing too laconically. Among the institutions there are still some which, at the request of GIFI, provide the account history in a paper form and electronic data are only scanned from paper version which hinders the analysis.

A significant problem was erroneous information on transactions and entities involved provided by the institutions that were identified only after receipt of a copy of source documents, received at the request of GIFI. They were often significant for the results of the carried out proceedings and for the activities undertaken on their basis). Errors in specification of proper legal basis still occur, especially in case of Article 16 of the Act which -as it results from the initial analysis -should be specified as the Article 8(3) or Article 17 of the *Act*.

However, on the other hand many institutions, in particular those which benefited from the trainings carried out by GIFI, provide information of better and better quality, being fully aware of aroused suspicion of money laundering or terrorist financing.

Moreover, in 2009, 464 descriptive reports were received from cooperating units -most of them from the National Bank of Poland (NBP), tax offices, fiscal control authorities, customs chambers and offices.

In case of information received from cooperating units there was no substantiation of some of the reports. For example the circumstances indicating a possible relation of described transactions or other activities to the crime under Article 299 or 165a of the *Penal Code* were not included. There were also cases of submitting information related to suspicion of a crime other than the above mentioned. Moreover, sometimes some cooperating units simultaneously sent reports on the same case to GIFI and the law enforcement bodies.

1.2. Transactions exceeding threshold

GIFI also obtains from the obliged institutions information on transactions exceeding threshold i.e. transactions with a value exceeding EUR 15000 (EUR 1000 in case of some of the types of obliged institutions) which is collected and processed at the Department of Financial Information of the Ministry of Finance. In 2009, information on almost 31 million of such transactions was received.

Obliged institutions provide data on the above mentioned transactions collectively in the form of electronic files within 14 days after the end of each calendar month in which they were recorded.

In 2009, IT system of GIFI accepted almost 82 thousand files with data concerning the above mentioned transactions. According to the binding rules, files with data are provided via one of three electronic channels:

- secured GIFI website (via form filled-in directly on the WWW page or by sending a file from obliged institution system via WWW page -in 2009, GIFI received 90.25% of files this way),
- secured e-mail (in 2009, GIFI received 9.62% of files this way) or
- sending information on CD/floppy disc (in 2009, GIFI received 0.13% of all files this way).

Small part of information (though requiring proportionally much more work while collecting and uploading data to databases) is provided by obliged institutions to GIFI in the form of paper copies of transaction charts (in 2009, GIFI received 3.6 thousand paper copies of transaction charts).

Among transactions exceeding threshold received in 2009, there were 13% the data of which contained significant errors, making further analysis impossible and requiring sending corrections by obliged institutions. This number illustrates change in quality of information on transactions received by GIFI that occurred as a result of activities undertaken by GIFI and cooperation with obliged institutions in respect of correction of errors in packages -percentage of errors in 2008/09 reached 12.9 and 13.0% respectively, while in 2007 it reached 19.2% and in previous years -above 20%.

Division of number of transactions provided to GIFI in each month of 2009 is presented in Diagram No. 5, and the number of transactions according to the type of institution providing data is presented in

Diagram No. 6. Most of the transactions (83%) were provided by banks, brokerage activity entities (9%), companies running leasing and factoring activity (2.9%) and investment funds (2.1%).

Diagram No. 5 – Number of transactions provided to GIFI in each month of 2009

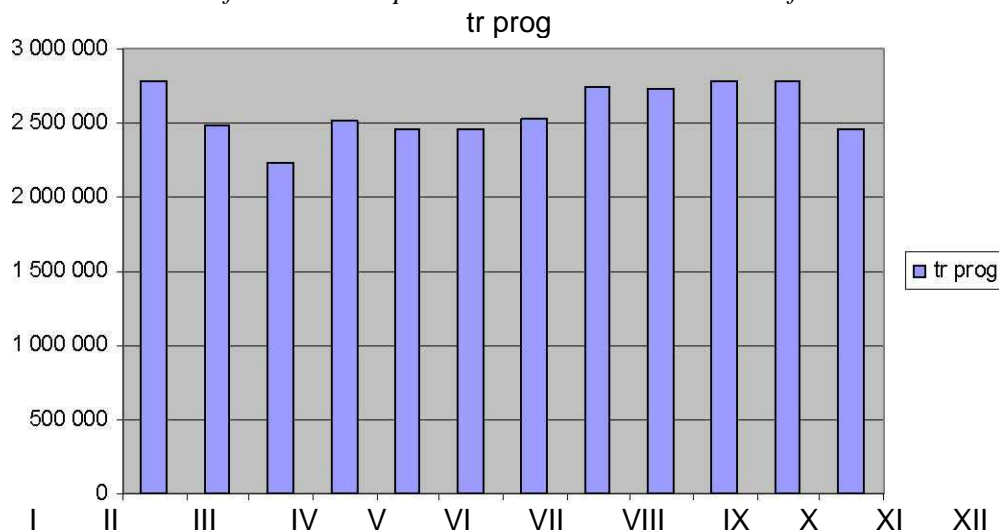


Diagram No. 6 – Division of number of transactions provided to GIFI in 2009 according to the types of obliged institutions.

From among almost 31 million transactions submitted to GIFI in 2009 some 8.61% were recognized by obliged institutions as cash transactions and some 8.99% as transactions with legal entities or persons for which obliged institution indicated place of residence outside Poland or nationality other than Polish (some 1.17% transactions were qualified by obliged institutions as transfers from abroad). Transaction data that passed the validation process properly were made available for further analysis. All transactions are used while searching relations between transactions of analysed entity/account, carried out in various obliged institutions. Moreover, all the transactions are analysed in respect of:

- occurrence of characteristic features (including occurrence of entities/account e.g. of persons present on lists of entities suspected of terrorism or its financing as the parties to transactions),
- occurrence of characteristic sequences of cash flows (based on the expert's knowledge and compliance with assumed scheme of cash flow).

As a result of analysis, the data of part of transactions are directly linked with proceedings carried out by the Department and reports and notifications forwarded to Public Prosecutor's Office and other cooperating units. Information on received transactions is also provided (to the amount of several thousand a year) to the Public Prosecutor's Office and other cooperating units at their request.

2. ANALYSIS

2.1. Counteracting of money laundering

Under statutory duties of GIFI received information is analysed especially transactions with justified suspicions are examined, procedure of withholding transaction or account blockage is carried out, documents substantiating suspicions of a crime are provided to authorized bodies.

2.1.1. Analytical proceedings and their effects

As a result of information obtained in 2009, GIFI initiated 1273 analytical proceedings (including proceedings in the scope of prevention of terrorism financing).

Proceedings were carried out on the basis of information collected and analysed by GIFI provided according to the *Act of 16 November 2000 on counteracting of money laundering and terrorism financing* (Dz. U. of 2003, no. 153, item 1505, as amended). Individual above mentioned proceedings carried out by GIFI included several descriptive reports, above thousand of individual suspicious transactions and up to several thousand transactions exceeding thresholds.

The most characteristic areas of money laundering according to GIFI observations in 2009 were:

- 1) according to similarity to identified methods of money laundering -bogus enterprises and fictitious

companies, fictitious account, target account, mixing incomes which can be specified as follows:

- bogus enterprises and fictitious companies – natural persons, often homeless or with a critical financial situation (bogus enterprises) or businesses established or taken over by offenders mostly for the purpose of money laundering (fictitious companies) the basic task of which is complicating circulation of assets from a crime;
- fictitious account – a method of money laundering consisting in opening a real account in order to implement one or several transactions in short periods of time, for relatively high amounts, using maximum number of fictitious elements concerning both persons involved in transactions as well as titles of the transactions;
- target account – concerns a method of money laundering through transfers of large amounts to one account from which they are immediately taken in cash (often this method occurs in the phase of integration of funds coming from a crime, which ends certain ‘path’ of their circulation or in masking phase where withdrawal of cash constitutes another step to further phase of its circulation with the obvious aim of its separation from the source of origin);
- mixing incomes – consist in actual mixing of incomes coming from legal business with assets from illegal sources;

- 2) according to possible predicate offence – penal and fiscal crimes (84 proceedings), fraud and extortion (42 proceedings), unauthorised access to bank accounts (phishing attacks – 42 proceedings), drugs smuggling/trade (4 proceedings);
- 3) according to risk areas – cases concerning goods and financial marketing with abroad (130 proceedings), property marketing (94 proceedings), illegal or fictitious trade with scrap metal (76 proceedings) and fuel trade (66 proceedings), transactions on accounts of non-residents in Poland (50 proceedings), trade with shares in company capital (14 proceedings), gambling (16 proceedings), car trade (11 proceedings), cases related to textiles trade with Asian countries (8 proceedings), trade with securities accepted to public trading (8 proceedings), prepaid cards (4 proceedings).

As a result of carried out analytical proceedings, 180 reports on suspicion of a crime referred to in Article 299 of the *Penal Code* committed by 535 entities were forwarded to competent units of Public Prosecutor’s with relation to suspicious transactions for total amount of ca. PLN 3.04 billion. |As far as the activities undertaken to prevent money laundering are concerned, in 2009, GIFI used only account blockage – an instrument consisting in temporary restrictions on administering and using all the asset values collected on the account, with simultaneous enabling their increase by inflow of subsequent funds. On the basis of carried out analytical proceedings, GIFI requested blockages of 103 accounts on which suspicious financial operations took place for the amount ca. PLN 9.0 million (including blockage of 73 accounts on their own accord -i.e. in the mode of Article 18a of the *Act* – for the amount of ca. PLN

3.3 million). It must be underlined that the above mentioned amounts on blocked accounts are estimates and may be lower than actual amounts since during blockage applied by GIFI, the funds were still paid onto the accounts, but they were not withdrawn or transferred to subsequent accounts. Dynamics of changes of each of the above mentioned parameters is presented in the following Table:

Table No. 1 -Analysis results

Years	Number of reports to public prosecutor’s office on committing a crime under Article 299 of Penal Code. (with total amount of indicated suspicious transactions)	Total number of blockages on account and withheld transactions (will total amount of blockages/withholds)
06. – 12.2001	20	1
2002	104	26
2003	152	20 (ca. PLN 37 million).
2004	148	18 (PLN 14.6 million).

2005	175	39 (PLN 37.6 million).
2006	198 (PLN 880 million).	96 (PLN 48,0 million).
2007	190 (PLN 775 million).	98 (PLN 30.2 million).
2008	246 (PLN 1.03 billion).	320 (PLN 20.5 million).
2009	180 (PLN 3.04 billion).	103 (PLN 9,0 million).

With regard to reports on suspicion of committing a crime stipulated in Article 299 of the *Penal Code* sent by GIFI to competent units of the Public Prosecutor's Office, GIFI IT system recorded in 2009 information received from competent units of the Public Prosecutor's Office on the following issued Public Prosecutor's decisions:

- 106 – on initiation of preparatory proceedings;
- 28 – on completion of preparatory proceedings – on the basis of submitting indictments to the courts;
- 90 – on discontinuance of preparatory proceedings and on 9 re-initiation of discontinued proceedings (comparing to decisions on discontinuance of proceedings, GIFI is entitled to submit appeals – pursuant to Article 306(1) of the *Code of Criminal Proceedings*). The main reason for discontinuance was lack of possibility to identify the predicate offence that was a source of funds introduced to financial marketing as well as relation to issue decision on adding the materials to other investigation. Decisions on discontinuance of proceedings in many cases were partial, referring only to selected persons with continuing main proceedings. Despite discontinuance of penal proceedings initiated on the basis of GIFI reports, there were cases of submitting charges with regard to committing forbidden acts other than money laundering;
- 14 – on refusal to initiate proceedings. Refusals to initiate proceedings were issued due to carried out proceedings against the same person by other Public Prosecutor's Office, lack of indication of predicate offence in case referring to illegal or fictitious scrap trade, separation of part of material and its forwarding to other Public Prosecutor's Office already carrying out the proceedings, carrying out proceedings on suspicion of committing other crime than money laundering, charging against forbidden acts other than money laundering and submission of documents to fiscal control bodies. With regard to 3 proceedings on refusal to initiate investigation, GIFI issued complaint against the decision in question.
- 14 – on re-initiation of suspended investigation/enquiry.

According to collective data sent to GIFI by the Ministry of Justice referring to all proceedings carried out in 2009, the Public Prosecutor's Office in all cases related to money laundering:

- initiated 235 cases, out of which 79 in *ad personam* phase, concerning 192 persons (out of which 158 cases on the basis of information received from GIFI),
- submitted 65 indictments to courts against 360 persons,
- completed 85 preparatory proceedings by decision on discontinuance of investigation and 2 proceedings with decision of refusal to initiate investigation,
- suspended 61 preparatory proceedings.

Moreover according to Ministry of Justice:

- in 2009 on the basis of 115 decisions on security on property the properties valued for ca. PLN 28.3 million were covered with the security.
- the courts of the 1st instance issued 18 convicting judgements (41 convicts),
- 10 judgements on forfeiture of property, benefits originating from crime equal to PLN
- 7.4 million.

Apart from reports on committing a crime submitted to the Public Prosecutor's Office, GIFI provided

246 information on suspicious transactions related to suspicion of committing other crimes to competent authorities (under Article 33(3) of the Act) including:

- 107 to fiscal control offices,
- 73 to ABW (the Internal Security Agency),
- 38 to the Central Bureau of Investigation,
- 19 to the National Police Headquarters,
- 7 to the Central Anticorruption Bureau,
- 1 to Border Guards.

In 2009, GIFI provided to fiscal control bodies 39 request for examination of legality of origin of specified assets in order to check their source of origin.

As a result of provision by GIFI, of their own accord, the reports containing information on transactions to competent authorities of fiscal control there were fiscal proceedings initiated and carried out, which resulted in decisions determining lump sum tax on income not justified in disclosed sources of incomes or originating from undisclosed sources. Additionally, as a result of two reports to two fiscal control offices in 2009, controls were carried out and assessment decisions for the total amount of PLN 2.4 million.

2.1.2. Exemplary directions of analysis

Penal-fiscal crimes (carousel fraud)

GIFI carried out analytical proceedings concerning so called carousel transactions used for obtaining undue benefits from tax settlements. Entities participating in the proceedings received VAT refund which was not paid at the earlier stage of trade or which resulted from fictitious inter-Community goods deliveries. At the same time organizers of such procedure create a network of entities with accounts via which funds are transferred. This aims at simulation of legal trade transactions. To hinder the state authorities recognition that transfers are not related to actual sales of goods, often the companies and businesses involved in the transaction operate for a short period and from time to time they are replaced by subsequent entities. The fact that natural and legal persons carry out fictitious activity is indicated also by results of carried out fiscal controls which show that the controlled entities do not have warehouse space sufficient for the carried out activities and it does not employ staff. Often the parties to carousel transactions are entities from several countries. At the same time the analysis of carried out money transfers indicates that goods purchased from foreign partners after their re-sale to Polish entities go again to the same EU countries and often to the same entities which is not justified from economic point of view.

In 2009, 84 analytical proceedings on carousel fraud were initiated. 27 reports on suspicion of committing a crime under Article 299 of the *Penal Code* with regard to suspicious activities were directed against 144 entities. Estimated value of suspicious transactions indicated in reports of GIFI to competent units of the Public Prosecutor's Offices in this area reached ca. PLN 734 million.

Scrap cases

GIFI still receives reports on suspicious transactions concerning scrap trade and secondary raw materials. Funds obtained from such illegal activity are then introduced on financial market. The scale of such phenomenon is increasing, which is proved by number of scrap cases initiated by GIFI and total value of suspicious transactions reported by GIFI to the Public Prosecutor's Office. Results of the analytical proceedings carried out with regard to scrap trade transactions and secondary raw materials indicate the phenomenon of creation of entities network in order to transfer funds completed with cash withdrawal. Typical phenomena were:

- establishment of *fictitious companies* the only duty of which is registering business and opening account in one or several banks,
- reaching high turnover right after establishment of the company with very low incomes,
- short time of entities operation,
- recruiting owners according to entities from people with low incomes or unemployed,
- withdrawal of funds right after their receiving.

