



**REPUBLIC OF POLAND**

**MINISTRY OF FINANCE**

**INFORMATION**

**of the General Inspector of Financial Information**

**on Counteracting Introduction into Financial  
Circulation of Property Values Derived from Illegal or  
Undisclosed Sources and on Counteracting the  
Financing of Terrorism**

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Warsaw, March 2006

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## GLOSSARY

**Blockade of account**– temporary prevention of disposition and use of all property values collected on the account, including an obligated institution.

**Obligated institution** – in accordance with *Art. 2 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*<sup>1</sup>: the banks, National Bank of Poland – within the scope, it operates bank accounts of legal persons, numismatics sale, gold purchasing and exchange of damaged legal tender under provisions of the *Act of 29 August 1997 on the National Bank of Poland*<sup>2</sup>, foreign banks divisions, electronic money institutions, divisions of foreign electronic money institutions and agents performing settlements on the basis of the *Act of 12 September 2002 on electronic instruments of payment*<sup>3</sup>, brokerage houses, banks conducting brokerage activity and other entities conducting a brokerage activity on the basis of the *Act of 29 July 2002 – Law on Public Trading in Securities* and entities referred to in in Article 71 (1) of the *Act of 29 July 2002 on Public Trading in Securities*., foreign legal persons operating within territory of Poland and conducting activities within the trade in exchanges commodity and commodity brokerage houses within the meaning of *Act of 26 October 2000 on commodity exchanges*<sup>4</sup> and commercial companies referred to in Article 50 (a) of the *Act of 26 October 2000 on commodity exchanges*, National Depository for Securities S.A. within the scope it operates securities accounts, entities conducting their economic activity in the scope of chance games, mutual betting and slot machine games, insurance companies, main branches of foreign insurance companies, investment funds, corporation of investment funds, co-operative savings and credit banks, the Polish Post Office, notaries in the scope of notarial activities, relating to property values transactions, practicing lawyers, practicing freelance legal advisors, foreign lawyers practicing law without the contract of employment, practicing expert auditors, practicing tax advisors, entities conducting foreign currency exchange activities, entrepreneurs operating: auction houses, second-hand shops, conducting leasing and factoring activity or economic activity in the scope of: metal trading, precious and semi-precious stones trading, commission sale, lending on pledge (pledges) or real estate agencies and foundations.

**Cooperating unit** – central government administration authorities and local government administration authorities, other state organizational units, as well as the National Bank of Poland and the Commission for Banking Supervision.

**Suspension of transactions** – temporary restrictions on the disposition and use of property values that consists in preventing an execution of a specific transaction by an obligated institution.

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<sup>1</sup> Dz.U. of 2003 No 153 item 1505 as amended.

<sup>2</sup> Dz.U. of 2005 No 1 item 2 as amended.

<sup>3</sup> Dz.U. No 169 item 1385 as amended.

<sup>4</sup> Dz.U. of 2005 No 121 item 1019 as amended.

## INTRODUCTION

Within the framework of the information gathering system and cooperation with obligated institutions and cooperating units, in 2005 the General Inspector of Financial Information received **1,558** notifications in paper on activities that may be related to money laundering, **67 642** notifications in electronic form on suspicious transactions and **21 million** notifications on transactions exceeding the set threshold. As a result of the analysis of the information, GIIF initiated **973 analytical proceedings**, demanded **suspension of five transactions** (for the total amount of PLN 1.6 million), demanded blockade of **34 accounts** (connected with suspicious transactions for the total amount of PLN 36 million) and submitted **175 notifications** to the public prosecutor's office on suspicion of the crime as defined in Article 299 of the Penal Code [pp. 2 and following].

The year 2005 proved to be the hardest year for SI\*GIIF system so far - since this was the first year the data on suspicious transactions and transactions exceeding the set threshold were received (64.5 Gb). The work on specialised module of the SI\*GIIF system that will support the data analysis has been initiated [pp. 2 and following]

**Within the framework of counteracting the financing of terrorism** on the basis of the national and foreign information gathered, GIIF maintained up-to-date database of entities suspected of financing of terrorism. This database was accessible for the obligated institutions and used during cooperation of GIIF with other services fighting terrorism. [pp.2 and following]

GIIF inspectors conducted controls of **25 entities** and analysed **1 151 control protocols of the controls conducted by institutions supervising** the financial sector. [pp2 and following].

While fulfilling the duty of the training institution, which results from provisions of applicable regulations, GIIF published **second edition of the manual** for obligated institutions and cooperating units. 175 representatives of the abovementioned institutions participated in the traditional trainings in 2005. Over 500 CBS, Police and ABW inspectors and representatives of public prosecutor's office and institutions supervising and controlling obligated institutions took part in seminars and trainings organised within the framework of *Phare 2000*. The internet course was attended by 3 442 persons [pp 2 and following].

GIIF exchanged **214 requests** for information on entities suspected of money laundering or financing of terrorism with foreign Financial Intelligence Units (FIU) within the framework of international cooperation. GIIF signed six agreements for bilateral cooperation. It was also actively involved in work on the *III Directive of EU on prevention of money laundering and financing of terrorism*, which entered into force on 15 December 2005, and on *European Council Convention on laundering, search, seizure and confiscation of the proceeds from crime*, which was signed on 16 May 2005. GIIF cooperated with following international organisations: Moneyval, Egmont group, FATF and BALTCOM [pp. 2 and following]

GIIF also answered **over 140 enquiries** concerning the application of the law. It participated in the meetings of associations of financial sector institutions, took part in work of task forces that were intended to enhance and coordinate activities of certain services occupied with prevention of organised crime [pp 2 and following]

# **PART I**

## **IMPLEMENTATION OF STATUTORY OBLIGATIONS**

The major tasks of General Inspector of Financial Information 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* <sup>5</sup> (hereinafter referred to as the Act) include: obtaining, gathering, processing and analysing information within the procedures specified in the Act, as well as taking actions aimed at counteracting introduction of property values originating from illegal or undisclosed sources to financial transactions , especially concerning:

- analysing execution of the transactions the General Inspector found suspicious,
- performance of transaction suspension or of account blockade procedures;
- transmitting to obligated institutions the information on entities towards which there is a justified suspicion, that they are connected with commitment of acts of terror;
- preparation of documents justifying the execution of criminal act suspicion and forwarding them to competent authorities;
- initiating and implementing other activities including counteracting the use of Polish financial system to legalise income originating from illegal or undisclosed sources, including training of the employees of obligated institutions as regards the tasks imposed on those institutions
- control concerning the observance of the provisions of the Act
- co-operation with foreign institutions, working to counteract introduction of property values originating from illegal or undisclosed sources to financial transactions and on counteracting financing of terrorism.

The tasks mentioned above shall be subject of review in the first part of this report.

### **1. Suspicious transactions**

In accordance with Article 8 (3) and Article 15a and 16 of *the Act* the obligated institutions and cooperating units are obliged to notify GIIF of any transactions or circumstances that may suggest that certain property values originate from illegal or undisclosed sources.

#### **1.1. Analysis**

The basic task of the General Inspector of Financial Information is to justify or negate the suspicion of money laundering by analysing the course of transactions the GIIF found suspicious. In case the GIIF suspicions were proved correct, the proper notification is sent to the competent public prosecutor's office. GIIF may demand transaction suspension or of account blockade in the circumstances as described by the provisions of applicable legislation<sup>6</sup>;

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<sup>5</sup> Dz.U. of 2003 No 153 item 1505 as amended.

<sup>6</sup> Article 16 and 18a of the Act

### 1.1.1 THE RESULTS OF CONDUCTED ANALYTICAL PROCEEDINGS

As the result of the information obtained in 2005 the General Inspector of Financial Information:

- initiated **973 analytical proceedings**,
- demanded to **suspend 5 transactions** of total amount of PLN 1.6 million,
- demanded to **block 34 accounts**, on which suspicious financial operations were executed of the total amount of PLN 36 million

Moreover GIIF submitted to public prosecutor's office **175 notifications** on the suspected commitment of a crime referred to in Article 299 of the Penal Code.

**Table 1 – results of analytical proceedings**

<b>Specification</b>	<b>2001<sup>7</sup></b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
Notifications to the Public prosecutor's office on the basis of Article 299 of the Penal Code	20	104	152	148	175
Suspension of transactions	1	26	20 (app. PLN 37million)	5 (app. PLN 2.6 million)	5 (app. PLN 1.6 million)
Blockade of account	-	-	8 (app. PLN 22 million)	13 (app. PLN 12 million)	34 (app. PLN 36 million)

There were 5 cases of refusal to initiate the proceedings on the basis of notifications on suspicion of the crime defined by Article 299 of the *Penal Code*, submitted by GIIF in 2005. As a result of the complaints submitted by GIIF, all refusals were repealed and proceedings initiated.

With regard to the decisions on termination of the proceedings (there were 19 such cases in 2005), GIIF does not possess the powers to complain<sup>8</sup>, and therefore GIIF cannot influence the decisions of the prosecutor's office. The major causes for termination of the proceedings were: Inability to define *original crime* that constituted the source of property values introduced to financial transactions. Despite the fact some of the penal proceedings conducted on the basis of notifications submitted by GIIF were terminated, there were cases that some other than *money laundering* charges were presented in these cases.

### 1.1.2 ANALYTICAL PROCEDURES

Year by year increasing number of notifications transferred in paper form and additional number of transactions – reported by electronic means – and marked as *suspicious*, lead to improvement of detailed analytical procedures in 2005, in order to define the mode of conduct concerning the notifications and reduction of time devoted to analysing a single notification. The experience of foreign Financial Intelligence Units<sup>9</sup> was used in defining the procedures. The introduction of

<sup>7</sup> Second half of 2001.

<sup>8</sup> Article 306 (1) *Code of Criminal Procedure*

<sup>9</sup> British financial intelligence unit of NCIS (National Criminal Intelligence Service), among others.

improved procedures increased the effectiveness and efficiency of analytical proceedings: In 2004 there were 148 notifications submitted to the competent public prosecutor's offices about the suspected commitment of a crime referred to in Article 299 of the *Penal Code*, while in 2005 there were 175 such notifications.

### 1.1.3 BASIC DIRECTIONS OF ANALYSES

#### Fuel cases

Just as in recent years, the Department of Financial Information is receiving notifications of suspicious transactions concerning the flow of resources connected with factual or fictional trade in fuels and components necessary for the production thereof. The funds obtained from these illegal activities were marketed to financial system. The scale of this phenomenon is still large, despite of action undertaken by the competent units of public administration, and this is proved by the total value of the suspicious transactions reported to the public prosecutor's office in 2005, i.e. PLN 723.1 million.

The characteristic feature of the *fuel cases* are developed networks of interlinked businesses – in some cases over 200 entities – which despite being identified and despite the fact that notifications were submitted to public prosecutor's office, are being reconstructed and create new links. In the majority of cases each subsequent entity is a so-called *façade enterprise*. In exchange for small financial benefits natural persons (*figureheads, dummies*) agree to use their personal data to register a new enterprise, and to establish a bank account used to *launder the money*. As the conducted analyses prove and indictment acts presented by the public prosecutor's office stipulate, such persons receive financial benefits of approximately PLN 500 – 2000, while the value of the money *laundered* by such businesses each year may reach PLN several millions.

There were 44 *fuel cases* in 2005 and 58 notifications of suspected commitment of a crime referred to in Article 299 of the *Penal Code* – in relation to business activity of 233 enterprises. The estimated value of transactions in these cases reached PLN 723.1 million. There were total of 317<sup>10</sup> *fuel cases* prosecuted between 2001 and 2005. On this basis there were 179<sup>11</sup> notifications of suspected commitment of a crime referred to in Article 299 of the *Penal Code* issued – in relation to the activities of 728<sup>12</sup> enterprises. The estimated value of such transactions reached PLN 1 763.2 million<sup>13</sup>.

