



REPUBLIC OF POLAND
MINISTRY OF FINANCE

I N F O R M A T I O N
of the
General Inspector of Financial Information

on the execution of the Act of 16 November 2000
on Counteracting Introduction into Financial Circulation of Property
Values Derived from Illegal or Undisclosed Sources
and on Counteracting the Financing of Terrorism
in 2007

Warsaw, March 2008

CONTENTS

- 1. SUSPICIOUS TRANSACTIONS.....3
 - 1.1. Notifications received3
 - 1.2. Analytical proceedings and their results6
 - 1.3. Basic directions of analyses9
 - 1.4. Methodology of money laundering12
 - 1.5. Information exchange.....13
- 2. ABOVE-THRESHOLD TRANSACTIONS.....15
- 3. COUNTERACTING THE FINANCING OF TERRORISM18
- 4. CONTROL ACTIONS.....18
 - 4.1. Controls carried out by GIFI19
 - 4.2. Controls carried out by supervising authorities.....21
- 5. CO-OPERATION WITH THE OBLIGATED INSTITUTIONS AND CO-OPERATING UNITS21
 - 5.1. Explanation on the application of legal provisions22
 - 5.2. Training activity22
 - 5.2.1. E-learning22
 - 5.3. Conferences, seminars and symposia with the participation of GIFI.....23
- 6. INTERNATIONAL CO-OPERATION24
 - 6.1. Co-operation with the European Commission24
 - 6.2. MONEYVAL Committee25
 - 6.2. Co-operation with international organisations25
 - 6.2.1. Egmont Group25
 - 6.2.2. Financial Action Task Force on Money Laundering (FATF)26
 - 6.2.3. Eurasian Group on combating money laundering (EAG)26
 - 6.2.4. Strengthening of GIFI position in the region27
 - 6.3. Bilateral co-operation27
 - 6.3.1. Exchange of information with foreign financial intelligence units.....27
 - 6.3.2. Agreements on co-operation28
 - 6.4. Execution of the assistance agreement concluded with the United States28
- 7. LEGISLATIVE ACTIONS29
 - 7.1 Amendment to the *Act*29
 - 7.2. Other actions30
 - 7.3. Other issues30

1. SUSPICIOUS TRANSACTIONS

The major tasks of the General Inspector of Financial Information (GIFI) resulting from the provisions of the *Act of 16 November 2000 on Counteracting Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources and on Counteracting the Financing of Terrorism* (i.e. Journal of Laws 2003, No 153, item 1505 as amended, hereinafter referred to as the: *Act*), include justifying or negating the suspicion of money laundering or financing of terrorism by analysing the course of transactions GIFI found suspicious. Should the suspicion be authenticated, a proper notification shall be sent to a competent public prosecutor's office. GIFI may demand that the transaction be suspended or the account be blocked.

1.1. Notifications received

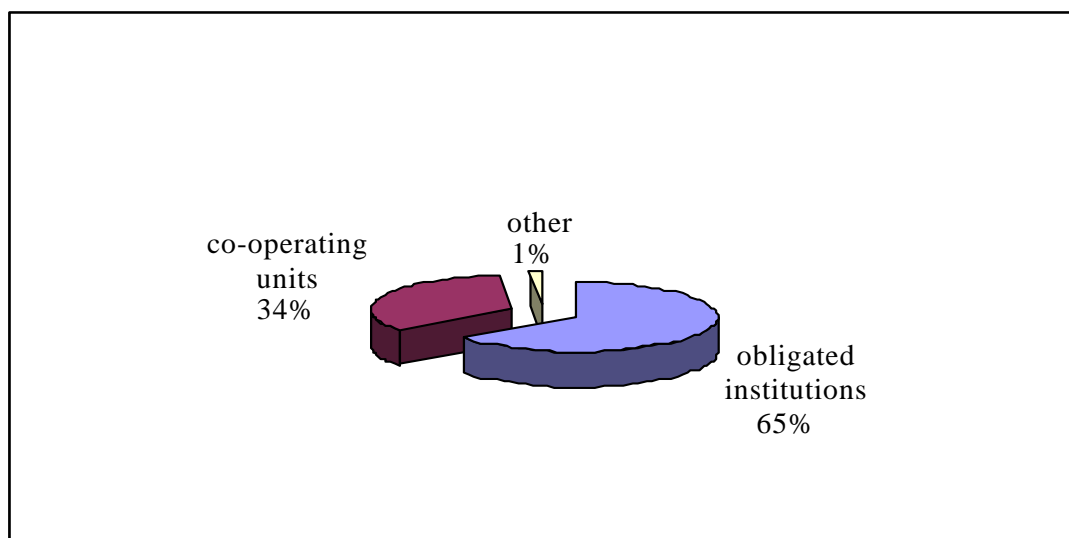
In 2007 the Financial Information Department (organisational unit within the Ministry of Finance with the help of which GIFI performs its regulatory tasks) received 1 920 descriptive notifications on suspicious transactions. The common feature of these notifications is that they include several, a dozen or so and sometimes even several hundred of transactions that in the opinion of the reporting organisation illustrate and authenticate the suspicion of money laundering. They also include other data and documents that may contribute to the increased effectiveness of the proceedings (e.g. account history, bank account agreement, signature specimen card, copies of documents that were used to open accounts).

Table 1 – Number of notifications received in the period between July 2001 and 2007

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

In 2007, the number of notifications received from the obligated institutions decreased (by 8.6%), but at the same time the number of notifications received from the co-operating units increased (by 22.2%).

Chart 1 – Descriptive notifications by sending entities



Most notifications received in 2007 from the obligated institutions were sent by the banks.

Table 2 – Division of notifications from the obligated institutions by institution type

Type of institution	Number of notifications	Share (in %)
Banks	1 193	95.90%
Co-operative savings and credit unions	25	2.01%
Brokerage houses	12	0.96%
Entities representing legal professions	6	0.48%
Leasing entities	4	0.32%
Insurance companies	3	0.24%
Competent auditor	1	0.08%
Total	1 244	100.00%

It should be noted however that over half of the descriptive notifications received from the banks (precisely 52%), came from only 5 banks:

- Bank BPH S.A.
- Bank Zachodni WBK S.A.
- Bank PEKAO S.A.
- Bank Millennium S.A.
- Euro Bank S.A.

Despite the provisions of Article 106a section 1 of the *Banking Law Act of 29 August 1997* (uniform text: Journal of Laws 2002, No 72, item 665 with subsequent amendments), obligating the banks to transmit the information to the police or public prosecutor's office in the case of a justified suspicion that their operations are used for criminal activity not related to money laundering or financing terrorism, among the abovementioned notifications, there were still some notifications with the information indicating the suspicion of committing other crimes than the abovementioned (e.g. specified in Articles 270 or 297 of the *Criminal Code*, i.e. crimes against credibility of documents or obtaining loans under false pretences).

While further improvement in the quality of notifications sent by the obligated institutions and co-operating units this year to GIFI could be observed, there were still some notifications whose quality with regard to the information contained was unsatisfactory.

