



REPUBLIC OF POLAND
MINISTRY OF FINANCE

REPORT
of the General Inspector of Financial Information
on the implementation of the Act of 16 November 2000
on counteracting money laundering and terrorism financing
in 2011

Warsaw, March 2012

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1. INTRODUCTION

In 2011, ten years elapsed since the entering into force of the *Act of 16 November 2000 on counteracting money laundering and terrorism financing* (i.e. Dz. U. of 2010, No. 46, item 276, as amended; hereinafter referred to as “the Act”) and the appointment of financial information authorities. In this period, the scope of tasks imposed on the General Inspector of Financial Information (hereinafter referred to as GIFI) was significantly expanded. Among others, the following duties were added to the original ones concerning counteracting the “introduction of asset values originating from illegal or undisclosed sources into financial trading”: counteracting terrorism financing (2002), collecting, processing and analysing of transactions exceeding threshold, which started to be submitted by obligated institutions in 2004, as well as execution of tasks referring to specific restrictive measures against persons, groups and entities. At the same time, the catalogue of obligated institutions have been enlarged (last modifications in this scope took place in 2011), which has an impact on constantly increasing amount of information submitted to GIFI.

Within the last period, the amount of information exchanged between GIFI and cooperating units, both pursuant to Article 14 and Article 32 and 33 of the Act, increased. Whereas in some cases (e.g. in the case of the Public Prosecutor’s Office, Internal Security Agency and the Police – within the scope of requests submitted by persons authorised by the minister competent for internal affairs) the number of requests did not rise, however the total number of entities that the requests referred to increased. One of the reasons of this state of the matter was the amendments to the provision of the Act of 2009, which allowed for broader cooperation than before.

One of significant elements of cooperation with law enforcement bodies within the scope of counteracting and fighting crimes having influence on its intensification is constituted by information submitted pursuant to Article 33 (3) of the Act. They refer to both cases of suspicion of money laundering, where conducting relevant activities within the scope of competencies of these bodies, which the information is addressed to, is required, as well as justified suspicion of the commitment of other crimes whose fighting is dealt with by these bodies. Frequently they become an impulse to coordinate tasks undertaken by GIFI and other bodies within the scope of particular matters. One of the results of such cooperation is for example bigger value of funds accumulated in accounts blocked pursuant to the provisions of the Act, or being the object of transactions which were suspended by GIFI. In 2011, the value amounted to over PLN 96 million.

Moreover, in 2011, a significant increase in the exchange of information with foreign financial intelligence units was recorded, which results, *inter alia*, from a constantly increasing number of cooperation agreements concluded by GIFI with its counterparts from other countries (last year 9 agreements were concluded, that is the biggest number since 2003) and intensification of cooperation with the units from other European Union Member States.

2. INFORMATION ON DATA SUBMITTED TO GIFI

2.1. Information on suspicious transactions

In 2011, 2527 descriptive reports on suspicious activities and transactions, so called SARs (Suspicious Activity Reports) were registered in the General Inspector of Financial Information's IT system, which were included in the currently carried out analytical proceedings. The above reports contain a description of several, a dozen or so or even several hundred transactions (often related to each other by 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. Components of these reports often include additional data and documents justifying suspicions and aiming at facilitation of the proceedings (e.g. account history, copies of transaction-related documents, etc.).

Table no. 1 – Number of descriptive reports received in 2001-2011

Period	Obligated institutions	Cooperating 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
2009	1362	464	36	1862
2010	1462	476	59	1997
2011	2004	461	62	2527

For three years in a row, there has been an increase in the number of descriptive reports submitted by obligated institutions, whereas the dynamics of this increase has been significantly going up: in 2009, the increase amounted to 5.8% in relation to the number of reports from the previous year, and in 2010 – 7.3%, while in 2011 – over 37%. The above-mentioned increase may be associated with the amendment to the provisions of the Act, which was introduced in 2009 (in particular the content of the provisions concerning suspicious transactions was amended though their clarification and adjustment to the reality in which the obligated institutions operate), as well as the effect of activities of GIFI and other supervision and controlling authorities aiming at popularising knowledge on duties of obligated institutions.

The percentage of descriptive reports received from the above-mentioned three main sources of information is illustrated in diagram no. 1.

Diagram no. 1 – Descriptive reports sources in 2011 (SAR)

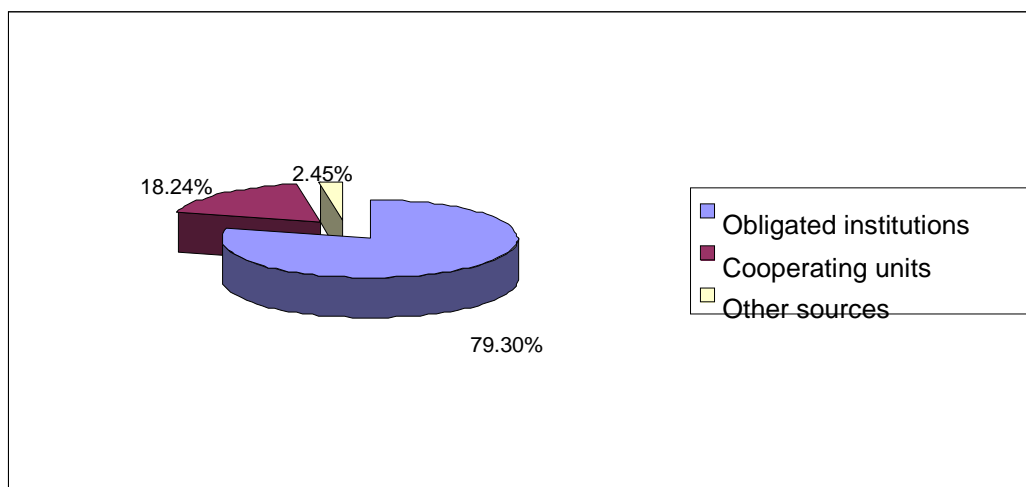


Table no. 2 – Division of descriptive reports from obligated institutions according to types of institution

Type of institution	Number of SARs	Percentage share
banks (including branches of foreign banks, credit institutions)	1835	91.57%
brokerage houses or other entities not being banks running brokerage activity	57	2.84%
cooperative savings and credit unions	35	1.75%
insurance companies, headquarters of foreign insurance companies	15	0.75%
tax advisers, auditors and accountants	15	0.75%
notaries, legal advisers and attorneys	14	0.70%
companies running leasing or factoring activity	10	0.50%
entities running activity related to gambling	5	0.25%
other entrepreneurs accepting payments in cash >= EUR 15000	6	0.30%
money exchange offices	5	0.25%
other financial institutions	7	0.35%
Total	2 004	

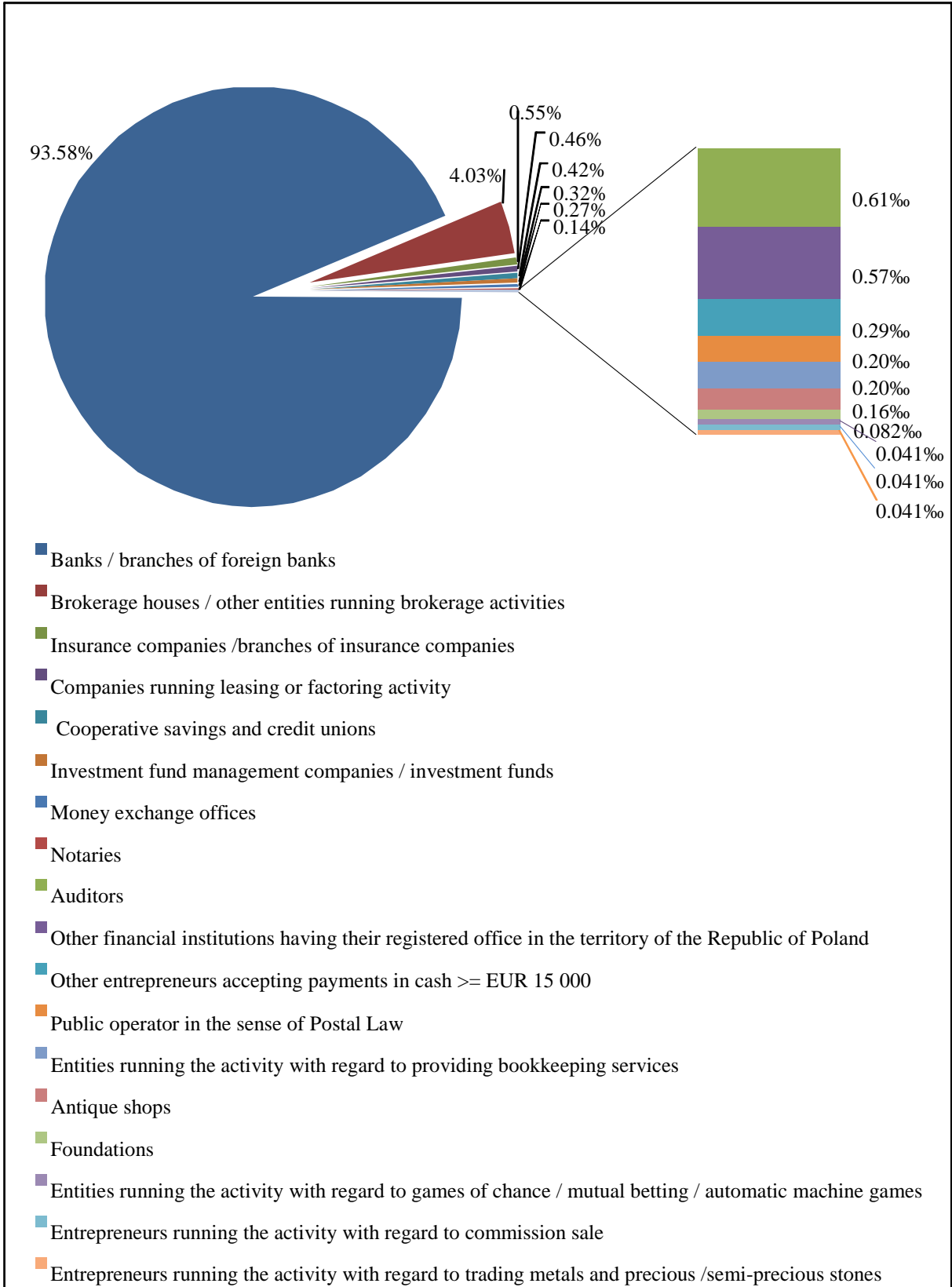
As far as banks, branches of foreign banks and credit institutions are concerned, almost a half (49.7%) of reports of this type came from six institutions, i.e.:

- 1) Bank PEKAO S.A.
- 2) Bank Zachodni WBK S.A.
- 3) Bank Millennium S.A.
- 4) Alior Bank S.A.
- 5) ING Bank Śląski S.A.
- 6) Bank BPH S.A.

Descriptive reports – when compared to individual suspicious transactions – contain more information, in particular with regard to the suspicion of commitment of the crime conceived

by obligated institutions as well as transactions and accompanying circumstances. Such a broad spectrum of information facilitates quick verification of data from other sources of information and shortens the time of completion of activities undertaken by GIFI in cooperation with the Public Prosecutor's Office and law enforcement bodies.

Diagram no. 2 – Sources of STRs in 2011



In 2011, GIFI received from obligated institutions 24 408 information on individual suspicious transactions, including 24 382 transactions marked as Suspicious Transaction Reports on Money Laundering (STR-ML) and 26 transactions marked as Suspicious Transaction Reports on Terrorist Financing (STR-TF). A division of the number of these

transactions by obligated institutions is shown in Diagram no. 2. Over the years 2005-2010, GIFI recorded, year by year, a decrease in the number of transactions submitted by obligated institutions via electronic way, marked as suspicious. An analysis of these transactions from previous years showed a large number of errors (detailed data – in GIFI reports from the years 2005-2010) in submitted data. These errors were both of technical and substantive nature, made by obligated institutions during classification of transactions. The activities undertaken by GIFI and cooperation with obligated institutions led to a significant decrease in the number of errors, with a simultaneous improvement of the quality of submitted information. The analysis of data for 2010 (additional information in GIFI report for 2010) confirmed the elimination of the majority of the above-mentioned errors. Following the elimination (after several years of intense cooperation with obligated institutions) of the majority of error sources, in 2010 the effect of stabilisation in the quality of STRs submitted to GIFI was observed and at the same time, the number of STRs submitted to GIFI by obligated institutions increased. A similar phenomenon was also observed in 2011, whereas it was more dynamic – the number of information on individual transactions submitted by obligated institutions as suspicious increased in 2011 by almost 60% in relation to 2010.

Over 93% of reports on individual suspicious transactions were sent by banks, then by brokerage houses, insurance companies, entities running leasing activity and cooperative savings and credit unions.

