



**THE REPUBLIC OF POLAND**

**MINISTRY OF FINANCE**

**REPORT**

**of the General Inspector of Financial Information  
on the implementation of the Act of 16 November 2000  
on counteracting money laundering and terrorism financing  
in 2013**

Warsaw, March 2014

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# 1. INTRODUCTION

One of the significant events of the previous year was the adoption in April 2013 of the final report on the fourth round evaluation of Poland in terms of compliance with the recommendations of the *Financial Action Task Force* – FATF and other international law standards. The report referred both to the performance of obliged institutions, their supervision, and to the activities of all public administration bodies and units involved in the national system of counteracting money laundering and the financing of terrorism (including the financial intelligence units, law enforcement authorities, prosecution office, supervisory authorities, etc.). In general, the system was assessed definitely better than during the previous evaluation round.

In the previous year, the activities of the General Inspector of Financial Information (hereinafter referred to as the GIFI) and the Department of Financial Information of the Ministry of Finance, jointly forming the Polish Financial Intelligence Unit, were mainly subordinated to the principal goal, namely, the effective implementation of *the Act of 16 November 2010 on counteracting money laundering and terrorism financing* (i.e. Journal of Laws of 2010, No. 46 item 276, as amended; hereinafter referred to as the Act), in cooperation with the law enforcement authorities and the agencies of legal protection included in the national system of counteracting money laundering and the financing of terrorism. Among others, the analytical activities were intensified. In the previous year, the GIFI initiated 1882 analytical proceedings, i.e. almost 23.6% more than in 2012. On the basis of the analyses performed under these proceedings and the proceedings initiated earlier, the GIFI provided the prosecution offices with 159 of the so-called "main" notifications and 108 "supplementary" notifications, i.e. over 38.3% more than in the preceding year. However, these are only some examples of statistical data demonstrating the work contributed in the execution of the GIFI statutory tasks.

However, another aspect of this cooperation, namely, providing the data by the GIFI based on the requests for disclosure of information, should not be overlooked. Such information often facilitates and accelerates not only the identification of the place of concealing assets potentially derived from crimes but also helps to recognise additional persons and entities involved in organized criminal groups. In 2013, in total, 74.9% more requests for disclosure of information were submitted to the GIFI (by organisational units of prosecution offices, authorities located in the Ministry of Finance, the minister responsible for internal affairs and the law enforcement authorities supervised by him, Internal Security Agency, Central Anti-Corruption Bureau), systematically responded by it.

In order to develop closer cooperation with the prosecutors carrying out the procedures in cases of money laundering, in March 2013 a workshop was organised jointly with the Prosecution General, during which experience in this area was discussed and good examples of this cooperation were presented. As a follow-up, similar workshop was also organised in 2014.

A significant event of the previous year, affecting both the understanding of the money laundering crime, and presumably, the manner of conducting the preliminary procedures, was the adoption of the Resolution no. I KZP 19/13 of 18 December 2013 by the Criminal Chamber of the Supreme Court composed of seven Justices, in which it was explicitly stated that the subject of crime under art. 299 of the Penal Code may include assets derived, directly or indirectly, from the act of committing a prohibited act, and that a person committing the original crime for the purpose of money laundering may be also regarded as the perpetrator of

money laundering. The Supreme Court granted a resolution the power of a legal principle. So far, both the prosecutors and the judges did not always present such interpretation of art. 299 of the Penal Code, occasionally indicating – referring their arguments, among others to the definition of dealing in stolen goods, the crime related to goods directly derived from crime – that only benefits derived from the prohibited act may be considered as a subject of money laundering. The adoption of the aforementioned resolution should not only contribute to the unification of the money laundering definition, but also to the dissemination of application of the above mentioned provisions in conducting the criminal proceedings and presentation of charges in connection with the criminal activity focusing on gaining easy profits, also pursuant to art. 299 of the Penal Code.

## 2. INFORMATION ON THE DATA SUBMITTED TO THE GIFI

### 2.1. Information on suspicious transactions

In 2013, 3265 descriptive notifications of suspicious activities and transactions, the so-called SARs (*Suspicious Activity Reports*), which were included in the conducted analytical proceedings, were recorded in the GIFI IT system. These notifications contain description of a few, several or even a few hundred of transactions (often related to each other by the transaction parties, the circumstances of the transaction, similar period of completion and/or involvement of the same asset values) and accompanying circumstances which in the opinion of the notifying authority/unit may be related to money laundering or terrorism financing. Common components of these notifications often include additional data and documents justifying the suspicion and aiming at facilitating the proceedings (e.g. account records, copies of documents related to the transactions, etc.).

The descriptive reports – as compared to the notifications on individual suspicious transactions – include more information, particularly with regard to the suspicion of committing a crime and circumstances accompanying the transactions. Such a broad spectrum of information enables faster verification of the data received in other sources of information and reduces the implementation time of actions undertaken by the GIFI in cooperation with the prosecution office and the law enforcement agencies.

*Table 1 – Number of descriptive notifications received from 2001 to 2013*

<b>Period</b>	<b>Obligated institutions</b>	<b>Cooperating units</b>	<b>Other sources</b>	<b>Total</b>
2001 (from July)	102	115	14	231
2002	358	237	19	614
2003	739	211	15	965
2004	860	521	16	1,397
2005	1,011	500	15	1,526
2006	1,351	530	17	1,898
2007	1,244	648	28	1,920
2008	1,287	460	68	1,815
2009	1,362	464	36	1,862
2010	1,462	476	59	1,997
2011	2,004	461	62	2,527
2012	1,954	436	37	2,427
2013	2,399	789	77	3,265

The number of descriptive notifications from all sources increased by over 30% in relation to 2012 and by over 60% as compared to 2010. Considering the fact that the GIFI resources dedicated to the analysis of the material submitted by the obligated institutions and cooperating units did not increase in the aforementioned period, the aforementioned growth has affected the organisation of the GIFI work and the challenges faced by the Department of Financial Information implementing the GIFI tasks.

The percentage share of descriptive notifications received from the above-mentioned three main sources of information is illustrated in Chart 1.

Chart 1 – Sources of descriptive notifications in 2013 (SAR)

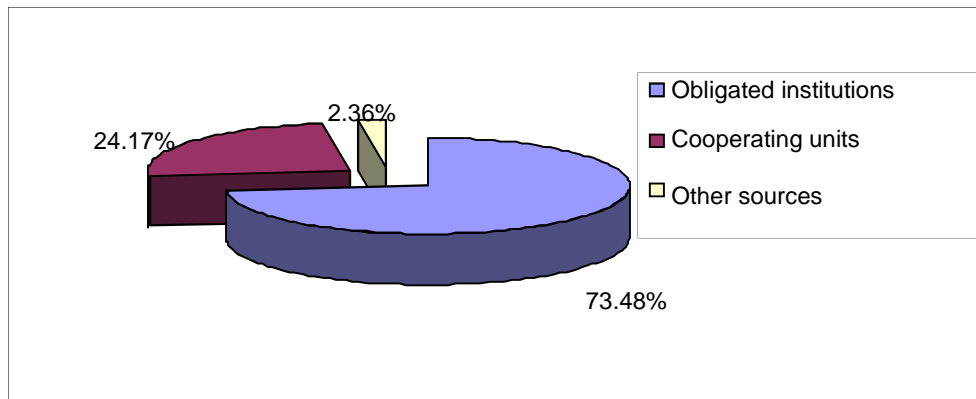


Table 2 – Distribution of descriptive notifications from obligated institutions by type of institution

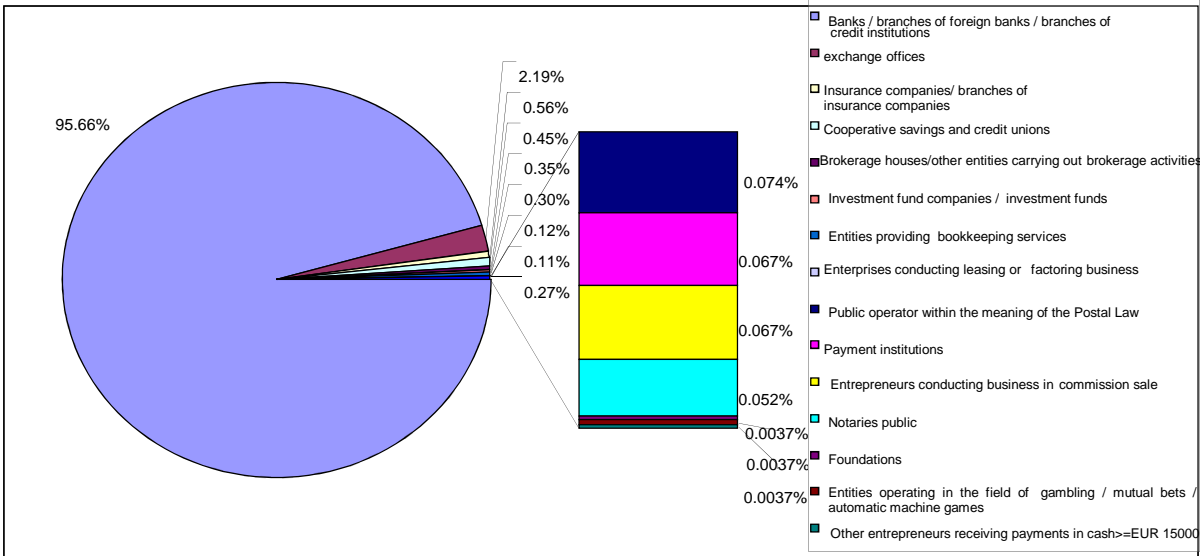
Type of institution	Number of SARs	Percentage
Banks / branches of foreign banks / branches of credit institutions	2,203	91.83%
Brokerage houses / other entities carrying out brokerage activities	45	1.88%
Cooperative savings and credit unions	33	1.38%
Insurance companies / branches of insurance companies	13	0.54%
tax advisers, auditors and accountants	10	0.42%
notaries public, legal advisers and attorneys	12	0.50%
Enterprises conducting leasing or factoring business	14	0.58%
Other entrepreneurs receiving payments in cash $\geq$ EUR 15,000	45	1.88%
Exchange offices	3	0.13%
Other financial institutions with registered office in the Republic of Poland	9	0.38%
Payment institutions	3	0.13%
Investment fund companies / investment funds	5	0.21%
Public operator within the meaning of the Postal Law	1	0.04%
Entities operating in the field of games of chance / mutual bets / automatic machine games	1	0.04%
Entrepreneur acting as intermediary in real estate trade	1	0.04%
Entrepreneurs operating in the field of trade in metals and precious and semi-precious stones	1	0.04%
<b>Total</b>	<b>2,399</b>	<b>100.00%</b>

In 2013, 789 descriptive notifications from the cooperating units (CU) were also registered. This figure makes almost twofold increase in comparison to 2012, which may be associated with the fact of more intensive cooperation of the GIFI with other state authorities, demonstrated, among others, by the significant growth in the number of notifications submitted to various authorities (see: section 3.1.1.). This cooperation results in enhanced understanding of the money laundering phenomenon by these authorities, which may be reflected in the rapidly growing number of SARs received from cooperating units.