In the case of information on suspicious transactions received from the obligated institutions, the irregularities consist in lack of detailed analysis of the transmitted information on transactions and their connections. As regards the information received from the co-operating units, no indication of justification, including elements indicating that the crime under Article 299 of the *Criminal Code* was committed, constitutes the most frequent irregularity.

Some banks invariably send thoroughly analysed information on transactions, which facilitates fast preparation by GIFI of notification on suspicion of committing the crime under Article 299 of the *Criminal Code*, which is subsequently submitted to the locally competent unit of the public prosecutor's office.

Another category of notifications sent by the obligated institutions consist in the information on single suspicious transactions sent in the electronic form. In 2007, GIFI received in the electronic form 16 195 transactions labelled by the obligated institutions as suspicious. As a result of the actions taken, 10 776 transactions were analysed. As much as 96% referred to the received descriptive notifications. Within 16 new analytical proceedings, 55 suspicious

transactions and 695 related above-threshold transactions (over EUR 15 000) were qualified to further analysis.

As for the notifications submitted by the co-operating units, most of them were sent in 2007 by the Agricultural Property Agency and fiscal offices, i.e. a total of 69% of the overall number of the notifications received.

Table 3 – Division of notifications from the co-operating units by unit type

Co-operating unit	Number of notifications	Share (in %)
Agricultural Property Agency	231	35.65%
Fiscal offices	218	33.64%
National Bank of Poland	76	11.73%
Customs authorities	47	7.25%
Fiscal control offices	45	6.94%
Local administration units	15	2.31%
Law enforcement authorities	12	1.85%
Government administration units	4	0.62%
Total	648	100.00%

The abovementioned notifications did not always concern suspicions on introduction into financial circulation of property values derived from illegal or undisclosed sources. Sometimes it was even explicitly stated that there were no premises indicating the possibility of money laundering. In many cases GIFI was not the competent authority for analysing the information received, e.g. information on ineffectiveness of executory proceedings conducted by relevant authorities has no relation to the regulatory tasks of GIFI.

There were also the cases of informing about the suspicion of committing other crimes than those specified in Article 299 of the *Criminal Code*, however GIFI was also informed about the fact of simultaneously sending the notification to the public prosecutor's office.

1.2. Analytical proceedings and their results

As a result of the information received in 2007, the General Inspector of Financial Information:

- **initiated 1 358 analytical proceedings,**

- **demanded suspension of 1 transaction for the amount of PLN 230,000,**
- **demanded blockade of 97 accounts,** connected with suspicious financial transactions **for the amount of app. PLN 30M (and from their own initiative demanded blockade of 58 accounts for the amount of app. PLN 7.1M).**

The initiated analytical proceedings concerned the following risk areas, among others:

- illegal or fictitious trade: fuels, scrap metal – 165 proceedings,
- trade in funds most probably originating from fraud or obtained under false pretences – 122,
- trade in funds probably originating from unauthorised access to bank accounts – 14,
- transactions of non-residents – 46,
- transfers of money abroad,
- transfers of money from business entities (suspicion of fictitious invoicing),
- transfer of money related to trading in securities admitted/ not admitted to trading in the public market,
- transfer of real estate related funds.

In comparison to the previous years, the tool of account blockade was most commonly used; it consists in temporal blockade of using all property values collected in the account while maintaining the possibility of their accumulation with incoming funds (see Table 4).

GIFI, on their own initiative, transmitted to the obligated institutions (without previous notification) a written demand of blockade of 58 accounts for the amount of app. PLN 7.1M. The analytical proceedings conducted formed the basis for such demand.

It should be noted that the amounts of funds blocked in the account are approximate as during the blockade imposed by GIFI the funds may be paid into the accounts but they cannot be withdrawn.

As a result of the analyses 190 notifications on suspicion of committing the crime as defined in Article 299 of the *Criminal Code* **concerning 440 entities and transactions for the amount of PLN 775M were submitted to the public prosecutor's office.**

Table 4 – Results of analyses

Breakdown	2001	2002	2003	2004	2005	2006	2007
Notifications to the public prosecutor's office under Article 299 of the Criminal Code	20	104	152	148	175	198	190
Suspension of transactions (in M PLN)	1	26	20 (app. 37)	5 (app. 2.6)	5 (app. 1.6)	4 (app. 6.4)	1 (app. 0.23)
Blockade of account (in M PLN)	—	—	8 (app. 22)	13 (app. 12)	34 (app. 36)	92 (app. 41.6)	97 (app. 30)

In connection to the notifications submitted by GIFI in 2007, the public prosecutor's office informed – as at 15 January 2008 – on the issuance of the following decisions:

- **116 decisions on initiating preparatory proceedings;**
- **17 concluded preparatory proceedings – on the basis of filing indictments to courts against 109 persons;**
- 8 decisions on discontinuance of preparatory proceedings and 5 on resuming discontinued investigations (as regards the decisions on discontinuance of the investigation, GIFI is not entitled to appeal, under Article 306 §1 of the *Criminal Proceedings Code*). The major causes for discontinuance of the proceedings were: inability to define predicate offence that constituted the source of property values introduced into financial circulation. Despite the fact that some of the criminal proceedings conducted on the basis of notifications submitted by GIFI were discontinued, in some cases charges other than money laundering were presented;
- 3 refusals to initiate proceedings (in 2 cases refusals to initiate the proceedings referred to additional information sent under Article 31 of the *Act* to the proceedings conducted by the notification of GIFI, that the public prosecutor's office did not qualify as these proceedings).

According to the data sent by the Ministry of Justice concerning all proceedings conducted in 2007, the following decisions were issued last year by the public prosecutor's office in the cases on money laundering:

- 296 initiated cases concerning 1436 persons (**out of which 176 cases on the basis of the information received from GIFI**);
- **submitted 82 indictments to court against 288 persons**;
- concluded 63 preparatory proceedings with the decision on investigation discontinuance and 6 proceedings with the decision on the refusal to initiate investigation;
- suspended 57 preparatory proceedings.

The total value of the secured property in cases initiated in 2007 (in PLN and other currencies) **was the equivalent of app. PLN 40.5M.**

Meanwhile, the data concerning verdict in the money laundering cases indicate that in 2007 **the courts of first instance passed 36 guilty verdicts (55 convicted persons).**

Apart from the notifications submitted to the public prosecutor's office, on the basis of the conducted analytical proceedings, GIFI transmitted 37 items of information on suspicious transactions, inclusive of 22 to the Internal Security Agency, 14 to Fiscal Control Offices and 1 to the Polish Financial Supervision Authority.

Whereas acting pursuant to the Article 15b of the *Act*, GIFI sent 48 motions to tax offices and fiscal control offices concerning examination of the legal origin of particular property values, in order to clarify their origin.

1.3. Basic directions of analyses

Scrap metal cases

The Department of Financial Information receives more and more notifications on suspicious transactions concerning trading in scrap metal and recyclable waste. Funds originating from such illegal activity are subsequently introduced into financial circulation. The scope of this phenomenon is increasing which can be seen in the number of scrap metal cases initiated by GIFI and the total value of suspicious transactions about which GIFI notified the public prosecutor's office.