These operation rules are similar to *fuel* cases. Used accounts act as distribution/target accounts.

Dummies withdrawing cash are the last element completing the transfer of funds.

In 2009, 76 analytical proceedings on illegal or fictitious scrap trade were initiated and 41 reports on suspicion of committing a crime under Article 299 of the *Penal Code* were forwarded to the Public Prosecutor's Office (covering 100 entities). Estimated value of suspicious transactions indicated in reports of GIFI to competent units of the Public Prosecutor's Offices in this area reached ca. PLN 471 million.

Fuel cases

As in previous years, GIFI received reports on suspicious transactions referring to transfer of funds related to actual or fictitious trade with liquid fuels and components necessary for their production. The scale of this phenomena, despite activities undertaken by competent state authorities, is still high. Characteristic features of *fuel cases* are still, as in scrap cases, extended networks of related businesses -in some cases there are over 200 entities which despite identification and submission of reports on suspicions of committing a crime to the Public Prosecutor's Office, are rebuilt and create new links. In most cases subsequent entities are *fictitious companies*. In return for small property benefits, natural persons (*dummies, bogus enterprises*) agree for use of their personal data to register new business and then to open bank account used for money laundering.

According to carried out analyses and indictments formulated by Public Prosecutor's Office the property benefits received by these persons for use of their data in order to register an entity and/or to open account reach PLN 500-2000 while the value of money laundered during one year by such registered entities may reach even several million PLN.

In 2009, 66 analytical proceedings on trade with *liquid fuels and components necessary for their production* were initiated. 41 reports on suspicion of committing a crime under Article 299 of the *Penal Code* with regard to suspicious activities were directed against 142 entities. Estimated value of suspicious transactions indicated in reports of GIFI to competent units of the Public Prosecutor's Offices in this area reached ca. PLN 1.4 billion.

Fraud and extortions

Another identified area of money laundering were transactions implemented as a result of activities to the detriment of legal and natural persons. Money was legalized using *target accounts* technique – cash transfer for its immediate withdrawal in cash -and through trade with securities. The phase of *investing* was omitted. Due to nature of some predicate offences

e.g. extortion of credits resulting in situation where funds that are subject to crime are already in non-cash financial trade, it is difficult to distinguish transactions made under predicate offence from transactions already related to money laundering.

In 2009, 42 analytical proceedings on frauds and extortions were initiated. 12 reports on suspicion of committing a crime under Article 299 of the *Penal Code* with regard to suspicious activities were directed against 31 entities. Estimated value of suspicious transactions indicated in reports of GIFI to competent units of the Public Prosecutor's Offices in this area reached ca. PLN 1.4 million.

Unauthorized access to bank accounts

Additional direction in which activities are carried out were transactions related to laundering of money originating from extortion of funds from bank accounts (area excluded from previous one covering other frauds and extortions). To this end, the offenders usually use advanced socio-technical methods for illegal obtaining information enabling obtaining unauthorized access to Internet accounts. The extorted funds were usually transferred to subsequent accounts owned by hired persons in order to withdraw cash to transfer them to third parties via cash transfers (implemented e.g. by agents of Western Union). The above mentioned transactions were for small amounts in order to make it difficult for the accounts owners to notice decrease in balance of funds on account and for the obliged institutions to register the suspicious transactions. Also in this case it is difficult to differentiate transactions made under predicate offence from transactions related to money laundering.

In 2009, 42 analytical proceedings on unauthorized access to bank accounts were initiated. 22 reports on suspicion of committing a crime under Article 299 of the *Penal Code* with regard to suspicious activities were directed against 30 entities. Estimated value of suspicious transactions indicated in reports of GIFI to competent units of the Public Prosecutor's Offices in this area reached ca. PLN 1.9 million.

Drugs trafficking

Another identified area of money laundering were transactions implemented as a result of drugs

trafficking. Funds obtained from such illegal activity were then introduced on financial market. Results of carried out analytical proceedings concerning transactions related to drugs trafficking indicated the activities of organized criminal groups directed to introduction of funds to financial marketing completed with cash withdrawal.

In 2009, 4 analytical proceedings on drugs trade were initiated. 5 reports on suspicion of committing a crime under Article 299 of the *Penal Code* with regard to suspicious activities were directed against 8 entities. Estimated value of suspicious transactions indicated in reports of GIFI to competent units of the Public Prosecutor's Offices in this area reached ca. PLN 2.9 million.

Cases related to games of chance and mutual bets

Additional direction in which analytical activities were carried out were transactions related to laundering of money originating from illegal activity related to games of chance and mutual bets as well as legalizing funds originating from other crimes through participation in games organized by casinos.

A characteristic feature of *cases related to games of chance and mutual bets* is making cash payments and immediate withdrawal of these funds as well as making numerous transactions between the network of related business entities which transfer funds to each other and at the final stage they withdraw cash.

In 2009, 12 analytical proceedings on transactions related to games of chance and mutual bets were initiated. 4 reports on suspicion of committing a crime under Article 299 of the *Penal Code* with regard to suspicious activities were directed against 9 entities. Estimated value of suspicious transactions indicated in reports of GIFI to competent units of the Public Prosecutor's Offices in this area reached ca. PLN 18.3 million.

2.1.3. Methods of money laundering

Similarly to previous years, in 2009, in the course of analytical proceedings it was stated that organized criminal groups used previously identified methods of money laundering that were modified and adjusted to current situation. A significant increase in activity of such groups was observed in the area of the following financial services: e-banking, payment cards and electronic money transfer system. In the above mentioned area, a relative anonymity of such services as well as their global extent, 24h access to funds and speed of money transfer is to the benefit of the criminals.

At the same time, compared to 2008, a similar number of proceedings in which a seat of one of the parties to transactions is located in a tax haven country was observed. In 2009 17 proceedings in this respect were initiated. One of the reasons of establishment of companies or their branches in such countries is a simplified tax settlement system of such countries as well as a low tax threshold and additionally simplified companies establishment rules. The

Ordinance of the Minister of Finance of 16 May 2005 on determination of countries and territories applying harmful tax competition for the purpose of company income tax (Dz. U. No. 94, item 791) listed countries that can be recognised as "tax havens".

50 cases were also carried out under which suspicious transactions performed i.a. through accounts opened in banks in Poland for non-residents were analysed. A characteristic feature of the above mentioned cases is opening bank accounts by non-residents and the scheme of transactions consisting in foreign transfers crediting the account and subsequent cash withdrawals. Usually the citizens of Eastern Europe and Asian countries were involved in this kind of transactions.

As it was observed in 2008, reports on suspicious transactions carried out by entities from construction sector were still noted. A characteristic features of these transactions were high-value transfers into accounts of newly established and single-person-owned companies which due to organizational and financial restraints would not be able to carry out orders amounting for such a high value. Almost all of the funds received for allegedly provided services is withdrawn in cash by owners of these companies – usually persons who previously did not have any experience in construction sector nor in running business and who used to declare low incomes. Companies involved in the above mentioned underhand dealings declare both high-and similar-value of sales of services and purchase of goods and services that results in a minimum tax obligation

GIFI is making efforts to monitor money laundering risk-sensitive areas with the aim to prevent development of new methods of money laundering as well as in order to call obliged institutions' and

cooperating units' attention to new risk areas.

2.2. Counteracting of terrorist financing

In 2009, when carrying out tasks with respect to counteracting terrorist financing, 11 analytical proceedings concerning suspicious transactions which could be related to terrorist financing were initiated. The proceedings were initiated on the basis of reports from obliged institutions and on GIFI's own initiative. They concerned transactions carried out by persons originating from countries suspected of supporting terrorism or within territory where terrorist groups operate. Particular attention was brought to business activity carried out by these persons. As a result of analysis carried out in the above mentioned cases was directing, under Article 33(3) of the *Act*, 14 reports to the Anti-Terrorist Centre of Internal Security Agency (ABW) and 7 reports to Department for Terrorism Prevention of ABW.

GIFI is a member of Inter-Ministerial Team for Terroristic Threats dealing with coordination of activities in respect of preventing terrorism. Tasks of the team include *inter alia* monitoring, analysing and assessment of terroristic threats, development of standards and procedures in respect of terrorist financing, initiation, coordination and monitoring of activities undertaken in this respect by competent state authorities, requesting competent authorities for accepting legal means aiming at improving methods and forms of fight with terrorism, development of cooperation with other countries in the field of fight against terrorism and initiation of seminars and conferences dedicated to fighting terroristic threats.

Moreover, representatives of GIFI take part in works of the Permanent Group of Experts appointed by the Team.

Representative of GIFI participates in works of Joint Polish and American Anti-Terrorist Group. The Group was appointed on the initiative of Ministry of the Interior and Administration (MSWiA) and the US Embassy in Warsaw in 2005. One of the topics for Group meetings is fighting terrorist and organized crime financing.

The Inter-Ministerial Committee of Financial Security was accredited at GIFI. The Committee has consultative and advisory function in respect of application of particular restrictive means against persons, groups and entities. In particular, the Committee will present proposals concerning a list of persons, groups or entities towards whom freezing of assets is applied.

GIFI is an institution that actively cooperates with Anti-Terrorist Centre of the Internal Security Agency. The above mentioned Centre is a 24 h coordination and analytical unit in respect of counteracting and fighting terrorism. The main task of the Centre is coordination -in analytical and information scope -of activities of services and institutions participating in eliminating terroristic threats to the State's internal security .

3. CONTROLS

3.1. Controls carried out by GIFI

GIFI controllers carried out 47 controls. Comparing to previous years, not only the number of controls but also diversity of obliged institutions was increased – an entity running activity with respect to games of chance and mutual bets was controlled. While selecting units for control, the analytical and control data of GIFI, control information of supervisory bodies and media publications were considered.

Controls in 2009 included the following categories of obliged institutions:

- banks – 10,
- brokerage house – 1,
- investment fund management companies and funds they manage -1,
- insurance companies – 2,
- legal advisers – 7,
- notaries -7,
- attorneys – 2,
- tax advisers – 5,

- entrepreneurs engaged in real estate brokerage – 2,
- auditors – 1,
- cooperative banks – 3,
- cooperative savings and credit unions – 1,
- foundation – 3,
- entrepreneurs engaged in leasing activity – 1,
- entity engaged in games of chance and mutual betting – 1.

The most significant disclosed irregularities were analogous to irregularities identified in previous years. Irregularities were as follows:

- formal: lack of preparation of obliged institutions to implementation of statutory obligations through failure to determine internal procedure or failure to adjust it to the provisions of the Act, lack of provisions of internal procedure indicating implementation of obligations in respect of counteracting of terrorist financing, lack of provisions indicating the need to carry out analysis in order to detect suspicious transactions; improper distinguishing of two modes of proceedings with suspicious transactions determined in Article 8(3) and Article 16 and following of the Act, in the internal procedure;
- substantial: low level of Act provisions application, mainly in the field of implementation of the obligation of transaction registration, identification of entities participating in transactions and designating transactions and reporting them and irregularities in transactions records and provisions of information from these records to GIFI.

Findings from controls carried out by GIFI controllers were provided to supervisory institutions for subsequent use.

After detailed analysis of control results, the justified suspicion of a crime was made, and subsequently 7 reports were submitted to the Public Prosecutor's Office.

3.2. Controls carried out by supervisory institutions

GIFI received information on controls carried out by:

- National Bank of Poland – 994 controls at the money exchange offices,
- National Cooperative Savings and Credit unions – 22 controls at SKOK,
- Financial Supervision Authority – 7 controls at banks, 21 controls at cooperative banks, 2 controls at brokerage houses, 2 controls at insurance associations, 1 control at the investment fund management companies and 7 controls at credit institutions branches.
- Presidents of the Appeal Courts -21 controls at notaries,
- Department for Customs and Excise Duty Control and Games Control (Ministry of Finance) – 4 controls of games arcades with slot machines and 1 control at the casino.

Results of controls were similar to irregularities identified by GIFI controllers.

3.3. Clarifications related to application of law

3.4.

With regard to doubts reported by obliged institutions and cooperating units concerning implementation of statutory obligations, while continuing practice from previous years written replies to inquiries were provided. Inquiries concerned in particular interpretation of provisions of the *Act of 25 June 2009 amending the Act on counteracting the introduction to the financial circulation of financial assets originating from illegal or undisclosed sources and counteracting terrorism financing* (Dz. U. of 2009, No. 166, item 1317), the aim of which is mostly adjusting provisions of the European Union.

149 inquiries concerning practical application of legal provisions were submitted to GIFI which constitutes 30% more inquiries than last year. Most inquiries (30%) was provided by banking sector. The inquiries concerned mostly the interpretation of provisions of the above mentioned Act of 25 June 2009 adjusting national legal order in respect of counteracting money laundering and terrorism financing to the European Union provisions.

Staff of the Department of Financial Information provided also clarifications via phone. The subject of these clarifications was similar to the subject of written clarifications and it referred mostly to implementation of statutory obligations by obliged institutions in the view of the amended provisions of the Act.

Moreover, on 1 and 2 December 2009 GIFI organized conference attended by representatives of both the obliged institutions environments and the cooperating units. The aim of the conference was indication of most significant changes related to adaptation of previous legal provisions in respect of counteracting money laundering and terrorism financing to the Community regulations and initiation of activities aiming at clarification of doubts (inquiries) submitted collectively by individual environments representing obliged institutions by employees of the Department of Financial Information.

Conference participants were provided with the third edition of a guide entitled “Counteracting money laundering and terrorism financing”.

4. DOMESTIC COOPERATION

GIFI in 2009 noted another increase in the scope of exchange of information with authorised bodies in the mode and according to rules specified in Article 32 and 33 of the Act.

Table referring to requests received by GIFI in 2006-2009

Authority/institution	Year	Number of requests	Number of entities from requests
Public prosecutors	2006	152	1370
	2007	266	1464
	2008	326	2373
	2009	270	1854
ABW	2006	8	37
	2007	23	107
	2008	7	49
	2009	37	250
CBA	2006	1	6
	2007	13	30
	2008	16	181
	2009	10	54
Police	2006	12	53
	2007	25	169
	2008	50	203
	2009	83	1320
Fiscal authorities and fiscal control	2006	21	46
	2007	69	133
	2008	96	188
	2009	180	361

Also the number of information exchanged under National Criminal Information Centre on the basis of *Act of 6 July 2001 on collection, processing and transfer of criminal information* (Dz. U. of 2010, No. 29, item 153) increased.

4.1. Cooperation with organizational units of the Public Prosecutor's Office and courts

In 2009, GIFI received from organizational units of the Public Prosecutor's Office 270 requests to provide information on 1854 entities. It must be underlined that from 1st quarter of 2007 organizational units of the Public Prosecutor's Office should use the specimen of the *request to provide information under Article 32 of the Act* settled with the State Public Prosecutor's Office Bureau for Organized Crime. Requests provided on the specimen significantly facilitated GIFI quick and precise reply to inquiries. In 2009, inquiries on specimen constituted, similarly to 2008, only 30-40% of all requests provided by the organizational units of the Public Prosecutor's Office.

Sometimes, it happened that requests contained significant formal lacks, usually concerning the scope of inquiry including e.g. request for information which is located in GIFI resources as well as information which is not collected by GIFI and to which GIFI does not have statutory access. Examples:

- requests for histories of accounts and any banking documents which are not present in GIFI resources in proceedings supervised by the Public Prosecutor under Article 299 of the *Penal Code*, on the basis of reports from sources other than GIFI or in penal proceedings concerning other crimes than money laundering,
- requests to provide information on transactions in particular banking, which did not consider the fact that banks are obliged to store information on transactions for 5 years, counting from the first day of the year following after the year in which the last record related to that transaction was made,
- inquiries about phone numbers of person that receive text reports (SMS) from bank accounts,
- requests to provide data from bank monitoring,
- requests to provide history of bank accounts kept for indicated entity abroad,
- requests for information on employees of obliged institutions dealing with implemented transactions or preparing contracts with the client,
- requests concerning obtaining original source documents of the transaction.