#### Scrap metal cases

The results of the analytical proceedings concerning transactions of scrap metal trade and recyclable material indicate the development of, similar to the cases of fuels

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<sup>10</sup> Including in: 2001 -7 cases, 2002 – 87 cases, 2003 – 112 cases, 2004 – 67 cases and 2005 – 44 cases

<sup>11</sup> Including in: 2001 -0 cases, 2002 – 22 cases, 2003 – 40 cases, 2004 – 59 cases and 2005 – 58 cases

<sup>12</sup> Including in: 2001 -0 cases, 2002 – 50 cases, 2003 – 148 cases, 2004 – 297 cases and 2005 – 233 cases

<sup>13</sup> Including in: 2001 – PLN 34,090,000.00, 2002 – PLN 51 482,333.00, 2003 – PLN 237,300,343.79, 2004 – PLN 717,207,351.38 and 2005 – 723,119,402.53

trade, networks of businesses for the purpose of transferring financial resources that is finalised by the payment of cash. The typical phenomena include:

- establishment of *façade enterprises*, where the sole purpose of their existence is to register economic activity 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 these enterprises,
- recruitment of enterprise owners among persons of very low income or unemployed,
- withdrawal of financial resources immediately after they are paid to the proper bank account.

Principles of operation similar as in case of enterprises involved in *fuel cases*. The accounts play the role of distributive/final accounts, *figureheads* – by withdrawal of cash – are the final element of the transfer of resources. In 2005, GIIF submitted to the public prosecutor's office 19 notifications on the suspected commitment of a crime – money laundering in *scrap metal cases*.

#### Transfers abroad

The next issue identified while conducting analysis is the transfer of funds from Poland to the Far –East countries. The funds used in such transactions originate usually from smuggling of textiles into Polish customs territory and in relation to fiscal payments due.

On the basis of conducted analytical proceedings several phenomena were identified, including:

- most of the so called „*dummies*” or “*façade enterprises*” declare that they also act as agents in the trade, or financing, which, according to them, justifies the lack of any means and equipment necessary for a physical movement of goods;
- in cases where investing in securities takes place, foreign entities registered in the so-called *tax havens* and usually using Eastern Europe bank systems appear more and more often as investors or providers of funds for investors.
- entry of significant currency values including declaration of payment that cannot be further verified within the legal economic turnover by non-residents (Ukraine, Russia and Belarus),
- occurrence of entities registered in *tax havens* and registered by the foreigners of Asian origin in analytical cases.

#### 1.1.4 METHODOLOGY OF MONEY LAUNDERING

On the basis of the analysis conducted by the Department of Financial Information there were 30 methods of money laundering identified, used in Poland. The most common methods of legalising funds originating from criminal activities as identified in 2005 – similarly to those identified in 2004 – include:



#### Giving fictional loans and donations

This method is based on the agreement concluded between two or more natural or legal persons, which draw a fictitious contract concerning granting a loan or a donation, register it in the tax office and pay the due tax levied on the civil law actions.

#### Blending of revenues

It consists of literal blending of proceeds from legal business activity with property values originating from illegal or undisclosed sources. The method is mostly used in conducting such economic activities where it is difficult to predict the value of seasonal revenues.

#### A fictitious account

It is an account opened to conduct one or several transactions – at short intervals – for very high amounts, using the maximum number of fictitious elements which refer to both the parties of the transaction and the documents they use.

#### Distribution box

The characteristic feature of the distribution box is that the account is supported by small payments of the value not exceeding the threshold requiring the registration and originating from various sources (less common from a single source). After reaching a sufficiently high balance, all funds gathered on such accounts are transferred to another account or accounts, also by electronic transfer.

#### Final account

This method is characterised by the transfer of large amounts of funds on one banking account, from which they are immediately withdrawn in cash. The withdrawal of cash constitutes a conclusion of a certain money laundering “path”. The transfers to the final account are preceded by a number of operations (which constitute an integral part of this method) aimed at making the establishing of an illicit origin of financial means difficult or even impossible.

#### Purchase and sale of fixed assets

This method is based on amendment of the fixed assets value. It may concern assets such as: real estate, machines, equipment and means of transport. Funds from illegal sources may be introduced into financial circulation by underpricing or overpricing of such assets.

## 1.2 Notifications

In 2005 the General Inspector of Financial Information received 1,558 notifications on suspicious transactions in paper form, sent by the obligated institutions, cooperating and other units. It is not unusual that the sent notifications refer to more than few transactions. The notifications include different kinds of enclosed

documents such as: *bank account history, bank account agreement, signature specimen card, copies of the documents that were used when opening a bank account.* Thanks to these documents the proceedings are conducted more effectively.

**Table 2 - Notifications received in July 2001-2005**

<b>Unit type</b>	<b>2001<sup>14</sup></b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
<i>Obligated institutions</i>	102	358	739	860	1020
<i>Cooperating units</i>	115	237	211	521	523
<i>Other sources</i>	14	19	15	16	15
<i>Total</i>	231	614	965	1 397	1 558

When compared with 2004, one may observe the increase in the number of notifications sent by 11.2 %, which was due to the intensified activity of the obligated institutions. The number of notifications sent by the cooperating and other units increased insignificantly.

*Chart 1 Notifications sent by the basic unit categories.*

It was the notifications sent by the banks (1003) that constituted the largest group of the notifications sent by the obligated institutions. Such a tendency can be observed since the beginning of GIFF activity. People who launder money most often choose banks among the obligated institutions due to simplicity of banking services, the number of branches, security and efficiency of all transactions. It should be highlighted here that the discussed tendency can be observed in all other countries. The second largest group of the received notifications was constituted by the notifications sent by the following obligated institutions: cooperative savings and loans societies (4), brokerage houses (4) and insurance companies (4). However, the number of the notifications sent by these units constituted not more than slightly above 1% of the total number of notifications sent by banks.

**Table 3 – Division of notifications from obligated institutions by unit types**

<b>Unit type</b>	<b>Number of notifications</b>	<b>Share (in %)</b>
<i>Banks</i>	1 003	98,33%
<i>Cooperative savings and loan societies</i>	4	0,39%
<i>Brokerage houses</i>	4	0,39%
<i>Insurance companies</i>	4	0,39%
<i>Other</i>	5	0,49%
<i>Total</i>	1 020	100,00%

Furthermore, it needs to be noted that the notifications from the banks have been drawn up in a more detailed manner when compared with the previous years: they included more precise information regarding not only the circumstances of

<sup>14</sup> From 1 July 2001

suspicious transactions but also the units who participated therein. It means that the program "Know your client" has been consistently implemented.

The above statement refers primarily to the above-mentioned banks that sent more than a half of (55.43%) the total number of notifications from the following banks:

- Bank BPH SA,
- Bank PEKAO SA,
- Bank Zachodni WBK SA,
- Bank Millennium SA,
- ING Bank Śląski SA.

While one could observe an improvement in the quality of the notifications sent to GIIF, there were still some notifications received on transactions connected with crimes other than money laundering, for example with the crimes specified in Articles 270 or 297 of the Penal Code.

Since 2004<sup>15</sup> it has been possible to send information about transactions *by electronic means*. The information passed on in this way refers not only to above-threshold transactions<sup>16</sup> but to suspicious transactions as well. In 2005 GIIF received 67,642 transactions marked by the obligated institutions as suspicious **by electronic means**.

These transactions can be divided into three basic categories:

transactions wrongly marked by the obligated institutions as suspicious – around 80%; the transactions that followed, made by the unit mentioned in the previous notifications on suspicious transactions – around 6%, transactions qualified as being subject to analysis – around 14 %<sup>17</sup>. As opposed to the notifications submitted in a paper form, pieces of information about suspicious transactions submitted by electronic means refer to single transactions. In view of the above and since it is not possible to provide a more detailed description of less typical circumstances as regards the very transaction as well as the units carrying out them on the transaction card, in case of these transactions the justification for suspicion that some property values originating from illegal or undisclosed sources have been introduced for trade is very laconic when compared with the descriptive notifications sent in a paper form.

As of the end of 2005 it is possible to attach documents to the transaction cards sent by electronic means. This will facilitate the gradual replacement of paper notifications by electronic ones.

As for the notifications submitted by cooperating units, the largest group was constituted by the notifications from customs and fiscal authorities - 66.73% in total.

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<sup>15</sup> 1 July 2004

<sup>16</sup> Exceeding 15,000 euro

<sup>17</sup> As a result of the activities undertaken by the employees from the Department of Financial Information, the number of wrongly marked transactions has been significantly decreased. At present around 2,000 transactions are received monthly: wrongly marked – around 17%, the transactions that followed – around 24%, transactions qualified as being subject to analysis – around 59%.

**Table 4 - Division of notifications from cooperating units by unit type**

<b>Cooperating units types</b>	<b>Number of notifications</b>	<b>Share (in %)</b>
<i>Fiscal authorities</i>	229	44%
<i>Customs authorities</i>	120	23%
<i>Fiscal control authorities</i>	43	8%
<i>Law enforcement authorities</i>	36	7%
<i>The National Bank of Poland<sup>18</sup></i>	33	6%
<i>Agricultural Property Agency</i>	30	6%
<i>Government Administration Units</i>	19	4%
<i>Local Government Administration Units</i>	8	1%
<i>Other</i>	5	1%
<b>Total</b>	<b>523</b>	<b>100%</b>

It is worth noting that the notifications from customs authorities refer primarily to export of goods and imports of foreign exchange to Poland. These notifications as a rule do not refer to, as it was in the case of the notifications from the Agricultural Property Agency regarding sale of real estate both to residents and non-residents, money laundering cases but provide useful information used in financial transaction analysis.

## **2. Above-threshold transactions**

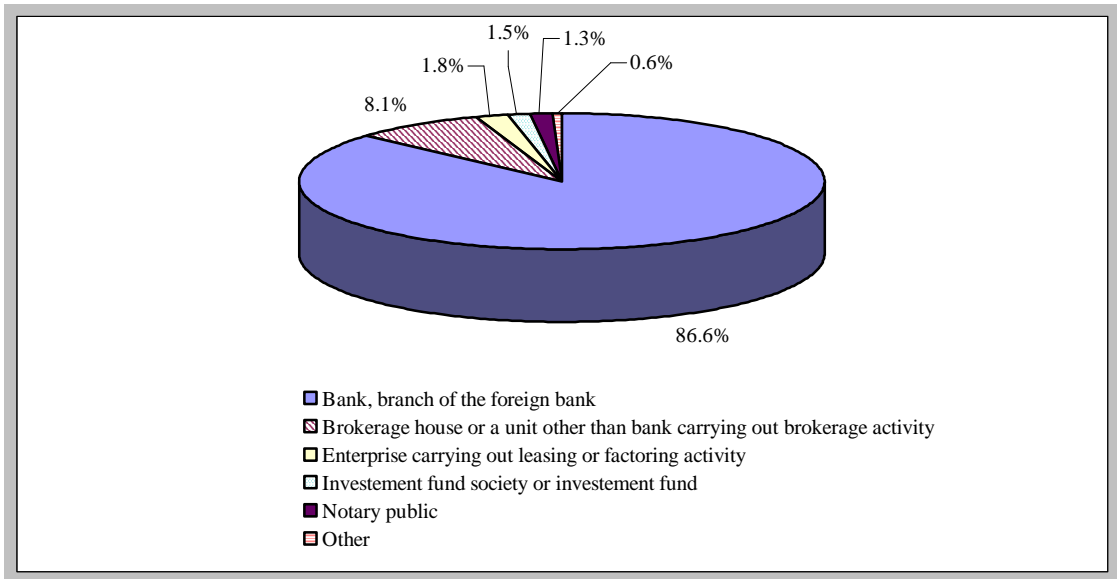
In accordance with the Article 8 par. 1 and 11 of the Act, the institutions are obliged to register and next to submit to the GIIF transactions worth in excess of €15,000.