In 2013, the GIFI received from the obligated institutions 26,947 pieces of information on individual suspicious transactions, including 26,925 transactions identified as suspected of money laundering (*Suspicious Transaction Reports on Money Laundering*, abbreviated as STRML), and 22 transactions – as suspected of terrorism financing (*Suspicious Transaction Reports on Terrorism Financing*, abbreviated as STR-TF). The distribution of numbers of such transactions according to the type of the obligated institution is illustrated in Chart 2.

Over the years 2005-2010, the GIFI recorded annual reduction in the number of transactions marked as suspicious, reported by the obligated institutions electronically. Analysis of these transactions in the previous years showed a significant share of mistakes (detailed data can be found in the GIFI reports from the years 2005 to 2010) in the data submitted. These were both technical and content-related mistakes, made by the obligated institutions in classification of transactions. Efforts undertaken by the GIFI and the cooperation with the obliged institutions resulted in a noticeable decrease in mistakes simultaneously increasing the quality of the information reported. The analysis of the data for 2010 (additional information in the GIFI report for 2010) confirmed the elimination of the majority of the aforementioned mistakes. Following the elimination (after several years of intensive cooperation with the obliged institutions) of most sources of mistakes, in 2011 and 2012, the effect of stabilisation in the quality of STRs submitted to the GIFI and, at the same time, the increase in the number of STRs provided by the obligated institutions to the GIFI, was observed. Significant increase in the number of STRs also stemmed from the enforcement by the supervisory authorities (the GIFI, PFSA) of registration of transactions included in descriptive notifications addressed to the GIFI (SAR) as STR in the registers of obligated institutions. As described above, the SARs often refer to many transactions which, after being recorded in the registers of obligated institutions as STR, increase the number of STRs transmitted in reports to the GIFI. Consequently, the numbers of STRs in the subsequent years are not fully comparable with each other. In 2013 stabilisation in the number of STRs can be noted, although at a level lower than in 2012, which may indicate that the enforcement of the appropriate registration of the STRs by the supervisory authorities has led to reaching the full registration by the obligated institutions. To confirm this claim, observations in the consecutive reporting periods are necessary and, irrespective of that, the stabilisation in the number of STRs submitted to the GIFI at a high level (over twofold higher than before 2010) makes a challenge to the analytical activities of the GIFI. In terms of figures, the decline (by 1/6, i.e. approximately 5 thousand transactions) can be noted in STRs submitted by banks; the highest increase was recorded for entities carrying out business in the scope of currency exchange. In the latter case, however, the STR reporting to the GIFI resulted, to a large extent, from mistakes, arising from a relatively large number of new entities reporting the transactions.

Chart 2 – Sources of STRs in 2013

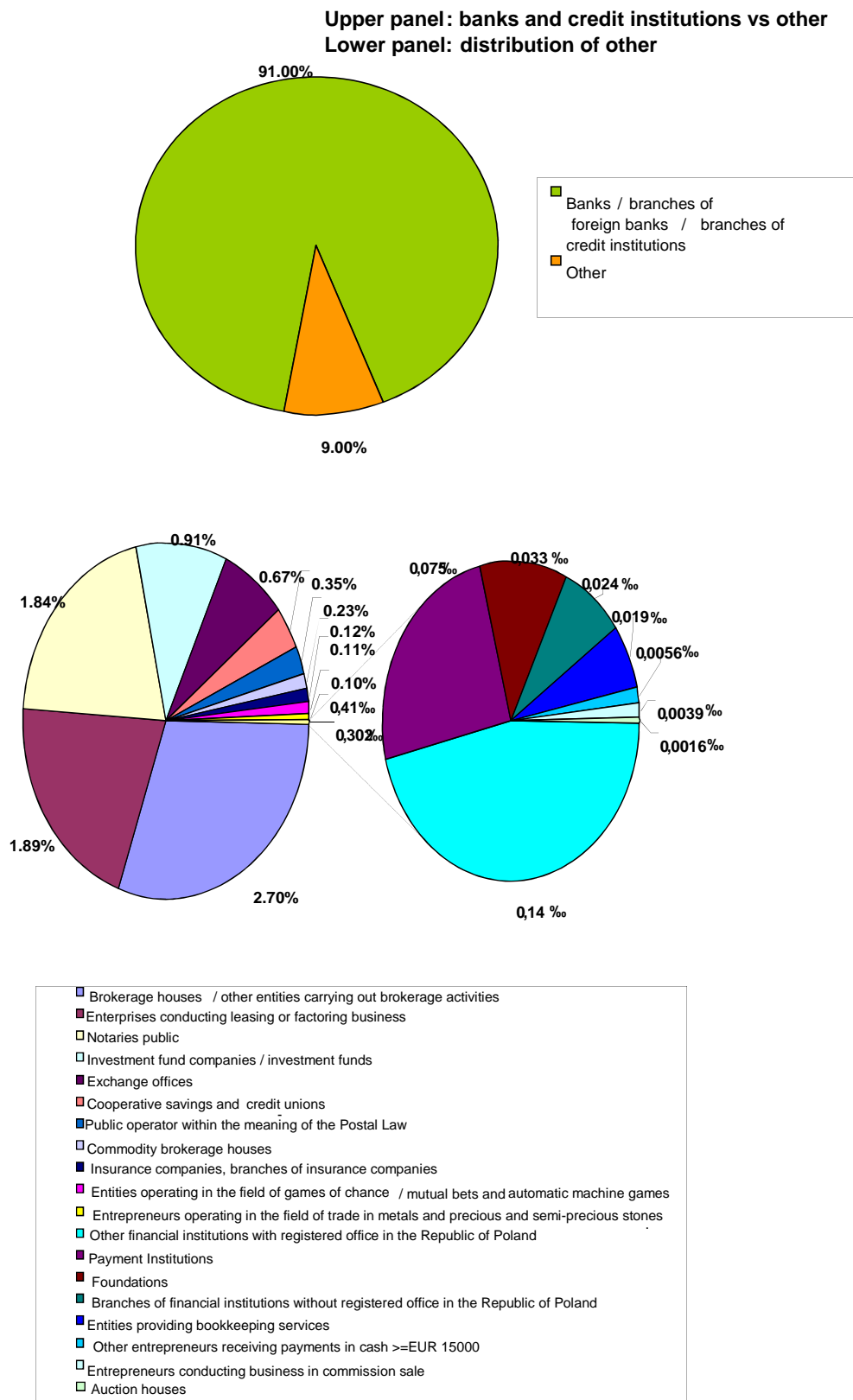




## **2.2. Information on transactions above threshold**

In 2013, the GIFI received information on almost 28.8 million transactions of the value exceeding the equivalent of EUR 15,000 (EUR 1,000 in the case of certain types of obligated institutions). The information is collected and processed in the Department of Financial Information of the Ministry of Finance (i.e. a separate unit in the Ministry of Finance dedicated to perform statutory tasks of the GIFI).

*Chart 3 – Sources of transactions above threshold in 2013*



Obligated institutions report data on the above-mentioned transactions collectively, in form of files, within 14 days following the end of each calendar month in which they are registered.

In 2013, the GIFI IT system accepted more than 95 thousand data files related to the aforementioned transactions. In accordance with the applicable rules, data files are transferred using one of the three electronic channels:

- secure website of the GIFI (in 2013, the GIFI received almost 89% of all files this way),
- secure e-mail (in 2013, the GIFI received more than 11% of all files this way) or
- CD/floppy disk (in 2013, the GIFI received 0.12% of all files this way).

In case of transfer of transaction information via the secure website it is possible to both send, with its help, a file generated in the correct format from the system of the obligated institution (it is the solution used mainly by large institutions, sending monthly information on many transactions; in 2013, 66.5% of all files was submitted this way) as well as to fill in the form containing the electronic version of the transaction card directly on the website (it is the solution used mainly by smaller institutions, sending monthly information on few transactions, in 2013, 22.2% of all files was provided this way). Following more than double increase in the number of information on transactions recorded through completing an electronic form of the transaction card directly on the website, in 2011, as compared to the previous years (in 2011, it applied to nearly 18.3 thousand transactions, whereas in the years 2008-2010 this number fluctuated between 6.7 thousand and 8.7 thousand transactions per year), in 2012 and 2013 the number of transactions submitted this way stabilised at a level exceeding 20 thousand (over 22 thousand in 2012 and almost 21 thousand in 2013, respectively). In conjunction with a systematic decline in the number of information on transactions submitted in the form of paper transaction cards (5.5 thousand in 2008, 3.6 thousand in 2009, 3.2 thousand in 2010, 2.5 thousand in 2011, 1.5 thousand in 2012, 1.2 thousand in 2013), it confirms the results of measures undertaken by the Department of Financial Information at the Ministry of Finance in order to increase the use of the electronic channel for information exchange, and explicitly indicates the permanent expansion of the circle of smaller obligated institutions systematically reporting information on transactions to the GIFI by electronic means. However, it should be emphasised that even this small part of information transmitted by the obligated institutions to the GIFI in the form of hard copies of transaction cards requires proportionally much more work involved in collecting and entering into the databases than in case of information on transactions submitted electronically.