It must be underline that in 2009, works on elimination of the above mentioned errors and lacks were carried out together with the Public Prosecutor's Office Bureau for Organized Crime. Additionally, settlements were made on on-going basis concerning method and form of provision of information attached to reports to GIFI on suspicion of a crime referred to in Article 299 of the *Penal Code*.

In 2009, most of requests were received from the following organizational units of the Public Prosecutor's Office:

- Appeal Public Prosecutor's Office in Katowice -21,
- District Public Prosecutor's Office in Krakow – 21,
- District Public Prosecutor's Office in Katowice -13,
- District Public Prosecutor's Office in Warsaw – 11,
- District Public Prosecutor's Office in Gdansk – 10,
- District Public Prosecutor's Office in Rzeszow – 10,

In 2009, GIFI noted also 2 requests for provision of information on 6 entities which were submitted by courts. Moreover, 1 request was noted concerning 5 entities, submitted by the court executive officer who is an authority not entitled to request for information on transactions mentioned in provisions of the *Act* under Article 32 and 33 of the *Act*.

On 7-11 December 2009, the representatives of the Department of Financial Information participated as the trainers in the training addressed to criminal analysts employed in district and appeal Public Prosecutor's Offices.

4.2. Cooperation with fiscal control authorities and fiscal authorities

In 2009, GIFI received 164 requests from directors of fiscal control offices. With regard to the requests 239 entities were controlled. In case of requests received from fiscal control authorities, 2 contained legal errors and 1 formal error -it was signed by person unauthorized

to submit a request to GIFI. It must be added that fiscal control authorities, due to the scope of cooperation, almost in 100% used unified specimen of the request to provide information settled in December 2006 with the Department for Fiscal Control of the Ministry of Finance (MF).

In 2009, most of requests were received from the following organizational units of the fiscal control offices:

- UKS Białystok – 22,
- UKS Lublin – 20,
- UKS Warsaw – 17,
- UKS Krakow – 16,
- UKS Szczecin – 15,
- UKS Poznań – 11,
- UKS Wrocław – 10.

Moreover, 2 requests were received from the Fiscal Control Department of the Ministry of Finance and 1 request from the Department of Fiscal Intelligence of the Ministry of Finance.

In 2009, GIFI also received 9 requests from directors of fiscal chamber for provision of information about 51 entities and 3 requests from the heads of tax offices concerning 13 entities.

It must be underlined that the heads of tax offices are not authorities entitled to requesting information on transactions covered with the provisions of the *Act* under Article 32 and 33 of the *Act*.

In 2009, representatives of the Department of Financial Information carried out two trainings for persons representing fiscal control authorities and fiscal and tax authorities on implementation of amended provisions concerning counteracting money laundering and terrorism financing -cooperation of cooperating units with GIFI:

- 21 September 2009 – for representatives of fiscal chambers and tax offices,
- 23 October 2009 – for representatives of Fiscal Control Department of the MF and fiscal control offices.

4.3. Cooperation with authorities reporting to the Minister of Interior and Administration

In 2009, GIFI received 6 requests for provision of information on 17 entities from the Ministry of Interior and Administration.

In 2009, GIFI received 83 requests referring to 1320 entities from Police, out of which most significant part of requests was received from entitled representatives:

- Central Bureau of Investigation of KGP, Division for Fighting Organized Economic Crime,
- Central Bureau of Investigation of KGP Division for Fighting Acts of Terror,
- Criminal Office of KGP Division for Fighting Economic Crimes,
- Criminal Office of KGP Division for Assets Recovery.

Moreover, in 2009, GIFI provided reply to 1 request referring to 3 entities, submitted by authorised representative of the National Border Guard Headquarters.

In 2009, representatives of the Department of Financial Information carried out 5 trainings for representatives of Police and 1 training for representatives of the Border Guard:

- from April to December 2009 – 4 editions of trainings organized by the Police Academy in Piła, in cooperation with the Criminal Office of KGP, for representatives dealing with property security, in particular Voivodship Police Headquarters Divisions for Fighting Economic Crime and Central Bureau of Investigation of KGP Local Managements; topic of counteracting money laundering -cooperation of Police with GIFI in particular in respect of securing properties.
- 13-15 October 2009 – participation as the lecturers in the conference organized by the Police Academy in Katowice, concerning issues related to securing properties with participation of representatives of the National Police Headquarters, Voivodship Police Headquarters and small group of representatives of the Internal Security Agency.
- 12-13 October 2009 – training for representatives of Border Guard in respect of activities

related to settlement of property elements originating from illegal or undisclosed sources including so called financial analysis of the crime and cooperation between GIFI and organization units of the Border Guard.

4.4. Cooperation with the Head of the Internal Security Agency and the Head of Intelligence Agency

In 2009, GIFI received 37 requests concerning 250 entities under cooperation with the Head of the Internal Security Agency.

In 2009 GIFI provided reply to 1 request concerning 2 entities received from the Intelligence Agency. Moreover, representatives of the Department of Financial Information carried out 3 training meetings organized for employees of the Internal Security Agency (ABW):

- in June 2009 – in respect of counteracting money laundering and terrorism financing under the basis course for ABW officers,
- 7 October 2009 – topics: legalization of money originating from crime from the point of view of GIFI -rules, methods, forms and scope of exchange of information between ABW and GIFI from the operational and intelligence point of view,
- 9 December 2009 – topics: as above.

4.5. Cooperation with the Head of the Central Anticorruption Bureau

In 2009, GIFI received from the Central Anticorruption Bureau 10 requests concerning 54 entities. Moreover, 4 information was received on the basis of Article 14(2) of the *Act* which concerned 7 entities.

4.6. Cooperation with the Head of the National Criminal Information Centre

In 2009, GIFI intensively cooperated with the Head of the National Criminal Information Centre (KCIK). Apart from criminal information provided from the office (number of registrations 0 799), 1541 entities were controlled in the IT system of the General Inspector of Financial Information. 203 from them were indicated as entities which occurred in carried our analytical proceedings.

2340 inquiries for information were directed to KCIK, including 1878 requests for entities obliged to supplement criminal information (in particular Polish authorities).

Table containing data on cooperation of GIF-KCIK in 2006-2009

Specification	2006	2007	2008	2009
Inquiries from GIFI to KCIK	1189	2256	3486	2340
Registration of entities by GIFI-KCIK	660	618	617	799
Inquiries from KCIK to GIFI	1179 <i>including 83 positive</i>	1767 <i>Including 103 positive</i>	1326 <i>Including 103 positive</i>	1541 <i>Including 203 positive</i>

4.7. Additional information concerning cooperation

In 2009, GIFI was actively involved in activities aiming at counteracting proliferation of weapons of mass destruction. Two representatives of the Department of Financial Information actively participated in meetings of the Inter-Ministerial Team for counteracting illegal proliferation of the weapons of mass destruction and implementation of the “Krakow Initiative” – Proliferation Security Initiative (PSI) headed by the Ministry of Foreign Affairs.

It must be underlined that in the current legal state, GIFI may undertake direct activities in the above mentioned scope only in situations where activities of entities dealing with proliferation or its financing will relate to suspicion of committing a crime of money laundering or terrorism financing. In such cases GIFI may use its statutory rights i.a. to withhold transactions or to block accounts.

GIFI may also undertake proper activities in cooperation with specific authorities dealing with state security, at their written and justified request, in the mode and on the rules specified in Article 32 and

33 of the Act.

In 2009, GIFI used its rights and provided to competent state security service – at its own accord on the basis of Article 33(3) of the *Act* – three reports on transactions with participation of entities involved in proliferation. It also replied to one request to provide information related to proliferation issue.

On 18 December 2007 the Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime came in force. Representatives of GIFI participated in 2009 in establishing agreement between ministries in the field of cooperation aiming at fulfilling tasks related to tracing and identification of illegally obtained proceeds. The agreement between the Minister of Interior and Administration, Minister of Finance and Minister of Justice on cooperation in the field of tracing and identification of proceeds from, or other property related to, crime in respect of National Asset Recovery Office was finally concluded on 15 September 2009.

Moreover, representatives of the Department participated in works of the team for trainings and Electronic System of Asset Recovery (ESOM). It must be noted that the main task of the team planned for 2009 was supporting implementation in competent units of the Ministry of Interior and Administration, Ministry of Justice and Ministry of Finance ESOM programme in the scope of its activation, updating, use and evaluation.

Additionally, in 2009 intensive cooperation with Criminal Office of KGP Division for Asset Recovery was undertaken in the scope of exchange of information and in the scope of trainings carried out for Police officers concerning securing of assets from crimes.

In 2009, GIFI also took part in review activities of Poland under works of the Working Group of OECD on Bribery in International Business Transactions and activities related to implementation of recommendations formulated by the Working Group. With regard to them, GIFI undertook steps to improve information flow with obliged institutions and cooperating units in order to increase effectiveness of cooperation in the field of counteracting money laundering and terrorism financing which can directly translate into the quality of fighting corruption which is one of the predicate offences for money laundering. Amended provisions of the *Act of 16 November 2000 on counteracting money laundering and terrorism financing* provided the legal basis for provision to the above mentioned entities feedback on method of use of information received from them by GIFI on transactions or other activities which can be related to crimes specified in Article 299 and 165a of the *Penal Code*.

4.8. Training activities

4.8.1. E-learning course

In 2009, GIFI provided free-of-charge e-learning course entitled “Counteracting money laundering and terrorism financing”. The aim of the course is familiarizing the employees of obliged institutions and cooperating units with counteracting money laundering and terrorism financing in the field of binding provisions.

The form of e-learning course means that it is available via Internet both in the scope of enrolment, use of its resources, participation in verification test and obtaining certificate on completion of the course. Details specifying rules of participation in the course are available Ministry of Finance website (tabs: Financial security → Fighting money laundering and terrorism financing → Communications). The course is free of charge.

In 2009, 9050 certificates were issued for obliged institutions, 1126 certificates for cooperating units, 292 certificates for so called other entities not being obliged institution and cooperating unit (e.g. students).

Anticipated period of course availability: till the end of the 1st quarter 2010.

4.8.2. Guide for obliged institutions and cooperating units

In 2009 another, third edition of the guide entitled "Counteracting money laundering and terrorism financing" addressed to official use for obliged institutions and cooperating units.

The main reasons to issue another edition of the guide was amending of the Act on counteracting money laundering and terrorism financing and the fact that since publication of the last editions of the guide, knowledge in the field of counteracting money laundering and terrorism financing increased. Apart from referring to changes in legal provisions, a totally new part was added concerning risk areas, previous chapters describing methods of money laundering were improved and supplemented and more information was added on counteracting terrorism financing. Also a separate chapter on special limiting means was included.

Distribution of guide to obliged institutions and cooperating units both in paper form and in electronic form – on CDs (in this from for the first time since the first edition) started in December 2009. The part containing sensitive, detailed information concerning identified methods of money laundering was excluded from electronic version of the guide.

4.8.3. Other trainings

It must be underlined that the representatives of the Department of Financial Information participated as the trainers in conferences and trainings organized in 2009 at the invitation of entities including obliged institutions:

- in the training organized by the National Chamber of Notaries for representatives of the District Chambers of Notaries on 3-4 September 2009 in Zakopane,
- in Conference organized by the Polish Bank Association on 23-24 September 2009 in Zakrzew,
- in 2nd edition of the Conference Banking Management Forum organized on 1-2 October in Warsaw,
- in training for notaries inspectors from Regional Chambers of Notaries on 19 October 2009 in Warsaw.

Representatives of the Department also participated in training organized by BRE Bank SA for employees of BRE Bank SA capital group and other banks from the country organized in October 2009 in Warsaw.

The basic topic of most of exposes of the Department representatives during these conferences and trainings was amendment of the *Act on counteracting money laundering and terrorism financing*.

5. INTERNATIONAL COOPERATION

5.1. Cooperation with the European Commission

Cooperation with the European Commission is mostly implemented in two fields: through participation in works of the Committee for Counteracting Money Laundering and Terrorism financing (also known as Prevention Committee) and through participation in meetings of EU-FIU Platform.

Under works in Prevention Committee representatives of GIFI took part in sessions, meetings and workshops on i.a.

- issues related to problems concerning application of provisions of the *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* (so called 3rd Directive),
- discussion on common approach of the European Union Member States towards Iran, with consideration of sanation activities proposals,
- issues related to consideration in the domestic provisions of the EU Member States fiscal crimes as the predicate offences for money laundering,
- cases of practical approach of evaluators in respect of application of the 9th special recommendations of FATF (concerning transport of cash or other liquid assets abroad) towards EU Member States,
- discussions on review of states under activities of International Co-operation Review Group - ICRG, which at FATF carries out works aiming at identification of jurisdiction which as a

result of weakness of their systems for counteracting money laundering and terrorism financing do not ensure safety of international financial system in respect of international cooperation in the discussed field.

EU-FIU Platform were dedicated to implementation of common projects of the financial intelligence units of the European Union Member States, operational cooperation of units under FIU.NET, development of analysis of issues related to operational and strategic cooperation of financial intelligence units under EU and initial works in the field of modification of information exchange standards and cooperation of these units. GIFI representatives continued cooperation under the Platform with respect of project related to international cooperation rules for financial intelligence units. Its main objective is improvement of operational cooperation between FIU of the European Union Member States.

5.2. MONEYVAL Committee

In 2009, representatives of GIFI with representatives of the Ministry of Justice and the Financial Supervision Authority (KNF) participated in MONEYVAL meetings, involving in the Committee works on on going basis. Together with other national delegations they worked on preparation of the 4th round of evaluation of systems counteracting money laundering and terrorism financings carried out by MONEYVAL, International Monetary Fund, Financial Action Task Force (FATF) and World Bank.

During the meetings a schedule for further MONEYVAL actions was accepted under which in 2010 it is planned that Poland would present a second Progress report.

Within works of the Committee, in 2009, Poland was so called reporting country during the discussions on the second Progress report of the Slovakia. The task of Polish delegation was presentation of achievements and errors in Slovak system of fight against money laundering and terrorism financing, covering period between the first and the second Progress report.

With regard to involvement at the MONEYVAL meeting in work of the Typology Group, GIFI representatives participated in typological meeting of MONEYVAL, which was held in November 2009 on Cyprus, including works of Insurance and Gambling Typology Task Forces.

Moreover, two representatives of GIFI and KNF completed a training for evaluators organized by MONEYVAL under the 3rd Evaluation Round, obtaining the right to participate in evaluation of other countries.

5.3. Cooperation of international organizations

5.3.1. Egmont Group

Polish Financial Intelligence Unit (PFIU) participated in works of EGMONT Group i.a. through preparation of inputs to numerous typological questionnaires prepared by working groups: operational and training. GIFI representatives prepared for the needs of EGMONT Group information on activity of the Polish Financial Intelligence Unit and they submitted their participation in works on EGMONT Group library, containing practical examples of activities related to fight against money laundering, national regulations of the Group members and other documents useful in FIU operation.

Thanks to participation in works of EGMONT Group, GIFI is able to cooperate closely with units from the whole world, operating in the area of counteracting and fighting financial crime.

5.3.2. Financial Action Task Force (FATF)

Thanks to MONEYVAL membership in FATF last year GIFI representative had two opportunities to participate in works and meetings of FATF, highlighting interest of our country with discussions carried out in that organization which tasks included creation of latest standards in the field of fighting money laundering and terrorism financing procedure.

Moreover, GIFI representatives were involved in development of Polish stand presented with regard to review of countries under works of the International Cooperation Review Group FATF (so called ICRG). GIFI representative by being part of MONEYVAL delegation, participated in the meeting of

the European and Asian Review Group (Subgroup under ICRG) presenting Polish stand in the field of FATF recommendations.

5.3.3. Euro-Asian Group on combating money laundering (EAG)

GIFI representative as an observer participated in Euro—Asian Group on combating money laundering. From February 2005 the Group has had an observer status at FATF and operates on rules similar to MONEYVAL (so called FATF-Style Regional Body – FSRB).

Participation in the Group results from the PFIU interest in works at various FSRB. Moreover, thanks to participation in EAG works contacts with other Member States of that organization are strengthened.