The year 2005 is the first full year, in which the IT system operates and receives electronic data from the obligated institutions. In this period, around 21 million of records with data on transactions were received, out of which 18.1 million were sent from the banks and 2.8 million from the obligated institutions other than banks. As for the number of the transactions submitted to GIIF by the obligated institutions other than banks, the largest number was constituted by transactions sent by the units performing brokerage activity. This group was followed by transactions sent by the units carrying out leasing activity, investment funds, investment fund societies and notaries public. The distribution of the number of transactions (in %) submitted by the particular kinds of the obligated institutions is illustrated in Chart 2.

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<sup>18</sup> In order to facilitate the presentation of data, the notifications from the National Bank of Poland were presented in the group of cooperating units, despite the fact that the National Bank of Poland is partly perceived as an obligated institution.

Chart 2. Transactions submitted to the GIIF by the obligated institutions in 2005.



For the number of transactions accepted by in the following months of 2005 see: Chart 3 (the total number of transactions) and Chart 4 (the number of transactions sent by the banks and the remaining obligated institutions)

Chart 3 The number of transactions sent in an electronic form in 2005.

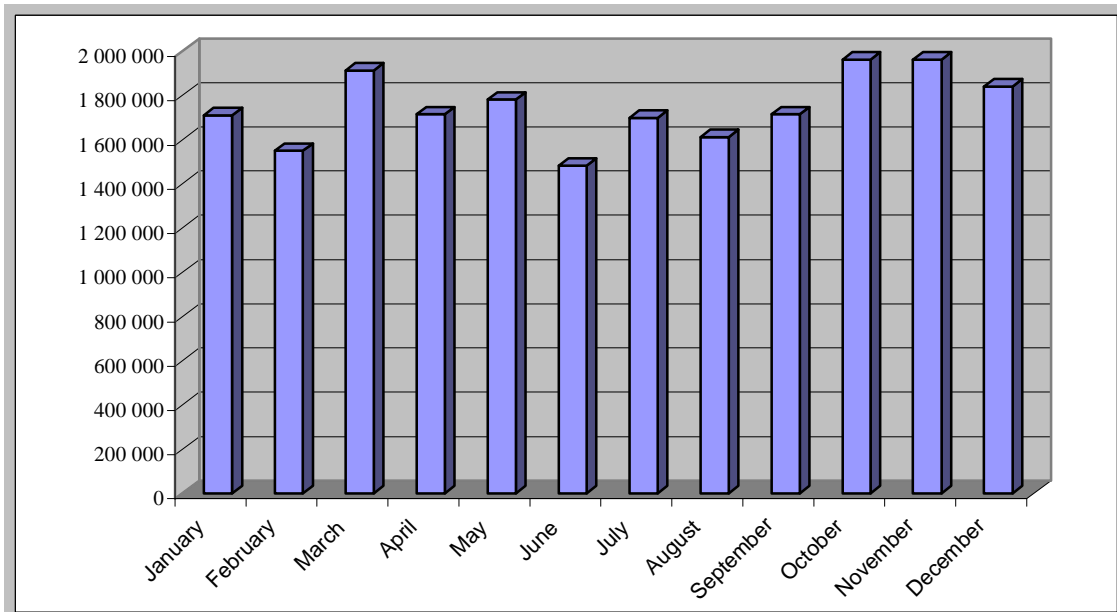
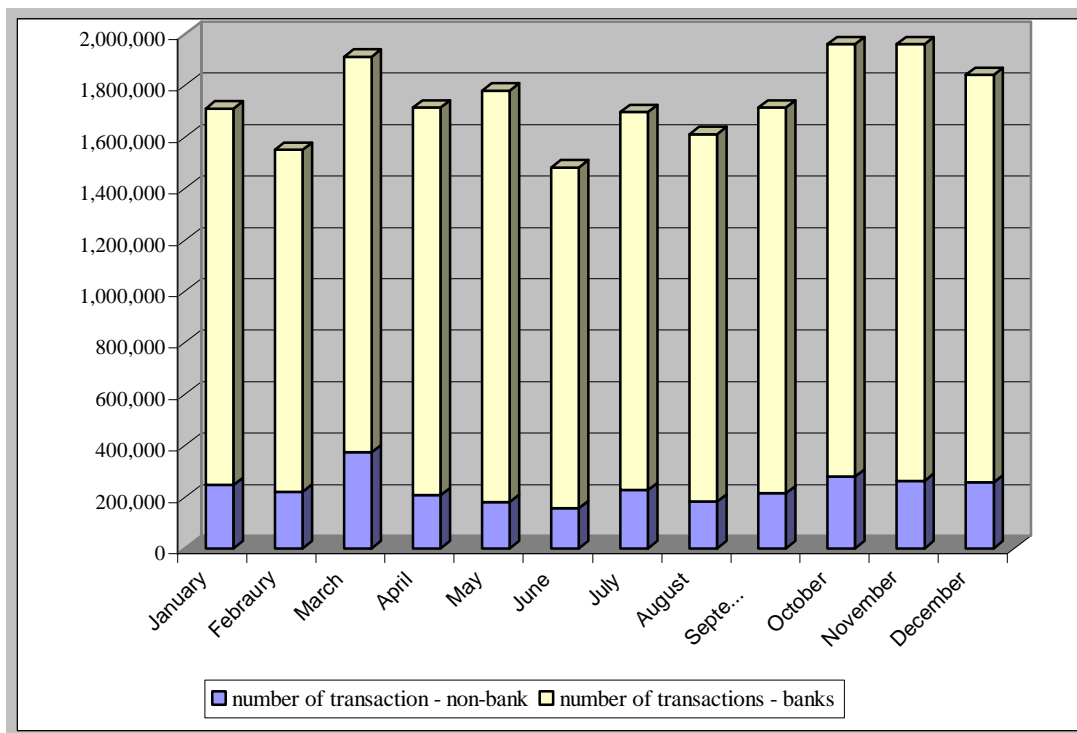
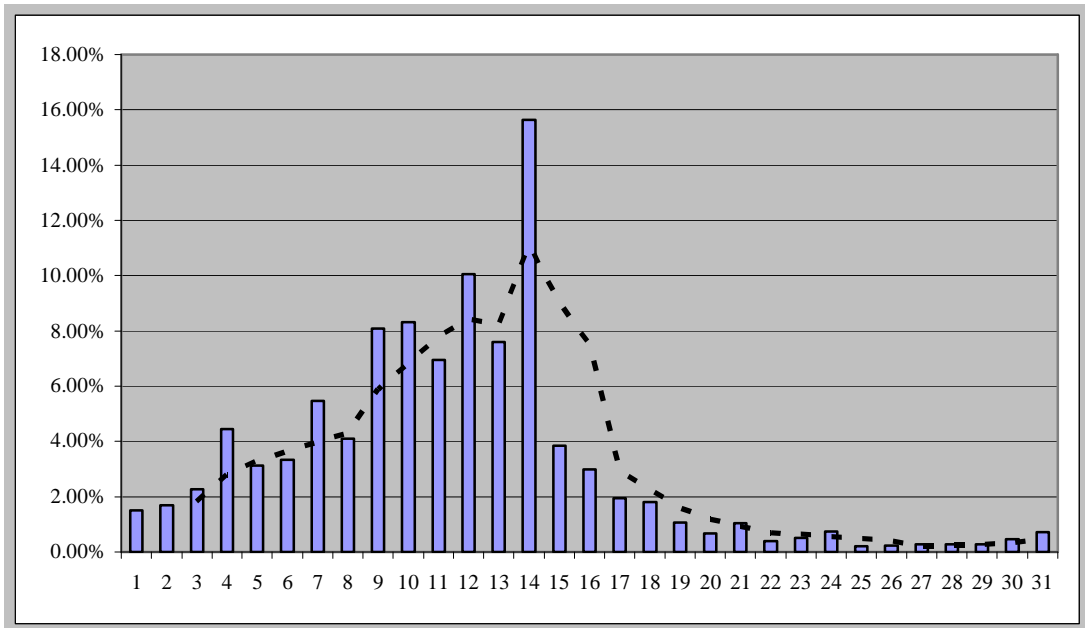


Chart 4. The number of transactions sent in an electronic form in 2005.



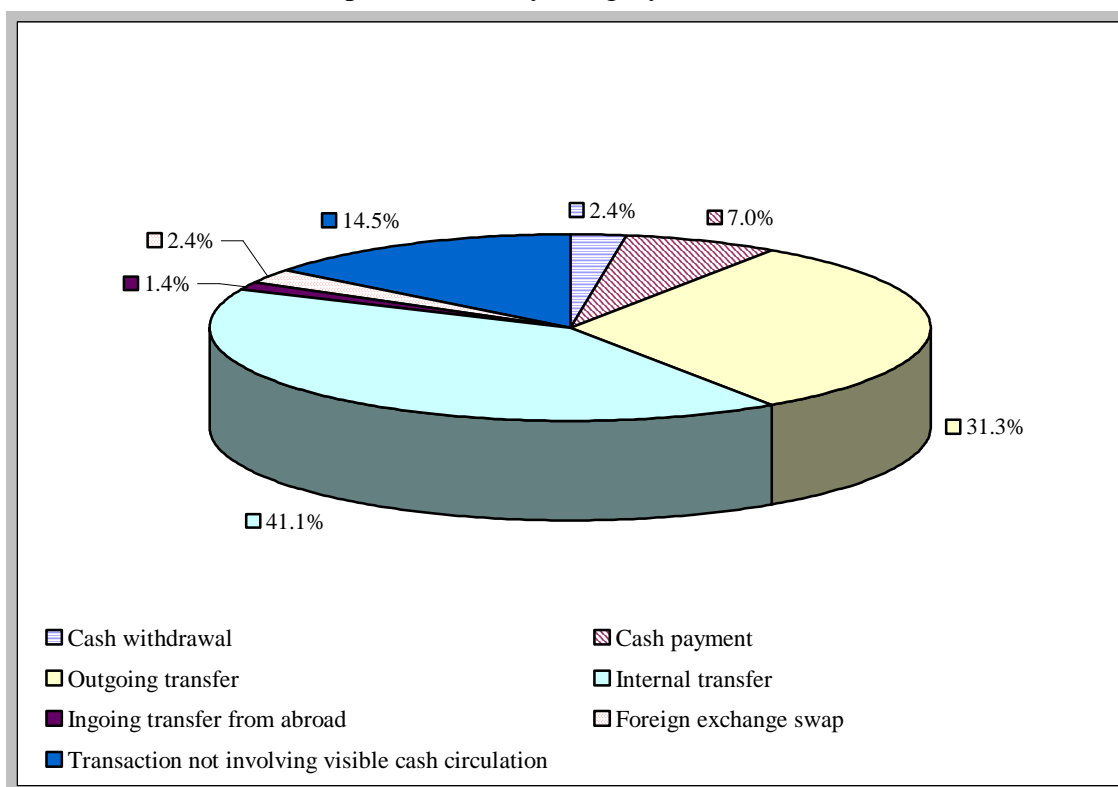
The obligated institutions' duty is to send the data on the above-threshold transactions by the 14th day of each month following the day in which the transaction has been registered. These institutions may send data concerning the suspicious transactions and corrections to the sent transactions at any time. Since the data acquisition in the SI\*GIIF reaches its maximum level during the 14th day of every month, the Department of Financial Information has taken some measures aimed at counteracting this phenomenon (which is disadvantageous as it potentially increases the risk of some impediments to providing services to the obligated institutions) by settling individual dates for sending data with the obligated institutions. The chart below shows the distribution (in %) of the transaction records accepted by the SI\*GIIF on the particular days of a month.