Among the aforementioned over 28.8 million transactions, submitted to the GIFI databases in 2013, 8.28% represented the transactions included in the category of cash transactions by the obliged institutions, and 12.84% – transactions involving entities for which the obliged institution indicated place of residence outside the Polish borders or nationality other than Polish (3.11% of the transactions were classified by the obligated institutions as transfers received from abroad).

Information on the transactions was made available as input data for further analyses. In particular, this information was subject to automatic analytical processes. For example, all the information on transactions was verified in terms of potential links with the entities suspected of financing terrorism or entities originating from countries of high risk/subject to sanctions. Automatically, associations of information on transactions with other types of information available in the system were also searched for (for example, with queries of external entities – the prosecution office, the foreign financial intelligence units, etc.), which were subsequently used in analytical proceedings or transferred to external entities requesting the GIFI to submit financial information. The aforementioned associations were searched for using the analytical models functioning in the GIFI system, which were applied both in the processes of automatic generation of reports as well as in the *ad hoc* analyses for the needs of a specific problem.

Information on transactions above threshold was also used both for extraction of data on accounts of suspected parties and information on the transactions as such, helpful in conducting the analytical proceedings. It is both a direct source of information on transactions, which can be found by asking a question concerning the particular entity or account, as well as the source for the analysis of the links – through the use of the option of search for correlated objects (accounts, entities) in the database, i.e. correlated with each other within the defined type of relationship (for example, parties related through common occurrence in the chain of transactions or accounts linked by the transactions carried out for them by the same entity).

## **2.3. Information on other categories of data**

### *Information arising from cross-border cash declarations*

In accordance with Article 15a item 5 of the *Act*, the Border Guard and customs authorities shall provide the GIFI with information arising from declarations of cross-border cash transport through the EU border. In 2013 (similar to 2011 and 2012), this information was transmitted using the electronic communications channel. The GIFI received information on more than 9 thousand cross-border cash transport declarations, including 8157 declarations on importing cash to the EU territory, and 411 declarations on exporting cash from the EU, submitted in 2013 (the GIFI also received information on 387 declarations on the cash transport between the EU countries and 46 declarations on the cash transport between countries outside the EU).

The value of the cash declared for import to the EU amounted to:

- EUR 149 million,
- USD 34 million,
- PLN 6.2 million,
- CAD 1.0 million,
- GBP 0.5 million,
- RUB 1.7 billion,
- UHA 0.7 million,
- LTL 0.9 million,
- RON 0.3 million,
- AUD 0.2 million,

as well as over 35 thousand ounces of foreign exchange gold (XAU) and, additionally, funds of lower value amount declared in six other currencies.

On the other hand, the value of the cash declared for export from the EU amounted to:

- USD 8.3 million,
- EUR 3.1 million,
- CAD 0.5 million,
- PLN 0.8 million,
- GBP 0.2 million,

and, additionally, funds of lower value amount declared in seven other currencies (including 46 ounces of foreign exchange gold).

Imports were usually declared by the citizens of Ukraine (in 46% of cases), followed by the citizens of Russia (in 36% of cases), Belarus (in 7.3% of cases) and Poland (in 4.4% of cases), and apart from them, citizens of 49 other countries. Exports Imports were most commonly declared by the citizens of Poland (in 73.5% of cases), Canada (in 4.6% of cases), Russia (in 3.9% of cases) and Ukraine (in 2.9% of cases), and, moreover, by citizens of 24 other countries.

In terms of directions from which the imports of cash to the EU territory originated, 47.5% of declarations were related to the import of cash from Ukraine, 37.8% – from Russia, 7.7% – from Belarus, 1.1% - from Vietnam (other declarations referred to imports from 52 other jurisdictions). In the case of exports of cash from the EU, the declared destinations most often included: Russia (12.7% of cases), the USA (9.0%) and China (7.5%) (other declarations referred to exports from 51 other jurisdictions).

#### ***Information pursuant to Article 8b item 5 of the Act***

According to the *Act*, the GIFI receives – in addition to information on suspicious transactions and transactions above threshold – information on cases of failure to carry out transactions or failure to sign an agreement with a client, or termination of such agreements in connection with the inability to apply the financial security measures (in accordance with Article 8b item 5 of the *Act*). In 2013, the GIFI received 20 pieces of information of this kind from obligated institutions.

## 3. ANALYSES

### 3.1. Counteracting money laundering

The main tasks of the GIFI focus on examination of the course of transactions for which it conceived a reasonable suspicion of money laundering of terrorism financing, conducting the procedure of suspending the transaction or blockage of an account and provision of competent authorities with documents justifying the suspicion of the committed crime. In order to perform these tasks, the GIFI acquires information on transactions from the obligated entities, cooperates with national enforcement authorities, agencies of legal protection and international institutions and organisations dealing with counteracting money laundering or terrorism financing. All the aforementioned measures are undertaken in order to counteract money laundering and terrorism financing.

#### 3.1.1. Analytical proceedings and their effects

While performing its statutory tasks, in 2013, the GIFI initiated – on the basis of the information obtained – 1882 analytical proceedings. This number includes proceedings in cases of a suspected money laundering, cases in the scope of counteracting the financing of terrorism, as well as proceedings initiated on the basis of information provided by the obligated institutions which were unable to perform the duties concerning financial security measures and which did not carry out transaction, did not sign an agreement with a client or terminated agreements already concluded. Compared to the data for 2012, the number of proceedings conducted increased significantly, by almost 23.6%. It should be underlined that a single analytical proceedings conducted by the GIFI may cover from few to several descriptive notifications received from various obliged institutions and hundreds, or even thousands, of individual suspicious transactions and transactions above threshold.

The outcome of the analytical proceedings conducted was as follows:

- 1) Providing the competent local prosecution offices with 159 notifications of suspected money laundering. These notifications contained prerequisites justifying the initiation of criminal proceedings against almost 0.5 thousand entities, and the total amount of the asset values which were subject to the suspected crime, amounted to approximately PLN 15.25 billion. The notifications were submitted to prosecution offices pursuant to Article 31 of the *Act*, i.e. they were prepared on the basis of information in possession of the General Inspector, its processing or analysis, while, simultaneously, the GIFI provided the prosecution offices with the possessed materials substantiating the suspected money laundering. Besides the aforementioned main notifications, the GIFI also provided the prosecution offices with 108 notifications, which contained materials connected subjectively or objectively with the proceedings on money laundering conducted by the prosecution offices, from which a justified suspicion of the committed crime was arising. These materials were obtained during follow-up analytical proceedings conducted by the GIFI. They referred to over 0.1 thousand entities, and the total amount of asset values subject to the suspicion of crime in these materials, amounted to approximately PLN 1.59 billion.
- 2) Blocking of 345 accounts where funds of the total value of approximately PLN 295.35 million were deposited, and the suspension of 2 transactions in the amount of PLN

20.82 million (pursuant to Article 18 and 18a of the *Act*). The indicated amounts of funds blocked in the accounts are estimates and may be lower than the real funds, since during the blockage imposed by the GIFI the funds continued to credit the accounts, however they were not withdrawn or transferred to other accounts.

- 3) Providing the competent authorities and units with 1870 pieces of information pursuant to Article 33 item 3 of the *Act* (i.e. on own initiative the GIFI).

The year 2013 was another year in which the number of notifications submitted to other authorities and units by the GIFI pursuant to Article 33 item 3 of the *Act* significantly increased. This visible increase in the number of notifications, submitted on own initiative by the GIFI to the competent authorities and units is by almost 88% higher as compared to the previous year. It is the result of measures developed by the GIFI in cooperation with the law enforcement authorities, fiscal control authorities and other cooperating units. The statutory possibility to transfer information on transactions covered by the provisions of the *Act* to other authorities and units by the GIFI in accordance with Article 33 paragraph 3 of the *Act* refers to transactions for which, as a result of the analysis, prerequisites can be formulated to conclude that the examined transactions demonstrate the characteristics of a prohibited act, whose prosecution falls within the authority of the hereunder authorities and cooperating units.

During the reporting period in question, i.e. 2013, the GIFI sent the following number of notifications to the competent authorities and units:

- 1170 to fiscal control authorities,
- 364 to the Police (including the Central Bureau of Investigation),
- 292 to the Internal Security Agency (including the Counterterrorism Centre),
- 14 to the Border Guard,
- 18 to the Central Anti-Corruption Bureau,
- 6 to the Tax Chambers,
- 4 to the Financial Supervision Authority,
- 1 to the Head of the Customs Service,
- 1 to the Military Counterintelligence Service.

In 2013, the GIFI submitted the highest number of notifications pursuant to Article 33 item 3 of the *Act* to the fiscal control authorities. Most of these notifications, similar to the previous year, indicated the suspicion of tax frauds based on the structure of the value added tax. They were related to: understatement or nondisclosure of turnover due to forging or hiding invoices; embezzling the calculated VAT; “missing trader” frauds; the carousel fraud. A significant portion of the notifications involved also information on the suspected concealing of the object of taxation, understating the income, undisclosed revenues or fraud in the import of goods. The controls conducted – using the information provided by the GIFI – by the fiscal control authorities and fiscal authorities in many cases allowed for imposing and recovery of diminished amounts due to the State Treasury. Moreover, in 2013, the GIFI submitted 21 applications to fiscal control authorities and tax authorities for inspection of the legality of origin of certain asset values.