Results of the conducted analytical proceedings concerning transactions of scrap metal trade and recyclable waste reveal the phenomenon of establishing networks of businesses for the purpose of transferring financial resources that is finalised by the withdrawal of cash. The typical phenomena included:

- establishment of *shell companies* whose sole purpose of existence is to register an enterprise and open a bank account in one or several banks,
- developing high level of turnover immediately after the establishment, while registering low level of income,
- short life-span of the these enterprises,
- recruitment of enterprise owners among persons of very low income or unemployed,
- withdrawal of financial resources immediately after they are paid into the proper bank account.

Principles of operation are similar as with *fuel cases*. The accounts used work as distributive/final accounts. By withdrawal of cash, *figureheads* are the final element of the transfer of funds.

In 2007, 69 *scrap metal* cases were initiated and 49 notifications on suspicion of committing the crime as defined in Article 299 of the *Criminal Code* (covering 104 entities) were submitted to the public prosecutor's office. The estimated value of transactions in these cases amounted to PLN 266.3M.

Fuel cases

Just as in recent years, the Department of Financial Information received notifications on suspicious transactions concerning the flow of funds connected with factual or fictitious trade in fuels and components necessary for the production thereof. The scale of this phenomenon is still large, despite actions undertaken by the competent authorities.

The characteristic features of the *fuel cases* are still, as in the case of scrap metal cases, developed networks of interlinked businesses – in some cases over 200 entities – which despite being identified and despite the fact that notifications were submitted to the public prosecutor's office, are being reconstructed and establish new links.

In the majority of cases each subsequent entity is a so-called shell company. In exchange for small financial benefits natural persons (*figureheads, dummies*) agree to use their personal

data to register a new enterprise, and to open a bank account further used to launder the money.

As the conducted analyses prove and indictments presented by the public prosecutor's office stipulate, such persons receive financial benefits of approximately PLN 500 – 2000 for registering an enterprise and/ or establishing a bank account, while the value of the money laundered by such businesses each year may reach PLN several dozen million.

In 2007, 55 *fuel* cases were initiated; 23 notifications on suspicion of committing the crime as defined in Article 299 of the *Criminal Code* in relation to the activity of 94 entities were submitted to the public prosecutor's office. The estimated value of transactions in these cases amounted to PLN 224.8M.

Fraud and obtaining loans under false pretences

Transactions executed as a result of the actions to the detriment of legal and natural persons constitute yet another identified area of money laundering. The money was legalised using the technique of *final accounts* – transfers of funds with the purpose of their immediate withdrawal in cash – and by trading in securities. The phase of *depositing* was omitted. Due to the transaction nature, e.g. obtaining loans under false pretences, it is difficult to distinguish transactions constituting the predicate offence from the money laundering transactions, that is funds legalization.

98 analytical proceedings concerning cases of fraud and obtaining loans under false pretences were initiated. 46 notifications on suspicion of committing the crime of money laundering as defined in Article 299 of the *Criminal Code* were submitted to the public prosecutor's office. The notifications concerned 65 entities and transactions whose value amounted to app. PLN 13M.

Unauthorised access to bank accounts

The so-called *phising attacks* were another area of money laundering – as a result of an unauthorised access to bank accounts, there were transfers made – without the owners' knowledge – to the accounts of the hired entities. The funds were then withdrawn in cash via transfers (e.g. *Western Union*), and transferred to the persons committing the crime. The abovementioned transactions were made in small amounts so as to make it more difficult for the account owners to find the decrease in the account balance and to hinder recording suspicious transactions by the obligated institutions.

15 analytical proceedings concerning cases of unauthorised access to bank accounts were initiated. 19 notifications on suspicion of committing the crime of money laundering as defined in Article 299 of the *Criminal Code* were submitted to the public prosecutor's office. The notifications concerned 25 entities and transactions whose value amounted to app. PLN 4.9M.

1.4. Methodology of money laundering

With regard to the manners of money laundering observed when conducting analytical proceedings, it was found that the previously identified methods, sometimes adjusted only to the realities of the financial market and products offered on this market as well as banking services, were still in use.

For a certain time now, it can be observed that the criminal groups *laundering money* have been increasingly using particular categories of financial services. These services facilitate committing the crime by ensuring:

- anonymity in the course of using,
- global scope (possibility of using the service all over the world),
- 24h easy access to financial resources,
- possibility of transferring basic codes, passwords etc. to third parties,
- speedy transfer of financial resources.

Among the said services there are first and foremost payment cards, internet banking and electronic money transfer systems (Western Union Money Transfer and PayPal, among others).

In the case of payment cards, a developed network of ATMs enables withdrawal of very large sums of money in cash, also abroad, simultaneously allowing the person withdrawing cash to remain anonymous in the situation when the card is entrusted with a third party.

Internet banking makes it possible to quickly open a bank account without the necessity of contacting bank employees in person. Global scope of the Internet results in the access to funds collected in the account from all over the world and the transactions may be executed also in the places like internet cafes. Such transactions may be executed by third parties who were given the required passwords by the account owner.

The WUMT system and other similar systems, enable making almost anonymous transfers of financial resources all over the world. In order to execute the transaction it is only necessary

to fill in a payment form and a respective withdrawal form by the recipient of the financial resources. The system offers many additional services, inclusive of the notification of recipient and “on password” remittance, among others.

PayPal is an American company offering money transfer services via Internet and intermediating in transactions on internet auctions. The money transfer system used by PayPal allows every e-mail address holder to safely send and receive financial resources using his credit card or bank account. This system is one of the most popular ways of making electronic payments on internet auctions, and also becomes a cheap way for sellers to accept credit cards instead of using traditional transfers.

In order to counteract money laundering with the use of the abovementioned methods, apart from applying legal tools provided for in the *Act*, General Inspector of Financial Information transmits the knowledge on identified laundering methods to obligated institutions and co-operating units among others in the reissued and updated guide for obligated institutions and co-operating units titled *Counteracting Money Laundering. A Guide for Obligated Institutions and Co-operating Units*, issued for the first time in 2003.

Moreover, in order to prevent development of money laundering methods, GIFI takes preventive measures, attempting to prevent or limit introducing into the market products and services creating favourable conditions for anonymity of parties to the transaction and at the same time belonging to high risk area.

1.5. Information exchange

General Inspector of Financial Information examined, at the request of the authorised authorities, app. 4300 entities and transactions executed by them, inclusive of:

- 2000 entities at the request of national authorities,
- 500 at the request of its foreign counterparts,
- 1800 entities at enquiries within the system of the National Centre for Criminal Information.

Motions to GIFI

On the basis of the motions received, 412 verification proceedings concerning transactions of 1961 entities were initiated, i.e. by 106% more than last year. Most motions (266), i.e. 64.6% of the total number – were submitted by public prosecutors in relation to conducted

preparatory proceedings. With regard thereto, transactions of 1464 entities were examined.