A significant part of these reports was related to the submitted descriptive reports.

In 2011 also 461 descriptive reports from cooperating units (CUs) were registered. Most of them came from bodies subordinate to the Minister of Finance, i.e. tax offices, customs offices and fiscal control authorities (almost 69% of all reports from CUs). From among individual cooperating units, the biggest number of reports in 2011 was sent by the National Bank of Poland (13.5%) and the Agricultural Property Agency (9.1%).

The submitted information on suspicious transactions (both from obligated institutions and cooperating units) still contains deficiencies. They are related, above all, to an incorrect determination of the legal basis of the submitted information or lack of information about circumstances indicating a possible relationship of described transactions or other activities with commitment of the crime under Article 299 or 165a of the Penal Code.

2.2. Information on transactions exceeding threshold

In 2011, GIFI received information on over 30.1 million of transactions whose value exceeds EUR 15 000 (EUR 1 000 in the case of some types of obligated institutions). It is collected and processed at the Department of Financial Information of the Ministry of Finance (i.e. a separated unit of the Ministry of Finance to support GIFI in the execution of his statutory tasks).

Obligated institutions provide data on the above-mentioned transactions collectively, in the form of files, within 14 days from the end of each calendar month in which they were recorded.

In 2011, the IT system of GIFI accepted over 91.5 thousand files with data concerning the aforementioned transactions. According to the binding rules, the files with data are provided via one of the three electronic channels:

- secured GIFI website (GIFI received over 92% of all files in this way),
- secured electronic mail (in 2011, GIFI received almost 7.9% of all files in this way) or

- sending information on CD/floppy disc (in 2011, GIFI received 0.045% of all files in this way).

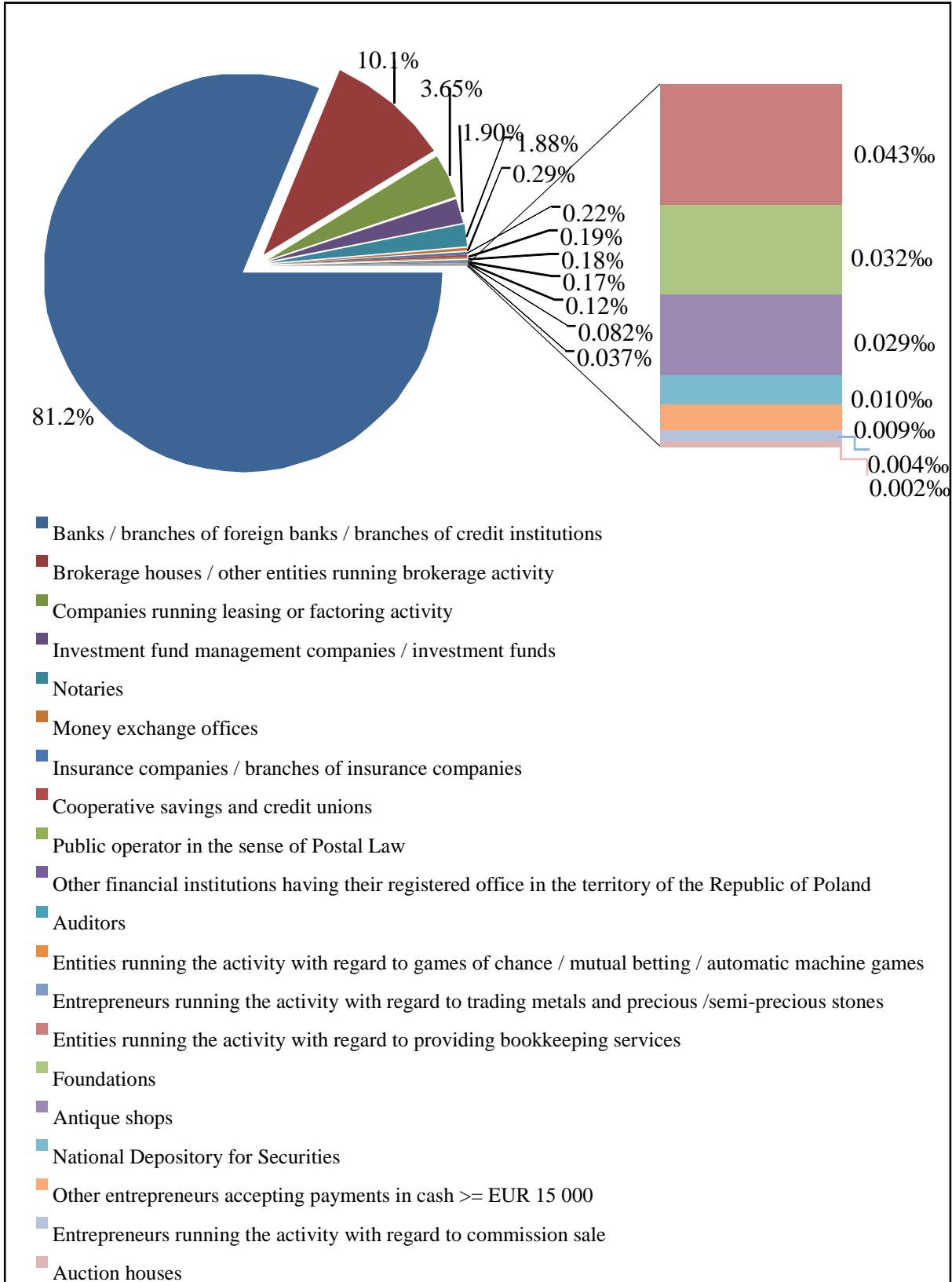
In the case of submitting information on transactions via secured website it is possible to send a file generated in a relevant format from the obligated institution system (this solution is used mainly by large institutions, submitting monthly information on many transactions) as well as to fill in the form containing an electronic version of the transaction chart directly at the website (this solution is used mainly by smaller institutions, submitting monthly information on few transactions). Worth mentioning is the fact of a more than double increase in 2011 in the number of information on transactions registered by filling in the form of transaction chart directly at the website – in 2011, there were almost 18.3 thousand transactions of this type, whereas in the years 2008-2010 the number ranged from 6.7 thousand to 8.7 thousand transactions a year. Combined with a regular decrease in the number of information on transactions submitted in the form of paper copies of transaction charts (in 2008 – 5.5 thousand, in 2009 – 3.6 thousand, in 2010 - 3.2 thousand, in 2011 – 2.5 thousand) this proves positive effects of activities undertaken by the Department of Financial Information of the Ministry of Finance in order to improve the use of electronic channel of information exchange and extend a group of smaller obligated institutions reporting regularly information on transactions to GIFI.

A small part of information (though requiring much more work when collecting and entering data to databases) is still provided to GIFI by obligated institutions in the form of paper copies of transaction charts – in 2011, GIFI received almost 2.5 thousand of paper copies of transaction charts.

Among transactions exceeding threshold received in 2011, over 15% were transactions whose data contained errors automatically detected by procedure validating input data in the IT system of GIFI. Erroneously provided information requires analysis and sending corrections/explanations by obligated institutions. This process involves significant resources from the part of GIFI and therefore GIFI takes numerous actions to improve the quality of provided data, leading to reduction of the number of errors in provided information. In 2011, as a result of undertaken activities, the number of information provided with an error by obligated institutions was reduced by over a million. Apart from information on new transactions, in 2011, obligated institutions sent to GIFI over 385 thousand of corrections to the previously provided data.

Division of the number of transactions by type of institution providing data is shown in diagram no. 3. Most information come from the following groups of obligated institutions: banks – 80.7% of information on transactions, brokerage activity entities – 10% of information on transactions, companies running leasing and factoring activity – 3.6% and investment funds and notaries – approx. 1.9% each of the total information provided.

Diagram no. 3 - Sources of transactions exceeding threshold in 2011



From the aforementioned over 30.1 million transactions submitted to GIFI databases in 2011, 9.37% were transactions recognized by obligated institutions as cash transactions, and 10.82% as transactions with participation of legal entities, for which the obligated institution indicated a place of residence outside Poland or nationality other than Polish (1.87% transactions were qualified by obligated institutions as transfers from abroad).

Information on transactions was made available for further analyses. In particular, the information was subject to automated analytical processes. For example, all information on transactions was verified in terms of possible links with entities suspected of terrorism financing or entities from high risk countries/countries under sanctions. Also links between information on transactions and other types of information available in the system (for example, with queries from external entities – the Public Prosecutor’s Office, foreign FIU etc.) were automatically sought and then they were used in the analytical proceedings or passed to external entities applying to GIFI for providing financial information. The aforementioned links were searched for using analytical models functioning in the IT system of GIFI which were used both in the processes of automatic generating of reports and analyses created *ad hoc* for the purposes of a specific problem.

Information on transactions exceeding threshold was also used for extraction of data on entities accounts used in the process of detailed analytical proceedings conducted at the Department of Financial Information, so was information on transactions themselves which is a directly available source of information on transactions of entities being subject of interest of the given analytical proceedings. It represents both direct source of information on transactions which can be found by asking a question about a specific entity or account and a source for the analysis of links - through the use of the possibility of searching for objects (accounts, entities) in the database which are interlinked, i.e. being linked with each other in a defined way (e.g. entities linked by their common occurrence in the chain of transactions or accounts linked by carrying out the transactions on them by the same entity).

Information organised in the above-mentioned way was included in the conducted analytical proceedings and communications and reports sent to the Public Prosecutor’s Office and other cooperating units. Information on received transactions are also passed to the Public Prosecutor’s Office and other cooperating units, at their request (in 2011, this regarded several tens of thousands of transactions).

2.3. Information on other categories of data

Information from declarations of cash transport

Pursuant to Article 15a (5) of the Act, the Border Guard and Customs authorities shall provide the GIFI with the information from declarations of transport of cash through the EU border. In 2011 for the first time, the information was submitted using an electronic communications channel. GIFI received information about over 5 thousand declarations of cash transport, including over 4440 declarations of cash entering the EU and 380 declarations of cash leaving the EU submitted in 2011 (GIFI also received information about 229 declarations of transport between the EU Member States and 25 declarations of cash transport between non-EU Member States).

The value of declared cash entering the EU (excluding the value of cash declared on several tens of declarations of its import, where the value was defined in 23 currencies other than those listed below) amounted to over:

- EUR 73 million,

- USD 20 million,
- PLN 3 million,
- CAD 0.6 million,
- BYR 37 million,
- RUB 13 million,
- UAH 1 million.

The value of declared cash leaving the EU (excluding the value of cash declared on dozen or so declarations, where the value was defined in 10 currencies other than those listed below) amounted to over:

- USD 11.6 million,
- EUR 3.3 million,
- PLN 0.5 million.

The import was most frequently declared by Ukrainian citizens (64% of cases), then Russian (21% of cases), Belarusian (5% of cases) and Polish (4% of cases) citizens and apart from them also citizens from 37 other countries. Export was most frequently declared by Polish (64% of cases) and Russian (12% of cases) citizens, and also citizens from 29 other countries.

As far as directions of cash entering the EU are concerned, 65% of declarations concerned the cash imported from Ukraine, 23% - from Russia and 5% from Belarus. In the case of cash leaving the EU, the most frequently declared place of destination was Russia (25% of cases), USA (12%), Thailand (10%) and China (8%).

Information pursuant to Article 8b (5) of the Act

With regard to the amendment to the provisions of the Act of 2009, GIFI shall also receive – apart from information on suspicious transactions and transactions exceeding threshold – information on cases of not carrying out transactions or not concluding contracts with a client, or terminating such contracts due to the lack of possibility to apply financial security measures (pursuant to Article 8b (5) of the Act). In 2011, GIFI received 16 information of such type from obligated institutions.

3. ANALYSES

3.1. Counteracting money laundering

One of the basic duties of GIFI is examining the course of transactions with suspicions concerning money laundering. An analysis of these transactions is aimed at finding and substantiating the relationship between the transactions and the aforementioned crime. However, its aim is not to identify and substantiate a predicate offence for money laundering, i.e. a prohibited act that assets subject to laundering come from or are related to, since GIFI does not have a relevant, legal capacity to do so. Such predicate offences for money laundering may be the majority of offences stipulated in the Penal Code, as well as penalised in other legislative acts, including Penal and Fiscal Code. In this respect, other authorities (i.e. legal protection bodies or law enforcement bodies) have relevant authorisations and obligations.

3.1.1. Analytical proceedings and their effects

As a result of information obtained in 2011, GIFI initiated 1505 analytical proceedings (including the proceedings in the scope of counteracting terrorism financing as well as proceedings initiated pursuant to the information referred to in Article 8b(5) of the Act), i.e. over 19% more than in the previous year. Particular proceedings carried out by GIFI covered with its scope up to: several descriptive reports, more than a thousand of individual suspicious transactions and several thousand transactions exceeding threshold.

