



REPUBLIC OF POLAND

MINISTRY OF FINANCE

REPORT OF THE

General Inspector of Financial Information

on implementation of the *Act of 16 November 2000*
on counteracting money laundering and terrorism financing
in 2009

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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

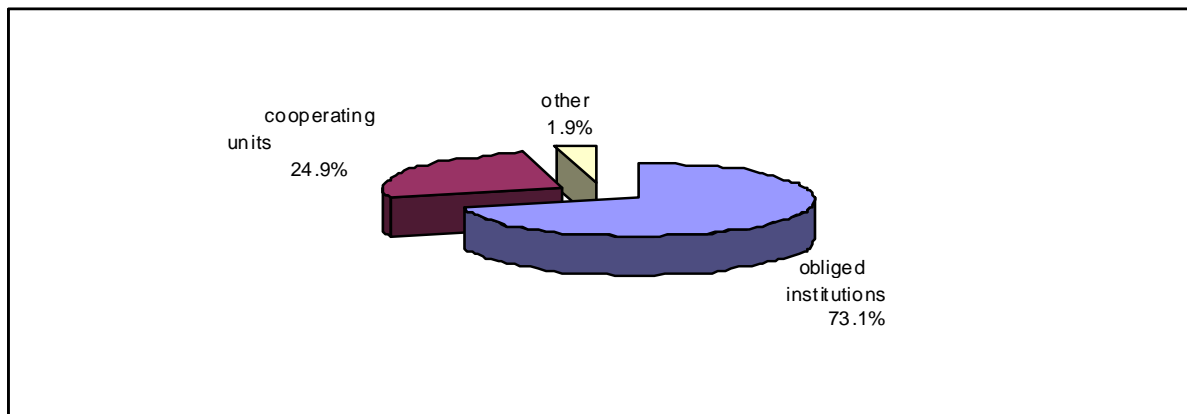
In 2009, there were 1862 descriptive reports on suspicious activities and transaction (so called SAR - Suspicious Activity Reports) registered in the General Inspector of Financial Information IT system, which were linked with currently carried out analytical proceedings . A characteristic feature of 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)

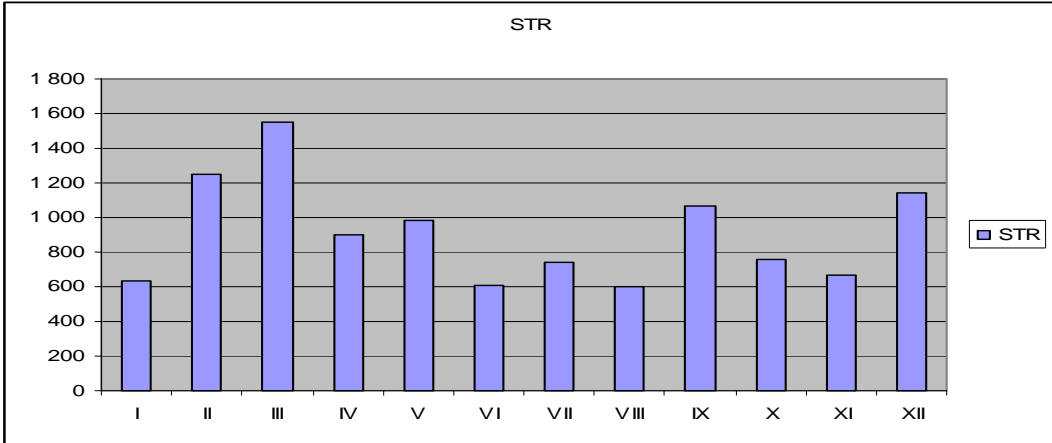
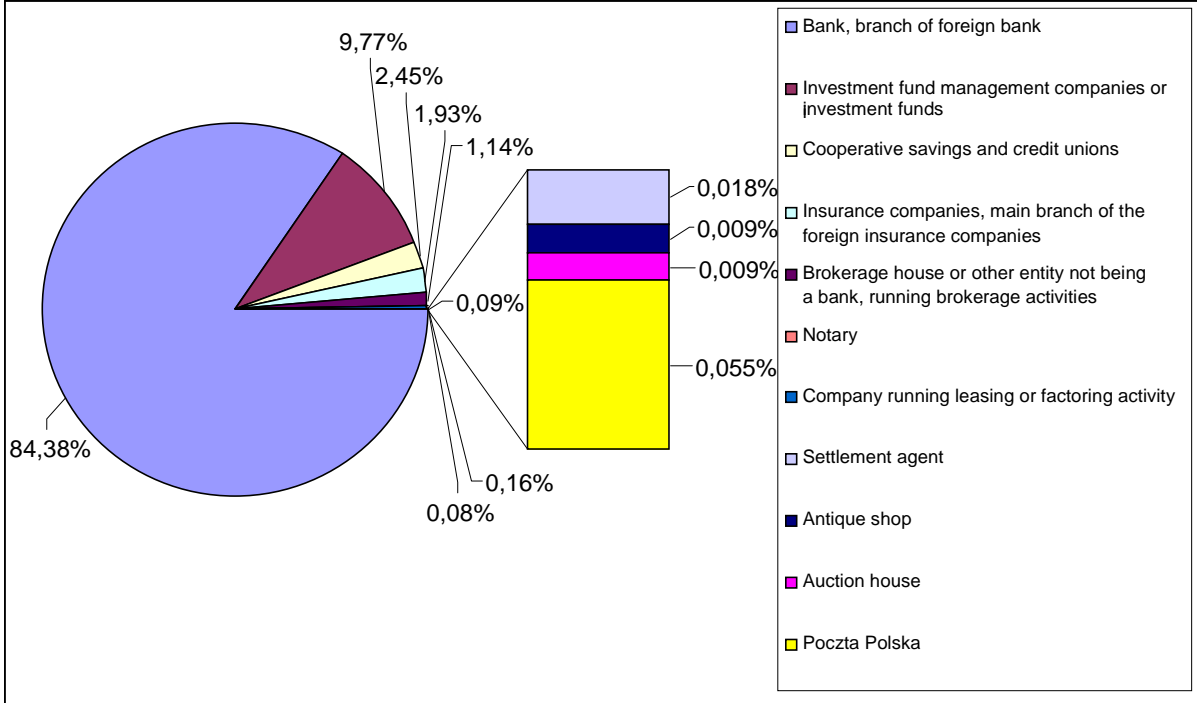