GIFI representatives took active part in Working Groups (Technical Support Group and Typological Group) through involvement in preparation of typological questionnaires and through participation in plenary meeting of the Group which took place in Saint Petersburg in Russia.

In 2009, implementation of so called technical support for Group Member States was continued, including in particular the experts' support in the field of IT tools and data modelling for the Financial Intelligence Unit of Kyrgyzstan and while visit of the Russian Financial Intelligence Unit in Poland.

5.4. Strengthening GIFI position in the region

In the first half of 2009, “Project on cooperation between Ministry of Finance of RP and USE Department of Treasury” signed on 20 December 2006 was continued to be implemented. Subsequent project tasks were implemented including organization of seminar for Polish customs administration authorities and border guard, carried out by specialists from US Immigration and Customs Enforcement.

The Ministry of Finance of the Republic of Poland with US Department of the Treasury organizedrd 3rd Regional Conference of the Financial Intelligence Units which took place in Warsaw on 22-23 June 2009. The conference was a continuation of activities implemented by GIFI with US Department of the Treasury in 2007 (1st Regional Conference of the Financial Intelligence Units in Miedzeszyn). At the same time, a meeting closing two-year Polish-American project took place.

The Conference topic were issues related to interpretation and implementation of assumptions of the 7th and 9th special recommendations of FATF concerning money transfers and cash transport abroad respectively.

Conference was attended by ca. 50 persons including representatives of the Financial Intelligence Units from Montenegro, Estonia, Lithuania, Latvia, Russia, Romania and Serbia and representatives of international institutions involved in issues related to implementation of 7th special recommendation and 9th special recommendation *inter alia*: the European Commission, the Council of Europe, FRONTEX, Organization for Security and Co-operation in Europe as well as representatives of the US Department of Homeland Security and US Immigration and Customs Enforcement. The meeting was attended by representatives of the Polish authorities and institutions involved in issues related to combating money laundering and terrorism financing.

5.5. Bilateral cooperation

5.5.1. Exchange of information with FIUs

In 2009, GIFI received 96 requests from foreign FIUs to provide information concerning 507 entities. Comparing to 2008, one request more was noted, however, the number of entities in requests was almost twice as big.

Most requests were received from units of the following countries:

- Ukraine – 16 requests;
- Belgium – 9 requests;
- Luxemburg – 6 requests;
- France – 6 requests;
- Great Britain – 5 request;

- Finland – 5 requests.

143 inquiries were addressed to foreign units i.e. the same number as in 2008 and they referred to 393 entities in total. Most inquiries were addressed to the units of the following countries;

- Germany – 22 inquiries;
- USA – 12 inquiries;
- Great Britain -10 inquiries;
- Cyprus – 10 inquiries;

To exchange information a secured e-mail was mostly used via Egmont Secure Web -a platform to which foreign units from the whole world have access and via FIU.NET -a network connecting units from the European Union units. Due to use of electronic paths of information exchange, an average time for reply to inquiry was ca. 3 weeks and in case of emergency inquiries (related to reports on suspicious transactions sent under Article 16(1) of the *Act*) the reply time usually did not exceed 2-3 days.

Information received from foreign Financial Intelligence Units often constitute the basis for formulation of crime report for the Public Prosecutor's Office by GIFI.

An example of an effective cooperation with foreign units is information on apprehension of Polish citizen by the Police of one of the European countries with regard to suspicion of drugs smuggling and trade at a large scale. The analysis of transactions carried out by persons related to the detained allowed to find that proceeds from this crime were also invested in Poland. As a result of actions, GIFI blocked accounts with the amount of several hundred thousand zloty.

Several hundred thousand Euro was also blocked on accounts of companies with registered seats in one of Baltic states which – through accounts opened in Polish banks – committed money laundering from extortion of VAT made abroad. On the basis of received information it was found that these companies and part of senders of transfers were erased from the VAT tax payers and remained in the interest of foreign law enforcement and fiscal authorities with regard to suspicion of tax fraud. Received funds were withdrawn in cash by dummies within the Polish territory or transferred abroad including to entities offering services in the field of currency exchange and money payments.

5.5.2. Memoranda of Understanding

The basis for GIFI cooperation with foreign Financial Intelligence Units are bilateral Memoranda of Understanding, *Council Decision no. 200/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information* and Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism of 16 May 2005 (CETS 198).

The main premises of the above mentioned cooperation resulting from the above documents are:

- principle of reciprocity,
- use of information for analytical purpose at the level of financial intelligence unit,
- substantiation of inquiry related to suspicion of money laundering or terrorism financing,
- provision of possessed information or documents to a third party or their use for other purpose than the purposes listed above only upon a written consent of the FIU from which they were received,
- FIU is not obliged to provide information if judicial proceedings were initiated in the case.

The scope of received and disclosed information, in particular additional information each time depends on the scope of inquiry and compliance with basic rules of national law.

In 2009, GIFI concluded MoU in the scope of information exchange concerning combating money laundering and terrorism financing with the FIUs from Armenia, Commonwealth of The Bahamas, Moldova, Norway, San Marino and Isle of Man. This way, the number of FIUs with which GIFI exchanges information related to money laundering and terrorism financing on the basis of bilateral

agreements increased to 50.

5.6. Other issues

5.6.1. Twinning Project for Romanian FIU

Polish Financial Intelligence Unit was selected by Romania Financial Intelligence Unit as the executor of twinning project no. RO/2007-IB/JH/05 "Fight against money laundering and terrorism financing" for Romanian FIU. The project will be implemented from the European Commission funds under so called *Transition Facility*.

Its objective is strengthening Romanian administration and obliged institutions in the field of counteracting money laundering and terrorism financing through support in development of national strategy and adequate trainings programme in this field for all involved entities.

In December 2009, after long-lasting period of negotiations caused *inter alia* by change of Project Fiche by the Romania beneficiary, a contract enabling implementation of Twinning Project to parties was signed. From January 2010, the GIFI representative started a mission as long-lasting adviser in Romania and individual planned activities began.

5.6.2. Participation in negotiation process between Poland and USA

GIFI representatives, from December 2008 to November 2009 were members of the working group appointed to negotiation of governmental executive agreement NATO-SOFA with USA in the scope of organization and operation of financial basis of American forces base in Poland.

The negotiations included activity of financial institutions such as: *Community Bank, Credit Union* and money exchange offices which can be established by American authorities on Polish territory to provide financial services for the base, soldiers, their families, civil staff, contractors and contractors' staff. An agreement was reached that the financial institutions of the base would be supervised by competent authorities of the USA and that the RP authorities would not be responsible for their activity and procedures counteracting money laundering and terrorism financing and their combating binding for the institutions would be specified in detail by additional executive agreement. The basis for this agreement is an adequate provision of the negotiated agreement.

Among the negotiated issues there were also issues related to transport of money by the above mentioned entities cross Polish border. The effect of the negotiations was the guarantee of free import and export of cash cross Polish borders respecting control requirements which are similar to requirements for all other persons crossing Polish borders. At the same time, the parties made commitment to jointly prevent abuse of rights granted under the agreement, to secure money exchange system of RP and the regime of counteracting foreign laundering and terrorism financing in the scope of the agreement.

5.6.3. Technical support for third parties

In 2009, GIFI hosted foreign delegation of FIUs from Algeria, Macedonia and Russia. The aim of the visit was comprehensive presentation of Polish system of fighting against money laundering and terrorism financing and experience in this field.

During the visits, guests from Algeria and Russia familiarized with activity of Polish institutions and services involved in fighting money laundering and terrorism financing: Department of Financial Information, Public Prosecutor's Office, Financial Supervision Authority, Police, Central Anticorruption Bureau and Anti-terrorist Centre at ABW. The representatives of Macedonia had chance to familiarize with Polish experience in the scope of use of IT tools for special financial analyses.

6. LEGISLATIVE ACTIVITY

6.1. Amendment of the Act

In 2009, legislative works were continued with regard to the draft of the *Act mending the Act on counteracting the introduction to the financial circulation of financial assets originating from illegal or undisclosed sources and counteracting terrorism financing and amending other Acts*. In the course of parliamentary works, GIFI took part in numerous meetings of sejm and senate commissions.

Finally, the Act was accepted on 25 June 2009 and entered into force on 22 October 2009.

In aim of amendment was adjustment of provisions of the Act to Community regulations in respect of counteracting money laundering and terrorism financing and in particular to the

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 (O.J. EU L 309 of 25.11.2005, as amended) and *Commission Directive 2006/70/EC laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of "politically exposed person" and the 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* (O.J. EU. L 214/29 of 4 August 2006) as well as regulations in the scope of application of individual limiting means against persons, groups and entities within the territory of the Republic of Poland.

At the same time, GIFI undertook legislative measures aiming at preparation of regulations the issue of which was provided for in the provisions of amended Act. On 20 October 2009 the *Ordinance of the Minister of Finance on list of equivalent countries* (Dz. U. No. 176, item 1364.) Moreover, a settlement process concerning *Ordinance of the Minister of Finance on the form and mode of transfer by the Border Guard bodies and customs authorities information to the General Inspector of Financial Information* and works started on amendment of the *Ordinance of the Minister of Finance on determination of a specimen for transactions recording, method of keeping records and mode of provision of data from the record to the General Inspector of Financial Information*.

6.2. Other legislative activities

Similarly to previous year, GIFI actively participated in legislative processes concerning amendments of other legal acts, in particular in situations where drafted amendments could have impact on fighting against money laundering and terrorism financing. An example of such legal acts was the draft of Act on payment services and draft of Act on identity cards.

6.3. Warsaw Council of Europe Convention

With regard to entering into force on 1 May 2008 in Poland and five other countries (Albania, Bosnia and Herzegovina, Malta, Moldova and Romania) the *Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism concluded in Warsaw on 16 May 2005*, GIFI actively joined the works of Working Group of the Convention Parties Conference initiated in 2009, aiming at preparation of a questionnaire which would allow to assess implementation of the *Convention* provisions in countries which ratified it. The *Convention* regulates issues related to fighting against money laundering and depriving criminals the proceeds from their criminal actions. The provisions of the *Convention* also allow to fight terrorism financing in effective manner.

3. Annex III - General Inspector of Financial Information Annual Report 2008

General Inspector of Financial Information Annual Report 2008



REPUBLIC OF POLAND
MINISTRY OF FINANCE
INFORMATION
of the
General Inspector of Financial Information

On execution of the Act of November 16, 2000 on Counteracting Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources and on Counteracting the Financing of Terrorism in the year 2008

1. INFORMATION ABOUT TRANSACTIONS

In line with the *Act of November 16, 2000 on Counteracting Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources and on Counteracting the Financing of Terrorism* (Dz.U. of 2003, No. 153 item 1505 as amended; hereinafter referred to as the Act), the General Inspector of Financial Information is primarily involved in acquisition, accumulation, processing and analysis of information in the manner determined in Act and undertakes activities aimed at counteracting introduction into financial circulation of property values derived from illegal or undisclosed sources and counteracting the financing of terrorism, in particular investigating the course of transactions which may be related to committing a crime referred to in Art. 299 of the *Penal Code* or the financing of terrorism.

The General Inspector of Financial Information (hereinafter referred to as the GIFI) executes its tasks with the assistance of the Department of Financial Information, an organisational unit separated for this purpose in the structure of the Ministry of Finance. Together with it, the Inspector constitutes the Polish financial intelligence unit, according to the terminology used in the legal acts of the European Union.

1.1. Suspicious Transactions

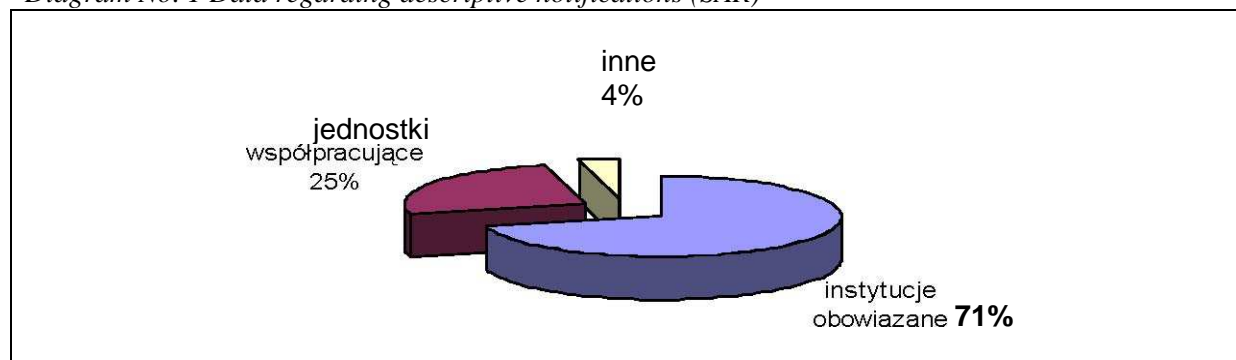
In 2008, the Department of Financial Information received 1,815 descriptive notifications about suspicious activities and transactions (the so-called SARs). Their characteristic feature was description of several, several dozen and sometimes even several hundred transactions (most often related to one another by the same parties to the transactions, similar suspicious circumstances, similar time of processing and/ or involvement of the same property values) which, in the opinion of the notifying institution, may be related to money laundering. Moreover, these notifications were often accompanied by other data and documents contributing to more efficient conduct of the proceedings (e.g. account history, copies of documents regarding suspicious transactions).

Table No. 1 Number of descriptive notifications received in the period from 2001 to 2008

Source of notifications	Obligated institutions	Co-operating units	Other sources	Total
2001 (from July)	102	115	14	231
2002	358	237	19	614
2003	739	211	15	965
2004	860	521	16	1397
2005	1011	500	15	1526
2006	1351	530	17	1898
2007	1244	648	28	1920
2008	1287	460	68	1815

In 2008, the number of notifications of this type received from obligated institutions increased slightly: by 3.5% in relation to the previous year. At the same time, the number of notifications received from co-operating units decreased by 29%. On the other hand, the number of notifications received from other sources grew by 142.9%.

Diagram No. 1 Data regarding descriptive notifications (SAR)



[co-operating units: 25%; others: 4%; obligated institutions: 71%]

Similarly to the previous years, most notifications of this type received from obligated institutions derived from banks.

Table No. 2 Division of descriptive notifications from obligated institutions according to types of units

Institution type	Number of descriptive notifications	Percentage share
Banks	1,237	96.11%
Credit unions	20	1.55%
Brokerage firms	21	1.63%
Entities representing legal professions	2	0.16%
Lease entities	3	0.23%
Insurance companies	4	0.31%
Total	1,287	100.00%

In the case of banks, over a half (approx. 55.5%) of notifications of this type derived from six banks, i.e.:

- 1) BZ WBK S.A.
- 2) PEKAO S.A.
- 3) PKO BP S.A.
- 4) Bank Millennium S.A.
- 5) BRE Bank S.A.
- 6) ING Bank Śląski S.A.

It is necessary to note that the number of notifications received from brokerage firms increased by 75% in comparison to the previous year. In this respect, Dom Maklerski BZWBK S.A. and Dom Inwestycyjny BRE Bank S.A. were in the lead.

In comparison to the information about individual suspicious transactions, descriptive notifications are characterised by great detail and well presented justification, indicating the suspicion conceived by an obligated institution. In consequence, this facilitates quick

verification of the received data in other information sources and as a result of it, preparation of a notification on suspicion about committing a crime under Art. 299 of the *Penal Code*.

However, it is necessary to pay attention to certain shortcomings which sometimes appear in the above-mentioned descriptive notifications. Certain institutions provide the data of the other parties to the transactions in a limited manner, fail to attach additional information about the suspicious entities despite their possession, e.g. with respect to the fact that the law enforcement agencies are conducting proceedings against them. Moreover, it also happened that an institution did not properly analyse suspicious transactions, which resulted in errors in identification of entities or erroneous conclusions with respect to money laundering or the financing of terrorism.