Chart 5. The number of the transactions sent on the following days of the particular months (dashed line represents the movable mean from the period of three days)



The information sent to GIIF by the obligated institutions included among others, together with each transaction record, a transaction category and the way the order had been placed. The particular transaction categories and manner of placing orders are specified in the Ordinance of Minister of Finance of 21 September 2001 determining the template of transaction register, manner to maintain it and course of action in providing the data from the register to the General Inspector of Financial Information<sup>19</sup>. For the share(in %) of categories and manner of placing orders for the transactions received by GIIF see Chart 6 and Chart 7 respectively. The largest category was constituted by the transactions classified by the obligated institutions as internal transfers – 44.1%, followed by external transfers – 31.3%. The category of transaction not involving visible cash circulation represented a significant share in the number of transactions – 14.5 %. Cash withdrawals and payments represented in total 9.4%, whereas the foreign exchange swap transactions and transfers from abroad represented 3.8%. The orders were placed predominantly by means of electronic channel - 41.6% and personally - 37.6 %.

Chart 6. Transactions accepted in 2005 by category



<sup>19</sup> Dz.U. of 2001 No 113 item 1210 as amended



Chart 7. Transactions accepted in 2005 by manner of placing an order.

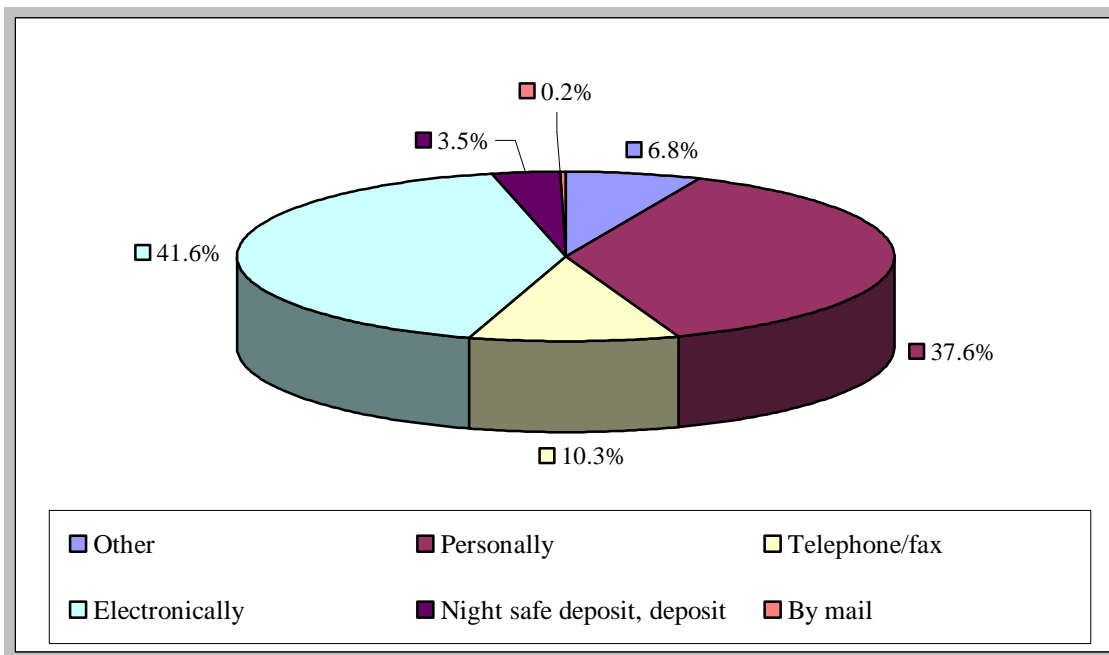
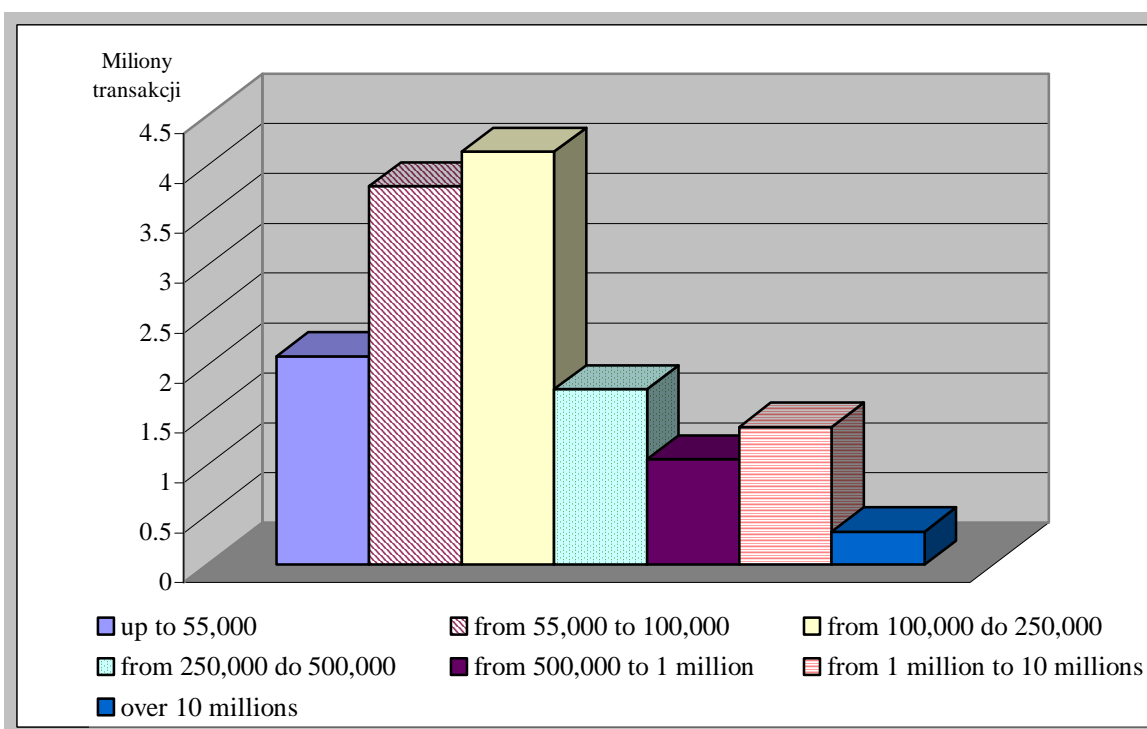
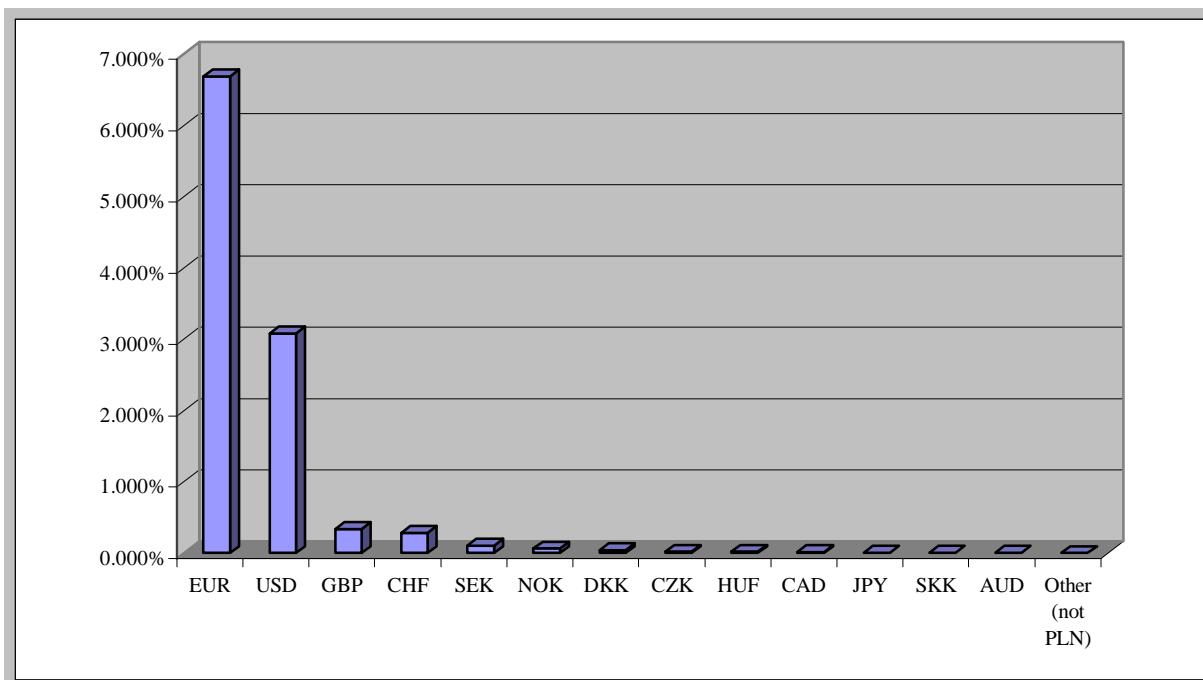


Chart 8. Transactions sent in 2005 by amount ranges.



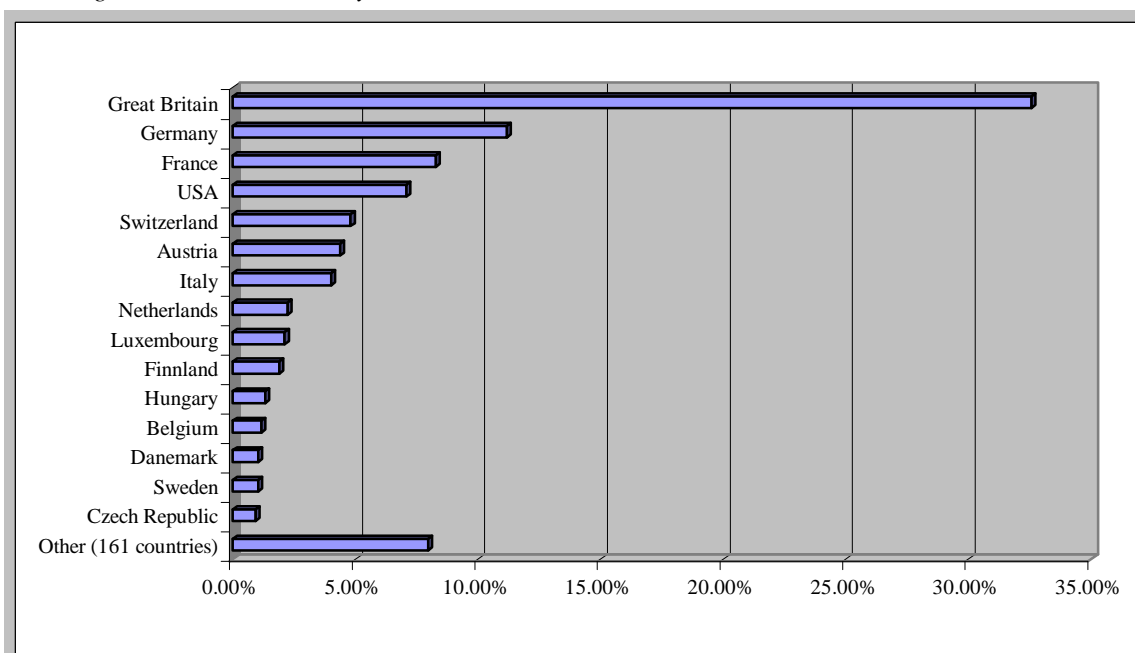
Almost 90% of transactions are carried out in PLN. For the distribution (in %) of the remaining currencies see the chart below.

Chart 9 The share of transactions carried out in foreign currency in all transactions sent in 2005 (transactions not in PLN).

