



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*

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# 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

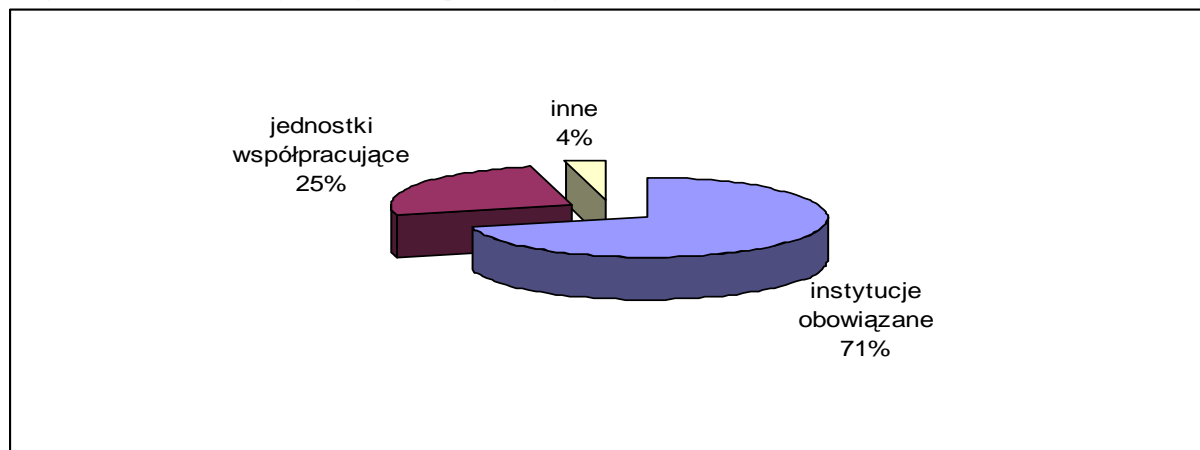
In 2008, the Department of Financial Information received 1,815 descriptive notifications about suspicious activities and transactions (the so-called SARs). Their characteristic feature was description of several, several dozen and sometimes even several hundred transactions (most often related to one 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%
<b>Total</b>	<b>1,287</b>	<b>100.00%</b>

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 BZ WBK 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).*