In spite of the provision of Art. 106a.1 of the *Banking Law Act* of August 29, 1997 (Dz.U. of 2002, No. 72, item 665 as amended) requiring the banks to provide information to the police or the public prosecutor's offices in case there is a justified suspicion on using its activities for criminal acts not related to money laundering or the financing of terrorism, the above-mentioned notifications featured notifications indicating commitment of other crimes than the crimes listed above. In relation to the repetitive nature of such notifications primarily indicating a justified suspicion of committing a predicate offence with respect to money laundering, in 2008 banks were provided with general feedback on this subject resulting mainly from data received from law enforcement agencies conducting proceedings in such cases.

In 2008, 17,227 notifications on individual suspicious transactions were received (17,214 transactions marked as suspected of money laundering – *STR-ML* and 13 transactions marked as suspected of terrorist financing – *STR-TF*). Their distribution in individual months of 2008 is presented in diagram No. 2, and distribution of the number of these transactions according to types of obligated institutions is presented in diagram No. 3. Every year, the GIFI records a decrease in the number of transactions submitted by the obligated institutions by electronic mail and marked as suspected of money laundering or terrorist financing. Analysis of these transactions in previous years showed a significant share of errors (detailed data in the GIFI reports from previous years) in the provided data (both of technical and substantive nature), committed by the obligated institutions during classification of transactions. The activities undertaken by the GIFI and cooperation with other obligated institutions led to a systematic drop in the number of errors with a simultaneous increase in the quality of provided information.

Diagram No. 2 Number of new suspicious transactions sent to the GIFI in individual months (STR).

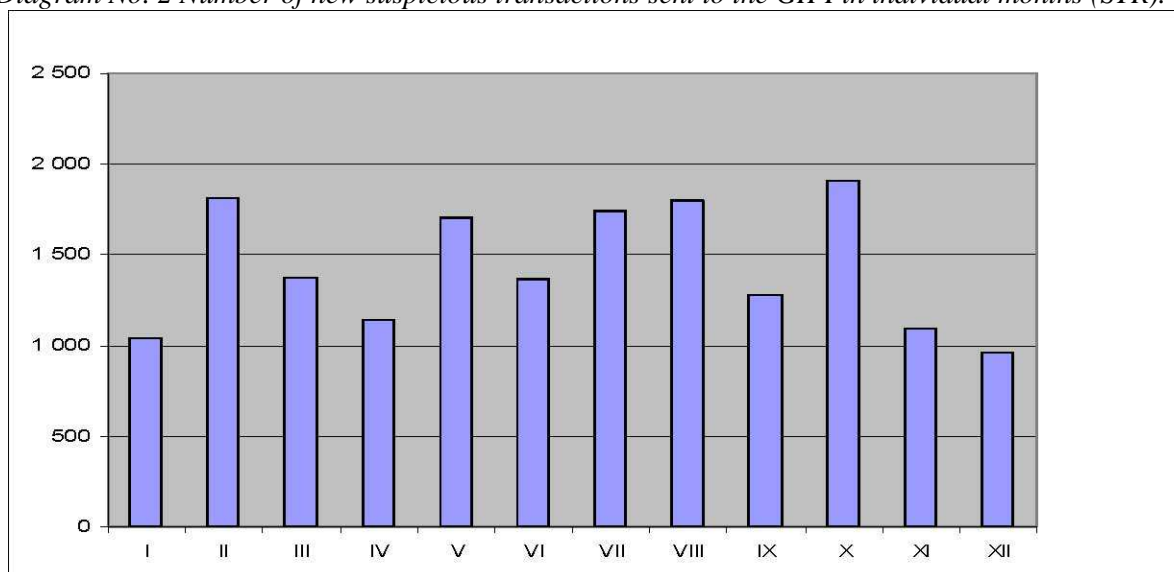
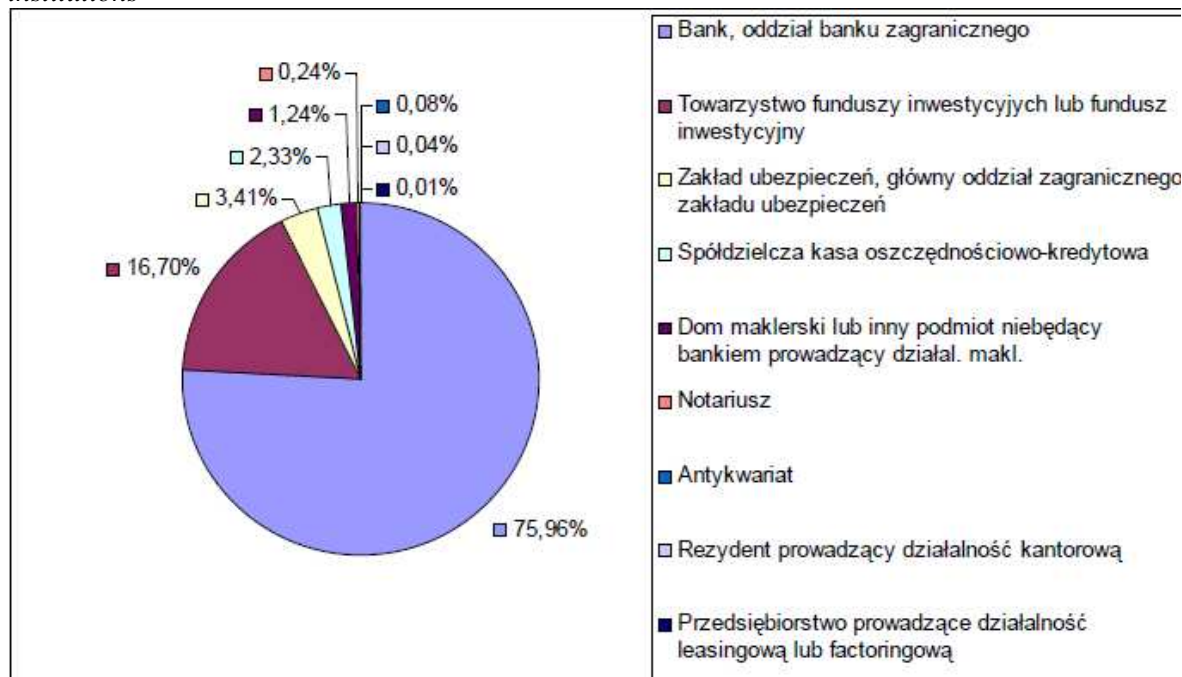


Diagram No. 3 Distribution of the number of suspicious transactions (STR) according to types of institutions



[Bank, a branch of a foreign bank;

Investment fund association or investment fund;

Insurance company, main branch of a foreign insurance company;

Credit union;

Brokerage firm or another entity which is not a bank but conducts brokerage activity;

Notary public;

Antiquarian bookstore;

Resident conducting currency exchange activity;

Enterprise conducting lease or factoring activity]

Among 3,000 institutions which provided data to the GIFI in 2008, there are entities providing information about individual transactions in the course of a year and entities providing information about hundreds of thousands of transactions on a monthly basis (in 2008, the largest institution in this respect provided the GIFI with information about over 4million transactions). The GIFI provides services for both types of entities – as well as the entire range of institutions with intermediate features – with greatly differing expectations as far as the form and the scope of assistance on the part of GIFI is concerned with respect to various groups of obligated institutions.

A significant share of these notifications was related to the provided descriptive notifications. Majority of notifications about individual suspicious transactions were sent by banks, investment funds and insurance companies. Among banks, the greatest number of such notifications was sent by:

1) ING Bank Śląski S.A.

2) Bank Zachodni WBK S.A.

3) Bank Handlowy w Warszawie S.A.,

which in total constitutes over a half of the notifications from the obligated institutions of this type. It is necessary to note that the notifications on individual transactions provided by the obligated institutions still featured shortcomings in the form of absence of a justification indicating the suspicions conceived with respect to the notified transactions. Sometimes, the notifications were sent with laconic descriptions, e.g.: “transaction designated on the basis of analysis”, “repayment of credit”, “discontinuation of deposit” or there was no justification for the suspicion, e.g. “non-suspicious transaction”, “no remarks.”

As a result of initial analysis of the notifications, 1,725 suspicious transactions and 3,384above-threshold transactions (with a value above EUR 15,000) related to them were classified to further

analysis, within the framework of 13 new analytical procedures.

In 2008, the GIFI also received 460 notifications from co-operating units, most of them from tax offices, the Agricultural Property Agency (APA), the National Bank of Poland and fiscal control authorities.

Table No. 3 Division of descriptive notifications from co-operating units according to unit type

Co-operating unit	Number of notifications	Percentage share
Treasury authorities	173	37.61%
APA	76	16.52%
NBP	74	16.09%
Fiscal control authorities	72	15.65%
Customs authorities	25	5.43%
Law enforcement agencies	22	4.78%
Units of public administration	18	3.91%
Total	460	100.00%

In the case of information received from co-operating units, the irregularity encountered most often is the absence of justification for providing the notification, including elements that indicate commitment of a crime under Art. 299 of the *Penal Code*. There were also cases of provision of information in relation to a suspicion regarding committing a crime other than listed above. Moreover, sometimes certain co-operating units would simultaneously send notifications about the same case to the GIFI and to the law enforcement agencies.

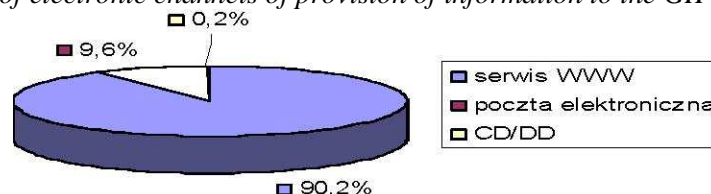
1.2. Above-threshold transactions

The GIFI accumulates and processes the information obtained from the obligated institutions about above-threshold transactions. In 2008, a dedicated IT system accepted over 75,000 files with data regarding transactions processed in the Polish financial system. In line with the binding provisions, the files with data are submitted with the use of one out of three electronic channels:

- a secure GIFI Internet site (by means of completing a questionnaire directly at the website or sending it with the use of file from the system of an obligated institution: in 2008, the GIFI received 90.2% of all files in this manner);
- secure electronic mail (in 2008, the GIFI received 9.6% of all files in this manner) or;
- submission of information on a CD/ disc (in 2008, the GIFI received in this manner 0.2% of all files).

Diagram No. 4 presents percentage distribution of use of individual electronic channels for sending files with data to the GIFI.

Diagram No. 4 Use of electronic channels of provision of information to the GIFI



[Internet website; electronic mail; CD/ disc]

A slight (even though requiring proportionally much more work during collection and entering into databases) portion of information is submitted by the obligated institutions to the GIFI in the form of paper copies of transaction cards (in 2008, the GIFI received over 5,500 paper copies of transaction cards).

The total number of transactions about which the GIFI was informed in various manners exceeded 34.8 million. Among the notified transactions, 12.9% were transactions whose data contained major errors, hindering their further analysis and requiring provision of corrections by the obligated institutions. This significantly decreases the percentage of errors (in 2007, the analogous value

amounted to 19.1%) and it is an expression of positive results of activities undertaken by the GIFI in 2008 and cooperation with the obligated institutions within the scope of explaining errors in notifications.

The distribution of the number of transactions submitted to the GIFI in individual months of 2008 is presented in diagram No. 5, whereas the distribution of the number of transactions according to the type of institution providing the data is illustrated in diagram No. 6. The largest group of transactions (over 84%) was provided by the banks, entities conducting brokerage activity (over 7%) and investment funds (2.9%).

Diagram No. 5 Number of transactions submitted to the GIFI in individual months of 2008

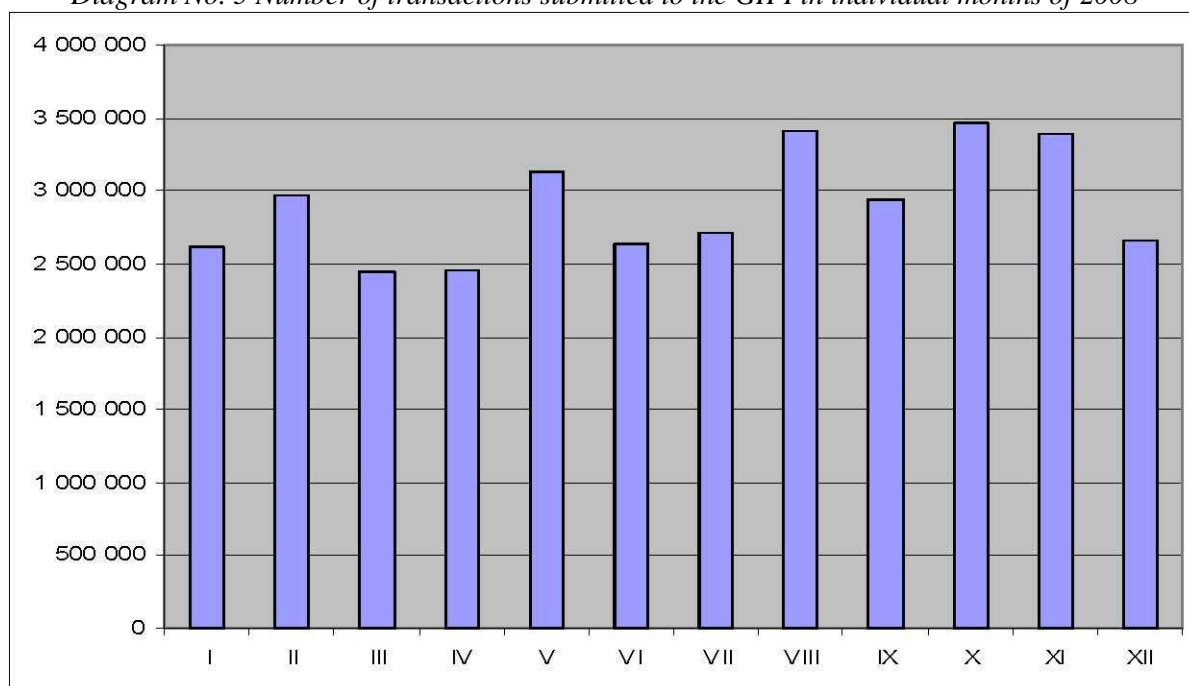
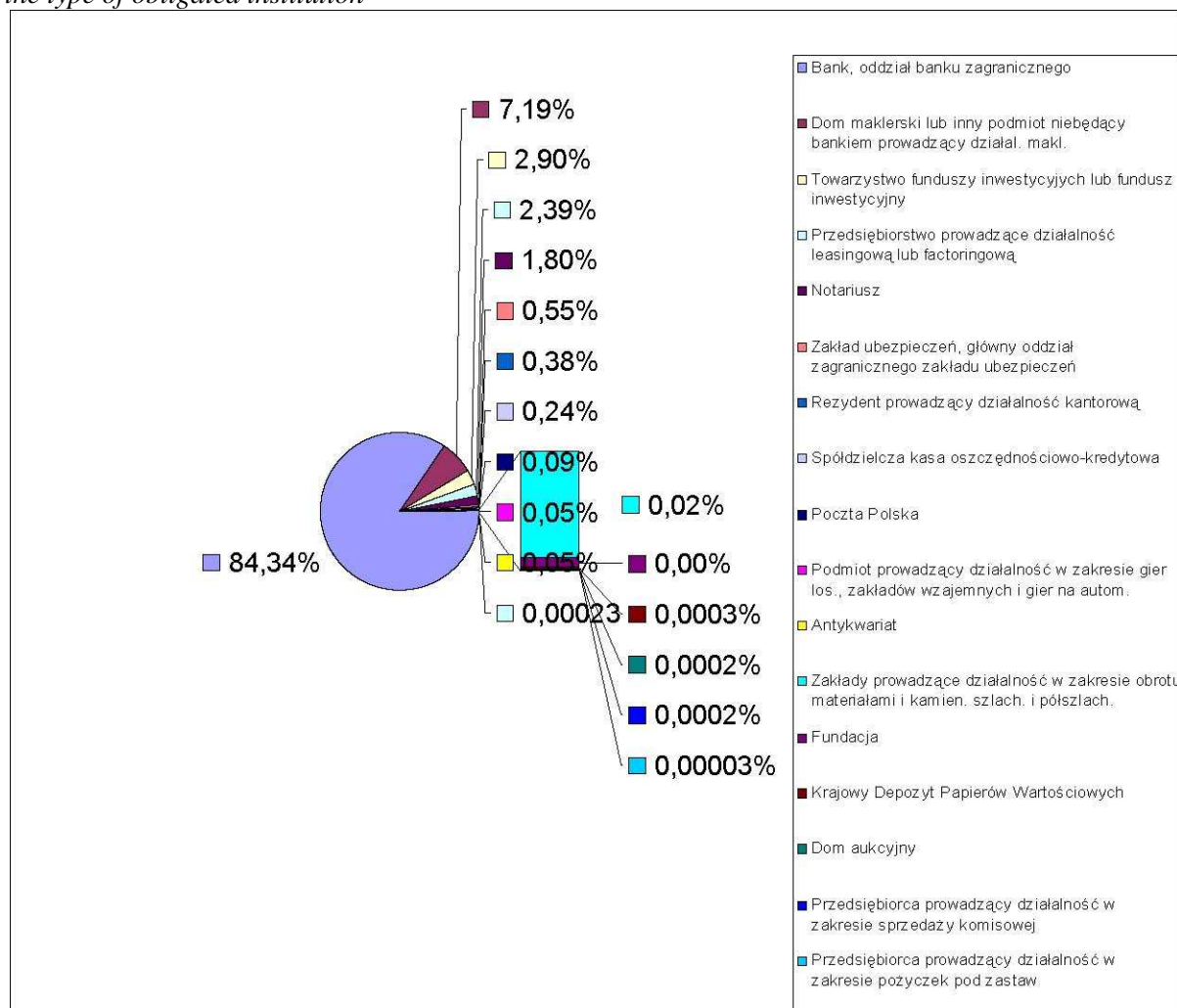