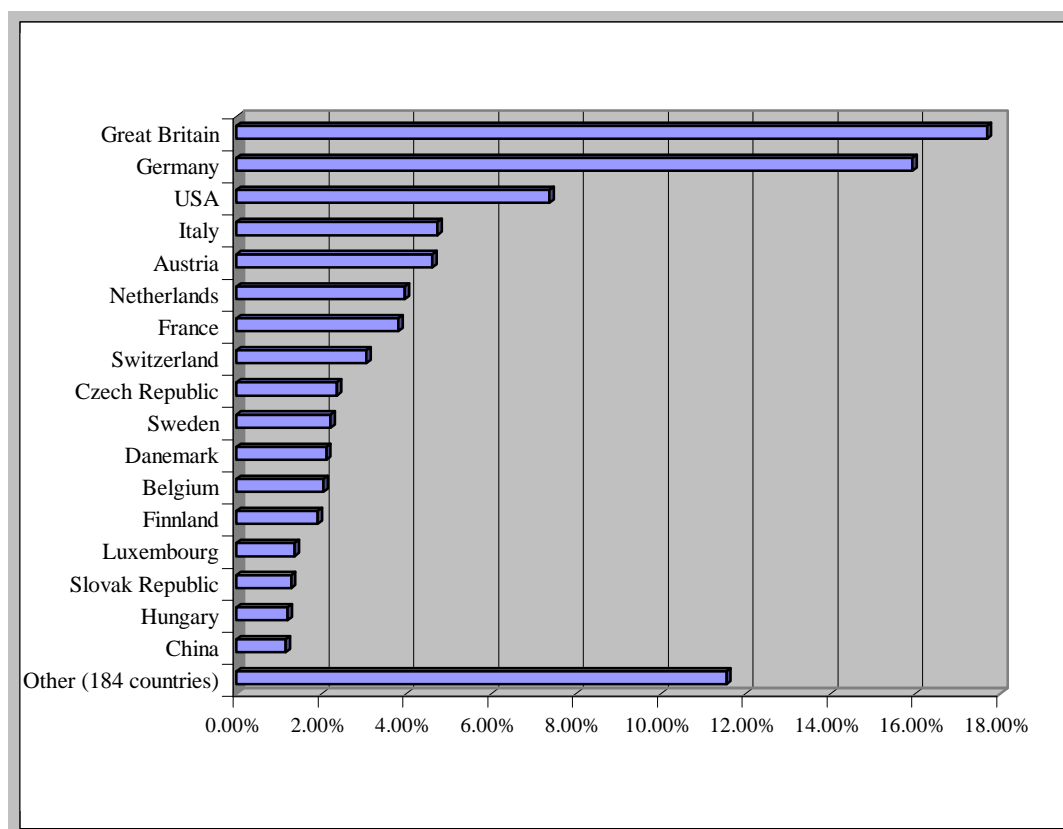


Among the units ordering a transaction, 94.3% are constituted by the national units. The distribution (in %) among foreign units ordering a transaction is shown in Chart 10. Likewise, when it comes to the transaction beneficiaries, 95.7% of the cases notified to the GIIF were represented by the national units. The distribution (in %) among foreign units who are transaction beneficiaries is shown in the Chart 10.

Chart 10 Place of origin of foreign units that ordered a transaction among transactions sent in 2005, excluding transactions ordered by the national units



*Chart 11 Place of origin of foreign units that constituted transaction beneficiaries among transactions sent in 2005, excluding transactions to the benefit of the national units*



In the documents sent to GIIF, containing information about the above-threshold transactions, the obligated institutions provide data on units participating in such transactions. The range of such data is specified in a detailed manner in the above-mentioned ordinance. This range may be different, depending on the participation of a given unit in the transaction. In case of the units ordering a transaction, it is stipulated that there will be other gaps to be completed with other data regarding addresses, ID numbers etc. For the time being, due to some legal conditions binding upon the units on whose behalf an order is placed and transaction beneficiaries, the additional data are not collected. When identifying a unit at analytical level, additional information (ID numbers, i.e. Personal Identification No. [PESEL], Tax ID No. [NIP] and [REGON]) is significant. Chart 12 and Chart 13 show the percentage of the units in the GIIF database. It was the obligated institutions' duty to provide, apart from the names, some additional information concerning the units acting in the capacity of the party ordering a transaction as well as all the units being the parties to the transactions sent to the GIIF.

Chart 12 Completing the appropriate gaps with information about the parties to the transaction by the obligated institutions (in case of the units ordering a transaction).

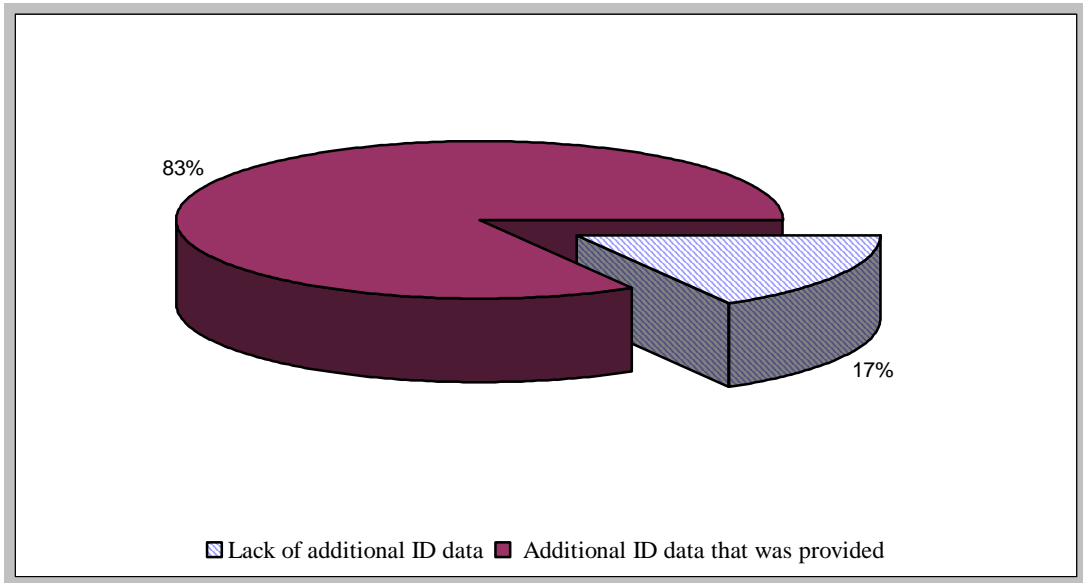
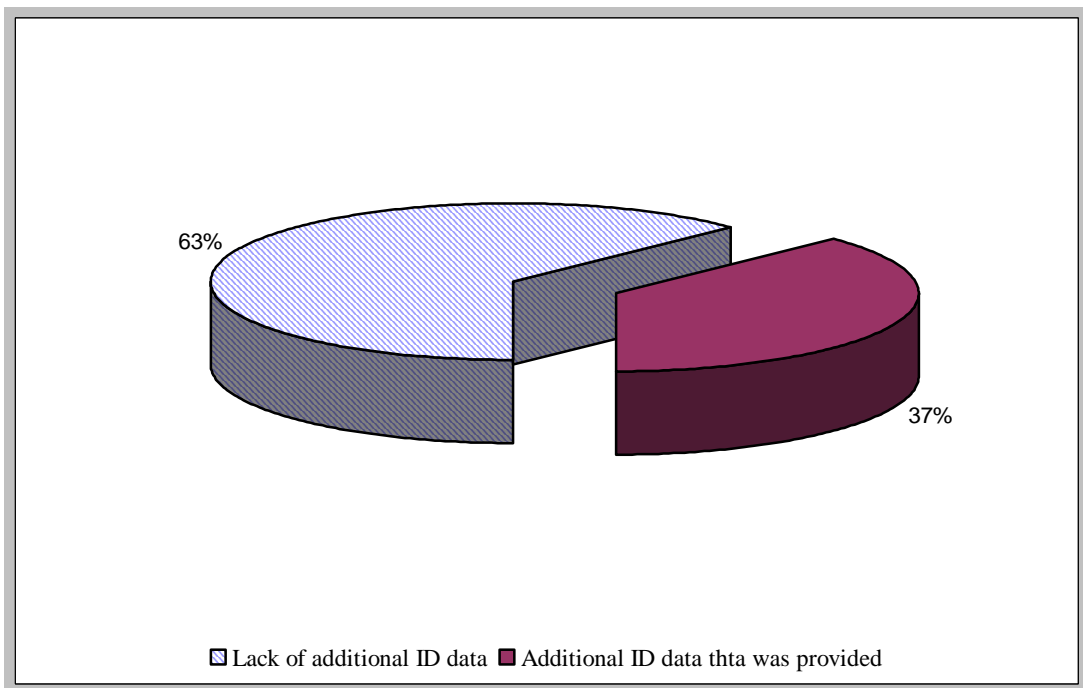


Chart 13 Completing the appropriate gaps with information about the parties to the transaction by the obligated institutions (in case of all units participating in transactions).



### 3. Counteracting the financing of terrorism

In accordance with the Act of 27 September 2002 amending the Act on counteracting introduction of property values originating from illegal or undisclosed sources to financial transactions and on counteracting financing of terrorism<sup>20</sup> some legal solutions providing for the fulfilment of international obligations accepted by Poland with respect to the combating of the terrorism financing sources were introduced. Principal regulations associated with these issues were intended to define the term

<sup>20</sup> Dz.U. No 180 item 1500.

*terrorist attack* by way of the Act amendment of 27 September 2002 and to introduce regulations enabling the General Inspector of Financial Information to block the accounts of the entities that are suspected of conducting the terrorist attack. Furthermore, amendments were introduced as regards the wordings concerning the exchange of information between GIIF and its foreign counterparts, which enabled active cooperation and effective partnership between international services.

In 2003, on the basis of the lists published by the United Nations, the European Union and the US Department of the Treasury, the database of the entities suspected of financing the terrorism was established. The information about units is forwarded to the obligated institutions, whose task is to examine whether the units indicated in the list are not or were not their clients nor the parties to the transactions carried out by their agency. If such a unit is identified, then the institution is obliged to immediately notify the GIIF of such occurrence (page 2 and the following). The list is used by an automated database by the Department of Financial Information. In 2005 thanks to this database it was possible to forward to the internal Security Agency information regarding a unit that was analyzed as it was suspected of financing terrorism [page 2 and the following]. The cooperation with obligated institutions and cooperating units

#### 4. **The cooperation with obligated institutions and cooperating units**

##### 4.1. The explanations concerning the application of the legal provisions

As there were numerous misgivings related to the implementation of the statutory obligations reported by the obligated institutions and cooperating units in 2005, the authorities provided written answers to the questions and explained all uncertainties connected with proper interpretation in the course of **study** meetings organized by financial institutions associations.

In 2005 over 140 inquiries regarding the practical application of the legal provisions were received by the GIIF. Around 20% of the inquiries concerned the application of provisions of the ordinance<sup>21</sup> on the method of fulfilling and submitting information on transactions to the GIIF. Apart from the official exchange of letters, working contacts were also maintained and the number of explanations was provided by telephone or email. Furthermore, the answers to the questions that were most often asked have been published on the Ministry of Finance website, under the GIIF division.

Three **study** meetings organized by the association of the finance sector constituted a significant form of cooperation with the most important obligated institutions. The meeting with the representatives of the leasing companies was held on 24 of February 2005 under the *Association of Leasing Entrepreneurs*. the meeting with the banking sector representatives was organized on 25 of April 2005 by the

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<sup>21</sup> *The Ordinance of the Minister of Finance of 21 September 2001 on the transaction register specimen specification, the manner of register keeping and delivering the data from the register to the General Inspector of Financial Information.*

*Polish Banks Association* and on 23 of June 2005 by the *Banking Law Forum*. The aim of the above-mentioned meetings was to explain the current problems as well as to share experience and to accept the *de lege ferenda* applications submitted by the obligated institutions. These applications will be examined under the already existing legislative team that prepares the amendments to the legal provisions regarding the counteracting money laundering and financing of terrorism.

## 4.2. Participation in the works of groups and task forces

The representatives of the General Inspector of Financial Information participated in works of teams and task forces that were intended to enhance and coordinate activities of certain services as well as to exchange information (knowledge) aimed at successful implementation of the statutory obligations.