The result of the carried out analytical proceedings was:

- 1) Forwarding 130 reports to the Public Prosecutor's Office on suspicion of money laundering committed by 0.6 thousand entities (the reports included the description of suspicious transactions whose subject was assets with a total value of approx. PLN 3.9 billion). This is the number of reports on the suspicion of the commitment of money laundering crime sent by GIFI to the Public Prosecutor's Offices pursuant to Article 31 of the Act which include a description and analysis of suspicious transactions along with the justification substantiating the commitment of acts penalised under Article 299 of the Penal Code. In the course of further actions carried out by GIFI, the Public Prosecutor's Offices were also sent more than once, under Article 31 of the Act, the obtained additional information justifying the suspicion (there was the total of 16 information of this kind).
- 2) Blockage of 314 accounts where funds with a total value of at least PLN 96.10 million were accumulated and suspension of 2 transactions for the amount of PLN 0.03 million (pursuant to Article 18 and 18a of the Act).
- 3) Forwarding to authorised bodies and units 539 information under Article 33 (3) of the Act (i.e. on GIFI's own initiative).

In 2011, activities of GIFI were still focused on the improvement of cooperation with law enforcement bodies, fiscal control offices and other cooperating units; therefore there was a bigger number – compared to the previous years – of reports sent to them under Article 33 (3) of the Act. As a result of analytical proceedings conducted in 2011, information under Article 33 (3) of the Act was sent to the following authorities and units:

- 184 to fiscal control offices,
- 172 to the Police (including the Central Bureau of Investigation),
- 156 to the Internal Security Agency (including the Anti-Terrorist Centre),
- 14 to Border Guards,
- 11 to the Central Anticorruption Bureau,
- 2 to the Polish Financial Supervision Authority.

The reports referred mainly to suspicious transactions which may be related to prohibited acts whose enforcement is within the competences of the aforementioned authorities and units.

Common activities with law enforcement bodies and close cooperation of GIFI with them resulted in the greater, when compared to the previous years, value of funds accumulated in accounts blocked by GIFI in connection with the justified suspicion of money laundering. It

should be emphasized that the aforementioned amounts of funds blocked in accounts are estimated and may be lower than the actual ones, since during the blockage imposed by GIFI funds continued to be deposited on accounts, but they were not withdrawn or transferred to other accounts.

In 2011, GIFI provided to fiscal control offices also 13 requests for examining the legality of origin of specific asset values, in order to clarify the origin of these values.

In 2011, as in the previous years, GIFI received information from fiscal control offices on completed controls initiated following the GIFI's reports or requests for control. The information referred to the effect of controls recommended pursuant to the GIFI's reports or requests sent to the aforementioned authorities in 2011 and in the previous years. *Inter alia*, in one case the information on understatement by a taxable person of due tax liability regarding value added tax for the amount of PLN 0.54 million and regarding personal income tax for the amount of PLN 0.53 million was obtained. In another case, the understatement by a taxable person of due tax liability regarding value added tax amounted to PLN 0.82 million.

In yet another case, as a result of the conducted proceedings, the understatement of tax liability regarding corporate income tax for the amount of PLN 0.75 million and regarding VAT for the amount of PLN 0.70 million was identified.

Sometimes, the cooperation of GIFI with fiscal control offices is not restricted solely to sending information in the form of reports or requests for controls and possibly for their supplementation at the authority's request. In 2011, for example, information that the fiscal control office after having performed the control in the entity indicated by GIFI, directed a report to the Public Prosecutor's Office on the suspicion of the commitment of crime under Article 299 of the Penal Code with regard to the revealed penal and fiscal offence was obtained. Whereas the Public Prosecutor's Office submitted to GIFI a request in that case under Article 32 of the Act.

Pursuant to Article 4a(3) of the Act, the Minister of Justice shall provide consolidated data to the General Inspector "on the number of criminal prosecutions, the number of persons in respect to the proceedings instituted and convicted of crimes, with and without legal validity, referred to in Article 165a or Article 299 of the Penal Code, and evaluation of asset values in respect of which either freezing, blockage, or suspension of transactions has been performed, or property seizure, confiscation or forfeiture has been adjudicated – within 2 months after the end of the year in question and subject to the report". On 26 March 2012, the Ministry of Justice provided the information on initiating in 2011 179 judicial proceedings for crimes under Article 299 of the Penal Code with regard to 622 persons, from whom 88 were convicted without legal validity. In the aforementioned proceedings:

- seizure on asset values in the amount of PLN 75 thousand was adjudicated,
- property confiscation in the amount of PLN 24.49 million, USD 158.40 thousand, GBP 20.55 thousand, EUR 5.15 thousand, CHF 9.35 thousand, CAD 1.73 thousand, SKK 10.25 thousand, AUD 0.25 thousand, DKK 1 thousand, SEK 1.80 thousand, CZK 3.30 thousand, UAH 14.07 thousand, and NOK 0.05 thousand was adjudicated¹.
- forfeiture of property in the amount of PLN 133.32 million was adjudicated.

At the same time, it was announced that in 2011 state courts did not conduct penal proceedings with regard to crimes under Article 165a of the Penal Code.

Pursuant to the information from the Ministry of Justice, the data concerning the convicted with legal validity, referred to in Article 299 of the Penal Code, will be submitted to GIFI in May 2012 after having received them from a statistical database of the National Penal Register.

Moreover, information about the preparatory proceedings regarding the crime of money laundering, being in progress in 2011, was obtained from the General Public Prosecutor's Office. The data show that in 2011:

- 192 cases were initiated, out of which 75 in *ad personam* phase, concerning 254 persons,
- 71 indictments against 290 persons were submitted to courts,
- 100 preparatory proceedings were completed by a decision on discontinuance of investigation and 9 refusals to initiate the investigation were issued,
- 79 preparatory proceedings were suspended.

As a result of the analysis of justifications submitted to GIFI of decisions on discontinuance of proceedings initiated pursuant to GIFI reports on the suspicion of the commitment of crime it was decided that their cause was often the lack of possibility to determine an initial offense (i.e. predicate offence) in connection with money laundering, namely the source of origin of funds subject to laundering. The discontinuance of these proceedings was often accompanied by cases of filing charges in connection with the commitment of prohibited acts other than money laundering. It was also the case that the justifications of decisions on discontinuance also indicated the fact of conducting by law enforcement bodies the previously initiated investigations or inquiries in the cases related to the above-mentioned decisions. Moreover, the aforementioned decisions on discontinuance of the proceedings were in many cases partial and referred to selected suspects.

Out of the aforementioned number of refusals to initiate the investigation, four decisions in this matter were submitted to GIFI with regard to the reports provided by GIFI on the suspicion of the commitment of crime. The information possessed shows that in the case of

¹ Moreover 32 property elements in the form of parcels, non-residential premises and building, as well as cars: BMW 390L, HONDA CIVIC 5D and MERCEDES 200D were confiscated (without stipulating their value in the case files).

refusals, in two cases investigations were initiated at a later time. In the first case, the investigation was initiated following the decision of the District Court which recognized the GIFI's interlocutory appeal and repealed the decision of the Public Prosecutor on the refusal to initiate the investigation. In the second case, the refusal to initiate the proceedings resulted from the fact that in the same case another Public Prosecutor's Office was already conducting the investigation within the same objective and subjective scope. However, later the Public Prosecutor's Office, which was sent the report, informed that, as a result of another decision, the proceedings were reinstated, and the case was added to the already conducted investigation.

Moreover - pursuant to the information from the General Public Prosecutor's Office – the total value of property covered with property confiscation in the cases initiated in 2011, pursuant to the issued decisions on property confiscation, amounted to approx. PLN 71.36 million.

As a result of proceedings initiated on the basis of GIFI reports, the General Public Prosecutor's Office mentioned 26 indictments of acts under Article 299 of the Penal Code regarding 131 defendants and 4 judgements concerning 5 convicts (out of the total amount of 19 convicting judgements and 47 convicts with regard to which the General Public Prosecutor's Office provided information) issued in 2011.

3.1.2. Exemplary directions of analyses

In 2011, GIFI carried out analytical proceedings concerning transactions classified to different risk areas (including trade in fuels, scrap, alcohol, tobacco, precious metals or gambling).

Within the scope of these risk areas, pursuant to analysis of transactions and additional information, obtained from cooperating units and obligated institutions, GIFI has a possibility to mention also prohibited acts (the so-called predicate offences for money laundering) from which assets used in the analysed transactions could come from. However, due to the fact that GIFI does not have operational or investigation qualifications, it does not carry out a search, does not question witnesses or suspects, nor collects evidence – this is not always possible. In 2011, in a part of conducted analyses the transactions in which funds coming from e.g. such criminal actions as illegal trade in drugs and drug trafficking, illegal trade in spirits and tobacco, corruption, theft, as well as frauds and extortions (including to the detriment of the State Treasury) were identified. In the case of justified suspicion as to the relation of such transactions with the above-mentioned crimes, the relevant information was submitted by GIFI in reports on the suspicion of the commitment of crime under Article 299 of the Penal Code, sent to the Public Prosecutor's Office, as well as in information provided pursuant to Article 33 (3) of the Act to the authorities having competences within the scope of the execution thereof.

Below exemplary directions of analyses are presented.

Laundering of money from drug and pharmaceutical trafficking

The interest of Polish and international criminal groups in gaining benefits from the developing network of drug distribution is maintained. Such a situation also determines the development of crimes related to money laundering coming from these proceedings. Criminal organisations take measures aimed at legalising the proceeds from drug smuggling, production and trafficking. In connection with the identification of this area of money laundering, the General Inspector of Financial Information initiated in 2011 several analytical

proceedings related to suspected laundering of money from crimes concerning drug trafficking. Almost every case of this type is characterised by an extended network of entities participating in the proceedings, using the banking sector to money laundering and participation in the crime of persons already convicted for other offences.

Apart from the suspected laundering of money coming from drug trafficking, the General Inspector of Financial Information initiated in 2011 several analytical proceedings related to laundering of money from illegal trade in anabolics and other pharmaceuticals. The pattern of operation of criminal groups involved in illegal trade in anabolics and other pharmaceuticals on the territory of Poland is similar to the national pattern of selling drugs by using a dealer network. However, there is a significant difference in the manner of using the system of payments for goods when making the sale of these anabolics and pharmaceuticals international. After a wholesale import of such goods to Poland from abroad and their sale – via Internet, above all to customers in the Western Europe or North America - the criminal group receive payment for the goods purchased via money transfer services, such as Western Union or MoneyGram, or possibly via electronic payment systems, e.g. PayPal. This causes significant difficulties in the correct identification of parties to the transactions and constitutes an attempt to lose the so-called transaction trace. Similarly to “drug” cases, a frequent element of cases related to laundering of money from illegal trade in anabolics and other pharmaceuticals was the fact that participants of the crime had been already convicted for other offences.

VAT carousels as predicate offences for money laundering

On 24 March 2011 the *Act of 18 March 2011 on amendment to the Act of Value Added Tax and Trade Metrology Act* (Dz. U. No. 64, item 332) was adopted regarding self-calculation of VAT in trade in scrap, giving a possibility from 1 April 2011 to carry out scrap trading without any fears and threats which fair scrap companies had dealt with to date in Poland.

The most important amendments related to VAT include, above all, the interpretation of the notion of “scrap” for the purpose of application of Article 17 (1) point 7 and 8 of the *Act on Value Added Tax*. Due to the fact that the Act does not define the notion of scrap taking into consideration a historical and purposeful interpretation, by the notion of scrap we should understand metal scrap, including steel scrap (feedstock and non-recyclable), cast iron scrap and non-ferrous metal scrap. The notion also covers precious metal scrap. The notion of scrap does not thus cover, *inter alia*, used batteries, rechargeable batteries and vehicles).

But what is the most important, since the entering into force of the aforementioned Act, the system of calculating and deducing tax on goods and services in trade in secondary raw materials, including scrap, and CO₂ emissions trading has been modified. The modifications are the response to tax abuses identified in this area. The application of the mechanism subject to the transfer of the obligation of VAT payment to a person who is a recipient of the scrap delivery or the service of CO₂ emission trading certificates is allowed respectively under provisions of Article 199 and 199a(1) letter a of *Directive 2006/112/EC of 28 November 2006 on the common system of value added tax* (OJ EU L 347 of 11.12.2006, p. 1, as amended).

In other words, this is the mechanism of reverse charge. In this system, buyers and service recipients are authorised to deduct calculated tax constituting due tax (on account of the delivery for their benefit) under general terms and conditions. Therefore a buyer of scrap or the aforementioned certificates is responsible for VAT payment, which in practice means that he/she will at the same time declare and deduct the tax. A tax obligation, as well as right to deduct the calculated tax, will occur in the same settlement period.