Other motions were sent by:

- fiscal control offices – 59 motions,
- police – 25 motions,
- Internal Security Agency – 23 motions,
- Central Investigation Bureau – 13 motions,
- Polish Authority for Financial Supervision – 10 motions,
- fiscal offices – 10 motions,
- other public administration authorities – 6 motions.

It should be emphasized that since 1Q2007 GIFI has been co-operating with organisational units of the public prosecutor's office with the help of the proposed and agreed with the Organized Crime Bureau of the State Public Prosecutor's Office "motions for providing information under Article 32 of the *Act*". It has significantly improved the co-operation with the units using the abovementioned motions.

There were however (and there still are) the cases (sometimes 50% of motions a month) of sending motions in another form than the one agreed on. Moreover, some motions had defects of form consisting in applying for data without providing justification and legal basis, signing motions by persons unauthorised to receive information or applying for information that is not collected by GIFI and to which GIFI does not have the access.

GIFI also co-operated with fiscal control offices with the help of the agreed "motion for information under Article 33 section 2 items 1 and 4 of the *Act*". It should also be noted that from the time when the agreed template was adopted, almost 100% of motions received from fiscal control offices were prepared in the agreed form, which greatly facilitated and speeded up providing responses. Only one motion received after the 1Q2007 had formal and legal defects.

Moreover within the developed agreement between the Minister of Finance and the Head of the Internal Security Agency, a draft of the "motion for information under Article 33 sections 1 and 1a of the *Act*" was also agreed. This template however was not used by the Head of the Internal Security Agency in motions addressed to GIFI.

Co-operation with the National Centre for Criminal Information

GIFI intensively co-operates with the National Centre for Criminal Information. Apart from the criminal information transmitted (number of registrations – 618), 1767 entities were examined in the GIFI IT system (SI*GIIF). 103 among them were identified as those that appeared in conducted analytical proceedings.

On the other hand, 2256 enquiries about entities related to suspicious transactions were submitted to the National Centre for Criminal Information online and 2240 enquiries concerning entities related to suspicious transactions were submitted offline (i.e. via police units).

2. ABOVE-THRESHOLD TRANSACTIONS

GIFI collects and processes information received from the obligated institutions in the dedicated system - SI*GIIF. The system has already recorded over 78,000 files with the data on transactions executed in the Polish financial system. According to applicable principles, transmitting information via the following four channels is permissible: by transferring hard copy of a transaction card (in 2007 GIFI received app. 1000 cards per month) or by using one of three electronic channels – secure GIFI website, electronic mail or recording information on a CD or floppy disk.

The distribution of the number of files accepted by SI*GIIF by month and the distribution of particular channels' usage for sending data to SI*GIIF (in %) is illustrated in the following charts.

Chart 2 – Number of files received by SI*GIFI in 2007 by month

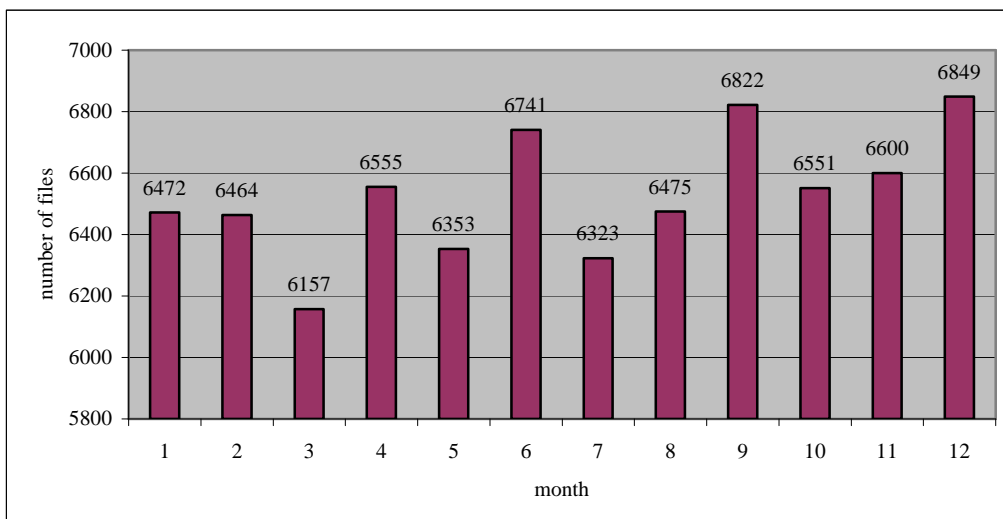
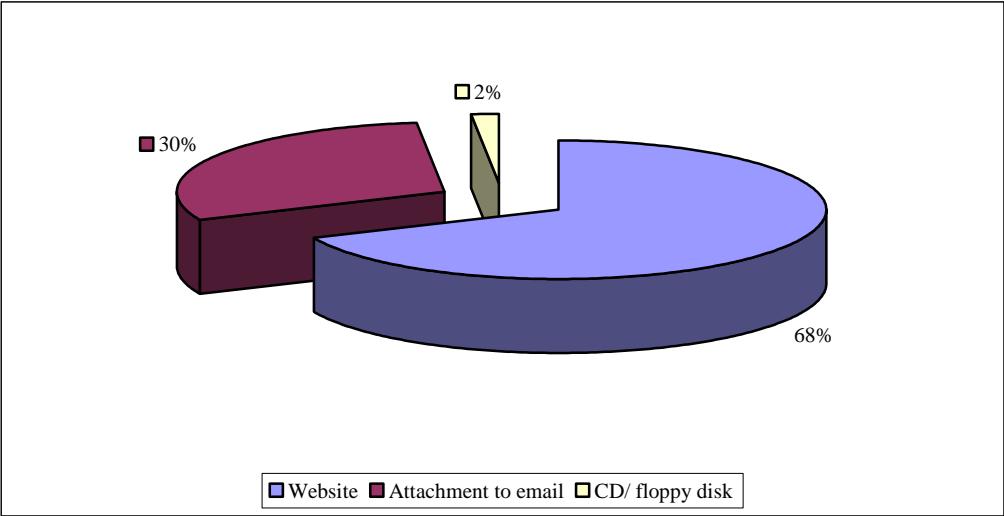
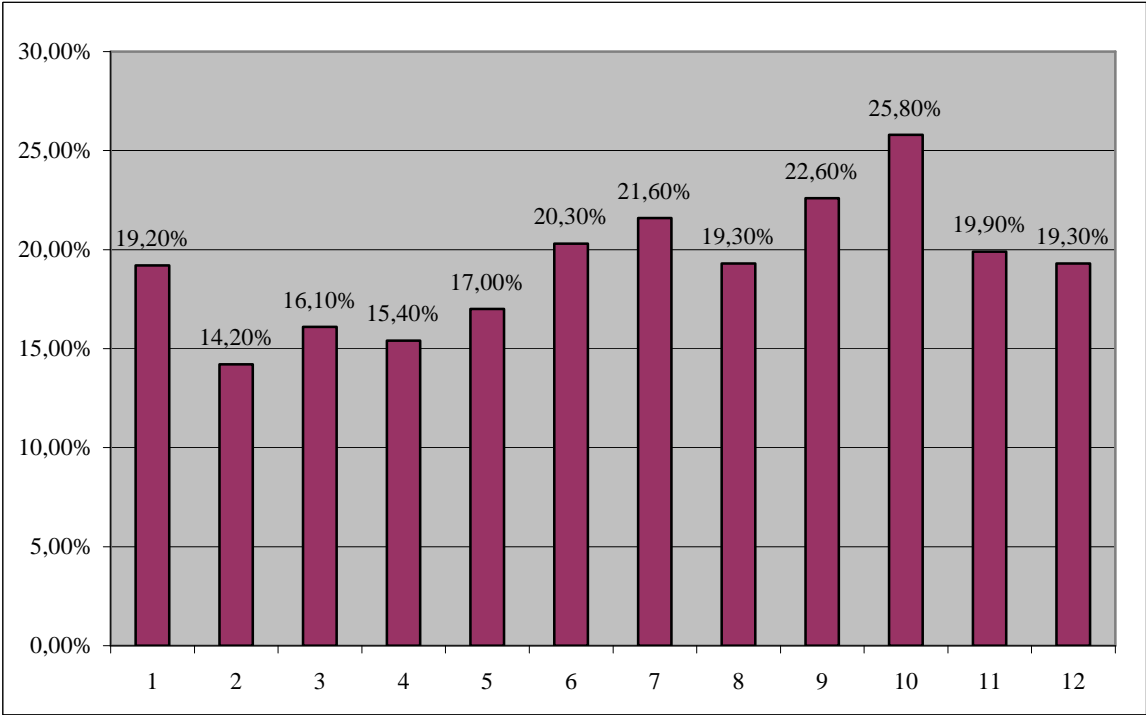