In many case, the notifications submitted by the GIFI in accordance with Article 33 item 3 of the *Act* to the fiscal control authorities, provided basis for these authorities to initiate the control proceedings in the scope of accuracy of the contributed taxes constituting the State Treasury income due to the personal income tax, corporate income tax and value added tax.

The auditing procedures repeatedly demonstrated that the controlled entities did not carry out the actual declared business, but served as entities issuing “empty” VAT invoices used by the purchasers for unauthorized reduction of the value added tax payable on goods and services, which consequently affected the depletion of the receivables of the State Treasury. Moreover, the aforementioned auditing procedures showed that the controlled entities did not pay the VAT amounts indicated in sales invoices to the competent tax office. Findings of the auditing procedure and the collected evidence provided basis for initiation of investigations of fiscal crimes, then converted into investigations conducted under the supervision of the prosecution offices. As a result of the coordination of the actions, the GIFI participated in such prosecutor investigations, providing the evidence material consisting of analyses of financial flows and applied account blockages when holding the justified suspicion that the specific asset values are derived from benefits associated with committing the prohibited act.

The legitimacy of the GIFI participation in the aforementioned investigations through notifying the prosecution offices of the suspected money laundering crime was confirmed by the Supreme Court in the resolution of seven Justices (file no. I KZP 19/13 of 18 December 2013), adjudicating that a person committing fiscal crime may simultaneously be accountable for the money laundering crime. At the same time, it should be stressed that the practice applied so far by the legal protection agencies was inconsistent in terms of interpretation of this issue. The Supreme Court recognised that cash and other values derived directly from other prohibited act, including the fiscal crime, may be also the object of money laundering. At the same time, the Supreme Court indicated that the money laundering crime has its own specific nature - it may be also committed by the same person who has already committed other prohibited act and introduced the money derived from such act to trading. The Supreme Court granted a resolution the power of a legal principle, which means that the resolution is binding for any other jury of the Supreme Court examining similar cases. In practice, it is also binding for courts of lower instances.

The second largest group of notifications was addressed to the Police (including the Central Bureau of Investigation). The submitted information on transactions was subsequently, in accordance with the competence associated with the location and the subject, sent to the field boards of KGP CBS (Central Bureau of Investigation of the General Headquarters of Police). The information contained in the aforementioned notifications was used by the CBS for undertaking the statutory activities resulting, among others, in the initiation of preliminary proceedings as well as the additional data in ongoing proceedings. Data which, according to KGP CBS, did not indicate the activity of an organised criminal group, was subsequently transferred, according to the competence, to the Departments for Fighting Economic Crime of the Criminal Bureau of the General Headquarters of Police, for further relevant use.

Moreover, the GIFI submitted the notifications to the Internal Security Agency. They referred to information on transactions which could have been associated with the suspected prohibited act whose prosecution lies within the statutory tasks imposed on the Agency, (dealing, inter alia, with: investigation, prevention and detection of crimes which may damage economic foundations of the State and its security, investigation, prevention and detection of the crimes of corruption of public officials, as well as relating to the production of and trade in goods, technologies and services of strategic importance for the State’s security, illegal production, possession of and trade in arms, ammunition and explosives, weapons of mass destruction, and intoxicants and psychotropic substances in the international trade).

The notifications provided by the GIFI pursuant to Article 33 item 3 of the *Act*, containing the comprehensive analysis of suspicious and unjustified financial flows, following the



verification and performance of statutory activities by the enforcement authorities, occasionally provided basis for initiation of the investigation. Similar to the previous year the information on transactions provided by the GIFI was also used in the pending investigations, in particular, those referring to the activity of organized criminal groups involved in the illegal trade in diesel fuel, rape seed oil, purchase of tobacco products without Polish excise stamps and smuggling them into Western Europe, or illegal trade of steroids and illegal pharmaceuticals.

The information provided by the GIFI was frequently the basis for the development of written requests to the GIFI by prosecutors for disclosure of information gathered in the manner and within the scope of the provisions of the Act for the purpose of the pending criminal proceedings. The preliminary proceedings conducted in connection with the notifications of the GIFI allowed to present charges of committing a crime to many persons and the recovery of assets of a multimillion value. In many cases, coordination of actions of the GIFI and the authorized law enforcement agencies led to the arrests of members of criminal groups and blocking of bank accounts with the assets derived from the benefits connected with committing of a prohibited act.

According to Article 4a item 3 of the *Act*, the Minister of Justice shall provide the GIFI with the aggregated data “on the number of criminal prosecutions, the number of persons in respect to the proceedings instituted and convicted of crimes, with and without legal validity, referred to in Article 165a and Article 299 of the *Penal Code*, and on asset values in respect to which freezing, blocking, and suspension of a transaction has been performed, or property seizure, confiscation or forfeiture has been adjudicated – within 2 months after the end of the year in question and subject to the report.”

According to data submitted by the Ministry of Justice received in a letter dated 17 March 2014, in 2013, 170 criminal prosecutions for crime under Article 299 of the *Penal Code* were initiated against 524 people. At the same time, in the previous year 105 persons were convicted without legal validity and 230 - with legal validity. In these prosecutions:

- seizure of asset values in the amount of PLN 12,121,532 was adjudicated,
- confiscation of property in the amount of PLN 21,677,426 was made (plus a car of Audi brand, with no specified value).

At the same time, the Ministry of Justice informed that no decisions were recorded concerning the seizure, freezing of funds, blocking or suspension of transactions, or pending penal proceedings conducted by the common plea courts in connection with crime committed pursuant to art. 165a of the *Penal Code*.

In addition, data obtained from the Polish Prosecution General shows that in 2013, on suspicion of money laundering:

- 212 preliminary proceedings were initiated (including 73 cases in *ad personam* phase concerning 190 suspects),
- 65 indictment acts were drawn up against 198 persons,
- 113 investigations were discontinued,
- in 11 cases initiation of investigations was denied,
- 37 judgements convicting 129 people were passed.

Within the framework of the pending preliminary proceedings, assets of the total value of PLN 326,450,686.35 were covered by the seizure.

As the effect of proceedings initiated on the basis of the GIFI notifications, the Prosecution General identified 25 cases of indictment concerning the acts stipulated in Article 299 of the *Penal Code* concerning 46 defendants,<sup>1</sup> and 14 judgements concerning 67 convicted.

The analysis of the justifications of decisions on discontinuation of the proceedings and refusal of initiation of the proceedings in cases of money laundering received last year shows that, as in the previous years, the most common cause of discontinuation and refusal to initiate the proceedings was the lack of the GIFI indication of the original crime (i.e. predicate) in relation to money laundering; failure of the GIFI to present the evidence of predicate offence, failure of the prosecutors to recognize the criminal and fiscal offences as predicate offences for money laundering. In addition, it was noted that discontinuations of criminal proceedings pursuant to Article 299 of the *Penal Code* were accompanied by cases of presentation of charges in connection with committing of prohibited acts other than money laundering or the aforementioned decisions to discontinue the proceedings, were in many cases partial and referred only to some of the suspects.

This issue noticed for several years, has become the basis for the organization, in March 2013, of a meeting of the representatives of Department of Financial Information of the Ministry of Finance with the representatives of the Prosecution General and the Regional Prosecution Offices. The meeting was also attended by representatives of fiscal control authorities. The subject of the meeting was the cooperation of the GIFI with prosecution offices and other public administration authorities in order to develop the efficient collaboration within the implementation of prosecution proceedings. It should be noted that since 23 July 2013, in connection with the amendment to the *code of criminal procedure* and introduction of Article 306 item 1a – the GIFI has been authorised to lodge a complaint against discontinuation of proceedings (so far it was authorised to challenge only the refusal to initiate proceedings).

### **3.1.2. Sample directions of analyses**

#### ***Laundering of money derived from criminal fiscal offences***

As in the previous years, in 2013, the most common area indicated in the notifications addressed to the GIFI included transactions aimed at the extortion of undue refund or failure to pay the VAT due, resulting in depletion of the State Treasury receivables, simultaneously posing risk to the entities legally operating in the specific sector. The greatest notifications from the obliged institutions and cooperating units referred mainly to the trade of precious metals, electronics, components of biofuels, steel parts. The areas of risk associated with the money laundering crime are identical to the areas indicated in the GIFI reports for the previous years. The transactions described in those notifications are conducted by the related and cooperating entities. The organisers of the so-called "carousel transactions" transfer

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<sup>1</sup> According to the information flowing to the GIFI, the result of proceedings conducted on the basis of the GIFI notifications also included the indictment of crimes other than those specified in Article 299 of the *Penal Code*.

funds, via the accounts belonging to the network of entities, in order to create the impression of legal commercial transactions. In order to make it difficult for the state authorities to find out that such transfers are not associated with the real sale of goods, very often, companies and firms involved in this procedure, operate for a short period of time, being from time to time replaced by successive entities, fulfilling the role of "missing traders". In case of intra-Community transactions, such companies usually transfer the funds to the accounts of foreign customers. They are, on the other hand, supplied by the legally operating entities which fulfil their obligations towards the tax authorities. These are intermediary companies, playing the role of the so-called "buffer" whose purpose is to conceal the virtual nature of the commercial trade in domestic transactions.