Since the introduction of amendments, GIFI has noted in the conducted analytical proceedings concerning laundering of money coming from fiscal offences, in particular the so-called carousel transactions used for obtaining undue benefits from tax settlements that the entities being to-date within the scope of interest of GIFI with regard of the suspicion of making transactions related to illegal or fictitious trade in scrap, have started their activity in another area. Here we mean trade in precious metals, gold and silver granulate (pursuant to the definition of scrap, gold and silver granulate is not scrap, thus sale of granulate does not constitute the sale of scrap, and therefore tax obligation on account of such a transaction is charged under general terms and conditions to the seller, not buyer). Since 1 April 2011, the suspected transactions related to illegal or fictitious trade in gold and silver granulate have started to appear the more and more often in the cases conducted by GIFI on the basis of reports from obligated institutions and cooperating units. Moreover, it was noted that after the introduction of amendments the companies that had previously been involved in the aforementioned activity, had recorded a significant increase in turnover, and in addition also in the obtained reimbursement of VAT and input tax over output tax.

As in the case of previously conducted proceedings regarding scrap trading, also here we deal with transactions with the participation of entities from even several to dozen or so countries.

Money laundering and intra-community trade in goods

An important area generating significant illegal benefits to the detriment of the State Treasury is constituted by transactions related to intra-community trade in goods. A predicate offence is constituted usually by an extortion of undue reimbursement of input VAT over output tax.

The entity filing for reimbursement of the surplus does not usually make actual intra-community supplies which are shown in settlements with a tax office. This constitutes a basis to file for reimbursement of value added tax calculated on account of declared acquisition of goods often corresponding to the amount of (fictitious) supplies made.

It happens that in order to hinder the competent authorities from determining that the transactions made are fictitious, organisers of criminal proceedings create a network of several or even dozen or so entities. Each of them performs up to several hundreds of individual transactions of purchasing goods of the value often exceeding several thousand PLN (usually from the same customer) and immediate reselling them to another entity. Whereas the price of selling goods is usually higher than the purchase price just by several parts-per-thousand, and in a relatively short period of time (from several weeks to several months) particular companies and persons running business activity allegedly trade in goods of the value exceeding even several hundreds of million PLN.

Obtaining undue benefits by means of intra-community trading in goods is also recognized in the situation when the actual supply of goods to Poland takes place. In such cases, most frequently between a final domestic recipient or actual intermediary and foreign supplier there is one or several entities also allegedly involved in the trade. Whereby the entity which pursuant to invoices purchases goods from abroad, and resell them to a domestic customer should pay the amount of due value added tax on account of this transaction. In order to avoid this obligation, such an entity declares additionally fictitious domestic purchases giving a possibility to deduct VAT in the amount corresponding to the tax due. As a result, the State Treasury is harmed, and an actual intermediary and final recipient get the goods cheaper by the amount of due VAT (in principle at a full rate). In the above-mentioned case, the actual intra-community supply takes place; however, it is performed between different entities than those resulting from financial flows and issued VAT invoices.

The transfer of funds, aimed at constituting payments for allegedly purchased goods, is also adjusted to declared supplies and purchases of goods. In this way, on the one hand efforts are made to pretend conducting legal commercial transactions and substantiating the sale resulting from the invoices issued, and on the other hand, this constitutes the basis for legalisation of undue reimbursement of VAT or unduly reduced payments to the tax office.

As it was already mentioned, the observed flow of funds is not usually reflected in the actual trade in goods, which is shown by the scale and frequency of transfers on the accounts of entities which often have not been engaged in any activities before or, for certain reasons, had terminated the activity previously. The fictitious nature of the conducted activities is also indicated by the results of fiscal controls carried out from which it follows that controlled entities do not have warehouse facilities suitable to the scale of business and also do not employ any workers.

Many a time accounts of a given entity are used only for several months, and then they are replaced by another newly acquired entity. Sometimes the companies are acquired and then resold to dummies not having Polish citizenship, whereby there is a change of headquarters, which also results in the change of competent tax office. Such activities hinder the initiation and efficient carrying out of fiscal control. Dummies are often used only for subscription of shares in companies, formal takeover of responsibility for management and opening of bank accounts on behalf of the company. However, they do not have any effect on the way of using newly opened accounts, on which transactions are made electronically by other persons organising and participating in the criminal proceedings.

Making and accepting payments aimed at pretending legally run business and constituting the basis for submitting declarations resulting in extortion of undue tax on goods and services or reduction of the amount thereof, is one of the stages of money laundering. At the same time, for entities whose accounts are supplied with funds not related to the actual trade, the total of funds received constitutes undue benefit connected with the commitment of a prohibited act – in this case a fiscal offense or misdemeanour.

The legalisation of proceeds from the described offenses is also the process which – next to the commitment of act constituting a predicate offense – carries a risk for the entire proceedings of being identified by law enforcement bodies. Persons organizing such criminal proceedings, wishing to avoid criminal liability, make efforts to prevent or substantially impede the conclusion that funds they have at their disposal originate from the crime. One of the most popular and at the same time the simplest solution is the use for this purpose of the so-called dummies and fictitious companies.

Dummies are natural persons who – usually in return for relatively small benefits – agree to take actions allowing criminals to legalise funds or allow to use their personal data for this purpose. Usually, they formally become owners of firms and companies whose accounts and assets are used for money laundering. These entities, depending on whether they are newly created or acquired from the third parties, are referred to as fictitious companies or acquired fictitious companies.

The main advantage of using dummies from the perspective of the criminal organisation is separation of persons committing crimes and actual beneficiaries of the criminal proceedings from efforts to legalise the proceeds achieved. Simultaneously, this allows to shift onto them responsibility for a part or whole of the committed acts, since their presence usually significantly prevents law enforcement bodies from establishing actual links between persons and entities involved in the criminal proceedings.

Another element substantially impeding determination whether funds held by individual persons originate from crime is conduction of a legitimate business activity. This activity allows to mix the proceeds obtained with asset values originating from illegal sources.

Most often, bank accounts are used for money laundering, among which, taking into consideration the nature and manner of implementing the transaction, we can distinguish:

- fictitious account where one or series of transactions is performed, usually 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 to which high amounts are transferred to be immediately taken in cash, which enables separation from the source of origin – most often, paid funds are reintroduced into the financial circulation.

Other directions

One of the directions of conducted analytical proceedings was the transactions carried out on the basis of a scheme of cash deposits and immediate transfers abroad in the same or similar amounts. The funds used for this kind of transactions often come from smuggling and illegal trade in goods imported from abroad. Their entering to the financial system was carried out using bank accounts belonging to natural persons, as well as commercial companies and partnerships. Very often these were natural or legal persons coming from foreign countries. In some cases, the value of funds deposited in particular accounts was significant (individual transactions for the value of approx. PLN 1 million). Depositing cash coming from the crime in bank accounts was sometimes performed without a personal contact with bank officers, e.g. by making transactions via cash deposit machines.

Within the scope of conducted analytical proceedings, a frequent use of electronic banking by entities suspected of money laundering was identified. This allows them for quick transfer of funds between different accounts from different places of residence of the payer, and also ordering of the transaction without a personal contact with bank officers (which is important to those who make transactions on accounts of dummies and fictitious companies). Moreover, similarly to the year 2010, GIFI conducted the analytical proceedings in which cases of using Internet Payment Services to carry out suspicious transactions, consisting in making a significant number of transactions via Internet Payment System, including to countries commonly recognized as “tax havens” were identified.

3.2. Counteracting terrorism financing

The General Inspector of Financial Information is one of the institutions participating in the system of anti-terrorist protection of the State. Activities performed by the General Inspector with regard to counteracting terrorism financing under the adopted in Poland system of counteracting and combating terrorist threats is the activity at the tactical level. In the framework of the implementation of its statutory tasks with respect to counteracting terrorism financing in the year 2011, GIFI initiated 15 analytical proceedings concerning suspicious transactions which could be related to terrorism financing. The proceedings were initiated on the basis of reports from obligated institutions and on GIFI's own initiative. The basis for initiation of these proceedings were transactions carried out by persons from countries suspected of supporting terrorism or from countries in which terrorist groups are active. In view of the specific nature of financing terrorist organizations, both legal transactions and transactions, in case of which the initial identification allowed to assume that the examined

activity is the criminal activity, were checked. As a result of the analysis carried out with respect to the above-mentioned analytical proceedings as well as previously initiated proceedings and information obtained pursuant to art. 8 (3) of the Act, in 2011 GIFI sent, under art. 33 (3) of the Act, 19 reports to the Internal Security Agency (including the Anti-Terrorist Centre).

In 2011, as in the previous years, GIFI and its representatives participated in the works of Inter-Ministerial Team for Terrorist Threats (MZZT), an assisting authority to the Council of Ministers which ensures cooperation of government administration with regard to recognising, counteracting and combating terrorism, as well as of the Task Force – Permanent Group of Experts (SGE) constituting a substantive support for MZZT. Among other things, within the scope of activities undertaken by these groups, representatives of GIFI took part in the works of the “National Programme for Counteracting Terrorist Threats in the Republic of Poland for the years 2012-2016”. With regard to the subject document, the Ministry of the Interior and Administration conducted consultations, completed on 19 September 2011.

The representative of GIFI also takes part in the works of the Joint Polish and American Anti-Terrorist Group (established in 2005), which is a forum for exchanging of experiences in the scope of counteracting and combating terrorist threats. At the working level, representatives of competent services and organisational units, as well as representatives of the American part participate in the works. One of the topics of the Group meeting is combating terrorism and organised crime financing. The representative of GIFI is the participant of meetings of the subgroup of experts for analysis of threats and ensuring public order. Last year, two meetings of the Group and two working meetings of the subgroup were held.

In 2011, GIFI cooperated on a regular basis with the Anti-Terrorist Centre of the Internal Security Agency (CAT ABW). In 2011, the basis for direct exchange of information in the IT system between CAT ABW and GIFI was created.

On 22-23 November 2011, GIFI in cooperation with the Ministry of Foreign Affairs (within the Polish presidency of the EU Council) organised in Warsaw the EU-GCC Workshop on Combating Terrorist Financing. More information on the workshop is included in the section concerning International Cooperation.

4. CONTROLS

4.1. Controls carried out by GIFI

For 2011 the General Inspector of Financial Information scheduled carrying out 23 controls in the following obligated institutions:

- Banks – 2,
- Cooperative banks – 5,
- Notaries – 6,
- Foundations – 2,
- Life insurance companies – 2,
- Entities running factoring activities – 4,
- Entities running leasing activities – 2.

Selecting obligated institutions for control was based on GIFI's analytical and control data, as well as indications of supervisory bodies and media publications.

In 2011, the GIFI controllers carried out 17 controls. The remaining controls scheduled for the 4th quarter of 2011 were not carried out, since their implementation had been suspended.

As a result of the carried out controls, some irregularities in the fulfilment of obligations by obligated institutions resulting from the Act were disclosed. The irregularities were as follows:

- formal: failure to adjust the internal procedure to the effective provisions of the Act, lack of provisions regarding the method of current analysis of transactions and of performing analysis for assessing the risk of money laundering and terrorism financing, pursuant to which financial security measures are applied,
- substantial: failure to record transactions equivalent to more than EUR 15,000, referred to in Article 8 (1) of the Act; failure to meet the deadline for recording the transactions, stipulated in § 2 (2) of *the Ordinance of the Minister of Finance of 21 September 2001 determining the template of transaction record, manner to maintain thereof and mode of providing the data from the record to the General Inspector of Financial Information 2001* (Dz. U. of 2001, No. 113, item 1210, as amended); lack of documented results of current analysis of carried out transactions; failure to apply financial security measures, including failure to identify an actual beneficiary; failure to store, for a required period of time, of information resulting from application of these measures, store the transaction record for the period longer than the one stipulated in the provisions of the Act; failure to store, for a required period of time, of documented results of current analysis of transactions; failure to guarantee employees participation in complementary training programmes relating to the obligations provided in the amended provisions of the Act and improper completion of transaction forms.

Pursuant to Article 27 of the Act, information on the result of the controls carried out by the GIFI controllers was submitted to the supervisory bodies for further official use.

As a result of the detailed analysis of the control results, a decision was made on sending 5 notifications on the commitment of crime to the Public Prosecutor's Office of local jurisdiction.

4.2. Controls carried out by supervisory institutions

Pursuant to the provision of Article 21 (4) of the Act, supervisory institutions provide GIFI with information on the results of the carried out controls. According to the information possessed by GIFI, as of 29 February 2012, in 2011:

- National Bank of Poland – carried out 813 controls in 837 money exchange offices,
- National Cooperative Savings and Credit Union – carried out 13 controls at Cooperative Savings and Credit Unions,
- Financial Supervision Authority – carried out the total of 48 controls, including:
 - 14 controls at cooperative banks,
 - 12 controls at life insurance companies,
 - 7 controls at commercial banks,
 - 7 controls at investment funds,
 - 5 controls at brokerage houses,
 - 3 controls at branches of foreign credit institutions,
- Presidents of the Appeal Courts – carried out 135 visitations at notaries,
- Heads of Customs Offices – carried out 222 controls at entities running games arcades and casinos,
- Fiscal Control Offices – carried out 44 controls.