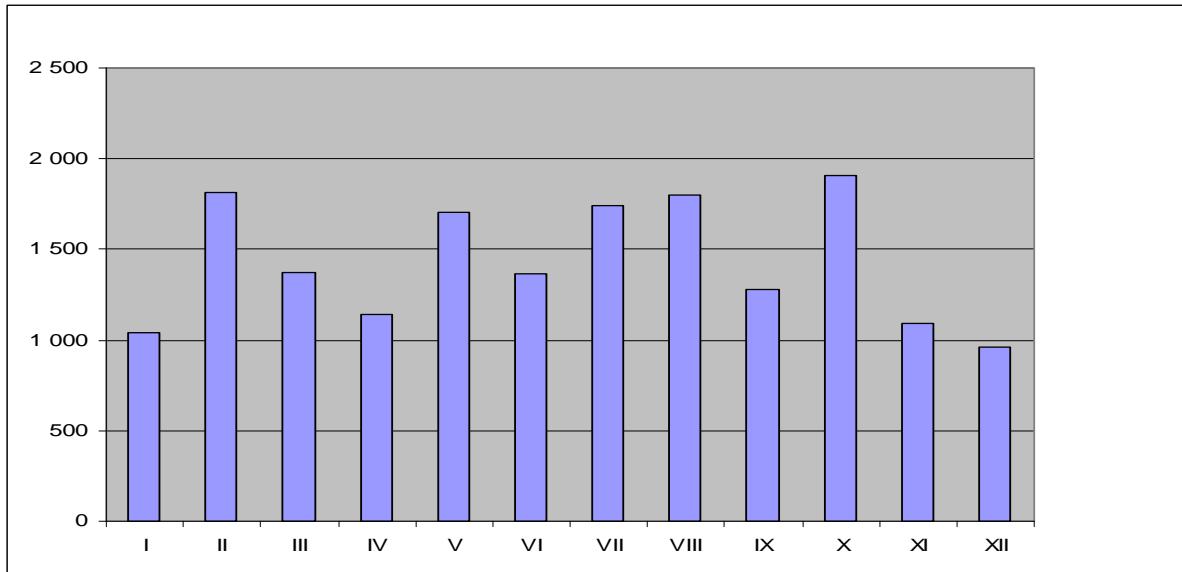
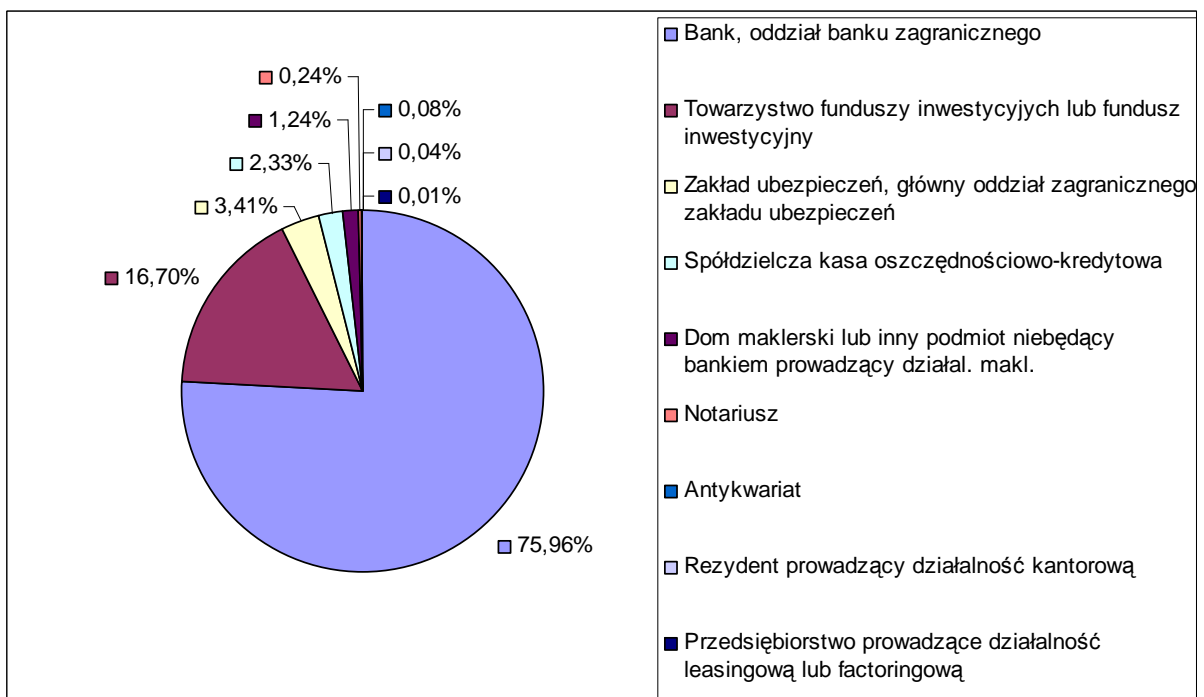


Diagram No. 3 Distribution of the number of suspicious transactions (STR) according to types of institutions



[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 4 million 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 3,384 above-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*

<b>Co-operating unit</b>	<b>Number of notifications</b>	<b>Percentage share</b>
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%
<b>Total</b>	<b>460</b>	<b>100.00%</b>

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.