Diagram No. 6 Distribution of the number of transactions submitted to the GIFI in 2008 according to the type of obligated institution



[Bank, a branch of a foreign bank;
 Brokerage firm or another entity which is not a bank but conducts brokerage activity;
 Investment fund association or investment fund;
 Enterprise conducting lease or factoring activity;
 Notary public;
 Insurance company, main branch of a foreign insurance company;
 Resident conducting currency exchange activity;
 Credit union;
 Polish post;
 Entity conducting operation in area of lotteries, pari-mutual betting and machine gambling;
 Antiquarian bookstore;
 Enterprises operating within the area of circulation of precious and semi-precious gems and materials;
 Foundation;
 The National Depository for Securities;
 Auction house;
 Entrepreneur conducting operation in the area of consignment sale;
 Entrepreneur conducting operation in the area of pawn-broking]
 Among over 34.8 million transactions whose data were entered in the GIFI databases, 9% were cash transactions; 8% were transactions executed with the participation of entities for whom the obligated institution submitting the data indicated a foreign place of residence or foreign citizenship (1% of transactions was classified as transfers from abroad).

Data on transactions which were positively validated were made available for further analysis. The GIFI uses the data about transactions submitted by the obligated institutions in analyses of several types. All transactions are used in the course of searching for connections between the transactions of an analysed entity/ account, implemented in various obligated institutions. All transactions are analysed with respect to:

- occurrence of characteristic features (including occurrence of specific entities/ accounts as parties to the transaction, e.g. included in the lists of entities suspected of terrorism or its financing);
- occurrence of characteristic sequences of financial flows (on the basis of expert knowledge and models pre-determined on its basis).

As a result of the analyses, data on some transactions are included directly in the conducted proceedings and notifications addressed to the public prosecutor's offices (more information about this issue is included in the chapter regarding analysis of suspicious and untypical transactions).

2. ANALYSES

2.1. Counteracting Money Laundering

Within the framework of its statutory tasks, the General Inspector of Financial Information analyses the obtained information; in particular, the Inspector examines the course of transactions with respect to which justified suspicions have been conceived.

2.1.1. Analytical Proceedings and Their Effects

As a result of the information obtained in 2008, the General Inspector of Financial Information:

- initiated 1,242 analytical proceedings;
- demanded suspension of one transaction for the amount of approx. PLN 9,000;
- demanded blocking of 319 accounts where suspicious financial operations were made for the amount of approx. PLN 20.5 million (the Inspector demanded the blocking of 202 accounts on its own initiative for the amount of approx. PLN 10.3 million).

The individual proceedings listed above encompassed from several to over a thousand descriptive notifications of individual suspicious transactions and up to several thousands of above-threshold transactions.

The initiated analytical proceedings related to the following areas of threats:

- illegal or fictitious turnover of goods: fuels, scrap metal: 151 proceedings;
- transfer of money related to turnover of real properties and movables (vehicles): 117 proceedings;
- circulation of funds probably deriving from unauthorised access to bank accounts: 94 proceedings;
- transactions in turnover with foreign countries: 89 proceedings;
- circulation of funds probably deriving from other frauds and extortions: 61 proceedings;
- transactions at accounts conducted in Poland on behalf of non-residents: 53 proceedings;
- transactions with the participation of entities having registered offices in tax havens: 19 proceedings.

In comparison to the previous years, the use of the account blocking tool has increased; it consists in a temporary prevention of disposal and use of all property values accumulated in the account with a simultaneous possibility of increasing these values by inflow of more funds (cf. Table No. 4)

Upon its own initiative, the GIFI provided the obligated institutions (without a previous notification received from them) with written demands for blocking of 202 accounts for the amount of approx. PLN 10.3 million. The bases for such demands resulted from the conducted analytical proceedings.

It is necessary to emphasise that the amounts of funds blocked in the accounts are estimates, as during the blockade imposed by the GIFI funds may be credited to the account, yet they cannot be withdrawn. As a result of the analyses, 246 notifications about a suspicion of committing a crime (referred to in

Art. 299 of the *Penal Code*) were submitted to the public prosecutor's offices, referring to 468 entities and transactions with a value of approx. PLN 1.03 billion.

Table No. 4 Results of analyses

Specification	2001	2002	2003	2004	2005	2006	2007	2008
Notifications to the public prosecutor's offices under Art. 299 of the Penal Code	20	104	152	148	175	198	190	246
Suspension of transactions (in PLN million)	1	26	20 (approx. 37)	5 (approx. 2.6)	5 (approx. 1.6)	4 (approx. 6.4)	1 (approx. 0.23)	1 (approx. 0.09)
Account blocking (in PLN million)	—	—	8 (approx. 22)	13 (approx. 12)	34 (approx. 36)	92 (approx. 41.6)	97 (approx. 30)	319 (approx. 20.5)

In relation to the notifications sent by the GIFI, the public prosecutor's offices informed about issuing of the following decisions in 2008:

- 134 decisions about initiation of preparatory proceedings;
- 23 decisions about completion of preparatory proceedings – on the basis of submission of acts of indictment against 132 persons to courts;
- 88 decisions about discontinuation of preparatory proceedings and on three decisions on resumption of discontinued investigations (in relation to decisions about discontinuation of investigations, the GIFI is not authorised to file appeal – in line with Art. 306.1 of the *Code of Penal Procedure*). The main reason for discontinuation of proceedings was no possibility for determining the original crime which would be the source of origin for the funds introduced to financial circulation, as well as issuing of a decision on attaching the materials to other investigation proceedings. The decisions about discontinuation of proceedings were partial in numerous cases, solely referring to selected persons with the main proceedings still going on. Despite discontinuation of penal proceedings initiated on the basis of the GIFI notifications, there were cases of lodging accusations in relation to commitment of forbidden acts, other than money laundering;
- 8 decisions about refusal to initiate proceedings (in two cases, the refusals for initiation of proceedings were issued in relation to the proceedings already being conducted against the same person by another public prosecutor's office and in one case the refusal for initiation of proceedings was related to separation of a portion of material and its submission to proceedings already pending in another public prosecutor's office);
- 8 decisions about resumption of a suspended investigation/ proceedings.

According to the data submitted by the Ministry of Justice regarding all proceedings conducted in 2008, the public prosecutor's office issued the following decisions in cases on money laundering:

- 284 cases were initiated with respect to 254 persons (out of which 197 cases on the basis of information received from the GIFI);
- 74 acts of indictment were submitted to courts with respect to 324 persons;
- 81 preparatory proceedings were ended by a decision on discontinuation of investigation and 9 proceedings were ended with a refusal to initiate investigation;
- 66 preparatory proceedings were suspended.

The total value of assets encompassed by security on property in cases initiated in 2008 (in PLN and in other currencies) amounted to the equivalent of approx. PLN 65.4 million.

On the other hand, data regarding decisions in money laundering cases indicate that in 2008, the courts

of first instance issued 27 verdicts of guilty (53 convicted persons).

Apart from notifications submitted to the public prosecutor's offices on the basis of conducted analytical proceedings, the GIFI submitted 84 notifications about suspicious transactions, including 43 notifications to the Fiscal Control Offices and 26 notifications to the Internal Security Agency (including the notifications referred to on page 15), 13 notifications to the Central Bureau of Investigation of the General Police Headquarters, one notification to the Polish Financial Supervision Authority and one notification to the Central Anticorruption Bureau.

On the other hand, acting pursuant to Art. 15b of the Act, the GIFI sent 31 applications to tax authorities and to fiscal control authorities regarding examination of legality of origin of specific property values in order to explain the source of origin of such values.

2.1.2. SAMPLE DIRECTIONS OF ANALYSES

Scrap cases

The Department of Financial Information receives more and more notifications about suspicious transactions regarding turnover of scrap metal and recyclable materials. Cash obtained from such illegal activity is later introduced to financial circulation. The scale of the phenomenon is increasing, which is testified by the number of scrap cases initiated by the GIFI and the total value of suspicious transactions about which the GIFI notified the public prosecutor's offices. The results of the conducted analytical proceedings, regarding scrap metal and recyclable materials' circulation, indicate that a network of entities has been established for the purpose of providing funds which is completed with disbursement of cash.

The typical phenomena include:

- establishment of *simulating enterprises*, whose only task is to register its operation and open an account in one or in several banks;
- achievement, immediately after the company's establishment, of high turnover at very low income;
- short time of the entity's operation;
- recruitment of owners of the above entities among people with low income or unemployed;
- disbursement of funds immediately after their crediting.

These principles of operation are similar to the *fuel cases*. The used accounts function as distribution/target accounts. *Figureheads* are the final element of the transfer of cash by means of disbursement of cash.

In 2008, 103 *scrap cases* were initiated, whereas 80 notifications on suspicion about committing a crime under Art. 299 of the *Penal Code* were addressed to the public prosecutor's offices (encompassing 141 entities). The estimated value of transactions in these cases amounted to PLN 377.2 million.

Fuel cases

Similarly to the previous years, the Department of Financial Information received notifications about suspicious transactions regarding transfer of funds related to actual or fictitious circulation of liquid fuels and components for their production. The scale of the phenomenon, in spite of the activities undertaken by relevant state authorities, is still significant.

A characteristic feature of *fuel cases* still is, similarly to scrap cases, an extended network of related economic entities – in some cases encompassing over 200 entities which, in spite of identification and dispatch of notifications on suspicion of committing a crime to the public prosecutor's office, tend to rebuild themselves and create new links. In the majority of cases, subsequent entities are *simulating enterprises*. In exchange for slight property benefits, natural persons (*figureheads*) express approval for the use of their personal data to register new economic entities and subsequently set up bank accounts used for money laundering.

According to the conducted analyses and acts of indictment formulated by the public prosecutor's offices, financial benefits received by such persons in exchange for the use of their data for registering an entity and/ or establishing an account reach the amounts of PLN

500.00 – 2,000.00, whereas the value of money laundered during one year by the entities registered in this manner may reach several millions of PLN.

In 2008, forty-eight *fuel cases* were initiated. In relation to the operation of seventy-eight entities,

twenty-eight notifications on suspicion about committing a crime under Art. 299 of the *Penal Code* were sent. The estimated value of the transactions in these cases amounted to PLN 421.8 million.

Frauds and extortions

Another identified area of money laundering were transactions performed as a result of activities to the detriment of legal and natural persons. The money was legalised with the use of the *target account* technique – transfers of funds for the purpose of their immediate disbursement in cash and by means of circulation of securities. On the other hand, the *depositing* stage was omitted. On account of the nature of certain predicate offences, e.g. credit extortion, resulting in the fact that the funds which are the subject matter of the crime are located in cash-free financial circulation, it is difficult to distinguish transactions performed within the framework of a predicate offence from transactions related with money laundering.

Sixty-one analytical proceedings regarding frauds and extortions were initiated. Twenty-eight notifications were submitted to the public prosecutor's office about suspicion of committing a crime by forty-five entities under Art. 299 of the *Penal Code*. The notifications referred to forty-five entities and to transactions with a value of approx. PLN 8.2 million.

Unauthorised access to bank accounts

An additional direction of activities were transactions related to the laundering of money derived from extortion of funds from bank accounts (an area excluded from the previous field encompassing other frauds and extortions). For this purpose, the perpetrators most often use advanced social-engineering methods for illegal procurement of information which subsequently enable them to obtain unauthorised access to Internet accounts. One of the better known methods is *phishing* (sometimes translated as *password harvesting fishing*). The funds extorted in this manner were most often disbursed in cash or provided to third parties via transfers (e.g. *Western Union*). The above transactions have been performed with the use of small amounts in order to make it more difficult for the account holder to ascertain a decrease in funds, as well as for an obligated institution to register a suspicious transaction. In this case it is also difficult to distinguish between transactions performed within the scope of the predicate offence from transactions related to money laundering.

Ninety-four analytical proceedings were initiated with respect to unauthorised access to bank accounts. The public prosecutor's offices were provided with fifty-seven notifications about suspicion of committing a crime of money laundering under Art. 299 of the *Penal Code*. The notifications referred to eighty-three entities and transactions with a value of approx. PLN 2.3 million.

Illegal turnover of spirits

Another area of money laundering were transactions implemented as a result of illegal sale of technical grade spirit for food purposes without records, in the so-called "gray zone", and tax frauds related to it. Cash obtained from such illegal activity was later introduced to financial circulation.

The results of conducted analytical proceedings, regarding illegal circulation of spirit products, just as in the case of circulation of fuels and scrap metal and recyclable materials, indicate a phenomenon of establishment of a network of entities for the purpose of transfer of funds, where the whole operation is completed by disbursement of cash. The accounts that are used play a role of distribution accounts, or target accounts. The *figureheads*, by disbursement of cash, constitute the element which completes the transfer of funds.

In 2008, three notifications were addressed to the public prosecutor's offices (encompassing seven entities) about a suspicion of committing a crime under Art. 299 of the *Penal Code*. The estimated value of suspicious transactions in these cases amounted to PLN 22.8 million.

Illegal turnover of tobacco products

Another area of money laundering were transactions implemented as a result of smuggling of cigarettes to the EU. The source of income is the crime of customs smuggling, as well as reduction of import and export customs receivables and public law receivables, including the excise duty and the tax on goods and services to the detriment of the budget of the European Community and the State Treasury. Subsequently, numerous activities were performed, i.e. the obtained funds were located in the banking system and then a very large number of transactions were implemented with the aim of changing the form of the laundered financial assets in order to make the ascertainment of their criminal origin more difficult.

In 2008, two notifications were submitted to the public prosecutor's offices (encompassing ten entities) on suspicion of committing a crime under Art. 299 of the *Penal Code*. The estimated value of

transactions in these cases amounted to PLN 1.2 million.

2.1.3. Money Laundering Methodology

Similarly to the previous years, also in 2008 in the course of the conducted analytical proceedings, it was ascertained that the organised criminal groups used previously identified methods of money laundering, and only modified and adjusted them to the current conditions. A constant increase in the activity of the above groups has been noticed in the area of financial services such as: Internet banking, debit cards and electronic money transfer systems. In the above area, relative anonymity of services is an advantage for the criminals; it is coupled with global range, non-stop access to funds, as well as rapidity of the funds' transfer.