As a result of the analysis of the information submitted by supervisory units concerning the results of the controls carried out by them, GIFI decided to send 5 notifications to the Public Prosecutor's Office on the commitment of the crime by obligated institutions.

The evidence collected in the course of the control and submitted to GIFI with the results of the control constitutes the basis for GIFI to impose fines.

4.3. Administrative proceedings with regard to imposing fines

Proceedings with regard to imposing fines on obligated institutions for irregularities within the scope of fulfilment of obligations, referred to in Article 34a of the Act are conducted pursuant to the provisions of the Code of Administrative Procedure. The General Inspector of Financial Information is competent for the imposition of the fines. When determining the amount of the fine, GIFI takes into account the nature and extent of the violation, the to-date activities of the institution and its financial capacities.

As a result of irregularities found in the course of controls and resulting from the materials collected by the GIFI controllers and controllers of institutions supervising obligated institutions, GIFI initiated 65 administrative proceedings ex officio, including:

- 8 – on the basis of own controls,
- 57 – on the basis of the results of controls carried out by supervisory institutions.

The basis for initiation of the proceedings was non-fulfilment by obligated institutions the following obligations:

- recording transactions equivalent to more than EUR 15,000,
- performance of risk analysis in order to apply relevant financial security measures,
- application of financial security measures,
- storing documented analysis results for a required period of time,
- guaranteeing employees participation in a training programme.

As of 29 February 2012, out of the administrative proceedings initiated in 2011, 49 proceedings were completed with a decision imposing a fine, 4 proceedings are in progress and 12 were discontinued. The fines imposed by GIFI constituted the revenue of the State budget.

With regard to decisions issued in 2011 by the General Inspector of Financial Information, obligated institutions filed 12 appeals. The Minister of Finance, after having considered the filed appeals, in 6 cases upheld the decisions issued by GIFI, and in 4 cases partially revoked the decisions of the 1st instance. The remaining 2 appeals are under consideration. In 2011, in the decisions issued (after having considered the decisions of the Minister of Finance revoking or amending the decisions of the 1st instance), GIFI determined fines for the total amount of PLN 636,150.

In 2011, appeals against 7 decisions issued by the Minister of Finance, including 4 concerning the cases initiated in 2010, were filed to the Provincial Administrative Court. In 2011, the Provincial Administrative Court considered 5 out of 7 appeals filed. As a result of the consideration, 4 appeals were dismissed and in 1 case the contested decision was revoked. The remaining 2 appeals filed to WSA in 2011 will be considered in 2012.

4.4. Clarifications related to the application of law

In 2011, obligated institutions sent to GIFI 221 written inquiries concerning the interpretation of provisions of the *Act of 16 November 2000 on counteracting money laundering and terrorism financing*. The inquiries sent to GIFI were usually related to doubts reported by obligated institutions concerning the correct implementation of statutory obligations imposed by the Act. Within the possible scope, clarifications concerning the correct application of the provisions of the Act were also provided during telephone conversations.

5. DOMESTIC COOPERATION

5.1. Exchange of information with national units

In 2011, an intensification of cooperation with national units with regard to the exchange of information was observed. GIFI received more requests for information – when compared to 2010 – from fiscal control offices and Border Guard. Since in the case of other authorities and institutions the number of requests did not increase, however, the total number of entities covered with the requests was higher. Moreover, as a result of the amendment to the provisions of the Act, another body has been authorised to receive information from GIFI, i.e. Head of the Customs Service, from whom the first requests for information were recorded in 2011.

5.1.1. Cooperation with organisational units of the Public Prosecutor's Office and courts

GIFI received from organisational units of the Public Prosecutor's Office 259 requests concerning 2140 entities. The most frequently identified formal deficiencies include the following:

- requests for histories of accounts and any banking documents which are not present in GIFI resources (in connection with the proceedings supervised by the Public Prosecutor under Article 299 of the Penal Code on a basis of reports from other sources or with penal proceedings concerning other crimes than money laundering),
- requests to apply by GIFI to obligated institutions for determining bank accounts in penal proceedings supervised by organisational units of the Public Prosecutor's Office, on a basis of reports from sources other than GIFI,
- requests to provide information on transactions, in particular banking ones, which did not consider the fact that banks are obliged to store information on transactions for a period of time specified in the provisions of law,
- requests to provide data from bank monitoring,
- requests for information on employees of obligated institution, dealing with implemented transactions or preparing contracts with the client,
- requests concerning obtaining original source documents or original contracts for managing bank accounts,
- sending, instead of requests to provide information, decisions concerning the transfer of custody of property and searching, which are not applied in the case of financial information authorities.

In addition in 2011, an increase in the number of requests sent by the organisational units of the Public Prosecutor's Office containing incomplete identification data of entities was identified, which as a result extended the time limit for their implementation in connection with the need to complete the missing data. GIFI also noted 1 request to provide information on 1 entity which was submitted by a court.

It should be noted that in view of the amendment of Article 14 (2) of the Act in 2009, the organisational units of the Public Prosecutor's Office, pursuant to the provisions of the Act, should provide information on:

- filing charges regarding commitment of the crimes referred to in Article 165a or Article 299 of the Penal Code.
- initiation and completion of the proceedings on the crimes, referred to in Article 165a or Article 299 of the Penal Code.

The organisational units of the Public Prosecutor's Office to a much larger extent provided information on this basis. However, a large part of this information did not include, *inter alia*, information about either persons against whom the proceedings under Article 165a or Article 299 of the Penal Code were initiated or data concerning circumstances indicating the suspicion of commitment of these kind of crimes. In such situations, GIFI each time applied for complementing this information, as, in particular, the lack of data of persons or entities remaining in the interest of the organisational units of the Public Prosecutor's Office prevented performance of the statutory obligation referred to in Article 14 (4) of the Act.

In the case of obtaining replies from GIFI pursuant to Article 14 (4) of the Act, in situations where it is determined that entities were parties to the information on transactions covered by the provisions of the Act, it should be noted that organisational units of the Public Prosecutor's Office almost each time asked for additional information held by GIFI, acting pursuant to Article 32 (1) of the Act. The information obtained on that basis allowed at least in several cases to extend the scope of the charges filed.

In 2011, also situations in which the organisational units of the Public Prosecutor's Office within one letter provided information pursuant to Article 14 (2) and (3) of the Act, at the same time requesting for data, pursuant to Article 32 (2) of the Act were recorded. Such actions were justified, since it allowed for quicker exchange of information between the authorities. GIFI recorded 42 such information provided by the organizational units of the Public Prosecutor's Office. The most often provided information included the one in which the initiation of the proceedings under Article 299 of the Penal Code or the one on filing charges against entities under Article 299 of the Penal Code. Moreover, in several such cases the organisational units of the Public Prosecutor's Office appended additionally a request to consider undertaking by GIFI the statutory activities stipulated in Article 18a and following of the Act.

The representatives of the Department of Financial Information participated in and gave one lecture within the framework of the training meeting entitled "*Methodology and tactics of conducting investigations with regard to crimes of undue reimbursement of VAT in scrap and fuel-related cases, with special consideration of the principles of cooperation with fiscal control authorities during the proceedings*", organised by the Appellate Public Prosecutor's Office in Gdańsk in cooperation with the District Public Prosecutor's Office in Bydgoszcz and Director of the Fiscal Control Office in Bydgoszcz on 6-7 October 2011.

5.1.2. Cooperation with fiscal control authorities, fiscal authorities and customs authorities.

GIFI received 281 requests from directors of fiscal control offices and 1 request from treasury intelligence division concerning 6 entities. With regard to the requests, 709 entities were controlled. 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.

In 2011, as in the previous years, several requests from directors of fiscal control offices contained formal and legal deficiencies in the case of applying for information under bank secrecy, without application of the proper manner specified in the provisions of the *Act of 28 September 1991 on fiscal control* (consolidated text: Dz. U. of 2011, No. 41, item 214, as amended).

GIFI also received 7 requests from directors of fiscal chambers to provide information about 14 entities and 4 requests from directors of customs chambers regarding 4 entities, as well as 1 request from the head of customs office concerning 1 entity.

Since July 2011, the Head of the Customs Service or persons authorised by him has been authorised to submit requests for information to GIFI pursuant to Article 33 (2) point 1a of the Act. With regard to the above, the Head of the Customs Service submitted to GIFI 12 requests to provide information regarding 164 entities.

Moreover, GIFI received 3 requests submitted by heads of tax offices, regarding 3 entities. It must be underlined that heads of tax offices are not authorities entitled to request information on transactions covered by the provisions of the Act under Article 32 and 33 of the Act.

Moreover, the following requests beyond the scope of the provisions of the *Act* were submitted: 1 request from the Department of Treasury Intelligence of the Ministry of Finance, 1 request from the Department of Tax Administration of the Ministry of Finance and 1 request from the Customs and Excise Control and Gambling Control Department of the Ministry of Finance.

It has to be emphasized that the year 2011 was the year of extending cooperation with the fiscal control authorities, in particular in the proceedings conducted in cooperation with the representatives of treasury intelligence or fiscal control inspectors. Strengthening of cooperation also had a significant effect in the form of reports provided by GIFI to the organisational units of the Public Prosecutor's Office, as well as in the form of reports submitted to the fiscal control authorities.

The representatives of the Department of Financial Information carried out training lectures for persons representing fiscal control authorities and fiscal authorities concerning counteracting money laundering and terrorism financing, cooperation of units cooperating with GIFI and implementation of the statutory control at obligated institutions:

- in March 2011 – for representatives of the Department of Treasury Intelligence of the Ministry of Finance and representatives of fiscal control authorities,
- 2 September 2011 – for representatives of fiscal chambers and tax offices,
- 26 October 2011 – for representatives of fiscal control authorities,
- 15 December 2011 – for representatives of fiscal control authorities,
- 20 December 2011 – for representatives of fiscal control authorities (fiscal control inspectors of the Fiscal Control Office in Bydgoszcz).

In addition, within the scope of strengthening cooperation with representatives of customs authorities, in particular within the framework of statutory control of obligated institutions, the following training meetings were organised:

- 29 April 2011 – for representatives of customs chambers,
- 10 June 2011 – for representatives of the Customs Chamber in Warsaw,

- 18 June 2011 – for representatives of the Customs Chamber in Opole,
- 28 June 2011 – for representatives of the Customs Chamber in Łódź,
- 5 July 2011 – for representative of the Customs Chambers in Toruń.

5.1.3. Cooperation with authorities reporting to the Minister of the Interior

GIFI received from the Minister of the Interior 3 requests to provide information on 10 entities.

Moreover, GIFI received 98 requests concerning 706 entities from the organisational units of the Police, out of which the largest part of requests was received from authorised representatives of:

- Division for Fighting Organised Economic Crime of the Central Bureau of Investigation of the Police Headquarters (CBŚ KGP),
- Division for Fighting Economic Crimes of the Criminal Office of the Police Headquarters,
- Division for Assets Recovery of the Criminal Office of the Police Headquarters.

The cooperation within the framework of the execution of requests for the purposes of the representatives of the Police, as in the previous years, was efficient and effective. A particularly significant aspect in the exchange of information with the units of the Police was the quality of justifications to the requests, which very often constituted a contribution to further correspondence with GIFI, *inter alia*, within the framework of preparatory notifications used in this scope pursuant to Article 33(3) of the Act. It must be added that – as in the previous years – there were some requests from the Police authorities, signed by unauthorised persons.

Moreover, in 2011, GIFI provided replies to 64 requests referring to 305 entities, submitted by authorised representatives of the National Border Guard Headquarters. In the case of cooperation with border guard authorities, in 2011 there was a significant increase in the number and quality of requests, when compared to 2010, and in particular the previous years, when requests from the Border Guard were rarely submitted.

In addition, it should be noted that the units supervised by and reporting to the Minister competent for the interior quite precisely fulfilled the obligations referred to in Article 14 (2) point 1 of the Act, which significantly extended the cooperation. Owing to that, GIFI received 57 information from the organisational units of the Police regarding 582 entities (in particular received from CBŚ KGP) and 7 information from the border guard authorities regarding 28 entities. On the basis of the information, GIFI was able to fulfil its statutory obligations better, including the application of the blockage of accounts referred to in Article 18a and following of the Act. It should be stressed that the use of amended provisions of the Act enabled cooperation in the field of analyses carried out by GIFI at the stage of the operation and reconnaissance work of the services reporting to and supervised by the Minister competent for the interior. This kind of information exchange was used to the greatest extent by the Division for Fighting Organised Economic Crime of the Central Bureau of Investigation of the Police Headquarters. Apart from written exchange of information, also working meetings were organised in order to specify an opportunity for cooperation and possible coordination of undertaken measures, including in particular with the representatives of CBŚ KGP.