### 4.2.1 THE WORKING GROUP ON COORDINATION OF OPERATING AND RECONNAISSANCE ACTIVITIES AIMED AT COMBATING POLITICAL TERRORISM

The task of the Group is to assess the risk of Poland's exposure to the terrorist attacks and to take some measures aimed at counteracting any possible attack. The assessment of exposure was conducted two levels, on a current and a forecast basis, which allowed to react in advance at some signals regarding the threats provided by particular services. In the course of the meetings, the GIIF representatives discussed the transaction cases that could be related to financing terrorism, at the same time taking further measures to facilitate the verification of signals referring to potential threat of the terrorist attack.

### 4.2.2 INTERMINISTERIAL GROUP ON COMBATING PETROL CRIME

The task of the Interministerial Group on Combating Petrol Crime was to coordinate the activities of different national services with the aim of combating petrol crime effectively. Its members discussed some proposals of introducing changes to the existing legal provisions, based on their experience. They prepared some principles regarding the exchange of information between the services, i.e. among others the use of ministries' own databases that could prove to be helpful in combating the petrol crime.

## 4.3 Training activities

In 2005 the electronic trainings were conducted (*e-learning*), the second, amended and completed, edition of the manual for obligated institutions and cooperating units entitled *Counteracting money laundering* was prepared and traditional trainings were conducted. In total approximately 175 representatives of obligated institutions and cooperating units participated in trainings organized at the Ministry of Finance.

The employees of the GIIF unit conducted also seven specialist trainings for the officers of the Central Bureau of Investigation, the Police and the Internal Security Agency. The trainings covered mainly the issues related to the laundering of money derived from illegal trade in fuels, counteracting the financing of terrorism,

most often identified methods of money laundering and practical examples of analyses which were finished by sending a notification to the public prosecutor's office and subsequent bill of indictment or the conviction. Approximately 500 officers of the abovementioned services participated in the training.

The trainings were also conducted under *Phare 2000* project:

- 17-19 January this year – workshops on tactical and strategic analysis of crime related to money laundering were conducted and attended by 42 representatives of the Police, public prosecutor's office and the Department of Financial Information;
- 7-8 and 9-10 February – trainings for supervising authorities on the common control strategy, attended by 25 and 18 persons respectively from authorities supervising and controlling obligated institutions (the National Bank of Poland (NBP), the General Inspectorate of Banking Supervision (GINB), the Polish Securities and Exchange Commission (KPWiG), the Insurance and Pension Funds Supervisory Commission (KNUiFE), the National Association of Cooperative Savings and Credit Unions (KSKOK)).

The characteristic feature of the trainings carried out in 2005 was the change of emphasis in respect of the form of trainings from the so-called traditional trainings to electronic trainings.

#### 4.3.1 E-LEARNING

The General Inspector of Financial Information launched two-week e-learning courses on 21 March 2005. The number of participants of one course was 250 (175 employees of obligated institutions, 40 employees of cooperating units and 20 other interested persons) and there were no costs related to participation in a traditional training such as per diem and travel costs.

The syllabus of the course was based on the materials prepared by the employees of the Department of Financial Information 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 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 the GIIF;
- 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 implementation. It also contained interactive elements. The course finished with a test and, after successfully passing the test online, the participant received the certificate confirming their completion of the course.

In 2005 **3 442 persons** participated in the course and 3 032 passed the final test. The e-learning course was attended by 2913 representatives of obligated

institutions, out of whom 2659 persons received certificates confirming the course completion, and 114 employees of cooperating units, out of whom 109 received the certificates. As regards the participants from other entities, 415 persons participated in the course and 264 persons received the certificates confirming the course completion.

#### 4.3.2. *GUIDE FOR OBLIGATED INSTITUTIONS AND COOPERATING UNITS*

According to the expectations voiced by obligated institutions and cooperating units, a new edition of the *Counteracting money laundering – Guide for obligated institutions and cooperating units* was issued in 2005.

The *Guide* was prepared on the basis of experience and knowledge obtained by the employees of the Department of Financial Information with regard to counteracting *money laundering and financing of terrorism*. The document included numerous new changed or amended (in comparison with the previous edition) information about the responsibilities of obligated institutions and cooperating units. The *Guide* contains the updated description of the powers of the General Inspector during the controls in obligated institutions as well as the specification of the rules governing the organisation of trainings concerning the application of the provisions of the Act in obligated institutions. The *Guide* provides the information about the criminal liability resulting from failure to fulfil statutory obligations, describes the international aspects of combating money laundering and terrorist financing and the procedure for submitting information about the transaction to the General Inspector.

Particular attention should be paid to the material concerning the analysis of suspicious transactions which constitutes the most important and the largest part of the *Guide*. It discusses the methods of money laundering, presents the typology and examples of models and schemes associated with the transactions suspected of money laundering. This part of the *Guide* contains also a separate section on methods of money laundering used by the entities involved in illegal trade in fuels.

The *Guide* was issued in 2 500 copies and it is currently distributed free of charge to obligated institutions and cooperating units. The representatives of the banking sector were the first to receive the publication.

It should be emphasized that due to a relatively small number of the *Guide* copies, its electronic version is to be provided on the website of the General Inspector of Financial Information, available only to obligated institutions and cooperating units notified and registered in the electronic system of the General Inspector of Financial Information (SI\*GIIF).

## **5. Controlling activities**

### **5.1 Controls carried out by the GIIF**

Out of 27 controls planned for 2005 on the basis of information submitted by the Analyses and the Data Management Units of the Department, 25 were carried out, including:

- Poczta Polska – 1;



- entities carrying out activities related to games of chance, mutual wagering and automatic gaming machines – 4;
- factoring – 1;
- banks – 10;
- brokerage houses – 2;
- insurance undertakings – 2;
- Cooperative Savings and Credit Unions (SKOK) – 1,
- notaries public – 2;
- leasing – 1;
- investment fund association – 1.

In one case the control was revoked on the basis of Article 80 of the *Act of 2 July 2004 on freedom of economic activity*<sup>22</sup>, due to the control of the entity by the fiscal control authority.

The most important irregularities revealed included the following:

- formal irregularities: the failure by obligated institutions to prepare for the fulfilment of statutory obligations due to the failure to adjust the internal procedure referred to in Article 28 of the Act to the provisions of the Act and the lack of a person responsible for the fulfilment of obligations imposed by the Act (revealed in 84% of controlled institutions);
- technical 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 inform 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 the GIIF (revealed in all controlled institutions).

The findings of the control carried out by the GIIF controllers were submitted to the supervising authorities for further processing, in accordance with Article 27 of the Act. In 2005, 22 written notifications about the results of controls carried out in 2004 and 2005 were submitted.

## 5.2 Controls carried out by supervising authorities

According to Article 12 of the Act, the supervising authorities submit the results of the controls concerning the compliance with the Act, conducted in obligated institutions subject to their supervision, to the General Inspector of Financial Information. In 2005 the GIIF received the information about the controls conducted by:

- National Bank of Poland – 1071 controls in bureaux de change;
- General Inspector for Banking Supervision – 20 controls at the banks;
- National Association of Cooperative Savings and Credit Unions – 23 controls in Cooperative Savings and Credit Unions;
- Polish Securities and Exchange Commission – 9 controls in brokerage houses;

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<sup>22</sup> Dz. U. No. 173, item 1807

- Insurance and Pension Funds Supervisory Commission – 11 controls in insurance undertakings;
- Department of Games of Chance and Betting at the Ministry of Finance – 1 control in a gambling facility;
- Heads of District Courts – 16 controls in Offices of Notaries Public.

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

## 6. International cooperation

The cooperation with financial intelligence units from other countries and with international organizations engaged in counteracting money laundering and financing of terrorism has been extended. Thanks to participation in the works of numerous committees and working groups within the European Commission, the Council of Europe or the Egmont Group, the General Inspector of Financial Information could influence the method and procedure of information exchange between the financial intelligence units.

### 6.1 Bilateral cooperation

#### 6.1.1. EXCHANGE OF INFORMATION WITH FOREIGN FINANCIAL INTELLIGENCE UNITS

Since Poland's accession to the European Union, the exchange of information with foreign financial intelligence units is conducted not only on the basis of bilateral agreements on cooperation but also in accordance with the *Council Decision No 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information*<sup>23</sup>. It is a formal basis for the General Inspector's cooperation with nine countries with which Poland did not enter into separate agreements: Austria, Denmark, France, Greece, Netherlands, Luxembourg, Malta, Sweden and Hungary and a dependent territory – Gibraltar.

In 2005 the General Inspector issued queries to foreign financial intelligence units in 155 cases concerning 284 domestic and foreign entities suspected of money laundering or terrorist financing. The foreign units submitted 59 queries to the General Inspector concerning 164 domestic and foreign entities suspected of attempted legalization of revenues derived from crime. The most intensive exchange of information was conducted with the American unit. In 2005 the GIIF submitted 31 requests to FinCEN. Numerous cases conducted by the Analyses Units of the Department of Financial Information were also related to the entities in Germany (21 requests), Russia (17 requests), Great Britain (17 queries) and Ukraine (12 requests).

In 2005 the most active foreign unit was the Belgian unit which submitted 15 queries to the GIIF. The remaining FIUs submitted 2 or 3 request on average.

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<sup>23</sup> 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

### 6.1.2. AGREEMENTS ON COOPERATION

In 2005, the General Inspector concluded agreements on cooperation in respect of exchanging information about combating money laundering and terrorist financing with financial intelligence units of Guernsey, Chile, Croatia, Indonesia, Macedonia and Switzerland and as a result the number of concluded agreements grew to 33. In addition, the negotiations started with other countries, namely, Canada, Argentina, Turkey, Serbia and Montenegro, Belarus, China and Taiwan.

### 6.1.3 COOPERATION WITH THE EUROPEAN UNION

The most important element of participation in the works of the *Working Group on Financial Services and Money Laundering Contact Committee*, which held several meetings in 2005, were the works on *the third Directive on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing*<sup>24</sup>, amending Directive 91/308/EEC and 2001/97/EC. The Directive entered into force on 15 December 2005 which imposed an obligation on the EU Member States to implement it by 15 December 2007.

The provisions of the third Directive as proposed by the Commission to a large extent cover the already existing international standards, in particular 40 Recommendations of the Financial Action Task Force on Money Laundering (FATF) concerning money laundering and the FATF 9 Special Recommendations on terrorist financing. The list of entities obliged to combat the crimes of money laundering and terrorist financing has been expanded.

The so-called *Comitology procedure* which consists in consulting expert advisory committees was initiated. Its aim is to determine and specify the existing general provisions of the Directive. The GIIF representatives are directly involved in this process. The process is to be completed by mid-June 2006.

Within the framework of the European Union the works were also undertaken on the Proposal for a *Regulation of the European Parliament and the Council on information on the payer accompanying transfers of funds*. The proposal is the fulfilment of the declarations of the EU Member States which undertook to implement FATF standards. It aims at limiting the terrorists' access to financial resources and other economic resources. One of the proposals from the EU Action Plan on combating terrorism is close cooperation with the FATF and the adjustment of the EU legal framework to the FATF 9 Special Recommendations. The proposed Regulation aims at a uniform transposition of the Special Recommendation VII (on money transfers) into the Community legislation. In particular it is to prevent discrimination between the payments in a given Member States and cross-border payments between the Member States. The GIIF has prepared a proposal for the position of the government of the Republic of Poland .

The European Union also began works on the non-legislative document entitled *Commission Communication to the Council, the European Parliament and the European Economic and Social Committee: The Prevention of and Fight Against Terrorist Financing through Enhanced National Level Coordination And Greater Transparency of the Non-Profit Sector (COM(2005) 620*. It is a response to the needs

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<sup>24</sup> 3<sup>rd</sup> Anti-Money Laundering and Counter Financing of Terrorism Directive (Directive 2005/60/EC)

specified in the declaration on combating terrorism adopted on 13 July 2005 and 25 March 2004, after the attacks in London and Madrid. They point to the importance of the appropriate cooperation between the private sector, selected state authorities and financial intelligence units. The discussed document analyses those issues and points to the need of creating the minimum standards of securing the collected and analysed information.