Chart 3 – Distribution of the particular channels’ usage for sending data to SI*GIFI



The total number of transactions received exceeded 32M. Among them, 19.2% constituted incorrect transactions with errors making it impossible to use them to further analysis.

Chart 4 – Number of incorrect transactions received in 2007 by month



The transactions that correctly underwent the validation process were made available for further analysis. The scale of the usage of IT and analytical systems in particular by the analysts of the Financial Information Department is illustrated by Chart 5 and Chart 6 (available data concern the period between June and December 2007).

Chart 5 – Number of simple enquiries about objects in the database in 2007 by month

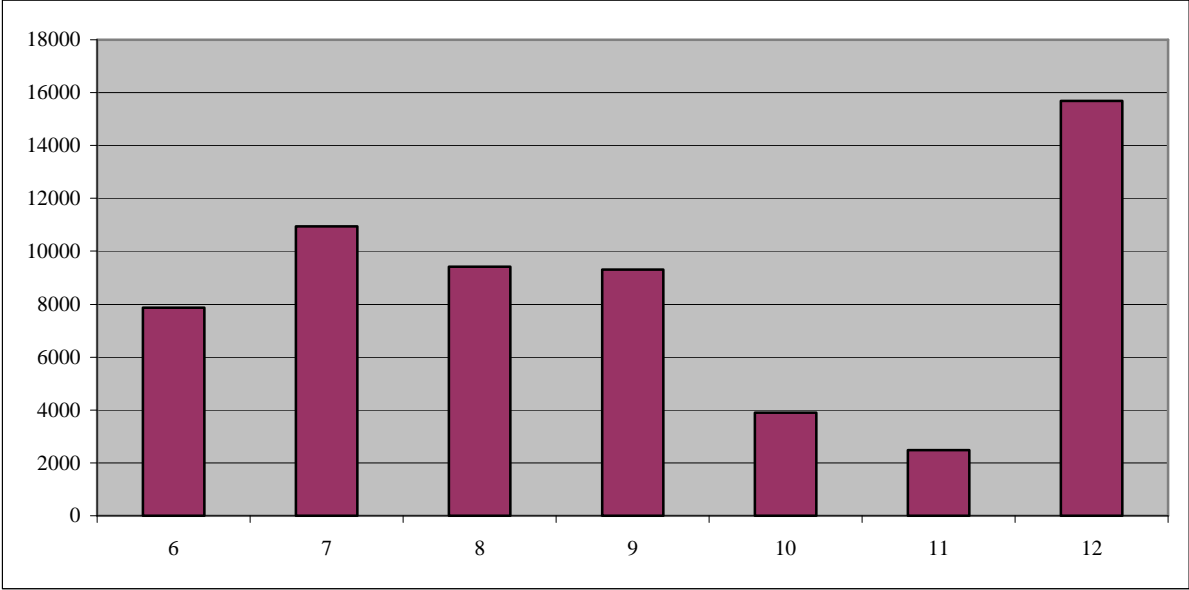
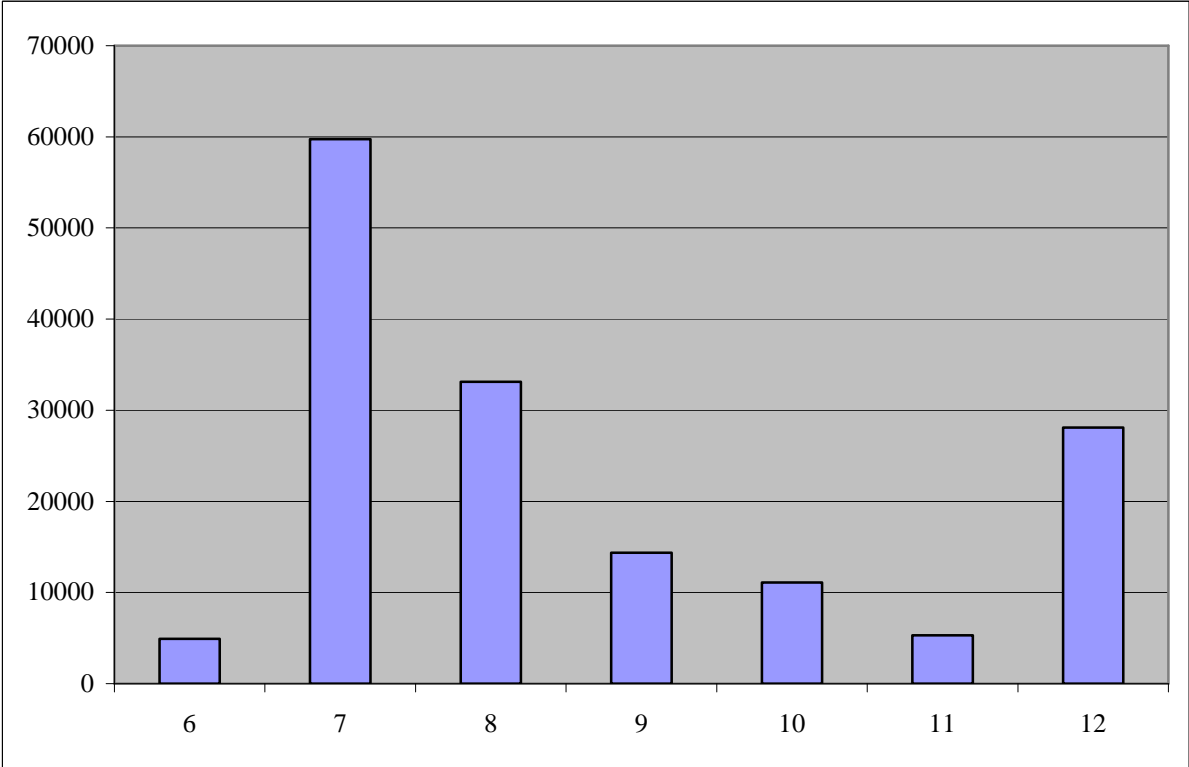


Chart 6 – Number of database explorations in 2007 by month



Between June and December 2007, the system serviced over 59,000 of analysts' enquiries to databases, of the type: *simple enquiry on objects in the database* and over 156,000 of the type: *database exploration with regard to finding objects interlinked in a particular manner with the use of the selected analytical model*.