In 2011, the representatives of the Department of Financial Information participated in the following meetings organised for the representatives of the Police and border guard:

- in April 2011 – participation in and lecture during the International expert workshop, organised in cooperation with the Ministry of the Interior and Administration, entitled “Areas of cooperation between law enforcement bodies and private sector within the framework of fighting organised crime mainly of economic nature”,
- in April 2011 – lecture concerning the cooperation between GIFI and border guard authorities within the framework of briefing of the Operation and Investigation Board of the National Border Guard Headquarters,
- in June 2011 – participation in and lecture within the framework of the 3rd edition of the training workshops organised by the Police Academy in Szczytno in cooperation with the Criminal Office of the Police Headquarters, entitled: “*Cooperation of the Police and banking sector within the framework of preventing, disclosing and fighting crimes related to the functioning of banks*”,
- in September 2011 – lecture within the framework of workshops organised by the Police Academy in Piła, for representatives dealing with property confiscation – cooperation of the Police authorities with GIFI, in particular within the scope of property confiscation,
- in October 2011 – participation in and lecture within the framework of the 7th conference entitled: “Cooperation of law enforcement bodies and national institutions within the framework of protection of economic and financial interests of the Republic of Poland and EU with regard to trade in liquid fuels”, at the headquarters of the Police Academy in Szczytno,
- in October 2011 – participation in and lecture within the framework of workshops organised at the premises of the Police Academy in Katowice by CBS KGP for coordinators of asset recovery,
- in October 2011 – lecture within the framework of workshops organised by the Police Academy in Katowice, for representatives dealing with the problem of property confiscation – cooperation of the Police authorities with GIFI, in particular within the scope of property confiscation,
- in October 2011 – participation in the 4th Pan-European High Level Conference on Asset Recovery Offices, entitled “*Successful tracing and identifying the proceeds of crime in Europe*”,
- in November 2011 – lecture within the framework of video-conference organised at the Police Headquarters in cooperation of the Voivodship Police Headquarters in Poznań for representatives of the division of criminal garrison of the Wielkopolska and Śląsk region, dealing with “*Selected aspects of temporary seizure of movable assets and property confiscation in the system of asset recovery in Poland*”,
- in December 2011 – lecture in particular for coordinators from the organisational units of the Police reporting to the Voivodship Police Headquarters in Kraków, with regard to the role of GIFI in asset recovery,
- in December 2011 – lecture in particular for coordinators from the organisational units of the Police reporting to the Voivodship Police Headquarters in Wrocław, with regard to the role of GIFI in asset recovery,
- in December 2011 – training for the representatives of border guard authorities conducted at the Training Centre for Border Guard in Kętrzyn, with regard to the cooperation between GIFI and border guard authorities.

5.1.4. Cooperation with the Head of the Internal Security Agency

In 2011, GIFI received from the Internal Security Agency (ABW) 35 requests concerning 371 entities, as well as 29 information provided pursuant to Article 14 (2) of the Act, regarding 374 entities.

It has to be emphasized that the cooperation with the representatives of ABW has been increasing and becoming more effective year by year, in particular within the framework of application of the provisions stipulated in Article 14 (2) of the Act. The consequence of such a cooperation was e.g. reports to the Public Prosecutor's Office in connection with the suspicion of commitment of crime, referred to in Article 299 of the Penal Code, combined with the application of the blockage of accounts, stipulated in Article 18a and following of the Act. As it was the case for representatives of CBS KGP, numerous working meetings were organised also with the representatives of ABW in connection with the simultaneously conducted statutory duties.

Moreover, the representatives of the Department of Financial Information participated in the following meetings organised in cooperation with the representatives of the Internal Security Agency:

- 22 November 2011 – lecture within the framework of the training organised by the ABW Central Training Centre on the legalisation of money coming from the crime from the perspective of GIFI – principles, methods and forms, as well as the scope of information exchange between ABW and GIFI,
- 23-24 November 2011 – lecture within the framework of the international conference organised at the Chancellery of the Prime Minister in cooperation with the Internal Security Agency entitled: *“Combating fraud damaging financial interests of the European Union – practical approach in the context of Asian organised criminal groups”*.

5.1.5. Cooperation with the Head of the Central Anticorruption Bureau

GIFI received from the Central Anticorruption Bureau (CBA) 6 requests concerning 46 entities and 6 information provided pursuant to Article 14 (2) of the Act, regarding 12 entities.

Cooperation with the representatives of CBA was at the similar level to the one from 2010, though it has to be emphasized that GIFI cooperated with the representatives of CBA and the representative of the organisational unit of the Public Prosecutor's Office in the most important, so-far disclosed case concerning corruption crimes in the country.

On 14 July 2011, the representatives of the Department of Financial Information conducted 1 training meeting organised for the employees of CBA, in particular with regard to the typology of transactions, methods of money laundering, reports received from obligated institutions and cooperating units and on the exchange of information.

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

In 2011, the General Inspector cooperated with the Head of the National Criminal Information Centre (KCIK). Apart from criminal information provided ex officio (number of registrations

- 980), GIFI responded to the requests of KCIK (125 requests). With regard to the above, verifications in the IT system of the General Inspector (ITsystem*GIFI) with regard to 3013 entities. From among them, 750 were indicated as entities which occurred in carried out analytical proceedings.

In 2011, 2177 inquiries for information were directed to the Head of KCIK, including 1 802 requests to entities obliged to supplement criminal information (in particular to the Police authorities).

5.1.7. Other information

Counteracting proliferation

In 2011, GIFI was actively involved in activities aiming at counteracting proliferation of the weapons of mass destruction, including, in particular, counteracting financing of these proceedings.

It should be stressed that the representatives of GIFI actively participated in the meetings of the Inter-Ministerial Team for Counteracting Illegal Proliferation of Weapons of Mass Destruction and Implementation of the “Kraków Initiative” – Proliferation Security Initiative (PSI), headed by the Ministry of Foreign Affairs. Moreover, they provided information and comments to the representatives of the Ministry of Foreign Affairs who participated in international conferences and seminars with regard to combating proliferation of the weapons of mass destruction.

In general, in the current legal state, GIFI may undertake direct activities in the above mentioned scope in situations where activities of entities dealing with proliferation or its financing will relate to the suspicion of commitment of the crime of money laundering or terrorism financing. In such cases GIFI may use its statutory rights i.e. to suspend 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 under rules specified in Article 32 and 33 of the Act. However, in 2011, no requests in this scope were received, nor statutory actions stipulated in Article 33 (3) of the Act were undertaken.

Cooperation with the Criminal Office of the Police Headquarters Division for Assets Recovery

The year 2011 was another year of cooperation with the Division for Assets Recovery of the Criminal Office of the Police Headquarters (BOM), in particular, with regard to the exchange of information and training conducted for police officers concerning the issues of securing of assets coming from crimes.

In addition, in October 2011, the representative of the Financial Information Department took part in the 4th Pan-European High Level Conference on Asset Recovery Offices, entitled “*Successful tracing and identifying the proceeds of crime in Europe*”.

5.2. Training activities

The representatives of GIFI participated actively in meetings on the issues of combating money laundering and terrorism financing by conducting training or giving lectures or actively joining the discussion at meetings where they were invited as guests:

- on 4 March 2011 – at the invitation of the National Bank of Poland – conduction of training with respect to performance by the representatives of NBP of the tasks stipulated in the Act,
- on 31 March 2011 – participation in and lectures during the training organised at the premises of BRE Bank SA under the Programme for counteracting money laundering and terrorism financing, with the participation of representatives of obligated institutions.
- on 1 April 2011 – at the invitation of the National Notaries Council – conduction of training with regard to performance by notaries of the tasks stipulated in the Act,
- on 11 October 2011 – at the invitation of the National Bank of Poland – conduction of training with respect to performance by the representatives of NBP of the tasks stipulated in the Act,
- on 19 October 2011 – participation in and lectures during the training organised at the premises of Bank Handlowy w Warszawie SA under the Programme for counteracting money laundering and terrorism financing, with the participation of representatives of obligated institutions,
- on 5-6 December 2011 – participation in and lecture during the international conference “*Central-Eastern Europe Fraud and Corruption Conference*” organised in Warsaw in cooperation ACFE Polska – Association of Certified Fraud Examiners.

In addition, GIFI continued the distribution of the paper and electronic version of the 3rd edition of the guide “*Counteracting money laundering and terrorism financing*”, intended exclusively for official use for the representatives of obligated institutions and cooperating units. In 2011, GIFI provided the representatives of obligated institutions with 162 copies of the guide in paper form and 167 copies of the guide in electronic version and the representatives of cooperating units with 69 copies of the guide in paper form and 122 copies of the guide in electronic version.

It should be noted that the guide provides an overview of legal regulations resulting from the amendment to the provisions of the Act of 2009 and in addition is a collection of to-date experience of GIFI and Department of Financial Information in respect of the implementation of the provisions of the Act.

6. INTERNATIONAL COOPERATION

6.1. Cooperation with the European Commission

The representatives of GIFI cooperate with the European Commission in the field of counteracting money laundering and terrorism financing (AML/CFT), participating in works of the Committee for Counteracting Money Laundering and Terrorism Financing (also known as Prevention Committee) and in meetings of the so-called EU-FIU Platform.

6.1.1. Prevention Committee

In 2011, three meetings of the Prevention Committee were held, at which, *inter alia*, the following issues were discussed:

- issues related to the Green Paper of the European Commission on on-line gambling offered in the Internal Market² with regard to the provisions of AML/CFT,
- security of records of CO₂ emission certificates from the perspective of AML/CFT – discussion concerned the proposal of the Commission related to the provisions of AML/CFT in new regulation devoted to CO₂ emission trading,
- overview of *Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing* (OJ EU L 309 of 25.11.2005), i.e. the so-called 3rd AML/CFT Directive – with regard to the envisaged revision of the provisions of the 3rd Directive Member States, upon request of the European Commission, submitted their remarks concerning the application of the provisions thereof,
- intensifying the analysis of issues of the application of AML/CFT law in the context of *Directive of the European Parliament and the Council 2009/110/EC of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC* (OJ EU L 267 of 10.10.2009), i.e. the so-called 2nd E-Money Directive - works of the Joint Committee of European Financial Supervisory Authorities – Anti-Money Laundering Committee,
- draft decision of the European Commission pursuant to Article 17 of *Regulation (EC) no. 1781/2006 of the European Parliament and the Council of 15 November 2006 on information on the payer accompanying transfer of funds* (OJ EU L 345 of 8.12.2006) with regard to Denmark, Faroe Islands and Greenland – last year the written procedure

² More information available at:

http://ec.europa.eu/internal_market/consultations/docs/2011/online_gambling/com2011_128_pl.pdf.

of assessing by the Committee the decision, under which transfers of funds between Denmark and its dependent territories will be treated as transfers within the territory of Denmark was initiated and completed,

- issue of supervision within the scope of counteracting money laundering and terrorism financing as well as reporting by obligated institutions of cross-border transactions – discussions on the draft Commission document were carried out by the Committee.

In addition, during the works of the Prevention Committee the issues related to preparations of plenary sessions of FATF were discussed, with respect to revision of 40 Recommendations and 9 Special Recommendations (the works on the amendments were completed at the end of 2011, whereas in February 2012 FATF adopted the amended recommendations), preparations to the 4th round of FATF mutual evaluations, as well as list of countries where there is a high risk of money laundering and terrorism financing and monitoring progress of these countries and territories being under special surveillance of FATF.

Apart from the framework of the Committee, Member States revised the list of third countries considered to have the standard of AML/CFT legislation equivalent to the one of the European Union (equivalent third countries) and published it along with the so-called common understanding concerning the recognition of such countries. The list was published on the European Commission websites.

6.1.2. EU-FIU Platform

The General Inspector of Financial Information continued the regular participation in meetings of the EU-FIU Platform. In 2011, two meetings were held, whose topics covered, *inter alia*, the issue of revision of effective provisions concerning the cooperation with the financial intelligence units in the European Union, the future of the IT system FIU.NET, used for exchanging information between them, as well as cooperation with the Egmont Group, amendments to the FATF Recommendations and the creation of the European "terrorist financing tracking systems".

The debate on the issues of the revision of the applicability of current law promulgated at the EU level for cooperation of the financial intelligence units regarded in particular the amendments to *Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information* (OJ EU L 271 of 24.10.2000). It was adopted as a result of high-profile events in the North African countries, which started at the end of 2000 and resulted in the application of the EU financial sanctions. For that purpose, the Platform created ad hoc working group whose task was to strengthen the cooperation of the EU financial intelligence units in the field of searching assets of politically exposed persons from that region, suspected of embezzlement of public funds, and not listed in official UN and EU lists.