#### 6.1.4 IMPLEMENTATION OF THE PHARE PROGRAMMES AND THE ASSISTANCE AGREEMENT CONCLUDED WITH THE UNITED STATES

##### Phare 2002

On 5 March 2005 the implementation of the twinning agreement under *Phare 2002 No PL 2002/000-580.02.05 Financial Intelligence Unit* was completed. Three training meetings were organized for the employees of the Police and the public prosecutor's office and the authorities supervising the obligated institutions. The meetings included the discussion on the implementation of the common strategy of control of obligated institutions and the exchange of experience. As a result of the workshops, 85 employees of the Police, the public prosecutor's offices, NBP, GINB, KPWiG, KNUiFE and KSKOK were trained.

The final report on the implementation of the twinning agreement was submitted to the Office of the Committee for European Integration and approved on 2 October 2005. Within the framework of the implementation of the investment part of the project, in 2005 the servers, matrices expansion service, working stations, video-conference system, and analytical software were purchased for the needs of the project beneficiaries. The above mentioned equipment is used to create the system of the information exchange between the General Inspector of Financial Information and the public prosecutor's offices.

In November 2005, the report on the execution of the Polish co-financing of the project entitled *Financial Intelligence Unit* was submitted to the Office of the Committee for European Integration.

##### The AGIS programme

The General Inspector of Financial Information was in 2005 the beneficiary of the European Commission project JAI/2004/AGIS/017. The main coordinator of the project was the Portuguese financial intelligence unit responsible for the organisation of individual measures and the financial issues.

The project provided for the organisation of study visits in the financial intelligence units of Portugal, Ireland, Sweden, Poland and Hungary, in which two representatives from each unit were to participate. The aim of the visit was to get acquainted with the models of combating money laundering and financing of terrorism applied by individual countries as well as the exchange of information and experience.

Under the AGIS programme, 8 representatives of the Department of Financial Information took part in study visits in four EU financial intelligence units. Thanks to the participation in the workshops organized during the visits the participants got acquainted with other systems of counteracting money laundering and financing of terrorism. At the same time, within the framework of the project the General

Inspector of Financial Information hosted the visits of the representatives of the FIU from Portugal, Ireland, Sweden and Hungary in September 2005 and presented to them the Polish solutions in the field of combating the above-mentioned crimes.

The assistance agreement with the United States

In 2005 the implementation of the assumptions of the agreement of *13 November 2002 concluded between the government of the Republic of Poland and the United States government on the financing of measures aimed at preventing and combating crime in Poland*.

In March 2005 the representatives of the U.S. Department of the Treasury formally presented the General Inspector of Financial Information with a donation in the form of *Visual Analytics* software. The donation included 26 licenses for software which is the main tool for analyses carried out for the General Inspector of Financial Information.

As a part of the implementation of training assumptions envisaged in the project of American assistance for the Polish financial intelligence unit, a training visit was organised for the employees of the Department of Financial Information. The visit at the American FinCEN (Financial Crimes Enforcement Network) took place in November 2005. In December 2005 a training conducted by the American experts was organized for 19 representatives of the Polish public prosecutor's offices.

## 6.2 Multi-lateral cooperation

### 6.2.1. MONEYVAL – SPECIAL COMMITTEE OF THE COUNCIL OF EUROPE

In 2005, a representative of the General Inspector of Financial Information participated in the meetings of the MONEYVAL Committee – a regional organisation having a status of an observer (*FSRB – FATF-style Regional Body*), evaluating the functionality of systems of counteracting money laundering and financing of terrorism in 27 countries of Central and Eastern Europe. The MONEYVAL team is an organisation evaluating Member States according to principles developed by FATF (Recommendations 40+9) and respective EU directives, Conventions of the European Council and UN regarding issues relating to counteracting money laundering and financing of terrorism. The Committee consists – apart from delegations of Member States - also representatives of FATF, Egmont Group, European Commission, World Bank, International Monetary Fund, United Nations and Interpol.

During the XVI meeting of the MONEYVAL Committee in January 2006, representatives of the Polish delegation presented a *Report on the Progress made in Poland as regards counteracting money laundering and financing of terrorism*. It covered the period of December 2003 – December 2004 and presented legislative, institutional and organisational changes, as well as the effect of the activity of the system for counteracting money laundering and financing of terrorism in Poland basing on the activity of GIIF, public prosecutor's office, obligated institutions and cooperating units. The efficiency of the Polish system for counteracting money

laundering has been additionally shown in the breakdown of statistical data regarding such issues as: court sentences for money laundering, value of the property taken over or confiscated and issues related to information exchange with other countries.

The date of the next evaluation of the Polish system for counteracting money laundering and financing of terrorism has been set for the III Evaluation Round. It is to take place in the first half of 2006 and will be based on new methodology developed by FATF, the World Bank and International Monetary Fund.

#### *6.2.2. THE EGMONT GROUP*

GIIF representatives took part in three meetings of working groups (legal, IT and exploration group) and in the 13th plenary meeting of the Egmont Group. GIIF representative has been selected for the position of Vice-President of the IT working group. GIIF continued to participate in the evaluation process of Belarus and Syria. During the work of these working groups attended by GIIF representatives answers for to a special questionnaire on cooperation between financial analytics units in the scope of possibilities of units to fight financing terrorism and needs of these units in terms of trainings have been developed.

The first meeting of the so-called Interim Subcommittee, the objective of which is to prepare proposals for the meeting of the heads of financial analytics units, regarding the transformation of the Egmont Group into a formal international organisation. A GIIF representative participates in the works of a group working on the issue of the financing of the organisation. Moreover, the Polish side repeated its readiness to host the official seat of the Secretary of the future international organisation (in mid-January 2006 Poland officially put up its candidature).

#### *6.2.3. FINANCIAL ACTION TASK FORCE ON MONEY LAUNDERING (FATF)*

GIIF repeated its position before the European Union authorities stating that Poland opts for the enlargement of FATF by new EU Member States. As a result of actions taken, during the plenary meeting of FATF in Singapore, a decision has been made on the possibility of accepting three new countries (during the earlier FATF Group meetings the position to block the enlargement prevailed), indicating though, that it is only possible to accept only one EU Member State. GIIF takes further actions aimed at the acceptance of Poland in the FATF Group.

#### *6.2.4 TASK FORCE ON ORGANISED CRIME IN THE BALTIC SEA REGION - BALTCOM*

In November 2005 in Helsinki, GIIF representative took part in the meeting of the experts' group of the Operational Committee on Money Laundering functioning under the Operational Committee of the Task Force on Organised Crime in the Baltic Sea Region (BALTCOM). The meeting was also attended by representatives of financial analytics units of Denmark, Estonia, Germany, Latvia, Norway, Sweden, Finland and representatives of Europol. The Group decided, that the main assumption is to provide for good cooperation at the national level between many bodies appointed to counteract terrorism and financing of terrorism.

## 6.3 Secure information exchange network in the EU

In 2005 works related to the improvement of the functioning of the European information exchange network FIU.NET. GIIF is currently connected to FIU.NET II (together with the new Member States) and takes part in testing of the equipment, which has been purchased by the European Commission specially for the purposes of implementing the abovementioned task. Works are currently undertaken on connecting all EU Member States and on providing for the correct financing of the project.

## PART II ORGANISATIONAL AND LEGAL ACTIONS

### 1. Legislative actions

#### 1.1 Convention

A representative of the General Inspector of Financial Information took part in the works related to the development of the draft *Convention on laundering, search, seizure and confiscation of the proceeds from crime and financing of terrorism* and in the preparation of documents required for the Republic of Poland to sign the document. The participation referred to the works in Legal committees of the Council of Europe in Strasbourg i.e.: PC-RM and CD-PC. The Convention has been signed by the Republic of Poland on 16.05.2005 during the Summit of Heads of State and Government of the Council of Europe in Warsaw.

The *Convention* regulates the problems of counteracting money laundering and depriving the criminals of revenues from their illegal practice. The provisions of the Convention allow for an efficient counteracting the financing of terrorism. One of the most important provisions of the Convention includes the introduction thereto: unified definition of the *Financial Analytics Unit*, “freezing” of property, *financing of terrorism*; proper application of the Convention to counteracting the financing of terrorism; provisions regarding depriving the perpetrators of financial benefits; issue of obtaining banking information; obligation to impose penalties on some actions: *responsibility for money laundering in case of unintentionally of the actions of the perpetrator*; the principle, that previous records of sentences for primary crime will not be a prerequisite for sentencing in a case of money laundering; principle of the lack of requirement to establish the primary crime; responsibility of legal persons. Moreover, the Convention includes information on Financial Information Units (FIU): obligation to establish a national FIU, application of measures aimed at counteracting money laundering as regards reporting, monitoring, maintaining transaction registers, customer and transaction identification, suspending bank operations by FIU, cooperation between FIU.

## 1.2 Amendment of the ordinance on identification cards

In 2005 the *Ordinance of the Minister of Finance of 9 July 2001 on the specimen, principles for issuing and exchange of identification cards of the employees of the organisational unit subordinate to the General Inspector of Financial Information* has been amended. The Ordinance came into force on 1 January 2006.<sup>25</sup>

## 1.3 Indirect amendment of the Act

A GIIF representative took also part in the development of *the Act of 29 July 2005 on trading in financial instruments*<sup>26</sup>. The Act introduced changes to the Act of 16 November 2000 consisting e.g. in the extension of the list of obligated institutions by new entities. The definition of transaction has also been changed. The need to introduce changed resulted from the requirement to adjust the provisions of the Act in force to new legislation, in particular because of the change in terminology used in the repealed Act – Securities Law.

## 2. IT System of the General Inspector of Financial Information

The year 2005 proved to be the first full year when the data on suspicious transactions and transactions exceeding the set threshold were received through electronic channels. It was also the year when the final shape of the concept of the analytic part of the GIIF IT system evolved and the implementation thereof was undertaken and the system went into operation [pp. 2 and the on].

The records with data of transactions are sent to the SI\*GIIF in the form of files. These files are prepared by the obligated institutions in an open form using their computer systems, encrypted and electronically signed (using software provided for free by GIIF or using commercial applications) and delivered to the Financial Information Department through one of the following electronic channels:

- by the secure website of GIIF,
- as appendix to an e-mail,
- on a CD or floppy disk.

It is also possible to complete the transaction file directly at the abovementioned website (<https://www.giif.mofnet.gov.pl/giif/>). Paper transaction files also obtain an electronic form in the Financial Information Department. Chart 14 shows the distribution of the number of files received by SI\*GIIF in each month, while the next chart presents the percentage distribution of the use of each of the abovementioned channels for sending data to SI\*GIIF. In 2005 SI\*GIIF received more than 70.5 thousand files (almost 5.9 thousand files per month) – 80% of which sent through the secure website.