Diagram No. 3 - Division of number of suspicious transactions (STR) according to the types of institutions



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

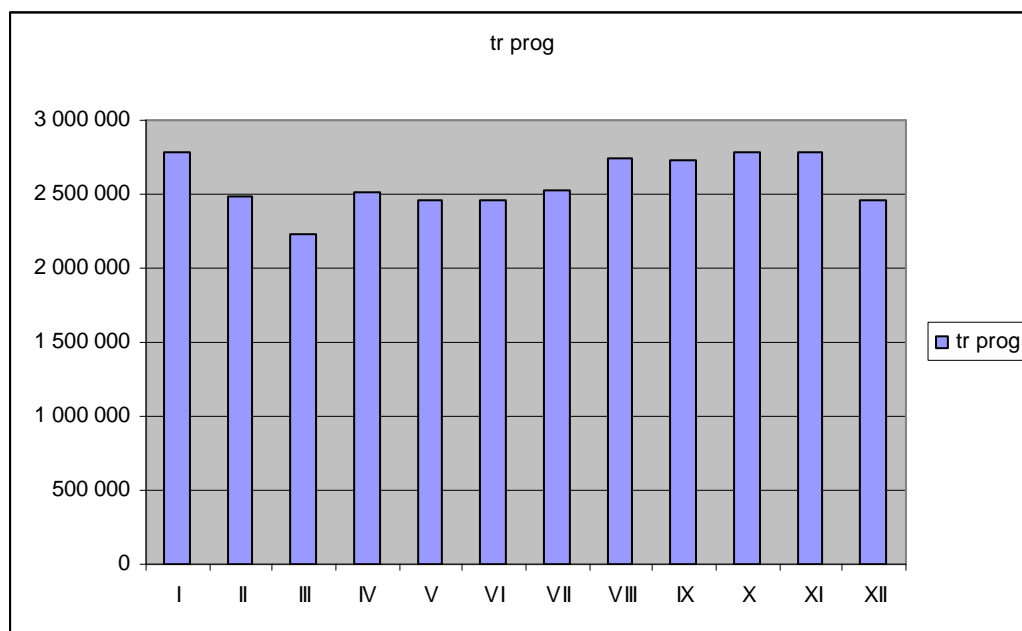


Diagram No. 6 – Division of number of transactions provided to GIFI in 2009 according to the types of obliged institutions.

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 (with 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 seminaries 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

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 form 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 organized 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 address 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 issued 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.