Moreover, a greater number of proceedings was noticed where the registered office of one of the parties to the transaction is located in a "tax haven." In 2008, nineteen such proceedings were initiated. One of the reasons for establishing companies or their branches in such countries is the simplified manner of tax settlements which exists there and a low tax threshold, as well as additionally simplified principles of establishing companies. The

Regulation of the Minister of Finance of May 16, 2005 on Determination of Countries and Territories Applying Harmful Tax Competition for Purposes of Income Tax on Legal Persons

(Dz.U. No. 94, item 791) provides a list of countries which may be deemed "tax havens."

What is more, fifty-three cases were conducted in which suspicious transactions were analysed; they were performed via accounts maintained in banks in the area of Poland for non-residents. The characteristic feature of the above cases is the fact of establishing bank accounts by non-residents and a transaction scheme consisting in transfers credited to the account from entities which have their seat abroad, as well as disbursement of funds in cash. Most often, citizens of Eastern European countries and Asia participated in such practices.

It is necessary to note that in 2008, an increase in the number of notifications about suspicious transactions in a new area of risk was recorded, i.e. transactions performed by entities operating in the construction industry. The characteristic feature of these transactions are high transfers credited to the accounts of newly established, one-person companies which, on account of organisational and financial limitations, would not be able to process orders of such values. Almost the entire amount of funds received for the allegedly provided services is disbursed in cash by owners of these companies – most often, these are persons who previously did not have any experience in the construction industry or in the conduct of economic activity and whose previous income was low. The companies involved in the above dealings declare sale of services and purchase of goods and services of high, yet approximate values, which results in the fact that they are required to pay taxes only in the minimum amounts.

The GIFI tries to trace the areas of risk sensitive to money laundering on an ongoing basis for the purpose of preventing development of new methods of money laundering, as well as to draw the attention of the obligated institutions and the co-operating units to these new areas of risk.

2.2. Counteracting the Financing of Terrorism

In 2008, within the framework of implementation of tasks within the scope of counteracting the financing of terrorism, eight proceedings were initiated regarding transactions performed by seventy-four entities. The proceedings were initiated on the basis of notifications from obligated institutions and upon own initiative of the GIFI. They referred to transactions conducted by persons from countries suspected of supporting terrorism or in the area where terrorist groups are active. Special attention was drawn to economic activity pursued by such persons.

As a result of the undertaken activities, the Internal Security Agency received fifteen notifications regarding persons and entities encompassed by the conducted proceedings.

The GIFI is also a member of the Inter-ministerial Team for Terrorist Threats, dealing with coordination of activities within the scope of counteracting terrorism. A GIFI representative also participates in the works of a Standing Expert Group established by the team for monitoring terrorist threats, evaluation of their level and nature, as well as presentation of proposals within the scope of legal regulations and preparation of proper procedures.

From the moment of establishment of the Anti-terrorist Centre within the structure of the Internal Security Agency, the GIFI provides this institution, within the scope of its statutory competencies,

with information about events and incidents which may pose a threat for state security or the citizens' safety. The provided information refers to transactions related to introduction to financial circulation of property values which may be related to the financing of terrorism.

3. CONTROLS

3.1. Controls Conducted by the GIFI

The GIFI controllers carried out thirty-two controls. In comparison to the previous years, the variety of obligated institutions encompassed by the control regarding compliance with provisions has increased. In 2007, the control encompassed ten categories of obligated institutions and in 2008, there were fifteen categories of obligated institutions. Whilst selecting units for control, analytical and control data of the GIFI, control information of supervision authorities and media publications were taken into account.

Controls in 2008 encompassed the following categories of obligated institutions:

- Banks: 3;
- Brokerage companies: 1;
- Investment fund societies and funds managed by them: 4;
- Insurance companies: 2;
- Attorneys-at-law: 4;
- Notaries public: 3;
- Lawyers: 1;
- Tax advisors: 2;
- Entrepreneurs conducting operation within the scope of agency services in real estate trade: 1;
- Chartered accountants: 1;
- Auction houses: 1;
- Cooperative banks: 3;
- Credit unions: 2;
- Foundations: 2;
- Entrepreneurs conducting lease operation: 2.

Among most important irregularities were:

- formal: lack of preparation on the part of the obligated institutions to implement the statutory obligations by failure to determine internal procedures or their incompliance with the provisions of the Act, absence of provisions in the internal procedures indicating fulfilment of the obligation within the scope of counteracting the financing of terrorism, incorrect separation in the internal procedure of two modes specified in the Act for dealing with suspicious transactions determined in the provisions of Art. 8.3 and Art. 16 and the following articles of the *Act*; absence of provisions indicating the need for conducting analyses for the purpose of selecting suspicious transactions;
- substantive: low level of implementation of the provisions of the Act, mainly with respect to the obligation of registering transactions, identification of entities participating in the transaction and selection of transactions and notifying about them and irregularities in maintenance of transaction registers and provision of information from these registers to the GIFI.

Determinations of the controls conducted by the GIFI controllers were provided to the supervising institutions for further use.

After a detailed analysis of the control results, justified suspicions were conceived of committing a crime with respect to which five notifications were submitted to the public prosecutor's offices.

3.2. Controls Conducted by Supervising Institutions

The GIFI received information about controls conducted by:

- The National Bank of Poland: 1,092 controls in foreign exchange offices;
- National Cooperative Credit Union: fifteen controls in the Credit Union agencies;
- The Polish Financial Supervision Authority: eleven controls in banks, nineteen controls in

cooperative banks, four controls in brokerage firms and seven controls in insurance companies;

- Presidents of Courts of Appeal: thirty-five controls of notaries public;
- Customs-Excise Control and Gambling Control Department (Ministry of Finance): two game parlours and two gambling casinos.

The control results were consistent with the irregularities determined by the GIFI controllers.

3.3. Explanations on the application of legal provisions

In relation to doubts regarding implementation of statutory obligations notified by the obligated institutions and co-operating units and continuing the practice of previous years, written responses to answers were provided. In particular, questions referred to the customer identification obligations, transaction registering and register maintenance.

The GIFI received over 100 questions regarding practical application of legal provisions, in particular the provisions of the Act. Most questions (38%) were asked by the banks. Moreover, the employees of the Department of Financial Information provided explanations via telephone. The subject matter of explanations provided on the telephone was consistent with the subject matter of written explanations and referred primarily to the implementation of basic statutory obligations by the obligated institutions. Some questions also referred to the forecasted changes in the provisions in the context of their adjustment to the EU regulations.

Independently of provision of explanations within the scope of the binding legal provisions, intensive work was conducted within the framework of the legislative process leading to adjustment of the provisions of the Act to *Directive 2005/60/EC of the European Parliament and the Council of October 27, 2005 on the Prevention of the Use of the Financial System for the Purpose of Money Laundering and Terrorist Financing* (EU O.J. L 309 of November 25, 2005) and *Commission Directive 2006/70/EC laying down implementing measures for Directive 2005/60/EC as regards the definition of “politically exposed person” and the 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* (EU O.J. L 214/29 of August 4, 2006).

4. NATIONAL COOPERATION

4.1. Exchange of Information with State Authorities

In 2008, the General Inspector of Financial Information provided answers to applications for information submitted pursuant to Art. 32 and 33 of the Act. In total, 505 applications from state authorities were received, on the basis of which 3,000 entities were verified, as well as transactions performed by them.

Table No. 5 Number of applications to the GIFI between 2006 and 2008

Authority/ institution	Year	Number of applications	Number of entities from applications
Prosecuting attorneys	2006	152	1,370
	2007	266	1,464
	2008	326	2,373
Internal Security Agency	2006	8	37
	2007	23	107
	2008	7	49
Central Anticorruption Bureau	2006	1	6
	2007	13	30
	2008	16	181
	2006	12	53

Police	2007	25	169
	2008	50	203
Tax authorities and fiscal control authorities	2006	21	46
	2007	69	133
	2008	96	188
Others	2006	6	18
	2007	16	58
	2008	10	21

Moreover, 1,300 entities were checked in relation to questions received under the system of the National Centre for Criminal Information.

4.1.1. Cooperation with Organisational Units of the Public Prosecutor's Office and Courts

In 2008, the GIFI received 326 applications from organisational units of the public prosecutor's office on provision of information regarding 2,373 entities. It is necessary to emphasise that from the first quarter of 2007, organisational units of the public prosecutor's office should make use of the template agreed with the Organised Crime Bureau of the State Public Prosecutor's Office of an "application for provision of information pursuant to Art. 32 of the Act." The applications prepared on a template enabled the GIFI to provide quick and precise answers to the questions. In 2008, questions on templates constituted solely 30 – 40% of all applications submitted by the organisational units of the public prosecutor's office.

There were often applications which contained serious formal deficiencies, usually regarding the scope of the question, including applications for information which is not stored in the GIFI resources, as well as information which is not stored by the GIFI to which it has no statutory access. Examples:

- applications for account statements and any bank documentation which is not stored in the GIFI resources, in proceedings supervised by the prosecuting attorney under Art. 299 of the *Penal Code*, on the basis of notifications from other sources or in penal proceedings regarding crimes other than money laundering;
- applications for provision of information which would indicate the period of procurement of data before the Act entered into force, i.e. before June 23, 2001;
- applications for provision of information about transactions, in particular bank transactions, which did not take into account the fact that the banks are required to store information about transactions for a period of five years, calculating from the first day of the year following the years in which the last entry related to the transaction was made;
- questions about telephone numbers of persons who receive text notifications (SMS) from bank accounts;
- applications for acquisition of data from bank monitoring;
- applications for acquisition of bank account statements maintained for a given entity outside of Poland;
- applications for conduct of statutory control of an economic entity which is not included in the statutory catalogue of obligated institutions.

It is also necessary to emphasise that in 2008, in cooperation with the representatives of the Organised Crime Bureau of the State Public Prosecutor's Office, applications for elimination of errors and shortcomings were filed on an on-going basis.

In 2008, the GIFI also recorded six applications submitted by the courts and regarding eighteen entities and additionally one application with respect to one entity submitted by a court debt collector, which is not an authority authorised to apply for information about transactions encompassed by the provisions of the *Act* under Art. 32 and 33.

4.1.2. Cooperation with Fiscal Control Authorities and Tax Authorities

In 2008, the GIFI received seventy-nine applications from directors of fiscal control offices and one application from the Fiscal Control Department of the Ministry of Finance. In relation to them, 155 entities were verified. In the case of applications received from fiscal control authorities, five of them contained legal errors and one had a formal error (it was signed by a person unauthorised to submit an application to the GIFI). It is necessary to add that fiscal control authorities, on account of the scale of cooperation, in almost 100% used the uniform template of application for provision of information, agreed in December 2006 with the Fiscal Control Department of the Ministry of Finance. Introduction of the template significantly facilitated and accelerated provision of answers.

In 2008, the GIFI also received seven applications for provision of information deriving from directors of tax chambers regarding twenty-two entities and nine applications submitted by the heads of tax offices regarding eleven entities.

It is necessary to emphasise that heads of tax offices are not authorised to apply for information about transactions encompassed by the provisions of the *Act* under Art. 32 and 33.

In 2008, the GIFI representatives conducted three training sessions for persons representing fiscal control authorities and for fiscal authorities:

- On July 7, 2008 and September 26, 2008 on counteracting money laundering and the financing of terrorism and cooperation of units cooperating with the GIFI: for representatives of fiscal control offices, tax chambers and tax offices;
- On September 30, 2008 about cooperation of the GIFI with fiscal control authorities: for representatives of the Fiscal Control Department at the Ministry of Finance and fiscal control offices.

4.1.3. Cooperation with Authorities Subordinate to Minister of Internal Affairs and Administration

In 2008, the GIFI received fifty applications from the police regarding 251 entities, out of which thirty-eight applications derived from the to the Central Bureau of Investigation of the General Police Headquarters, whose certain employees became authorised by the Minister of Internal Affairs and Administration to apply for provision of information under Art. 33 of the

Act.

In 2008, the GIFI agreed a template for the application of provision of information under Art. 33 of the *Act* with three organisational units of the police:

- In July 2008: with two departments of the Central Bureau of Investigation of the General Police Headquarters;
- In October 2008: with one of the divisions of the Criminal Bureau of the General Police Headquarters.

Additionally, within the framework of cooperation initiated with the representatives of the General Border Guard Headquarters, in June 2008 a template of an application was agreed for provision of information under Art. 33 of the *Act*.

In 2008, the GIFI representatives conducted eight training sessions for police representatives:

- from March to December 2008: seven training sessions for representatives of the Central Bureau of Investigation of the General Police Headquarters and certain representatives of the Provincial Police Headquarters of General Public Prosecutor's Office; subject matter: counteracting money laundering and cooperation of the police with the GIFI;
- on December 4, 2008: a training session within the framework of a conference in Rynia organised by the Criminal Bureau of the General Police Headquarters, whose subject matter was the pragmatics of counteracting crimes related to operations of selected financial institutions within the scope of money laundering (money laundering methods with the use of institutions operating on the capital market).

4.1.4. Cooperation with State Protection Authorities

In 2008, the GIFI received seven applications regarding forty-nine entities within the framework of cooperation with the head of the Internal Security Agency.

It is necessary to emphasise that in spite of the agreements made in 2007, the template of application for provision of information under Art. 33 of the *Act* was not used by the Internal Security Agency. Moreover, the GIFI representatives conducted two training meetings organised for the employees of the Internal Security Agency:

- June 27, 2008: legalisation of funds deriving from crimes;
- October 16 – 17, 2008: counteracting money laundering and the financing of terrorism and cooperation between the Internal Security Agency and the GIFI.

In September 2008, the GIFI agreed on a template of application for provision of information with the head of the Military Counterintelligence Services. In 2008, the head of the Military Counterintelligence Services did not submit any applications for provision of information.

4.1.5. Cooperation with the Head of the Central Anticorruption Bureau

In 2008, the GIFI received sixteen applications from the Central Anticorruption Bureau (CAB) regarding 181 entities. In the discussed period, there was one application having formal deficiencies, signed by an unauthorised person.

In November 2008, the GIFI agreed with the Head of the CAB an application template for provision of information under Art. 33 of the *Act*. Moreover, the GIFI representatives conducted two training meetings, attended by the CAB employees:

- June 24 – 25, 2008: basic issues related to counteracting of money laundering and the financing of terrorism (entities participating in the system of counteracting money laundering and the financing of terrorism, tasks, international cooperation);
- October 22, 2008: basic issues related to counteracting of money laundering and the financing of terrorism (entities participating in the system of counteracting money laundering and the financing of terrorism, tasks, international cooperation).

4.1.6. Cooperation with the Head of the National Centre for Criminal Information

In 2008, the GIFI closely cooperated with the National Centre for Criminal Information (NCCI). Apart from the criminal information provided *ex officio* (number of registrations: 617), verifications were made in the IT system of the General Inspector of Financial Information (IT*GIFI) with respect to 1,326 entities. Among them, 103 were indicated as entities that appeared in the conducted analytical proceedings.

3,486 questions about entities involved in suspicious transactions were submitted to the NCCI in the on-line mode, as well as 2,343 questions about entities involved in suspicious entities in the off-line mode (i.e. via the agency of police units).

Moreover, in 2008 cooperation was pursued with the NCCI within the scope of extending the possibilities of the conducted analyses of criminal information. In this respect, the General Inspector submitted its proposals regarding the potential extension of the analytical function of the NCCI.

Table 6 Data regarding cooperation with the NCCI between 2006 and 2008

Specification	2006	2007	2008
Questions from the GIFI to the NCCI	1,189	2,256	3,486
Registration of entities by the GIFI in the NCCI	660	618	617
Questions from the NCCI to the GIFI	1,179 (result: 83 positive answers)	1,767 (result: 103 positive answers)	1,326 (result: 103 positive answers)

4.1.7. Other Information

In 2008, the GIFI was actively involved in activities aimed at counteracting proliferation of weapons

of mass destruction.

On April 3, 2008, the President of the Council of Ministers signed regulation No. 36 regarding the Inter-ministerial Team for Preventing Illegal Proliferation of Weapons of Mass Destruction and Implementation of the “Kraków’s Initiative” – the Proliferation Security Initiative (PSI). In line with its content, the representative of the Ministry of Foreign Affairs became the head of the Team. On April 24, 2008, the GIFI designated two representatives of the Department of Financial Information to participate in the work of the Team.