*Chart 14 Number of transaction files sent in 2005 by month.*

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<sup>25</sup> Dz.U. of 2005 No 262, item 2196

<sup>26</sup> Dz.U. of 2005 No 183, item 1538



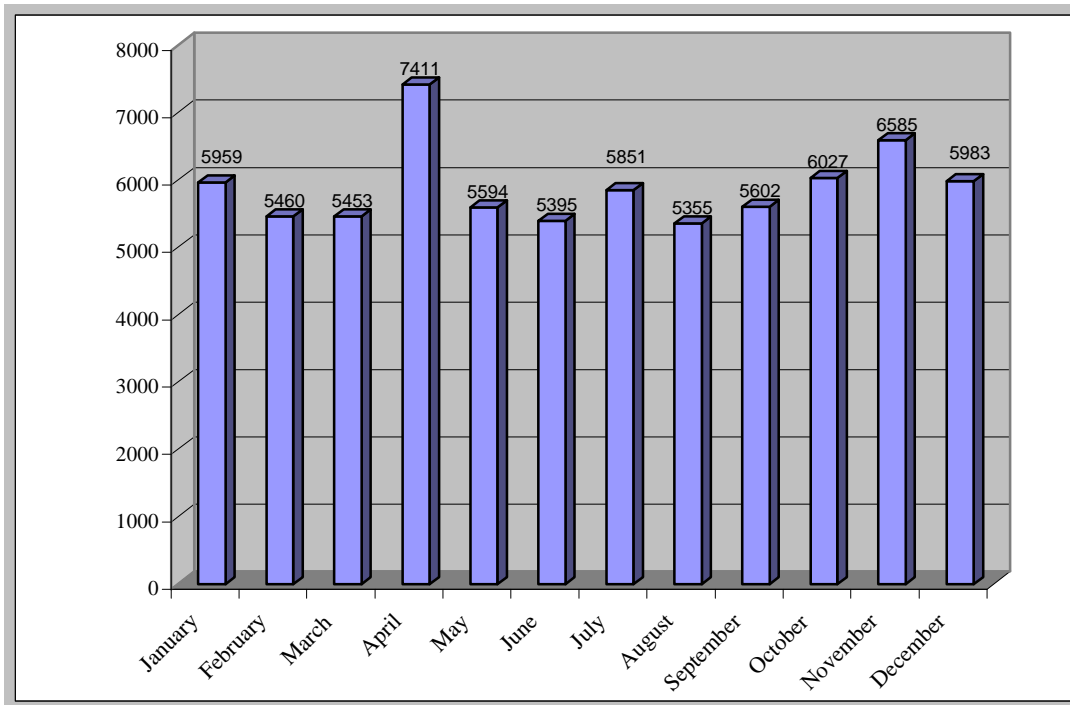
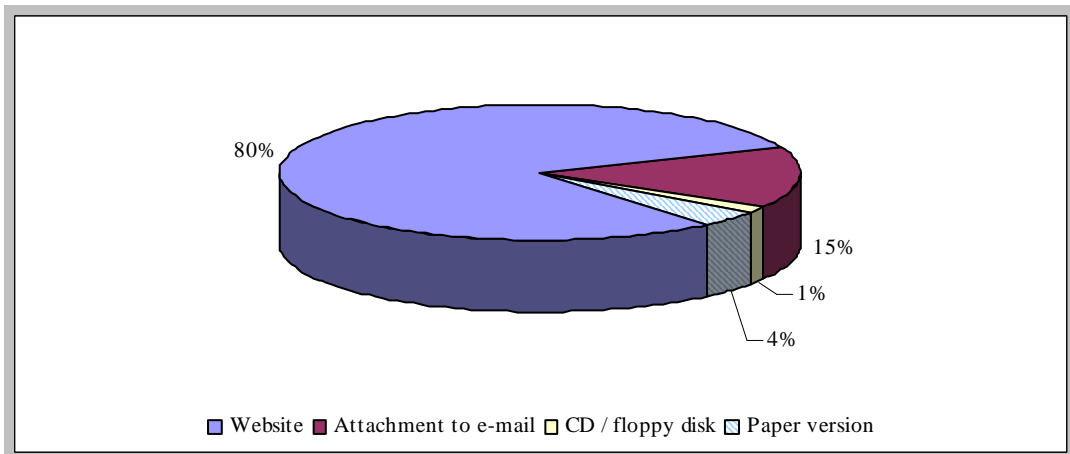
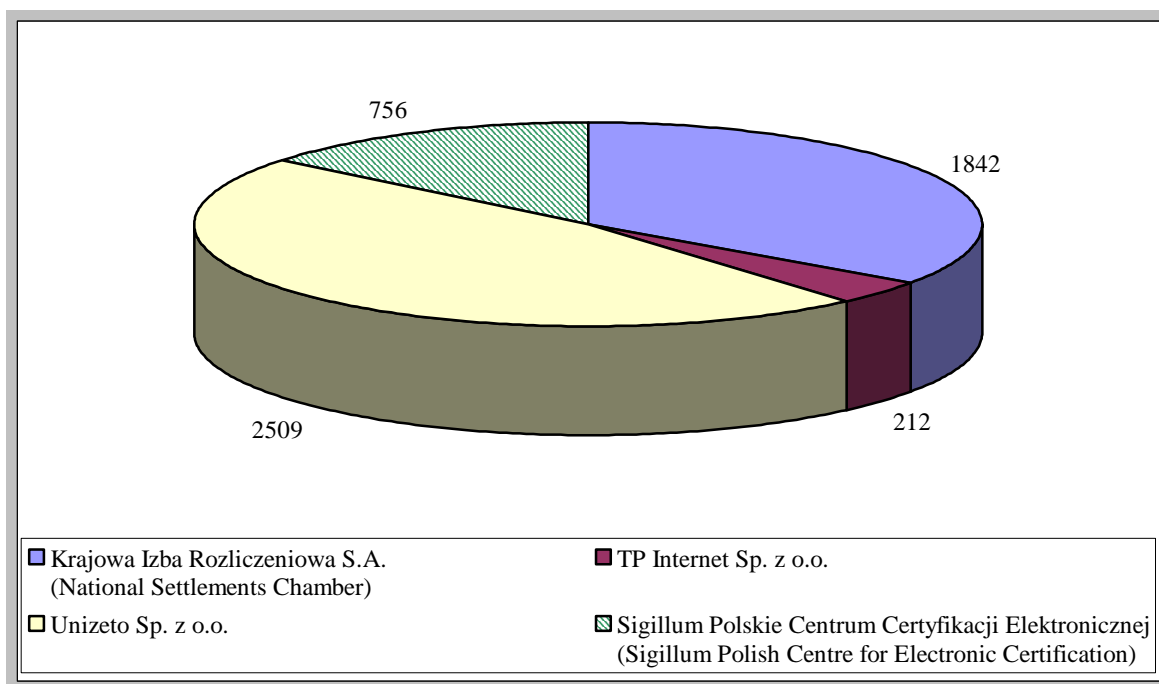


Chart 15 File sending channels in 2005



The data sent is secured by encryption and electronic signatures. The solution adopted in SI\*GIIF uses an eligible electronic signature and Public Key Infrastructure in Poland – SI\*GIIF receives files sent electronically using certificates issued to interested entities by qualified certification centres (in accordance with the *Act on electronic signature*). More than 5.3 thousand certificates and 3 thousand entities are registered in the SI\*GIIF system (one obligated institution may register more than one certificate authorising for sending files).

Chart 16 Distribution of certificates for electronic signature used for sending files to the SI\*GIIF in 2005.



Apart from collecting and gathering data, the main task of the GIIF IT system is to allow for an efficient analysis of the data gathered. Analytic models, on the grounds of which the GIIF is able to search for patterns in suspicious actions may be based on a single variable (dimensions) characteristic of financial transactions, and combinations of many different variables (multi-dimensional analyses). Money laundering is often hidden under a series of complex connections, which may be discovered only through an analysis of transactions made in various financial and banking systems. The complexity and number of connections and volume of data flow incoming to the GIIF requires the analysis and detection of particular types of transactions to be automated as much as possible. An individual approach is often necessary – the experience and know-how allow for reaching entities standing behind those connections.

Therefore, the analytic system, which has been implemented in 2005 enables in particular:

- the support for persons carrying out the analyses of suspicious and untypical transactions (allowing for the use of information from a million of records of transactions gathered in the GIIF databases),
- automation of the analysis of the flow of data incoming to the FI Department (analytic models have been created basing on the experience of GIIF analysers).

The automation of the analysis allows for checking each transaction registered in the SI\*GIIF system using simple rules<sup>27</sup>. Moreover, a search for groups of transactions by patterns – sets of simple and complex rules – is also possible<sup>28</sup>. In 2005 more than

<sup>27</sup> E.g. similarities in names of entities – parties to a transaction with names listed on a list of entities suspected of financing terrorism.

<sup>28</sup> E.g. period between two transaction of a given entity amounts to < given number of days.

700 transaction groups<sup>29</sup> fitting the patterns have been identified. The results of these analyses have been used as:

- sources of information on transactions, which may be related to money laundering – subject to analyses in the same way as information on suspicious transactions sent to GIIF by obligated institutions and cooperating units;
- materials allowing for the improvement of patterns and rules.

Moreover, *data mining*<sup>30</sup> analyses, allowing for the creation of new patterns and rules, have been started. These allowed for detecting statistical patterns indicating particular features of transactions and entities.

Data selected in the abovementioned way and data indicated as suspicious by obligated institutions and cooperating units allowed for starting detailed analyses of specific cases. As of the third quarter of 2005, software allowing for link-analysis has been integrated into the SI\*GIIF system. After defining objects and relations between them (analytic model) it is possible in the analytic part of the SI\*GIIF to browse the databases in order to find inter-connected entities in given relations (linked). The objects and links found may then be displayed in graphic form – as a network of relations in a given typology<sup>31</sup>. The second step of the link-analysis allows for searching databases in order to find next objects remaining in relation to those already found by any of the pre-defined types of links (it is possible to extend the network of links by adding new types of objects and links between them, it is also possible to search objects connected directly or indirectly).

The scale of the application of the IT system and analytic system is in particular visible on Chart 5 and Chart 6. Since these analytic tools have been implemented, the system served more than 150 thousand enquiries of the FI Department analysers, like: *simple enquiry of the objects in the database linked by given relations* and 246 thousand operations like: *exploration of the database searching for objects linked in a given way in the database using a specific analytic model*. At the same time, in 2005 the logs of the IT system noted more than 90 thousand actions of GIIF analysers in the analytic proceedings model (including more than 13 thousand identification queries for entities in proceedings already in progress in connection with new data).

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<sup>29</sup> Their value: PLN 120 million, USD 6.5 million, EUR 3.2 million, GBP 94 thousand, CHF 143 thousand

<sup>30</sup> Advanced statistical analysis conducted on data warehouses.

<sup>31</sup> Graphic presentation of objects and links between them.

Chart 17 Number of simple enquiries to the database made by GIIF analysts

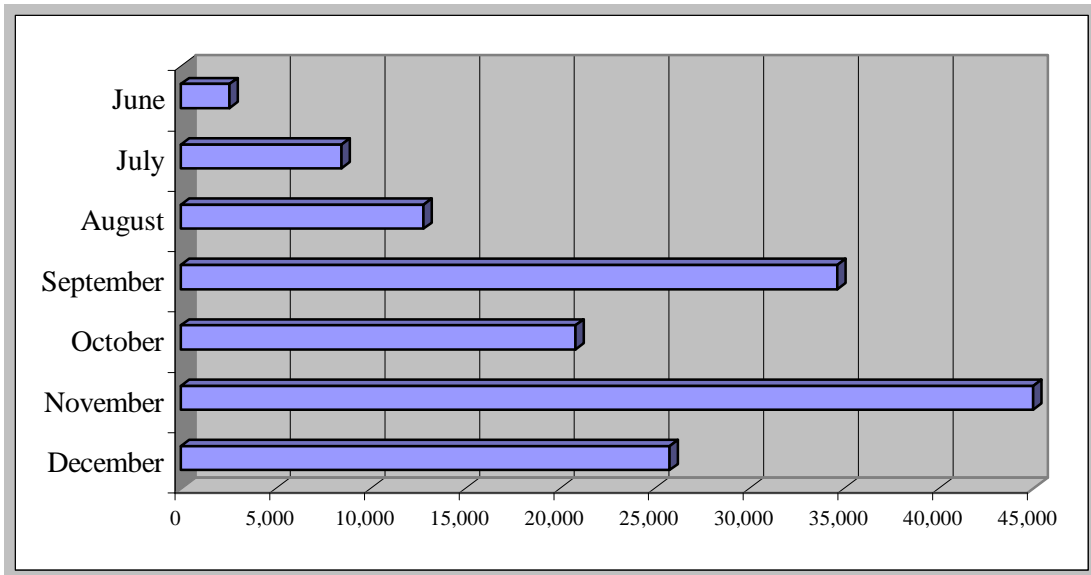


Chart 18 Number of simple enquiries to the database made by GIIF analysts relating to links between entities