The experience of the GIFI shows that owners of the so-called "missing trader" entities are usually foreigners who acquire shares in limited liability companies from entities dealing with establishing and resale of shares in this type of economic undertakings. The new owner of the company provides the organisers of the procedure in question with powers of attorney and access codes allowing for conducting the full-scale business operations by the company. The registered offices of such companies are usually located in the so-called virtual offices, i.e. premises common for many companies. On the other hand, the predominant type of business operations conducted by such companies (the data contained in the REGON register) is the area indicated without specifying the trade, e.g. "activities of agents dealing with sale of various types of goods".

#### ***Money laundering originating from turnover of virtual currency***

In 2013, as in the previous year, a relatively new phenomenon, used in the process of money laundering was observed – trade in a virtual currency *Bitcoins* (BTC). This currency was created in 2008, probably by a person introducing himself as Satoshi Nakamoto. The BTC units can be stored on a personal computer in the form of a file (portfolio) or retained in the external service dealing with storage of such portfolios, operated by third parties. It allows for storage of files containing the cryptocurrency in a computer, on a pen drive or in the mobile phone. The construction of the BTC also allows for anonymous ownership of assets and cash transfers. The virtual currency can be purchased in two ways - by purchasing it through the specialised exchange or from a private individual. BTC is accepted both as payment for Internet services, as well as for real goods. Worldwide, there are also possibilities to purchase the BTC units through the increasing network of ATMs dedicated to trade of this currency. Recently the ATMs with *Bitcoins* appeared, among others, in such countries as Canada, the USA, Slovakia, Finland, Hong Kong.

The tendency in the rates of the currency in question is noticeable: irrespective of the so-called "surges" in the successive phases of its quotations in the FX market, it keeps rebounding, which may indicate the growing demand for BTC, in spite of the speculative nature of this currency.

The information provided by the institutions dealing with counteracting money laundering demonstrates that organised criminal groups use *Bicoins* for transferring funds originating, for example (inter alia) from sale of prohibited pharmaceuticals or drugs. At a final phase of the operation, the BTC are converted (for example, through the BTC exchange) to a form of the "traditional currency" and further marketed.

In 2013, aspects related to *Bitcoins* were often discussed at international fora. Measures connected with the regulation of the legal and fiscal status of functioning of this currency are undertaken by governmental authorities of many states.

In the Polish reality, in 2013 the growing interest in the currency in question was recorded. It is also essential that over the time, the number economic undertakings which accept payments in BTC for goods or the services provided is increasing. The intensive development of BTC creates the specific market within the generally understood globalisation of world economies.

### ***Money laundering originating from illegal trade of pharmaceuticals***

Information provided to the GIFI concerning the suspicious transactions sometimes refers to the specific situations when a significant group of people processes single payments to the accounts of individuals or companies. The transactions are processed by postal or money order, or through the accounts of payment service providers. Very often, the crediting amounts are repeated which indicates that they are associated with the payment for homogeneous groups of goods. It happens that persons processing the payments indicate other beneficiaries of transfers than the actual owners of the accounts credited. The majority of funds is usually withdrawn in cash. The results of the analyses performed on the basis of the aforementioned information are usually submitted to enforcement authorities and provide basis for undertaking actions by the prosecution office or the police in order to verify people participating in the potentially illegal activity. In some cases the information collected indicates that the transfers analysed were associated with the illegal trade of pharmaceuticals.

In this way, the GIFI recorded several cases concerning the illegal trade of pharmaceuticals. Under the analyses conducted it was established that organised criminal groups operate on the territory of Poland, selling prohibited pharmaceuticals of anabolic effects via websites. The products offered are presented as medicinal products. The *modus operandi* of the dealings discussed is as follows: people interested in the purchase submit their order via the website. The entity accepting the order provides the buyer with the due amount via e-mail or Internet communicator, including the number of the bank account where the payment should be transferred. The cash obtained in this manner is introduced to trading. The wholesale of the aforementioned illegal pharmaceuticals is also conducted outside the territory of the Republic of Poland. The substances are also sent, for example, to the United Kingdom, Malta, Spain and other countries, also outside the EU (China, Singapore).

### ***Laundering of money derived from extortion of subsidies***

In 2013 the General Inspector of Financial Information recorded cases of money laundering through introduction of cash originating from extortion of the European Union (EU) subsidies into the financial circulation. The data held indicates that such activities may be carried out by organised criminal groups using the so-called "dummies" (inducing persons), or the companies specially established for this purpose, in order to implement the specific phases of the mechanism within such criminal dealings.

It cannot be excluded that quite often the complicated form of granting the subsidies and the required content-related knowledge impose the engagement of people with specific professional knowledge associated with the product or service, for which the subsidy is granted.

The increasing number of cases related to the problem of extortion of the EU subsidies and the dynamically growing level of cash acquired in this manner by individuals involved in the criminal dealings in question encourage the development of the specific new legal procedures preventing and tightening the system of granting such funds. The improvement of the adequate supervision of the distribution of the EU funds is the objective of the Mazowsze Working Group for counteracting the irregularities and crime detrimental to the financial

interests of the European Union, to be established under the auspices of the Deputy Minister of Finance – the Government Plenipotentiary for Combating Fraud against Republic of Poland or European Union, and the Chairman of the Interministerial Group for Combating Fraud against Republic of Poland or European Union. The operations of the Group should narrow the spectrum of fraud connected with subsidies and, consequently, reduce the scale of the dealings in question.

### **3.2. Counteracting terrorism financing**

The tasks of the GIFI, consisting in obtaining, collecting, processing and analysing information in the manner specified in the Act and undertaking measures to counteract money laundering and terrorism financing, are included in the architecture of the cooperating services, authorities and institutions involved in the broadly understood antiterrorism activities and composing the Polish antiterrorism system. The GIFI obtains information not only from the governmental administration authorities, local government units and other state organisational units but also from individuals and organisations of the broadly understood private sector.

In performing its statutory tasks related to counteracting terrorism financing in 2013, the GIFI initiated 7 analytical proceedings related to suspicious transactions which potentially could be related to terrorism financing. These proceedings were initiated either on the basis of notifications from the obligated institutions, or on the GIFI's own initiative. In most cases, the initiated proceedings resulted from the analysis of transactions carried out by people from countries suspected of supporting terrorism or from countries where terrorist groups are active. Transactions of both a legal business nature and transactions for which the initial verification allowed to take it as probable that the inspected activities may be of criminal nature were analysed. The verification also covered such transactions in which the personal data of the principal or the beneficiary corresponded to the data of individuals entered to the international lists of people suspected of terrorist activity. As a result of the analysis conducted within the aforementioned analytical proceedings, as well as proceedings initiated earlier and information obtained pursuant to Article 8 item 3 of the *Act*, in 2013 the GIFI submitted, pursuant to Article 33 item 3 of the *Act*, 9 notifications to the Internal Security Agency.

Moreover, in 2013, the GIFI received 11 applications for disclosure of information, under the procedure stipulated in the Act, in connection with the verification of suspected terrorist activities by the competent authorities.

The General Inspector is a member of the Interministerial Team for Terrorist Threats (ITTT), a subsidiary body of the Council of Ministers, which is to ensure the interoperability of the public administration in identifying, preventing and counteracting terrorism. The activities of the Team focus on measures at the strategic level for the Polish system of anti-terrorist protection. In 2013, the GIFI and its representatives participated in the work of the aforementioned Team and in the activities of the Task Force – Permanent Group of Experts (PGE), supporting the ITTT in terms of content-related issues. In 2013, the Interministerial Team for Terrorist Threats prepared, with participation of the representatives of the General Inspector, the proposal of the National Antiterrorism Programme for 2014-2019. The National Antiterrorism Programme shall be the document indicating the basic directions of the antiterrorism policy of the State, including defining of the required activities of the State aimed at raising the status of preparedness in case of potential terrorism-related threats.

While implementing its statutory tasks in the scope of counteracting terrorism financing, the GIFI cooperates with the Counterterrorism Centre of the Internal Security Agency (CAT

ISA). The Centre is a coordinating and analytical entity operating on a 7 days per week/ 24 hours a day basis in the scope of counteracting and combating terrorism. Besides the national cooperation, the GIFI also develops its international cooperation, e.g. before the Olympic Games in Sochi the bilateral Memorandum of Understanding with the Russian Federation was expanded by issues concerning the cooperation in the scope of counteracting terrorism financing (so far, the agreement referred only to counteracting money laundering).

## 4. CONTROLS

### 4.1. Controls conducted by the GIFI

For 2013, the GIFI planned and conducted 16 controls in the following obliged institutions:

- Life Insurance Companies - 2,
- National banks - 3,
- Entrepreneurs within the meaning of the *Act of 2 July 2004 on freedom of economic activity* (Journal of Laws of 2007 No. 155, item 1095, as amended) operating in the field of trade in metals and precious and semi-precious stones – 1,
- Investment fund companies - 2,
- Investment companies - 4,
- Foundations – 1,
- Notaries public – 3.

As a result of the conducted controls, irregularities in the performance of obligations under the Act by the obligated institutions were revealed. The irregularities included:

- 1) The shortcomings of a formal nature, such as failure to adjust internal procedures to the existing provisions of the Act, among others, by failure to include all the provisions required by law.
- 2) Content-related irregularities:
  - no record of transactions exceeding the equivalent of EUR 15,000, referred to in Article 8 item 1 of the Act;
  - missing the deadline for registration of these transactions, specified in § 2 item 2 of the *Ordinance of the Minister of Finance of 21 September 2001 on determination of the sample register of transactions, the method of its maintenance and the mode of submitting the data from the register to the General Inspector of Financial Information* (Journal of Laws 2001, No. 113, item 1210 as amended),
  - failure to apply financial security measures, in particular: lack of identification of the beneficial owner; failure to obtain information on the purpose and nature of economic relationships, intended by the customer and lack of ongoing monitoring of economic relationships with customers, including examination of transactions in order to ensure that the transactions carried out are consistent with the knowledge of the obliged institution of the client and its business profile and with the risk, and, if possible, examination of the origin of asset values and the current updating of the possessed documentation and information;
  - failure to store information derived from the application of these financial security measures for the required period of time;
  - failure to store documented results of analysis of transaction for the required period of time.