3. COUNTERACTING THE FINANCING OF TERRORISM

Within the execution of tasks with regard to counteracting the financing of terrorism, 7 proceedings concerning transactions conducted by 77 entities were initiated. The proceedings were initiated on the basis of the information from obligated institutions (5) and on own initiative. Moreover, in relation to the actions taken in this area, 2960 electronic transactions identified as suspicious were verified. **As a result of the actions taken 14 items of information** in this regard **were sent to the Internal Security Agency**.

GIFI is also a member of the Interministerial Group for Terrorist Threats, co-ordinating actions with regard to counteracting terrorism. At the same time, GIFI representative participates in work of the Permanent Expert Group established at the Interministerial Group for Terrorist Threats in order to monitor terrorist threats, assess their level and nature and to present proposals with regard to legal regulations and development of proper procedures.

4. CONTROL ACTIONS

So as to improve the control process, new control procedure was implemented. The amendments concerned: more detailed deadlines for particular control activities, ordering the manner of keeping control files and implementing templates of control documents.

Work on the risk map for the system of counteracting money laundering and financing terrorism made it possible to indicate the current system status both in terms of sector and geographical approach. The ratio of sent notifications on suspicious transactions to the number of reports on above-threshold transactions (S/AT) was used at work. Brokerage houses and Co-operative Savings and Credit Unions were characterised by the S/AT ratio above average. On the other hand, 11 categories of obligated institutions did not submit any information on suspicious transactions in this period:

- antique shops,
- auction houses,

- foundations,
- National Deposit for Securities,
- Poczta Polska,
- Legal advisers,
- Entrepreneurs conducting business activity in the field of:
 - games of chance,
 - secured loans,
 - commission sale,
 - trade in noble metals and precious and semi-precious stones,
 - real estate agency.

The ratio of only three categories of obligated institutions has improved: of brokerage houses, insurance companies and bureaux de change.

At the same time the abovementioned ratio decreased in the case of banks and investment fund societies.

Results of the previous analyses were used at works on the *Control plan for 2H2007* and *Control plan for 1H2008*. Further status analysis of the system of counteracting money laundering and financing terrorism is necessary however to take proper actions, inclusive of control actions.

4.1. Controls carried out by GIFI

GIFI controllers conducted 47 controls. It was an increase by 27% (37 controls) in comparison to 2006.

Following the analysis of control results from the last three years, in 2007 the focus was shifted to the execution of 3 basic control directions:

- activation of operations of obligated institutions – 44.1% of control (units that are not active with regard to transmitting information on transactions or whose activity is minimal),
- intensification of operations of obligated institutions – 38.2% of control (units whose activity with regard to transmitting information on transactions is low),
- maintenance/ improvement of the quality of operations of obligated institutions – 17.7% of control (units whose activity is at a good or even high level with regard to transmitting information on transactions).

Particular units were selected for the control taking into account the abovementioned directions and analytical and control GIFI information, control information of supervision authorities and publications in media.

Out of all conducted controls, 33 were planned and 14 were conducted on immediate basis.

They were conducted in the following categories of obligated institutions:

- banks – 9,
- brokerage houses – 8,
- investment fund societies and funds managed by them – 6,
- insurance companies – 2,
- legal advisers – 9,
- notaries public – 2,
- solicitors – 2,
- tax advisers – 2,
- real estate agencies – 5,
- entrepreneurs whose business activity consists in granting secured loans (pawns) – 2.

The most important irregularities revealed included the following:

- formal irregularities: the failure by the obligated institutions to prepare for the fulfilment of statutory obligations due to the failure to set or to adjust the internal procedure to the provisions of the *Act* and/ or the lack of a person responsible for the fulfilment of obligations imposed by the *Act* (revealed in 78.7% of the controlled institutions);
- functional irregularities: insufficient implementation of the provisions of the *Act*, mainly in respect of the obligation to register the transactions, to identify entities participating in the transaction, to identify transactions and notify about them and to keep the register of transactions along with the documents relating to the registered transactions, as well as irregularities in keeping the registers of transactions and transmitting information from these registers to GIFI (revealed in all controlled institutions).

The findings of the controls carried out by GIFI controllers were submitted to the supervising authorities for further processing. 28 written notifications about the results of controls were also submitted.

4.2. Controls carried out by supervising authorities

GIFI received the information on the controls conducted by:

- National Bank of Poland – 1089 controls in bureaux de change,
- General Inspector for Banking Supervision – 32 controls at the banks,
- National Co-operative Savings and Credit Union – 25 controls in Co-operative Savings and Credit Unions,
- Polish Financial Supervision Authority – 3 controls in brokerage houses and investment fund society,
- Heads of Courts of Appeal – 44 controls in offices of notaries public.

The results of the controls confirmed the existence of irregularities similar to those discovered by the GIFI controllers. In comparison with the previous years however, the knowledge of statutory obligations of obligated institutions' employees has improved.

Following the thorough analysis of the control results, a justified suspicion of committing the crime grew, thus 5 notifications were submitted to the public prosecutor's office. The proceedings were initiated in one of the cases, in another one the public prosecutor's offices refused to initiate proceedings and in the remaining three cases the proceedings were discontinued.

5. CO-OPERATION WITH THE OBLIGATED INSTITUTIONS AND CO-OPERATING UNITS

For effective execution of regulatory tasks, GIFI systematically aims at improving the quality and effectiveness of co-operation with obligated institutions and co-operating units, which are obliged under the *Act* to collect and transfer information on transactions specified therein, among others. Involvement of these entities in execution of tasks aiming at combating money laundering and financing of terrorism is one of the conditions for effective fight against these crimes.

In 2007 the co-operation was performed on many planes, inclusive of conducting training sessions, providing information on application of legal provisions concerning counteracting money laundering and financing of terrorism as well as conducting electronic training sessions – the so-called e-learning, among others.

Moreover, a guide for obligated institutions and co-operating units issued by GIFI in 2005, titled *Counteracting Money Laundering - A Guide for Obligated Institutions and Co-*

operating Units was further distributed among obligated institutions and co-operating units, participants of training sessions and societies of different professions.