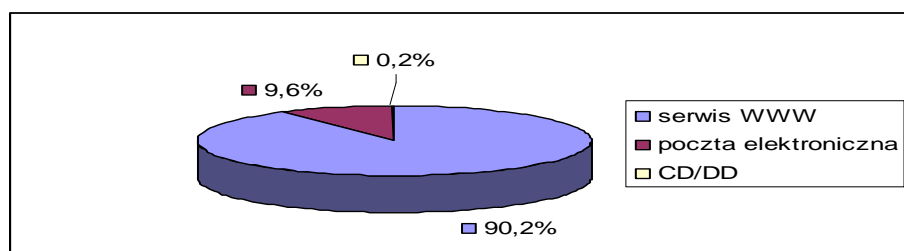
## 1.2. Above-threshold transactions

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

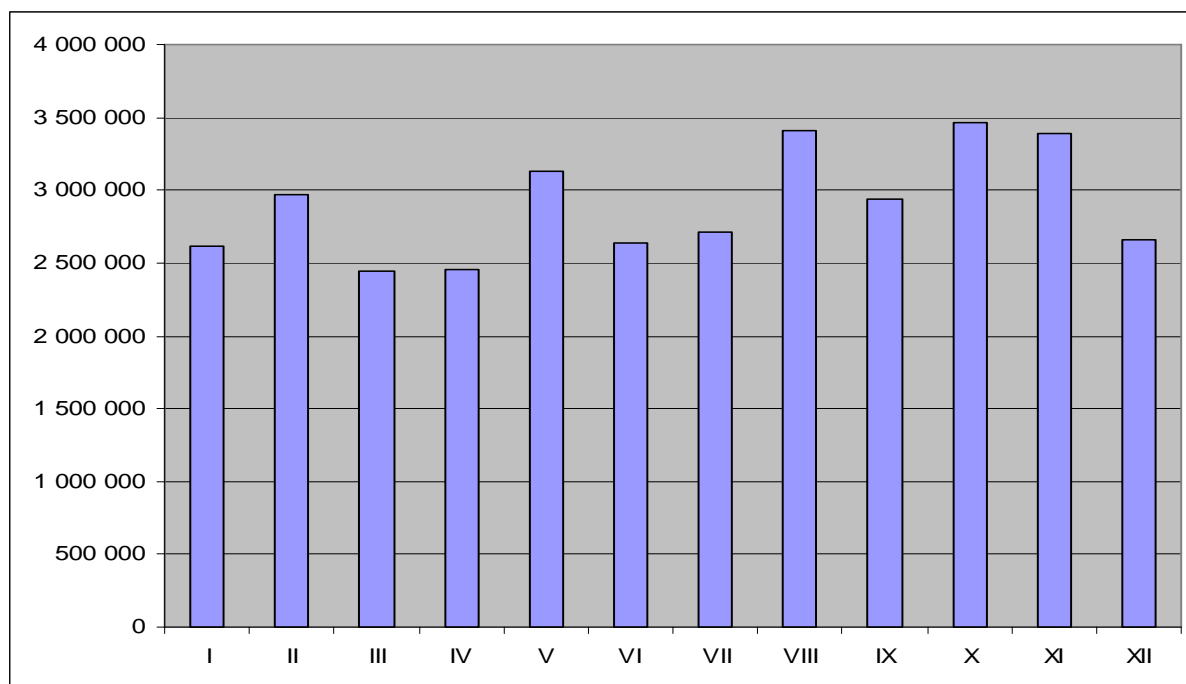
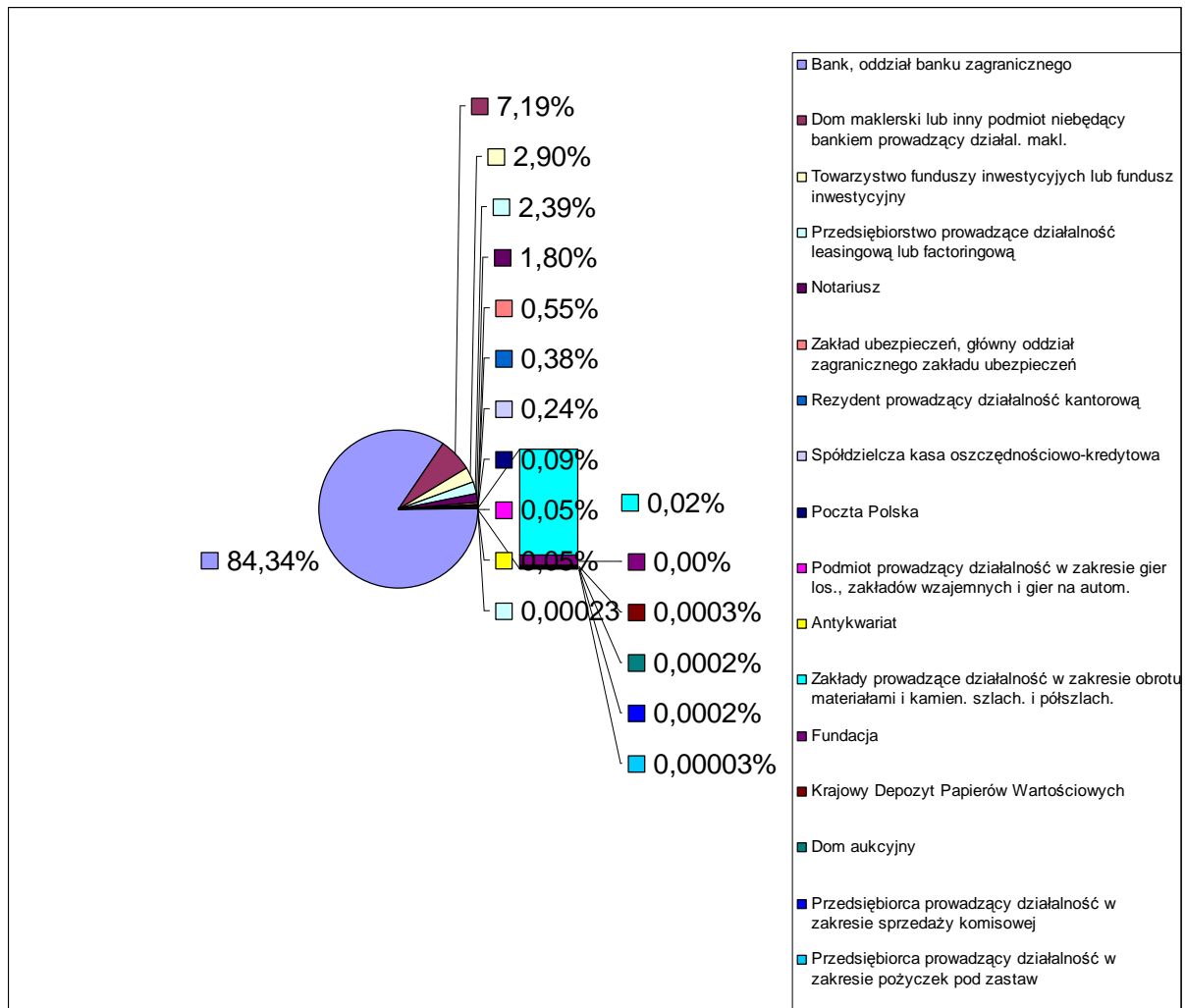


Diagram No. 6 Distribution of the number of transactions submitted to the GIFI in 2008 according to the type of obligated institution



- [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*

<b>Specification</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
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 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
Police	2006	12	53
	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*

<b>Specification</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
Questions from the GIFI to the NCCI	1,189	2,256	3,486

Registration of entities by the GIF I in the NCCI	660	618	617
Questions from the NCCI to the GIF I	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 GIF I 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 GIF I 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 GIF I 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 GIF I may use its statutory authorisations to suspend a transaction or block an account.

The GIF I 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 GIF I 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 GIF I 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 3<sup>rd</sup> 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 3<sup>rd</sup> 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 GIFI 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 GIFI 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 GIFI 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 GIFFI 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 GIFFI 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.