In accordance with Article 27 of the *Act*, information on the results of the controls conducted by the GIFI auditors were submitted to the supervising authorities for further official use.

## 4.2. Controls conducted by supervisory institutions

Pursuant to the provisions of art. 21 item 4 of the *Act*, supervisory institutions shall forward information on the results of the controls to the GIFI. Data in possession of the GIFI shows that in 2013:

- The National Bank of Poland – conducted 1225 controls during which 1507 entrepreneurs operating exchange offices were controlled<sup>2</sup>,
- National Cooperative Savings and Credit Union – conducted 22 controls in the Cooperative Savings and Credit Unions,
- Polish Financial Supervision Authority conducted 44 controls,
- Presidents of appeal courts – conducted 135 inspections in notary offices,
- Heads of customs offices – conducted 116 controls of operators of game rooms and game casinos,
- Fiscal Control Offices – conducted 69 controls of entrepreneurs, within the meaning of the *Act of 2 July 2004 on freedom of economic activity* (Journal of Laws 2007, No. 155, item 1210 as amended).

The evidence gathered during the controls and forwarded to the GIFI with the results of controls provides the basis for the GIFI to impose penalties.

## 4.3. Administrative procedures for the imposition of pecuniary penalties

Procedures to impose pecuniary penalties on the obligated institutions for irregularities in the fulfilment of obligations, referred to in Article 34a of the *Act* are carried out under the provisions of the Code of Administrative Procedure. Imposition of pecuniary penalties falls within the jurisdiction of the GIFI. In determining the amount of the pecuniary penalty, the GIFI considers the type and extent of the violation, hitherto activities of the institution and its financial capabilities.

In 2013, the GIFI initiated 34 administrative procedures to impose pecuniary penalties for non-compliance with the provisions of the Act on the obliged institutions. Based on the results of own controls, the GIFI initiated 8 procedures (i.e. 23.52% of all initiated procedures), and 26 procedures (76.48% of all initiated procedures) - based on the results of controls referred to in Article 21 item 3 of the *Act*<sup>3</sup>.

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<sup>2</sup> The difference arises from the fact that one entrepreneur may conduct its business operations in several locations.

<sup>3</sup> In accordance with art. 21 item 3, the control referred to in item 1 may be also carried out within the framework of the surveillance and control performed under the terms and procedures specified in separate provisions, by:

- 1) the President of the National Bank of Poland – in relation to entities providing currency exchange operations;
- 2) the Financial Supervision Authority,



In 2013, the General Inspector of Financial Information issued 55 administrative decisions, including:

- 8 decisions discontinued the conducted administrative procedures,
- 47 decisions imposed pecuniary penalties in the amount from PLN 500 to PLN 550,000 on the obliged institutions.

In 2013, the GIFI and the Minister of Finance as the appeal authority in the issued decisions, assessed pecuniary penalties for the total amount of PLN 1,496,300. The pecuniary penalties imposed constituted income of the state budget.

6 appeals against the decisions issued by the GIFI were lodged to the Minister of Finance in 2013. The Minister of Finance sustained 2 decisions of the GIFI, in 1 case he reversed the GIFI decision partly, in 2 cases the Minister of Finance waived the GIFI decision in its entirety and issued the revised decision whereas in 1 case the Minister of Finance discontinued the proceedings. Moreover, in 2013, the Minister of Finance issued decisions in connection with 3 appeals lodged in 2012. In 1 case the Minister of Finance sustained the decision of the GIFI, in 1 case - he waived the decision of the GIFI partly whereas in 1 case the decision was waived in its entirety and the new decision was issued.

In 2013, 2 complaints were lodged against the decisions of the Minister of Finance to the Regional Administrative Court in Warsaw. As a consequence of the complaints lodged in 2013, 1 hearing was held, as a result of which the Regional Administrative Court in Warsaw dismissed the complaint of the Party. Moreover, in 2013, 1 hearing was held, as a consequence of the complaint lodged in 2012, as a result of which the Regional Administrative Court in Warsaw waived the decision of the Minister of Finance and the preceding decision of the GIFI.

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- 3) the relevant heads of customs offices in relation to operators organizing and exercising games of chance, mutual betting, and operations involving automatic machine games and automatic machine games of low prizes;
  - 4) presidents of appeal courts – in relation to notaries public;
  - 5) the National Savings and Credit Cooperative Union;
  - 6) competent voivods and governors – in relation to associations;
  - 7) tax audit authorities.

## 5. NATIONAL COOPERATION

### 5.1. Exchange of information with national entities

In 2013, the GIFI responded to the applications submitted pursuant to art. 32 and 33 of the *Act* and the queries received within the National Centre of Criminal Information.

#### 5.1.1. Cooperation with organizational units of prosecution offices and courts

The GIFI received 400 applications (in 2012 - 324, in 2011 - 259) concerning 2823 entities (in 2012 - 2531, as compared to 2140 in 2011) from the organizational units of prosecution offices. The most frequently identified formal default:

- requests for histories of accounts and any bank records, which are not present in the GIFI resources (proceedings supervised by the prosecutor under Article 299 of the *Penal Code* on the basis of notifications from other sources, or in criminal prosecution concerning crimes other than money laundering),
- requests for enquiry from the GIFI to turn to the obligated institutions concerning the determination of bank accounts in criminal proceedings supervised by the organizational units of prosecution offices, conducted on the basis of notifications from sources other than the GIFI,
- requests for data from the bank monitoring,
- requests for obtaining original source documentation of transactions or original account agreements,
- submitting decisions, rather than requests for information, concerning the transfer of custody of property, which does not apply in case of authorities of financial information.

In 2013, an increase in the number of requests addressed by organizational units of prosecution offices, containing incomplete identification data of entities, was reported which as a result extended the date of their execution due to the need to complete the missing data.

The GIFI also noted two requests for information made by the civil courts. However, it should be noted that pursuant to the Act the GIFI may provide information only at the request of penal courts.

As in the years 2010-2012, the organizational units of prosecution offices were obliged to provide information on:

- filing charges relating to the commitment of the crimes referred to in Article 165a or Article 299 of the *Penal Code*.
- filing charges relating to the commitment of the crimes referred to in Article 165a or Article 299 of the *Penal Code*.

Significant part of this information, however, did not contain, for example, information concerning individuals against whom the proceedings were initiated pursuant to art. 165a or art. 299 of the *Penal Code* or the data concerning circumstances indicating the suspicion that

this type of crime was committed. In such situations, the GIFI requested for completion of the information, as the lack of data of persons or entities in interest of the organizational unit of the prosecution office prevented the execution of a statutory obligation stipulated in Article 14 item 4 of the *Act*.

It is worth noting that in case of receiving a response from the GIFI under Article 14 item 4 of the *Act*, where it is established that the entities acted as the parties of the information on the transactions covered by the provisions of the Act, the organizational units of prosecution offices almost always requested for additional information acting on the basis of Article 32 item 1 of the *Act*. Information obtained on this basis allowed, inter alia, in some cases to expand the scope of the charges presented to persons suspected of committing a crime.

In 2013, cases were also recorded when the organisational units of prosecution offices within a single statement submitted information under Article 14 items 2 and 3 of the *Act*, at the same time requested for data, on the basis of Article 32 item 1 of the *Act*, which allowed for faster exchange of information.

In total the GIFI recorded 55 pieces of information of this type submitted by the prosecution office. In total, the data provided applied to 377 entities. The most frequently reported information included such in which the initiation of proceedings under Article 299 of the *Penal Code* was indicated or such in which charges were presented under Article 299 of the *Penal Code*. At least in several cases of this kind, the organizational units of prosecution offices additionally attached a request for the GIFI to consider taking statutory actions referred to in Article 18a of the *Act*, and subsequent.

In the framework of cooperation of the GIFI with the Prosecution General, on 18 March 2013 a workshop was organised on "Cooperation of the General Inspector of Financial Information with the prosecution offices – practical aspects". During this meeting, its participants discussed practical examples associated mainly with the exchange of information between the GIFI and the prosecution offices. Representatives of the judiciary from all over Poland, within the discussion panel conducted, presented their experience in the scope of practical aspects, associated with counteracting money laundering and terrorism financing, including, in the context of their cooperation with the financial intelligence unit (the GIFI).

In October 2013 the representatives of the Department of Financial Information provided the presentation for representatives of organisational units of prosecution offices of the Wielkopolska Province and representatives of the enforcement authorities, fiscal control authorities, and the members of the Wielkopolska Working Group for counteracting of fiscal crime against the tax obligations and settlements due to subsidies. The meeting was held on the premises of the Regional Prosecution Office in Poznań.

### **5.1.2. Cooperation with fiscal control authorities, tax authorities and customs authorities**

In 2013, the GIFI received the total of 1415 requests (597 in 2012) from the authorities of the Ministry of Finance.

The GIFI received 7 requests from the General Inspector of Treasury Control, moreover, it received 1361 requests (546 in 2012) from directors of fiscal control offices.