5.1. Explanation on the application of legal provisions

As regards doubts concerning execution of regulatory obligations reported by the obligated institutions and co-operating units, as in previous years, written responses to questions were provided.

GIIF received over 60 enquiries concerning practical application of legal provisions. Almost half of them (44%) were transferred by the banks. A great majority of enquiries (81%) concerned application of provisions of the *Act*. Apart from the official exchange of correspondence, exceptionally good working relations were maintained and some of the explanations were provided by phone.

5.2. Training activity

GIFI responded to the demand reported by the obligated institutions, by participating in training meetings organised by the institutions. The main objective of the meetings was to discuss and explain doubts concerning obligations of the institutions under the *Act*.

5.2.1. E-learning

Due to the fact that the obligated institutions very often reported a demand for training sessions with regard to combating money laundering and financing of terrorism and in order to conduct effective training of employees of these institutions in this field, the training in the so-called traditional form should be replaced with electronic training (*e-learning*). That was the practice in the previous years.

In 2007 two-week e-learning training sessions were launched as of 1 August.

200 persons could participate in the course on a one-off basis (160 employees of obligated institutions and 40 employees of co-operating units), without the necessity of incurring costs related to participation in traditional training, among others costs of business trip and travelling expenses.

The syllabus of the course was based on the materials prepared by the employees of the Financial Information Department and consisted of 9 lessons:

- Basic issues related to counteracting money laundering and terrorist financing (preceded by the Introduction);

- Entities participating in counteracting money laundering;
- Tasks of the obligated institutions;
- Identification of suspicious transactions;
- “Know your client” programme in the entities covered by the *Act*;
- Internal procedure in an obligated institution;
- Transfer of information to GIFI;
- Control of compliance with the provisions of the *Act*;
- Criminal responsibility for the infringement of legal provisions.

The course was prepared in accordance with methodology and didactics principles and concentrated mainly on the approach to solving problems related to a selected area and methods of task execution. It also contained interactive elements. The course finished with a test and, after successfully passing the test *on-line*, the participant received the certificate confirming the completion of the course.

2074 representatives of the obligated institutions and 116 employees of the co-operating units participated in the e-learning course.

In December last year, intensified actions were taken aiming at making the said course available for the institutions in 2008.

5.3. Conferences, seminars and symposia with the participation of GIFI

The General Inspector of Financial Information participated in numerous seminars, conferences, symposia and other initiatives conducted both by public administration units and entities from the private sector.

In the autumn, representatives of the Polish Financial Intelligence Unit participated in the VI symposium held under the honourable patronage of the General Inspector of Financial Information by the Polish Police Headquarters with the participation of the Police School in Piła and in the seminar “*Terrorism – counteracting, combating, eliminating consequences*”, held in the Higher Police School in Szczytno.

Moreover, the issues of counteracting money laundering and financing of terrorism were presented by GIFI representatives at the forum organised by the “Prawo bankowe” monthly [*ang. Banking Law*] held in September as a part of the cycle of seminars for legal advisers and lawyers employed at banks and at the seminar “*Practical aspects of applying domestic and EU provisions with regard to preventing the usage of the financial and banking system for the*

purpose of money laundering and financing of terrorism” held in October by Bank Polskiej Spółdzielczości S.A.

GIFI was also invited to participate in the work of the *Coalition for Security and Transparency of Trade*. The coalition established by the Polish Bank Association forms a co-operation platform for economic, self-government, scientific and state administration circles with regard to enhancing trade security, among others.

6. INTERNATIONAL CO-OPERATION

6.1. Co-operation with the European Commission

The co-operation with the European Commission is carried out primarily in two areas: through the participation in the works of the Committee on the Prevention of Money Laundering and Terrorist Financing (also called the Prevention Committee) and through participation in the meetings of the EU – FIU Platform (Financial Intelligence Unit).

Within the framework of the works of the Committee on the Prevention of Money Laundering and Terrorist Financing the representatives of GIFI took part in meetings and workshops devoted to:

- the issues related to the implementation of the *Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing* (the so-called III Directive) including the problems arising from differences in legal systems of certain countries (the workshops Second Informal Transposition Workshop),
- elaborating of the list of third countries deemed as equivalent to EU countries,
- the issue of the proliferation of the weapons of mass destruction and the problem of the lack of guidelines for using sanctions, and
- the issue of working on a common position of the EU for meetings of international organisations dealing with the said issues.

The meetings of the EU-FIU Platform were devoted to conducting common projects of the financial intelligence units of the EU Member States, the presentation of the reports of the working groups acting within the Platform and the co-operation with Europol.

6.2. MONEYVAL Committee

The works on the complex evaluation of the Polish system for counteracting money laundering and financing of terrorism carried out in the 3 Evaluation Round by the experts of MONEYVAL, International Monetary Fund, Financial Action Task Force on Money Laundering for counteracting money laundering and of the World Bank were continued.

In 2006 the evaluators prepared a report evaluating the Polish system for counteracting money laundering and financing of terrorism according to 49 Recommendations of FATF, EU directives and relevant Conventions of the Council of Europe and the UN, and the Polish side prepared comments to the draft evaluation.

The final evaluation of the Polish system and the discussion on the final report took place during the plenary meeting of the MONEYVAL Committee of the Council of Europe in June 2007. The said report was published by the CE by the end of December. Currently the Polish version is being prepared which will then be submitted to all interested institutions in order to prepare changes in the Polish system for counteracting money laundering and financing of terrorism.

In addition, GIFI takes an active part in the works of MONEYVAL i.e. through its involvement in the activities of the Working Group on Typologies which is chaired by the representative of the General Inspector of Financial Information.

6.2. Co-operation with international organisations

6.2.1. Egmont Group

The Polish Financial Intelligence Unit took an active part in the activities aiming at transformation of the EGMONT Group into a formal international organisation, getting involved in the works of the Implementation Committee (Subgroup for the Secretariat and the EG Charter). The representative of GIFI as the member of the so-called Representative Board took part in the hearings of candidates for the post of the Secretary of the Egmont Group Secretariat.

Finalising works on transforming the Egmont Group concentrating the FIUs from 105 countries into a formal international organization took place during the 15 plenary meeting of the Egmont Group which was held in Hamilton on Bermuda Islands.

As of the 28th of May 2007 the organization formally became a new international organisation.

The Polish Financial Intelligence Unit by a cover letter to the Secretariat of the Group confirmed its membership in the organisation and accepted *the Egmont Group Charter.*

Thanks to participation in the works of the Group, the Polish Financial Intelligence Unit has a possibility of a closer cooperation with the units around the world active in the field of counteracting and combating financial crimes.

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

In 2007, the General Inspector of Financial Information, in line with the previous decision of the European Committee of the Council of Ministers, took further actions aimed at the acceptance of Poland in the FATF Group.

Still, due to the associate membership of FATF in MONEYVAL, a GIFI representative (as a member of the MONEYVAL Bureau) had the opportunity to participate in works and sessions of FATF, which enabled Poland to have access and participate in the discussion and development of the newest standards with regard to combating money laundering and financing of terrorism practices.