Within the framework of the Platform, the discussions of the further development of the FIU.NET network and its new functions in connection with its transfer to the EUROPOL structures were carried out. New location of the network will not have an influence on its functioning. In the closer perspective, it will still remain independent and will be a basic tool for exchanging information between the European financial intelligence units. However, the works on establishing new rules of FIU.NET operation were started.

The members of the EU-FIU Platform discussed the issues of cooperation with the Egmont Group in order to establish the procedure of exchanging information on conducted works by the two bodies, associating financial intelligence units, in particular in the context of information on works on amendments to the rules of operation of the Egmont Group, resulting from the reconstruction of the FATF Recommendations, *inter alia*, with regard to the cooperation of financial intelligence units.

Moreover, the Platform constituted the forum for exchanging by particular financial intelligence units, including GIFI, their opinions on the possibility of creating the European Terrorist Financing Tracking System.

In 2011, the members of the Platform also discussed the establishing of the common position towards the amendments, suggested by FATF, to 40 Recommendations (in particular recommendation no. 26 and 40, concerning the issues related to the functioning of financial intelligence units and international cooperation respectively).

6.1.3. European Commission's project - ECOLEF

The representatives of GIFI continued their participation in the project implemented by the University of Utrecht, dedicated to the research in the field of the economic and legal effectiveness in the area of EU policy on combating money laundering and terrorism financing, launched in 2010. The research was conducted within the framework of the European Commission programme called "Prevention of and Fight against Crime". The representatives of GIFI responded to additional issues which were not included in the questionnaire elaborated in 2010.

The project covered another group of countries and the summary of results and the presentation of the final report are scheduled for December 2012.

6.1.4. EU-GCC Workshop on Combating Terrorist Financing

In cooperation with the Ministry of Foreign Affairs GIFI organised the European Union-Gulf Cooperation Council Workshop on Combating Terrorist Financing. The workshop was held in Warsaw on 22-23 November 2011 as an event within the Polish Presidency of the EU Council. The workshop of this kind was last held in 2009 during the Czech Presidency.

GIFI, owing to the coordination of the Permanent Representation of the Republic of Poland to the European Union and the European External Action Service (EEAS), agreed with GCC the topics which were approved by the involved countries of the Gulf and EU Member States.

The co-leadership of the workshop by Poland and the United Arab Emirates, acting as the GCC presidency, allowed for an open discussion of 110 delegates from 26 countries, including all members of GCC (the workshop has the so-far record turnout), on the issue of performing special FATF recommendations concerning counteracting terrorism financing – in the field of transfer of funds (FATF SR VII) and cash couriers (FATF SR IX), as well as UN sanction regime (resolution 1267, 1988 and 1989), but also exchange of experience in the area of combating terrorism and its financing and determinants.

A panel discussion on the framework of the subject EU-GCC cooperation brought particular effects; as a result of the discussion a declaration on strengthening the cooperation in the field of combating terrorism financing between the European Union and the Gulf Cooperation

Council envisaging, *inter alia*, introduction of specific institutional solutions both for regular meetings and working contacts of experts, which is a new approach to the to-date bilateral relations.

The Polish Presidency (and with regard to this also GIF) was unofficially highly evaluated for the workshop already before its end, both by EEAS, Bureau of EU Counter-terrorism Coordinator, European Commission, as well as GCC Secretariat and United Arab Emirates (presidency).

6.2. MONEYVAL Committee

In 2011, the representatives of GIF, together with the representatives of the Financial Supervision Authority and of the General Public Prosecutor's Office participated in the works of the MONEYVAL Committee (Council of Europe).

In 2011, the MONEYVAL Committee continued the evaluation of national systems for counteracting money laundering and terrorism financing of its members (AML/CFT). At the plenary meetings, 11 progress reports within the framework of the 3rd evaluation round and 5 reports from the 4th evaluation round were discussed.

The MONEYVAL Committee continued the monitoring of countries whose AML/CFT systems had shown a large number of ratings indicating non-compliance (NC - "non-compliant") or partial compliance (PC - "partially compliant") with the FATF Recommendations. The works in the forum of the MONEYVAL Committee in respect of these states focused on indicating effective and practicable solutions to accelerate taking by them of further activities related to adaptation to international standards in the field of counteracting money laundering and terrorism financing.

With regard to the states which had not taken effective reforms of their AML/CFT systems, the requirement of regular reporting on the progress in implementation of recommended reforms within the Compliance Enhancing Procedure (CEP) was applied. In 2011, within the above-mentioned CEP procedure, the following jurisdictions were monitored: Bosnia and Herzegovina, Croatia, Albania, Moldova, Ukraine and Macedonia.

Upon request of Cyprus, a discussion on the question of obtaining by the MONEYVAL member states the status of equivalent third countries within the EU was started. The MONEYVAL Secretariat prepared a draft document with the analysis of Member States which at present comply with the criteria indicated in the EU document Common Understanding between Member States on third country equivalence under the AMLD (Directive 2005/60/EC). With regard to the interest in this matter expressed by non-Member States of EU, the Executive Secretary to MONEYVAL was invited by the representatives of the EC to participate in the meeting of the Preventive Committee in January 2012.

During the 37th plenary session of the MONEYVAL Committee which was held in December 2011, Poland took part in the evaluation of Azerbaijan, as the so-called rapporteur country, of the report of progress prepared by Azerbaijan, with regard to the FATF Key Recommendations. After having analysed the presented report, the Polish delegation indicated a significant progress of this state in the adjustment of national law to the FATF key recommendations. In addition, in order to explain some dubious issues, the delegation prepared a catalogue of questions to the Azerbaijan representatives, in the field of finance, law, law enforcement bodies and international cooperation, to which the Azerbaijan party provided exhaustive responses. The MONEYVAL Secretariat prepared the analysis of Azerbaijan progress in terms of implementation of the FATF Core Recommendations, which – alike the analysis of key recommendations - indicated a significant progress of this country

in adjusting the law to the aforementioned FATF recommendations. The second report on the Azerbaijan progress was positively evaluated by Poland and adopted by the decision of the plenary session of the MONEYVAL Committee. The report was published on the website of the Council of Europe.

Moreover, at the aforementioned session of the MONEYVAL Committee within the framework of the conducted elections to the MONEYVAL Bureau, the GIFI representative was elected one of the members thereof. Together with the other four members of the Bureau, representing other country delegations, he will be responsible for the issues of coordination of the Committee works.

Within the scope of elaborating the plan of actions for the MONEYVAL Committee for the year 2012, a decision on initiating the evaluation of the Polish AML/CFT system within the framework of the 4th evaluation round was adopted. The on-site visits in Poland are scheduled for the end of May / beginning of June 2012.

The General Inspector of Financial Information also cooperated with the MONEYVAL Committee within the framework of recognising typologies of crimes and administrative practice in combating money laundering and terrorism financing. Both aspects were covered by the typology projects devoted to the procedures of suspending suspicious transactions, monitoring bank accounts and diagnosing AML/CFT threats related to trade in money-based economies. The participation of the GIFI representatives in the typology groups elaborating the above-mentioned issues at the workshop in Tel Aviv in November 2011 allowed also for strengthening the working contacts with other financial intelligence units.

6.3. COOPERATION OF INTERNATIONAL ORGANISATIONS

6.3.1. Egmont Group

The Polish Financial Intelligence Unit (PFIU) participated in the works of EGMONT Group, taking part, *inter alia*, in the plenary session of the heads of financial intelligence units and in the meeting of working groups – operational and legal. It also declared its participation in the typological projects implemented by the operational group, aimed at analysing possibilities of cooperation between the financial intelligence unit (FIU) and the asset recovery unit (ARU), as well as the FIU input in fighting corruption.

The issues of strengthening the exchange of information within the scope of counteracting money laundering and terrorism financing were a significant point of discussion carried out last year in the forum of EGMONT Group. At the plenary session in Armenia, a draft resolution of the FIU heads was suggested in that matter, which stressed a leading role of the exchange of information between financial intelligence units as authorities appointed particularly in view of counteracting money laundering and terrorism financing.

As in the previous years, PFIU prepared a series of inputs to typological questionnaires and other documents being a subject of the discussion and agreements in the forum of EGMONT Group. Moreover, in view of the works conducted by FATF devoted to the revision of 40 Recommendations and 9 Special Recommendations, discussed also within the framework of this organisation, it referred to the issues related to the amendments to Recommendations 26 and 40, in the fields regarding the financial intelligence unit, its form, role and tasks, as well as international cooperation.

For the purpose of EGMONT Group, the representatives of GIFI prepared information on the Polish Financial Intelligence Unit – its structure, tasks and activity related to fight against money laundering and terrorism financing. Such information is prepared by each member of the organisation every two years.

Many issues discussed in the forum of EGMONT Group are of crucial importance to PFIU.

Therefore, owing to the participation in the works of this organisation, GIFI is able to cooperate closer with units from the whole world, operating in the area of counteracting and fighting financial crimes.

6.3.2. Financial Action Task Force (FATF)

Thanks to the MONEYVAL membership in FATF and with regard to the participation in the Prevention Committee, as in the previous years, also last year GIFI received to get familiar with or to give opinion on a number of documents on the works of FATF. By the agency of these bodies, it provided its answers to questions or FATF questionnaires, in particular with regard to scheduled amendments to 40 Recommendations and 9 Special Recommendations, as well as jurisdictions that show strategic deficiencies in the AML/CFT system.

GIFI informed public administration authorities, relevant supervision authorities and trade associations and unions, and also placed on its website information on declarations adopted in 2011 by FATF concerning the jurisdictions showing strategic deficiencies in the area of counteracting money laundering and terrorism financing.

6.3.3. Eurasian Group on Combating Money Laundering (EAG)

The EAG is a regional organisation having the status of an associate member of the FATF and operating similarly to the FATF (the so-called FATF-style Regional Body – FSRB). It unites under the member status 9 countries (Belarus, China, India, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Turkmenistan and Uzbekistan).

Since 2007 the Polish Financial Intelligence Unit has had the observer status within the EAG. The aim of the participation of Poland in EAG is to get closer contacts with the EAG member states and show interest in the cooperation in the FSRB forum, and therefore – works within the framework of FATF.

In 2010, the Group was transformed into the formal international organisation. By letter of 23 September 2011, Poland confirmed its participation in the works of EAG under the observer status. Apart from Poland, the observer status in the Group was confirmed by 11 countries and 17 international organisations, and the membership was confirmed by 9 above-mentioned countries.

At the beginning of its cooperation with EAG, Poland actively participated in the activities carried out by the Group, providing the countries united within the EAG, *inter alia*, with expert support (technical and legal). Last year, the Polish Financial Intelligence Unit participated in the EAG works by elaborating typological questionnaires.

6.4. Bilateral cooperation

6.4.1. Exchange of information with foreign FIUs

In 2011, GIFI received 191 requests from foreign financial intelligence units to provide information concerning 820 entities. In the previous years, the number of foreign requests oscillated within 100. In 2011, there was a significant increase in the number of foreign requests – the General Inspector of Financial Information received over 87% requests more, concerning over twice as many entities than in the previous year.

GIFI received most requests from units of the following countries:

- Luxembourg – 32 requests;
- Belgium – 17 requests;
- Great Britain – 16 requests;
- Slovakia – 15 requests;

A significant increase in the number of requests and number of entities related to the requests was observed for Great Britain and Slovakia. A large number of requests and entities from Luxembourg is also related to the activity of the FIU of this country with regard to providing information and requests concerning possibly Polish citizens (often fictitious data) using payment systems alternative to the banking ones. Almost three quarters of the requests in 2011 came from FIUs of the European Union countries. The cooperation between FIUs of the EU countries is regulated – apart from bilateral agreements – at the EU level and there are significant tendencies of strengthening of this cooperation. This may explain the observed incremental increase in the number of requests. Particularly in connection with the increasing emphasis on the development of cooperation between FIUs from different countries put by international organisations.

On the other hand, in connection with the extension of the scope of information exchanged with FIUs within the European Union, a significant increase in the number of foreign requests requires ensuring relevant resources for the implementation of requests of foreign FIUs (for example – in 2011, the number of entities from requests of foreign FIUs was similar to the number of requests concerning entities sent to GIFI by fiscal control authorities or by all Police units).

GIFI sent 171 requests referring 529 entities to foreign units. Compared to 2010, an increase by 45% in the number of requests was recorded. Whereas in the two previous years, most requests were sent to the German unit, then in 2011 requests were sent most frequently to Great Britain and Cyprus. Among the FIUs to which GIFI sent its requests most often, we should mention the following countries:

- Great Britain – 16 requests;
- Cyprus – 16 requests;
- Latvia – 15 requests;
- Germany – 13 requests;
- Czech Republic – 11 requests;
- Russia – 10 requests
- Italy – 10 requests;
- Hungary – 9 requests;
- Ukraine – 8 requests.