The number of 1361 requests consisted of requests from:

- Director of the Fiscal Control Office in Białystok – 149 requests

- Director of the Fiscal Control Office in Bydgoszcz – 27 requests
- Director of the Fiscal Control Office in Gdańsk – 204 requests
- Director of the Fiscal Control Office in Katowice – 16 requests
- Director of the Fiscal Control Office in Kielce – 17 requests
- Director of the Fiscal Control Office in Kraków – 225 requests
- Director of the Fiscal Control Office in Lublin – 80 requests
- Director of the Fiscal Control Office in Łódź – 12 requests
- Director of the Fiscal Control Office in Olsztyn – 20 requests
- Director of the Fiscal Control Office in Opole – 6 requests
- Director of the Fiscal Control Office in Poznań – 103 requests
- Director of the Fiscal Control Office in Rzeszów – 35 requests
- Director of the Fiscal Control Office in Szczecin – 130 requests
- Director of the Fiscal Control Office in Warsaw – 230 requests
- Director of the Fiscal Control Office in Wrocław – 69 requests
- Director of the Fiscal Control Office in Zielona Góra – 38 requests

It should be emphasized that since 2006, mainly following the initiative of the GIFI, the possible statutory range of cooperation with the fiscal control authorities has been steadily increased, inter alia, because of the growth of the so-called fiscal crime. In 2006, the GIFI received, in total, only 14 requests from fiscal control authorities, and in 2012, as many as 1368 requests were submitted.

It should be added that the fiscal control authorities, due to the scale of cooperation, almost in each case used the standardized template of the request for information, agreed on in December 2006 with the Treasury Control Department of the MF.

In 2013, as in the previous years, several requests from directors of fiscal control offices included formal and legal gaps in the event of requests for information covered by banking secrecy, without the use of appropriate procedure specified in the provisions of the *Act of 28 September 1991 on fiscal control* (Journal of Laws 2010, No. 46, item 276 as amended).

The GIFI also received 10 requests for information from directors of tax chambers (6 - in 2012).

From July 2011, it has been made possible also for the Head of the Customs Service or his authorised representatives to submit the requests for information to the GIFI, on the basis of Article 33 item, 2 point 1a of the *Act*. Accordingly, the Head of the Customs Service submitted 29 requests for information to the GIFI in 2013 (in 2012 - 27).

The GIFI also received 2 requests from directors of customs chambers.

In addition, the GIFI received 5 requests provided by heads of tax offices. However, it should be stressed that heads of tax offices are not the bodies authorised to apply for information on transactions covered under the provisions of the *Act* pursuant to art. 32 and 33 of the *Act*.

Year 2013 was a period of significant expansion of cooperation with the fiscal control authorities, in particular, in the proceedings conducted in cooperation with the representatives of the treasury intelligence or fiscal control inspectors. The development of closer cooperation had also a measurable effect in the form of notifications submitted by the GIFI to the organizational units of prosecution offices, as well as notifications submitted to the fiscal control authorities and the enforcement authorities.

Representatives of the Department of Financial Information also conducted training courses for persons representing the fiscal control authorities on counteracting money laundering and terrorism financing – collaboration of entities cooperating with the GIFI and the performance of the statutory control of the obligated institutions:

- for representatives of the Fiscal Control Office in Poznań and members of the Wielkopolska Working Group for counteracting of fiscal crime against the tax obligations and settlements due to subsidies - 2 presentations in April 2013,
- for the representatives of the Treasury Intelligence Department of the Ministry of Finance and representatives of fiscal control authorities (Divisions of Treasury Intelligence) in August 2013.

Moreover, the lectures were delivered within 3 workshops concerning combating the fiscal crime, entitled: The identified mechanisms of fraud in value added tax associated with the inter-Community trade. Practical aspects of detection and combating of fraud in VAT - with participation of fiscal control authorities and enforcement authorities, including the prosecutors:

- in May 2013 in Fojutowo
- in September May 2013 in Fojutowo
- in November 2013 in Giżycko.

### **5.1.3. Cooperation with authorities subordinated to the Minister of the Interior**

In 2013, the GIFI received 3 requests for information directly from the minister responsible for internal affairs.

In 2013, the GIFI received 171 requests (164 in 2012) from the organizational units of the police, which involved 1232 entities (1277 entities in 2012); the most significant part of the requests was provided to the authorised persons representing:

- Department for Combating Organized Economic Crime of the Central Bureau of Investigation of the General Headquarters of Police (CBŚ KGP),
- Criminal Bureau of the General Headquarters of Police,
- Department of Asset Recovery of the Criminal Bureau of the General Headquarters of Police.

Cooperation in the execution of the requests for the needs of the representatives of the police, as in the previous years, went smoothly and efficiently. Particularly important in exchange of information with the Police units was the quality of the content of justifications for the requests, which often constituted the contribution to further correspondence with the GIFI, inter alia, as a part of notifications used in this regard prepared on the basis of Article 33 item 3 of the *Act*.

In 2013, the GIFI provided responses to 31 requests, concerning 143 entities, submitted by the authorised representatives of the Headquarters of Border Guard.

It should be noted that the units supervised by and subordinated to the minister responsible for internal affairs diligently fulfilled the obligations defined in Article 14 item 2 point 1 of the *Act*, which significantly expanded the cooperation. Based on the received information, the GIFI was able to fulfil its statutory obligations more effectively,

including the use of the institution of account blockages referred to in Article 18a of the *Act* and subsequent. It should be emphasised that the use of the above-mentioned provisions of the *Act* enabled cooperation on analyses conducted by the GIFI already at the operation and identification stage of work of services subordinated to and supervised by the minister responsible for internal affairs. This kind of exchange of information was used the most extensively by the Department for Combating Organized Economics Crime of the Central Bureau of Investigation of the General Headquarters of Police. In addition to the written exchange of information, working meetings on the current cooperation, in particular with representatives of the CBS KGP, were organized.

The GIFI received 30 pieces of such information from the Police organizational units, concerning 323 entities (in particular from the CBS KGP).

In 2012, the representatives of the Department of Financial Information took part in the following meetings for the representatives of the police and border guards, presenting the issues of cooperation with the GIFI and the problems of counteracting money laundering and terrorism financing:

- training for the representatives of border guard authorities held in the Main Border Guard Training Centre in Koszalin and in the Border Guard Training Centre in Kętrzyn in the scope of cooperation between the GIFI and border guard authorities (5 training courses in 2013),
- training courses organised by the General Headquarters of Police for officers dealing with combating economic crime (2 meetings in November/December 2013),
- training for officers of the Capital City Police Department (in June 2013),
- training for officers of the Board in Białystok, CBS KGP and KWP in Białystok (in July 2013),
- training for officers of the Board in Kraków, CBS KGP and KWP in Kraków (in July 2013),
- annual conference in the scope of asset recovery organised by the Criminal Bureau of the General Headquarters of Police (in September 2013).

#### **5.1.4. Cooperation with the Head of the Internal Security Agency (ISA)**

The GIIF received 161 requests (109 in 2012) concerning 1221 entities (875 in 2012), as well as 7 pieces of information provided under art. 14 item 2 of the *Act*, referring to 25 entities.

Cooperation with representatives of the ISA is more and more efficient, particularly in the scope of application of the provisions stipulated in art. 14 item 2 of the *Act* and as a consequence - the application of the institution of account blockage stipulated in Article 18a of the *Act* and subsequent. Numerous arrangement meetings with the representatives of the ISA were also conducted concerning statutory activities carried out in parallel.

Moreover, in February 2013, the representatives of the Department of Financial Information participated in the meeting of the ISA management, during which aspects of information exchange between the Head of the ISA and the GIFI were discussed.



### **5.1.5. Cooperation with the Head of the Central Anti-Corruption Bureau (CBA)**

The GIIF received 40 requests (14 in 2012) concerning 355 entities (54 in 2012), from the CBA as well as 1 piece of information provided under art. 14 item 2 of the *Act*, referring to 6 entities.

Moreover, the representatives of the Department of Financial Information took part in the following meetings, presenting the issues of cooperation with the GIFI and the problems of counteracting money laundering and terrorism financing:

- meeting with the CBA management (in August 2013),
- 3rd Analytical Symposium of the CBA (in September 2013),
- training for the officers of the CBA Delegation in Warsaw (in September 2013),
- a conference on the Role of state administration authorities in identification of irregularities in public procurement, the 4th International Anti-corruption Conference (in December 2013).

### **5.1.6. Cooperation with the Head of the National Criminal Information Centre (KCIK)**

In 2013, the General Inspector of Financial Information cooperated with the Head of the National Criminal Information Centre (KCIK). The GIFI provided criminal information ex officio (the number of registrations – 126), whereas KCIK responded the inquiries addressed by the GIFI (3349 inquiries, including 2952 requests to the obliged entities to complete the criminal information).

In addition, KCIK addressed requests to the GIFI. In connection with the requests, 4274 entities were checked in the IT system of the GIFI (SI\*GIIF). Among them, 1273 were identified as those occurring in the conducted analytical procedures.

### **5.1.7. Other information**

In 2013, the GIFI was actively involved in efforts aimed at preventing the proliferation of weapons of mass destruction, including in particular counteracting financing of these practices.

It should be emphasised that the representatives of the Department of Financial Information actively participated in the meetings of the Interministerial Team for preventing illegal proliferation of weapons of mass destruction and the implementation of the “Krakow Initiative” – *Proliferation Security Initiative* (PSI), organized by the Ministry of Foreign Affairs. The Department representatives provided information and observations to the representatives of the MFA participating in international conferences and seminars on counteracting the proliferation of weapons of mass destruction. Moreover, a representative of the Department participated as a lecturer in the Polish-Croatian mutual review of the implementation of the UN Resolution 1540, held on 2-4 October 2013.

Under the current legal status, the GIFI may take direct actions in this regard only in situations where the activities of entities involved in the proliferation and its financing will

involve suspicion of committing the crime of money laundering or terrorism financing. In such cases, the GIFI may use its statutory powers, among others, to suspend transactions or block accounts.