Moreover, the Polish Financial Intelligence Unit was invited to take part in the Private Sector Consultative Forum established within FATF. The Forum is a part of the initiative aiming at enhancing co-operation of public and private sector entities in order to combat money laundering and financing of terrorism more effectively.

6.2.3. Eurasian Group on combating money laundering (EAG)

On the 13th December 2007 Poland was granted a status of the observer to the Eurasian Group (EAG), i.e. a regional organisation operating in the field of combating money laundering and financing of terrorism, in particular supporting and evaluating member states with regard to implementation of FATF Recommendations.

EAG is an observer to FATF and a FATF-style regional body (FSRB).

Participation in the Group indicates the interest of Poland in works within FATF and co-operation in FSRB forum. Moreover, due to the participation in EAG works, Poland shall establish or enhance relations with other member states of this organisation, that is mainly with China, Belarus and Kazakhstan.

6.2.4. Strengthening of GIFI position in the region

On 15-16 November the *Regional Seminar on Combating Money Laundering and Counteracting Financing of Terrorism* was held in Dębe near Warsaw. The seminar was organised by the General Inspection of Financial Information together with the U.S. Department of Treasury under the *Agreement on co-operation between the U.S. Department of Treasury and the Ministry of Finance*, signed in 2006.

Representatives from financial intelligence units from 13 countries of Central and Eastern Europe and American regional advisers participated in the seminar.

During the seminar, among others, the issues of typology of transactions that may suggest money laundering or financing of terrorism were discussed and the cases of money laundering by trading in scrap metal and fuels as well as the issues of using IT techniques and risk-based approach in analyses conducted by the financial intelligence units were presented. Moreover, the meeting participants heard the speech of the Interpol representative on the execution of IMLASS (Interpol Money Laundering Automated Search Service) project, consisting in creation of a new database that would enable gathering and comparing information concerning money laundering and financing of terrorism, transmitted by financial intelligence units and competent services of member states of Interpol for the purpose of exchange of information concerning combating money laundering and terrorism financing practices.

6.3. Bilateral co-operation

6.3.1. Exchange of information with foreign financial intelligence units

From the moment Poland acceded to the European Union, the exchange of information between the EU financial intelligence units may take place on the basis of bilateral co-operation agreements or on the basis of the *Council Decision of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information – 2000/642/JHA*). At present it is a formal basis for the General Inspector for co-operation with 9 countries with which Poland does not have agreements, i.e. with Austria, Denmark, France, Greece, Holland, Luxembourg, Malta, Sweden and Hungary.

On the basis of the received motions of foreign units, 111 verification proceedings concerning transactions of 460 entities were initiated.

The most active were the units from: Great Britain (23 motions), Ukraine (14 motions) and Belgium (9 motions). Other units submitted 2 motions on average.

In comparison to 2006, the number of the motions received increased by 79%. Some of them, due to the included information on suspicions of a foreign party, formed a basis for conducting a thorough analysis of transactions executed by indicated entities in Poland (3 cases). Only in two cases GIFI did not receive consent to transfer the information obtained to law enforcement authorities.

175 enquiries about 308 entities connected with suspicious transactions were addressed to foreign units, i.e. by 10.8% more than last year.

The majority of motions were sent to the units in: USA (18), Germany (16), Great Britain and Russia (15 each) and Ukraine and Cyprus (11 each).

In the abovementioned co-operation secure mail transferred via ESW (Egmont Secure WEB) and FIU.NET was used, resigning as of October from traditional mail, which lowered costs of international exchange service.

Moreover, it should be emphasized that in the case of enquires addressed to foreign financial intelligence units, the average response time was 3 weeks. Responses received from foreign FIUs in urgent mode (in the case of notifications on suspicious transactions sent pursuant to Article 16 section 1 of the *Act*) constitute an exception and the response time in this case was 2-3 days at maximum.

6.3.2. Agreements on co-operation

Last year GIFI concluded only 2 co-operation agreements on exchange of information concerning combating practices of money laundering and financing of terrorism with the Financial Intelligence Units of Albania and Montenegro.

As a result, the number of financial intelligence units with which GIFI on the basis of bilateral agreements exchanges information connected to money laundering or financing of terrorism increased to 38.

6.4. Execution of the assistance agreement concluded with the United States

At the beginning of the year execution of the co-operation project between the General Inspector of Financial Information and the U.S. Department of Treasury began: mission of the American regional adviser started and arrangements on the *work programme* were made.

As a part of the programme, representatives of Interpol presented guidelines of the pilot project called IMLASS, executed by Interpol with the co-operation of financial intelligence units. Considering the possibility of accession to the programme is one of the elements of the co-operation programme with the U.S. Department of Treasury.

Moreover, the following activities were implemented as a part of the project: workshops on analytical proceedings for the officers of the Police, Internal Security Agency, Central Anticorruption Bureau and GIFI employees, a training course on counteracting financing of terrorism for the employees of the Department of Financial Information and the Police and an advisory mission of IT specialist.

Also under the project with USA, the *Regional Seminar on Combating Money Laundering and Financing of Terrorism* was held in November.

7. LEGISLATIVE ACTIONS

7.1 Amendment to the Act

In relation to the necessity of implementing the provisions of the *Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing* to the Polish law, in 2007 GIFI worked on the *amendment bill of the Act of 16 November 2000 on Counteracting Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources and on Counteracting the Financing of Terrorism and on the amendment bill – Criminal Code*.

During the course of legislative works some international standards requiring implementation were included in the *Act – Provisions introducing the Act on the National Fiscal Administration* and the *Act on the National Fiscal Administration*.

The prepared bill, following the agreement with the members of the Council of Ministers and social partners, was subsequently examined by the European Committee of the Council of Ministers and Permanent Committee of the Council of Ministers.

At the end of the year it was however decided that the previous version of the bill should be withdrawn from further legislative actions. This decision was justified by the necessity of developing a coherent bill, first and foremost implementing to the Polish law the provisions of the *Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005*

on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and the Commission Directive 2006/70/EC laying down implementing measures for Directive 2005/60/EC as regards the definition of politically exposed person and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

In respect of the above, GIFI started intensive works on the new version of the bill. The FATF Recommendations will also be taken into account when drawing up the bill. Present works also aim at introducing with the bill the provisions that would not raise interpretative problems.

7.2. Other actions

GIFI actively participated in legislative processes concerning amendments to other legislative acts, especially in the cases when the amendments could influence the execution of fight against money laundering and financing of terrorism.

7.3. Other issues

On 2nd July 2007, the Constitutional Tribunal heard the motion of the National Council of Legal Advisers in which the obligations on legal advisers under the provisions of the *Act* were questioned in the context of the legal adviser-client privilege (file ref. no. K 41/05).

The Constitutional Tribunal confirmed that the provisions imposing information and registration obligations upon entities providing legal aid (legal advisers, attorneys and foreign lawyers) are compliant with the Constitution with regard to the cases when they do not concern establishment of the client's legal situation or other activities related to court proceedings.