The Department’s representatives participated in the Team’s meetings, as well as provided information and remarks for the representatives of the Ministry of Foreign Affairs who participated in international conferences and seminars on counteracting proliferation of weapons of mass destruction. It is necessary to emphasise that in the current legal order, the GIFI may undertake direct activities within the above scope solely in cases when operation of entities dealing with proliferation of weapons or financing thereof will be related to introduction to financial circulation of property values derived from illegal or undisclosed sources, i.e. committing a crime of money laundering or with activities aimed at terrorism financing. In such cases, the GIFI may use its statutory authorisations to suspend a transaction or block an account.

The GIFI may also undertake relevant activities in cooperation with specific authorities dealing with state security, upon their written and justified application, in the manner and upon principles determined in Art. 32 and 33 of the *Act*. In 2008, the GIFI used its authorisations and submitted information regarding entities involved in proliferation upon its own initiative under Art. 33.3 of the *Act* to a proper state security service.

On December 18, 2008, *Council Decision 2007/845/JHA* of December 6, 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to crime entered into force. In relation to this, the Republic of Poland was obliged to establish or designate the National Asset Recover Office or Offices by December 18, 2008.

The GIFI representatives participated in working out of an agreement between departments within the scope of cooperation aimed at fulfilment of tasks within detection and identification of illegally obtained benefits. On December 18, 2008, a Declaration of Cooperation was signed between the Minister of Finance, the Minister of Justice – the General Prosecuting Attorney and the Minister for Internal Affairs and Administration, on the basis of which the parties obliged themselves to prepare and present legal regulations streamlining their cooperation by June 30, 2009.

In December 2008, an organisational unit was established by the Criminal Bureau at the General Police Headquarters in the rank of a department, whose task is further coordination of work within the scope of cooperation, including cooperation with the GIFI.

4.2. Training Activity

In 2008, in relation to the ongoing work aimed at adjustment of the provisions of the Act to the community regulations, proceedings were conducted in the form of act of January 29, 2004 -the *Public Procurement Law* (Dz.U. of 2007, No. 223, item 1655 as amended) for the purpose of selecting a contractor who will establish a new e-learning course, taking the future legal changes in the account.

Participation in the course (submission of participation, making use of the course’s resources, participation in the final test and receiving a certificate) will take place via the Internet. The course, unlike the previous one, will be constructed not only on the basis of the amended provisions of the *Law*, but it will also be extended onto material which is a result of the analytical work of the employees of the Department of Financial Information. The course’s new formula assumes that access to its content will be diversified, depending on the type of course participant (i.e. whether it will be an obligated institution, a co-operating unit or the so-called other entity). In the case of employees of the obligated institutions, completion of the course (obtaining a certificate after passing the test) will be tantamount to participation in the training referred to in Art. 28 of the *Law*.

The e-learning course in its full dimension, including the amended legal provisions, will be made available to the obligated institutions, the co-operating units and other interested entities after publication of provisions of the amended act in Official Journal of the Laws.

5. INTERNATIONAL COOPERATION

5.1. Cooperation with the European Commission

Cooperation with the European Commission is being implemented primarily in two areas: by means of participation in the work of the Committee on the Prevention of Money Laundering and Terrorist Financing (also known as the Prevention Committee) and by participation in the meetings of the EU – FIU Platform (FIU – Financial Intelligence Unit).

Within the framework of work in the Prevention Committee, the representatives of the GIFI took part in sessions, meetings and workshops devoted to:

- issues related to implementation of provisions of *Directive 2005/60/EC of the European Parliament and of the Council of October 26, 2005 on the prevention of the use of financial system for the purpose of money laundering and terrorist financing*
- (the so-called III Directive), inter-alia within the range of provisions regarding protection of employees data and the so-called PEPs – politically exposed persons;
- issues related to application of Regulation (EC) No. 1781/2006 regarding transfers of funds;
- issues related to application in the EU territory of the Ninth Special Recommendation of the FATF;
- issue of proliferation of weapons of mass destruction, application of international sanctions resulting from resolution No. 1803.2008 of the UN Security Council;
- issues related to development of a uniform EU stance at meetings of international organisations dealing with the subject matter issues.

The meetings of the EU – FIU Platform were devoted to implementation of joint projects by financial intelligence units of the EU member states, including evaluation of reliability of modifications in the currently binding EU legislation. The GIFI was among units preparing operating projects; the GIFI participated in a project devoted to operational problems of international cooperation of the financial intelligence units.

5.2. The MONEYVAL Committee

Work on a comprehensive evaluation of the Polish system of counteracting money laundering and terrorist financing (AML/ CFT) was continued; the evaluation is an element of the 3rd Evaluation Round conducted by the experts of MONEYVAL, the International Monetary Fund, Financial Action Task Force (FATF) and the World Bank.

In 2006, the evaluators prepared a report assessing the Polish system of counteracting money laundering and terrorist financing according to forty-nine FATF Recommendations, European Union directives and proper Conventions of the Council of Europe and the UN. The final evaluation of the Polish system and discussion on the final shape of the report took place during the plenary session of MONEYVAL Committee of the Council of Europe, which took place in June 2007.

In line with the procedure of mutual evaluation of systems for counteracting money laundering and terrorist financing of the countries belonging to MONEYVAL, on the basis of a questionnaire prepared by the Council of Europe in June 2008, the so-called progress report was prepared, indicating activities undertaken by the Polish authorities from the moment of the evaluation visit, as well as changes which took place in the Polish system for counteracting money laundering and terrorist financing. The progress report was approved during the plenary session of MONEYVAL in Strasbourg on July 7, 2008.

In relation to involvement at the MONEYVAL forum in the work of the Typology Group, a GIFI representative took part in a joint typological meeting of MONEYVAL and FATF which took place in November 2008 in Monaco.

Moreover, three representatives of the GIFI completed a special training for evaluators organised by MONEYVAL within the framework of the 3rd Evaluation Round, thereby acquiring a right to participate in evaluations of other countries.

5.3. Cooperation with International Organisations

5.3.1. The Egmont Group

In January 2008, the Polish Financial Intelligence Unit (PFIU) by means of a letter of intent sent to the Group's Secretariat, officially confirmed its membership in the EGMONT Group as a formal international organisation and accepted the Group's Charter.

The PFIU actively participated in the work of the EGMONT Group by taking part in meetings of working groups and plenary sessions of the Group. The PFIU representatives cooperated during preparation of projects within the framework of working groups, in particular the IT Group, the Training Group and the Legal Group.

Thanks to participation in the Group's work, the PFIU has an opportunity for closer cooperation with units from the entire world operating in the area of preventing and counteracting financial crimes.

5.3.2. Financial Action Task Force on Money Laundering (FATF)

In 2008, the General Inspector of Financial Information continued its efforts to procure support for Poland's accession to the FATF.

Thanks to the membership of MONEYVAL in FATF, a GIF representative (as a member of the MONEYVAL Managing Office) had an opportunity to participate in the work and meetings of FATF, which enabled Poland to participate in the discussion and preparation of newest standards within the scope of counteracting money laundering and terrorist financing.

Moreover, the Polish Financial Intelligence Unit participates in the Consultation Forum with the Private Sector, established within the FATF, which is an initiative leading to closer cooperation between the entities from the public and private sector for the purpose of more efficient counteracting of money laundering and terrorist financing.

The cooperation within the Forum consists in exchange of knowledge, experiences and documents, which is implemented by electronic circulation of information within the framework of a contact group and via the Forum's meetings – if a more detailed discussion on certain issues is necessary.

5.3.3. The Euro-Asian Group on Combating Money Laundering (EAG)

The PFIU representatives participated, as observers, in the work of the Euro-Asian Group on Combating Money Laundering. The Group has a status of an associated member with FATF and operates on principles similar to FATF (the so-called FATF-Style Regional Body – FSRB).

Participation in the Group is an expression of the PUFA's interest in work within the framework of various FSRB. Moreover, thanks to participation in the EAG work, contacts with other member states of this organisation are strengthened.

The GIF representatives participated actively in working groups (IT Group, Technical Assistance Group and Typological Group) and in plenary sessions of the Group which took place in Kyrgyzstan and Russia.

The PFIU provided technical assistance to the Group's member states, primarily expert assistance in the area of IT tools and data modelling for the Kyrgyz Financial Intelligence Unit.

5.3.4. Strengthening the GIF Position in the Region

In 2008, implementation of "Cooperation Project Between the Ministry of Finance of the Republic of Poland and the US Treasury Department" was continued. The project was signed on December 20, 2006. The basic assumption of the project is to strengthen the position of the Polish Financial Intelligence Unit as a regional leader in the process of counteracting money laundering and terrorist financing.

Within the framework of the cooperation project, in September 2008, the *Second Regional Seminar* was organised in Miedzeszyn, devoted to Internet crimes and the issue of *cyber-terrorism*, which was attended by representatives of Interpol, EUROJUST, ten financial intelligence units and state authorities, including the Internal Security Agency, the Central Bureau of Investigation of the General Police Headquarters, the General Border Guard Headquarters and the National Security Bureau.

Within the framework of the project, between October 1 and 2, 2008, a study visit was organised for the representatives of the Kyrgyz Financial Intelligence Unit.

Moreover, the GIF representatives participated in advisory missions encompassing analysis of the IT

system and analytical tools of the Kyrgyz FIU.

In 2008, activities within the framework of the I-Link project were continued. The project, implemented by Interpol in cooperation with units of financial analytics, is directed at accumulation and exchange of information, primarily within the scope of counteracting money laundering. The Department of Financial Information continued cooperation with the General Police Headquarters for the purpose of establishing a manner of combining the GIFI with the Interpol database.

5.4. Bi-lateral Cooperation

5.4.1. Exchange of Information with Foreign FIUs

In 2008, the General Inspector of Financial Information received ninety-five applications from foreign financial intelligence units with requests for provision of information regarding 282 entities. In comparison to 2007, a drop in the number of applications by 14.4% was recorded.

Most applications were received from units from the following countries:

- Ukraine: 22 applications;
- Luxembourg: 9 applications;
- Belgium: 8 applications;
- Great Britain: 7 applications.

On the other hand, 143 questions were addressed to foreign units regarding 255 entities. In comparison to 2007, the number of questions decreased by 18.3%. Most questions were sent to units from the following countries:

- Germany: 18 questions;
- USA: 16 questions;
- Ukraine: 15 questions;
- Cyprus: 15 questions.

During exchange of information, secure electronic mail was used in the first place, transmitted via Egmont Secure WEB – a platform which can be accessed by foreign units from the entire world and via FIU.NET, a network connecting units from the European Union. On account of use of electronic paths of information exchange, the average time for provision of answers to the submitted questions amounts to approx. three weeks and in the case of urgent questions (related to notifications about suspicious transactions under Art. 16.1 of the *Act*), the deadline for procuring answers has in principle not exceeded two or three days.

5.4.2. Agreement on Cooperation

The basis for the GIFI cooperation with foreign units of financial analytics are bilateral cooperation agreements (the so-called Memoranda of Understanding) and *EU Council Decision No. 2000/642.JHA of October 17, 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information*. The main pillars of the above cooperation resulting from the above legal bases are:

- principle of reciprocity;
- justification of the question with respect to money laundering or terrorist financing;
- provision of possessed information;
- non-provision of information or documents to a third party without written approval of a financial intelligence unit from whom such information or documents were received;
- a financial intelligence unit is not required to provide information if a court proceedings were initiated in the case.

The scope of information received and made available, in particular additional information, depends on the individual question.

In 2008, the General Inspector concluded cooperation agreements within the scope of exchange of information regarding counteracting money laundering and terrorist financing with financial intelligence units from Argentina, Brazil, Philippines, Georgia, Mexico and Peru. In this manner, the

number of financial intelligence units with whom the GIFI exchanges information related to money laundering or terrorist financing on the basis of agreements increased to forty-four.

5.5. Other Issues

5.5.1. Twin Project for the Romanian Financial Intelligence Unit

The Polish Financial Intelligence Unit was selected by Romania and the European Commission as contractor for twin project No. RO/2007-IB/JH/05 “*Counteracting Money Laundering and Terrorist Financing*” for the Romanian Financial Intelligence Unit. The project will be implemented from the funds of the European Commission within the framework of the so-called *Transition Facility*.

Its purpose is strengthening of the Romanian administration and Romanian obligated institutions in the area of counteracting money laundering and terrorist financing by assistance in preparing a national strategy and proper training programmes in this area for all the involved entities. Provision of assistance will start in 2009.

The PFIU invited the General Police Headquarters, the National Prosecution Office, the General Border Guard Headquarters and the Central Anticorruption Bureau to implement the subject matter project.

5.5.2. Council of Europe Conference on Economic Crime

At the end of June/ beginning of July 2008, the General Inspector of Financial Information and the Council of Europe and the European Commission, in cooperation with the Information Bureau of the Council of Europe in Warsaw and the National Centre for Educating Personnel of Common Courts and Public Prosecutor’s Offices, organised an international conference on economic crimes within the framework of the “International Cooperation Programme in Penal Cases in Ukraine.” The conference was attended by representatives of governments, units of financial analytics, prosecution offices, courts and police from several countries.

The meeting was devoted to the issues of legal assistance, exchange of best practices in the area of counteracting money laundering and methods of exchange of information between various authorities.

5.5.3. Participation in the Negotiation Process between Poland and the USA

In 2008, the GIFI representatives participated actively in the negotiation process regarding provisions of the Agreement between the Government of the USA and the Government of the Republic of Poland on the supplement to NATO Status of Forces Agreement, within the scope in which the designed provisions could have an impact on counteracting money laundering and terrorist financing.

6. LEGISLATIVE ACTIVITY

6.1. Amendment of the Act

In 2008, the GIFI continued the work commenced in 2007 on the draft of the *Act Amending the Act on Counteracting Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources and on Counteracting the Financing of Terrorism and on Change of Certain Other Act*. In the course of the work, inter-ministerial and public consultation was conducted. On account of the complexity of issues encompassed by the project, negotiations on the draft with representatives of ministers and the private sector lasted for over half a year.

On September 16, 2008, the European Committee of the Council of Ministers adopted the project and recommended its approval by the Standing Committee of the Council of Ministers. In November 2008, it was adopted by the Committee. After additional agreements made during the legal commission in the Government Legislation Centre in December 2008, the draft was sent to the Chancellery of the Prime Minister for the purpose of its adoption by the Council of Ministers.

The main purpose of the Act’s entry into force is amendment of its provisions in line with the Community law within the scope of counteracting money laundering and terrorist financing, as well as comprehensive regulation of provisions within the scope of imposing specific restrictive measures against persons, groups and entities within the territory of the Republic of Poland, in particular *Directive 2005/60/EC of the European Parliament and the Council of*

October 26, 2005 on the Prevention of the Use of the Financial System for the Purpose of Money

Laundering and Terrorist Financing (O.J. EU L 309 of 25.11.2005) and *Commission Directive 2006/70/EC Laying Down Implementing Measures for Directive 2005/60/EC as Regards the Definition of “Politically Exposed Person” and the 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* (O.J. EU L 214/29 of August 4, 2006).

6.2. Other Legislative Activities

Similarly to the previous years, the GIFI actively participated in legislative process regarding amendments in other legal acts, especially in situations when the designed changes could influence the implementation of counteracting of money laundering and the financing of terrorism.

6.3. Warsaw Convention of the Council of Europe

On May 1, 2008, in Poland and in five other countries (Albania, Bosnia and Herzegovina, Malta, Moldova and Romania) the *Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism* prepared in Warsaw on May 16, 2005 became binding.

Poland ratified the Convention upon approval expressed in the Act of October 27, 2006 on ratification of the Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism prepared in Warsaw on May 16, 2005 (Dz.U. No. 237 item 1712).

The *Convention* regulates the issues of counteracting money laundering and deprivation of criminals of revenues from their activity. The Convention's provisions also allow for efficient counteracting of terrorist financing.