In the case of Latvia, Russia and Ukraine, it is most often the citizens of these countries who make transactions which are recorded and reported by the Polish obligated institutions as suspicious. Whereas the Polish citizens often use for execution of suspicious transactions companies and partnerships having their registered seats in other countries, such as Cyprus, Germany and Czech Republic, this is why there are relatively numerous requests from FIUs of these countries.

The above data indicate a significant intensification of exchanging information in cases related to money laundering and terrorism financing between financial intelligence units, in particular from the territory of the European Union. However, in contacts with foreign units, a greater emphasis is put not only on the exchange of information itself, but also on common analysis of particular matter and undertaking coordinated actions aimed at more efficient limitation of money laundering and terrorism financing phenomena. The case in which units of Public Prosecutor's Offices, law enforcement bodies and fiscal authorities from Poland and Czech is a perfect example of successful cooperation between units from these two countries. The efficient coordination of actions resulted in securing in both countries funds for the total amount of almost PLN 80 million, coming from activity to the detriment of the State Treasury.

In another case, a fast exchange of information between several European financial intelligence units allowed the General Inspector of Financial Information for taking a decision on the blockage of funds in the amount of almost EUR 200 thousand and Polish law enforcement bodies – for detaining persons using falsified documents to open accounts in several countries and transfer funds coming from criminal activities between them.

6.4.2. Memoranda of Understanding

For creation of the database of wider international cooperation, in 2011 the General Inspector of Financial Information continued the process of analysis of the needs to conclude new international agreements for the exchange of financial information.

A fundamental instrument for cooperation of GIFI with foreign financial intelligence units are bilateral agreements on cooperation (memoranda of understanding). An alternative legal cooperation with FIUs from the EU countries is *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*. The cooperation on the basis of these agreements and decisions corresponds to the provisions of *Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism, done at Warsaw on 16 May 2005* (OJ of 2008, No. 165 item 1028).

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

- principle of reciprocity,
- use of information for analytical purposes at the level of the 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 purposes 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.

The effect of the above-mentioned process of specifying the needs for foreign cooperation in 2011 was signing another 9 agreements for the exchange of information on combating money laundering and terrorism financing. After signing memoranda with partner FIUs from Bailiwick of Jersey, Aruba, British Virgin Islands, India, Kingdom of Saudi Arabia, Saint Vincent and the Grenadines, Algeria, Hashemite Kingdom of Jordan and United Arab Emirates, the number of FIUs with which GIFI exchanges information related to money laundering and terrorism financing on a basis of bilateral agreements increased to 63.

6.5. Other issues

6.5.1. Participation in the negotiation process between Poland and USA

The General Inspector of Financial Information prepared its standpoint on the performance agreement to the agreement between the Government of the Republic of Poland and the Government of the United States of America on the status of forces of the United States of America in the territory of the Republic of Poland, concluded in Warsaw on 11 December 2009 (so-called SOFA-PL agreement). The agreement, being in force since 31 March 2010, stipulates that the financial institutions of the American base in the territory of RP are subject to the supervision of relevant US authorities, and the Polish authorities do not bear responsibility for their activity. However, the procedures concerning identification and verification of customers, monitoring of transactions and reporting, aimed at counteracting money laundering and terrorism financing, applied in compliance with the international standards, may be substantiated in the performance agreement. The works on the agreement are in progress, and the completion thereof is scheduled for 2012.

6.5.2. Twinning project for Romanian FIU

The General Inspector of Financial Information, in cooperation with the Romanian Financial Intelligence Unit implemented the twinning project RO/2007-IB/JH/05 under the name “Fight against money laundering and terrorism financing”.

The aim of the project was to strengthen the Romanian FIU, as a leading institution in the process of receiving, collecting and analysing transactions related to money laundering and terrorism financing.

The project financed from the transitional measures of the European Union (the so-called Transition Facility), with a budget of EUR 530 000, began on 15 December 2009 and ended on 14 December 2010.

In 2011, pursuant to the requirements of the European Commission, adopted for twinning projects, the project audit was performed, and a detailed final report was drawn up on the project implementation, containing information on tasks performed, objectives achieved as well as funds disbursed. The report was adopted by Romanian bodies responsible for the supervision of EU projects.

6.5.3. Technical support for third parties

GIFI attaches considerable importance to the process of building an efficiently working international system for counteracting money laundering and terrorism financing, therefore, it is involved in activities in view of exchanging experience in this regard with other FIUs, as well as other authorities dealing with combating money laundering and terrorism financing.

Within the framework of these activities, in April 2011 the Department of Financial Information of the Ministry of Finance, supported by the Ministry of Foreign Affairs, organised a study visit for representatives of administration from Georgia, Moldova and Azerbaijan. The visit was held in the framework of the programme Eastern Partnership and financed with the funds of the Ministry of Foreign Affairs.

The guests represented financial institutions, law enforcement bodies, financial intelligence units, security services and other institutions responsible for the issues of combating terrorism financing in the above-mentioned countries. The activities of Polish authorities in the area of fight against terrorism and its financing, at the invitation of the Department of Financial Information, were represented by the representatives of the Central Anticorruption Bureau, Anti-Terrorist Centre, Ministry of Foreign Affairs, Government Centre for Security, General Public Prosecutor's Office, Assets Recovery Office and Central Bureau of Investigation of the Police Headquarters and Border Guard. At the meeting, the representatives of GIFI presented the Polish financial intelligence unit, discussing the role and tasks of analytical units at PFIU, analytical tools used, role in counteracting terrorism financing and issues related to the control of obligated institutions.

The Polish Financial Intelligence Unit also organised several smaller meetings with representatives of foreign FIUs or other institutions involved in combating money laundering and terrorism financing, in order to discuss and exchange experience in these domains. The Department of Financial Information hosted, *inter alia*, representatives from Great Britain and Peru.

In addition, the PFIU was actively engaged in aid projects for countries of the Central and Eastern Europe and Central Asia. In the following years a continuation of activities for the benefit of these countries is possible.

7. APPLICATION OF SPECIFIC RESTRICTIVE MEASURES

7.1. Participation in legislative works of the European Union

The General Inspector of Financial Information actively participated in the legislative works concerning organisational measures carried out in the forum of the European Union in 2011.

The impulse to these works was constituted by current events in the international arena.

Within the framework of these works in EU, legal acts were adopted, i.e. the Council decisions pursuant to Article 29 of the Treaty on European Union (TEU) and the Council regulations pursuant to 215 of the Treaty on the Functioning of the European Union (TFEU) imposing specific restrictive measures on specific countries in connection with the escalation of internal conflicts, non-observance of standards relating to human rights or intensification of activities related to production of weapons of mass destruction. In the above area, GIFI was also involved in giving opinions on legislative proposals reported by individual Member States in the course of the works in the forum of the European Union, and prepared legislative positions for the purposes of national institutions.

The subject of analysis and the positions of GIFI were draft legislative acts providing for the introduction of new or modifying existing restrictive measures with respect to persons, groups or entities with regard to the situation in Afghanistan, Republic of Belarus, Egypt, Tunisia,

Libya, Republic of Guinea, Côte d'Ivoire, the Islamic Republic of Iran, Bosnia and Herzegovina, Syria, and Sudan in so far as the proposed solutions referred to the mechanism of freezing of funds of entities indicated in the annexes to those legal acts, the prohibition of making funds available to such entities as well as to other restrictions of financial nature.

7.2. Participation in meetings on restrictive measures

During the Polish Presidency of the European Union Council, the representative of GIFI, at the invitation of the Ministry of Foreign Affairs, took part in 4 meetings of the Foreign Relations Counsellors Working Group devoted to international sanctions (RELEX/Sanctions). The subject of the meetings was the analysis of 5 proposals submitted by France regarding the amendment to the document “*Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of EU Common Foreign Policy and Security Policy*”. The introduction to the standard document the working of derogation clauses, which would allow in specified circumstances for inclusion or exclusion of the implementation of these measures was the objective of the French initiative. The standard wording of provisions indicated in the Guidelines, elaborated and agreed by the Member States constitutes a benchmark which is then applied to all drafted legal acts providing for specific restrictive measures.

Moreover, the representative of GIFI took part in the meeting of the Inter-Ministerial Team for International Sanctions devoted to preparations to the presidency of the European Union Council as well as particular restrictive measures against the Islamic Republic of Iran and transliteration of identification data of entities covered by sanctions in legal acts. The representatives of GIFI also participated in the meeting with senators operating at the Polish-Iranian Parliamentary Group whose objective was to discuss restrictive measures against the Islamic Republic of Iran and the influence of these restrictions on Polish entrepreneurs.

With regard to the international situation and restrictive measures introduced towards Egypt and Libya also the meetings with representatives of the Embassy of Egypt, Embassy of Italy and Embassy of the United States were held whose objective was to present the implementation of restrictive measures resulting from the European Union regulations.

Also the issues related to the application of sanctions with respect to entities from Belarus were the subject of discussions both with the representatives of the Ministry of Foreign Affairs of the Republic of Poland and foreign partners of GIFI.

7.3. Other issues

In 2011, GIFI received from obligated institutions 11 requests for authorisation of transactions pursuant to Article 21 of *Council Regulation (EU) no. 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) no. 423/2007* (OJ EU L, no. 281, p. 1). Under the provisions of the regulation, the financial sanctions imposed on the Islamic Republic of Iran cover – apart from freezing of funds of specific entities or prohibition of making funds available – also other restrictions of financial nature. Such restrictions include e.g. the obligation of prior authorisation of each transaction to and from persons, entities and bodies from Iran, exceeding or amounting to EUR 40 000. These activities are intended for the implementation of the main objective of the subject regulation, namely counteracting proliferation of the weapons of mass destruction and actions undertaken by the Islamic Republic of Iran in this respect. Due to the lack, on the grounds of national law, of the body whose statutory powers would concern exclusively counteracting proliferation of the weapons of mass destruction and which could play a leading role with respect to the implementation of the obligations arising from the regulation, in the statement published in November 2010 on the website of the Ministry of Finance it was indicated that requests for authorisation should be sent to GIFI. Since the counteracting proliferation of the weapons of mass destruction is beyond the statutory competences of GIFI, the present solution may be deemed a temporary mechanism which will be applied until this issue is fully regulated on the grounds of national law.

8. LEGISLATIVE ACTIVITY

8.1. Executive regulations

The Department of Financial Information carried out the works on the guidelines and draft regulation of Minister of Finance whose entry into force is required under Article 13 of the *Act of 16 November 2000 on counteracting money laundering and terrorist financing* (Dz. U. of 2010 No. 46, item 276, as amended). During the works, the draft regulation was sent for inter-ministerial arrangements. On the basis of the analysis of numerous remarks to the draft and additionally conducted social consultations with the representatives of obligated institutions in order to determine the rules of implementation of the mode and form of collecting and providing information by obligated institutions, in December 2011 new draft *Regulation of the Minister of Finance on determination of the method of providing information to the General Inspector of Financial Information* was prepared.

8.2. Legislative activities

In 2011, numerous legal acts drafted by other authorities were subject to analysis. Within the scope of GIFI competences, the remarks and proposals of legislative solutions to, *inter alia*, following drafts were submitted: draft *Regulation of the Council of Ministers on the method of exchange of information between a contact point and authorised entities and law enforcement bodies of the European Union Member States*, setting up the executive provisions for the *Act on exchange of information with law enforcement bodies of the European Union Member States* (Dz. U. No. 230, item 1371), draft legislation guidelines to the draft *Foreigners Act*, as well as legislative amendments to the *Payment Services Act*. In the above-mentioned scope, the representatives of GIFI also took part in consensus conferences organised by drafters.

8.3. Other activities

On 7-8 March 2011, the 3rd Conference of the Parties to the Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism, done at Warsaw on 16 May 2005, was held. The convention was signed and ratified by Poland, and entered into force on 1 May 2008. The subject of the Conference of the Parties to the Convention, in which the representative of GIFI took part, was a discussion concerning, *inter alia*, the right of vote belonging to the European Union, review of the draft report on evaluation of Albania, representation of the Parties to the Convention in the MONEYVAL Committee, as well as revision of FATF standards and their impact on the fulfilment of obligations resulting from the Convention.

GIFI also elaborated a position within the scope concerning the request for a preliminary ruling by the Court of Justice of the EU with regard to the interpretation of Article 22 (2) of *Directive 2005/60/EC of the European Parliament and Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing* (OJ EU L 309 of 24.11.2005, p. 15), filed by the Kingdom of Spain.

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General Inspector of Financial Information