## 5.2. Training activities

Representatives of the Department of Financial Information actively participated in meetings concerning the subject of counteracting money laundering and terrorism financing by providing training and delivering lectures and presentations, or being actively involved in the discussions at the all kinds of conferences and workshops where they were invited as guests:

- in April 2013 - lectures during the seminar on "Counteracting money laundering and terrorism financing", organised by the NBP for representatives for 16 central banks (National Bank of Poland),
- in June 2013 – lectures during the workshop organized on the premises of the Banker Club of the Polish Bank Association as a part of the "Programme for counteracting money laundering and terrorism financing", with participation of the representatives of the obligated institutions,
- in September 2013 - a lecture during the seminar "International meeting of representatives of security and counteracting money laundering" (Polish Bank Association),
- in October 2013 - a lecture during the 2nd National Compliance Conference organized by the Compliance Association Poland in Warsaw.

Moreover, the Department of Financial Information organised many meetings with selected obligated institutions in order to develop more effective rules of cooperation within the framework of the provisions of the *Act on counteracting money laundering and terrorism financing*.

In 2013, the GIFI made available, as in the previous years, a free e-learning course related to counteracting money laundering and terrorism financing through the Internet. Its aim is to introduce knowledge on preventing the aforementioned crimes, in particular, in relation to the applicable regulations, to employees of the obliged institutions and cooperating units. Last year, this course was successfully completed by more than 19.5 thousand people.

In 2013, the GIFI continued to distribute the paper and electronic versions of the 3rd edition of handbook entitled "Counteracting Money Laundering and Terrorism Financing", designed exclusively for the representatives of obliged institutions and cooperating units, for business use. It contains the description of the legal regulations as well as experience of the Polish financial intelligence unit. In 2013, the GIFI made available 18 copies of the handbook in paper form and 1 copy of the handbook in electronic format to the representatives of the obligated institutions.



## 6. INTERNATIONAL COOPERATION

### 6.1. Cooperation with the European Commission

In the framework of the cooperation with the European Commission (hereinafter referred to as the Commission) in the area of counteracting money laundering and combating the financing of terrorism (AML/CFT), the GIFI representatives participate in the activities of *The Expert Group on Money Laundering and Terrorist Financing* – EGMLTF which replaced *The Committee on the Prevention of Money Laundering and Terrorist Financing* – CPMLTF, also known as the Preventive Committee, and in the meetings of the so-called *EU-FIU Platform*.

#### 6.1.1. Prevention Committee

In 2013 the last meeting of the Preventive Committee took place which was replaced by the newly established Expert Group on Money Laundering and Terrorist Financing – EGMLTF. The decision on the establishment of the new body was determined by the provisions of the Lisbon Treaty, since in the light of its regulations, the rules concerning the control of the executive powers of the Commission were significantly changed. In particular, the Treaty stipulates the clear distinction between the *quasi*-legislative acts (delegated acts – Art. 290 of the TFEU) on the one hand, and, on the other hand, between the acts which implement the legally binding EU acts (executive acts - Art. 291 TFEU). The Preventive Committee will still exist but its nature will change, i.e. it will be convened as the so-called Comitology Committee only in cases if the Member States support the Commission in performance of its executive powers. On the other hand, the newly established Expert Group shall replace the Preventive Committee as an advisory body to the Commission in the development and implementation of its policy.

The meetings of the Committee, currently the Expert Group, have shaped the policy of the Commission in the scope of balancing the regulatory plans and justified place for national policies in the Member States. The meetings of the new group took place twice. **Within the Expert Group, the main subject of discussions referred to the application concerning *Directive of the European Parliament and the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing* (COM/2013/045 final - 2013/0025 (COD)), hereinafter referred to as the fourth AML/CTF Directive, and the application concerning the *Regulation on information accompanying cash transfers* (COM (2013) 44 final - 2013/0024 (COD)).** On 5 February 2013 the Commission adopted both applications related to the updating and improvement of the new EU legal framework, aimed at protection of the financial system against money laundering and terrorism financing. In particular, in relation to the Directive, the Expert Group discussed the most important areas in which the application goes beyond the requirements of the FATF Recommendation (e.g. extension of the scope

including gambling games and entities conducting trade of goods, which perform or receive cash payments in the amount of EUR 7,500 or higher, availability of information of real beneficiaries for the obliged institutions and competent authorities), as well as the main areas in which the application takes into account the particular interests of the UE, such as the new regulations concerning politically exposed persons (PEP) and better harmonisation of sanction systems, in accordance with the Commission communication on "The strengthening of sanction systems in the sector of financial services"<sup>4</sup>. These applications received the general support of the Expert Group members and were recognised as a good basis for the future negotiations.

The areas more broadly discussed by the Expert Group members, among others, referred to the risk-based approach, including the proposed approach to the issue of balancing and the new measures of the due prudence against the client, as well as increased transparency of the definition of the beneficial owner and its identification. It was associated with the expectations of further improvement of the amended framework of money laundering, in particular, in relation to the Financial Intelligence Units. The role of the European Supervisory Authorities – ESAs was also discussed, in particular, in the scope of non-financial sector entities and the recommendations addressed to them, as well as the issues of supervision, sanctions, national PEPs, definition of terrorism financing. The scope of the activities of the Expert Group itself was also the subject of consideration.

During the meetings the Expert Group members were informed on an on-going basis on the intentions of the Directorate-General Home Affairs, concerning the amendment of the review of the 3rd AML/CFT Directive, and the regulation concerning cash transfers, through the strengthening of the EU repressive response to money laundering. To this end, the Commission informed of the preparations of the legislative application concerning the harmonisation of criminalisation of money laundering in the European Union, in accordance with art 83 item 1 of the TFEU. Moreover, it informed the members of the Expert Group that the need for harmonisation arises from the fact of many differences existing in individual member states, for example, in relation to the scope of the money laundering crime (list of original criminal offence) as well as in relation to inclusion of self-laundering or negligent money laundering. According to Europol, such lack of common understanding significantly jeopardises the cross-border negotiations and the cooperation with the police. The Commission engaged the external consultants from the *Centre for Strategy & Evaluation Services* – CSES, to conduct the examination of the current national criminalisation, in order to evaluate the needs and impact on the potential new directive, to understand how it is defined in the penal law of the Member States and how money laundering is prosecuted and penalised. The task of the consultants was to analyse the significance of such differences and the potential added value of a new EU legal instrument. The preliminary study conducted was aimed at preparation of information for Impact Assessment of the designed directive, harmonising the criminalisation of money laundering, including the definition of crime, the applied model of original crime and sanctions. Within this study, the assessment was performed, related to the current criminalisation of money laundering in all Member States,

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<sup>4</sup> COM(2010) 716 final version, available at:  
<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0716:FIN:PL:PDF>.

the relevant jurisdiction and important examples of cases referring to the cross-border money laundering and its prosecution; moreover, the needs and effects of the potential new directive were examined in all Member States. The Member States were invited to cooperate with the consultants. Poland also joined this analysis and contributed to the questionnaire which was consulted with the representatives of the GIFI, the Prosecution General and the General Headquarters of Police during the visit of the CECS consultants in Poland in September 2013.

The members of the Expert Group during its meetings were also informed of the activities of the *Anti-Money Laundering Committee* – AMLC, which was also actively involved in the work, in the context of the 4th AML/CFT Directive. The action plan presented by the AMLC has also foreseen the active role of this Committee and the joint activities with the ESAs, among others, in the scope of their joint opinion concerning the risks of money laundering and financing of terrorism related to the internal market.

The Expert Group was also considering the role it will play in the context of new tasks arising from the amendment of the European law in the AML/CFT area. **In particular, two issues were subjected to broad discussion, i.e. risk assessment and the equivalence of the third countries. The Commission presented its working document in the "Supranational Risk Assessment in the 4th AML/CFT Directive".** It was agreed that the process of development of supranational risk assessments requires further clarification. The Commission declared its readiness to coordinate and integrate the works. From the point of view of the Commission, the supranational risk assessment could constitute the description and analysis of the risks, however, as such, it would not be legally binding. On the other hand, **in the context of the equivalence of the third countries**, the Commission reviewed the equivalence procedures in other directives referring to financial services and it has indicated that besides the strengthening of its role, few similarities in these approaches were identified. This issue was submitted for further discussions.

The subjects on which the activities of the Expert Group have focused also included the cooperation between the financial intelligence units (hereinafter referred to as the FIUs) and activities within other groups dealing with the problem of money laundering and terrorism financing. **Members of the Expert Group were introduced to the initiatives of the MONEYVAL Committee concerning the status of FATF activities related, among others, to the new payment methods, guidelines for the PEP, a report on "Money Laundering and Terrorist Financing Vulnerabilities of Legal Professionals", the data protection issues and the FATF Recommendation 32, concerning the transport of cash.** The Expert Group drafted a joint document together with the Cash Control Working Group, referring to the FATF Recommendation 32, however, no unanimous position of the EU was reached concerning the methodology for transnational assessment in the scope of the aforementioned recommendation. Accordingly, the negotiations and concluding of the annex to the FATF Methodology concerning this scope was postponed, and the discussion concerning the transnational assessment will be continued at the consecutive meetings of the Expert Group.

### **6.1.2. The EU – FIU Platform**

The GIFI was engaged in the activities of the EU – FIU Platform, which met twice at the sessions in Brussels in 2013.

The Platform monitored the development of the FIU.NET network on an on-going basis, in 2013 comprising 26 member FIUs. In connection with the planned significant changes

arising, among others, from progress of work of the European Commission related to the UE law in the area of combating money laundering and terrorism financing, **the key topics of the Platform meetings included: the planned integration of the FIU.NET system into Europol's structure and the associated replacement of the FIU.NET by the SIENA system, the envisaged improvement of FIU.NET, the added value obtained in the scope of Europol role or functional solutions of the Mat<sup>3</sup>ch tools.** The conditions of this migration were defined in the common understanding of the FIUs of the EU and Europol, adopted at the meeting of the Platform in October 2013, simultaneously determining further financing of FIU.NET by the European Commission.

Moreover, the Platform dealt with the progress of works associated with the 4th AML/CFT Directive and the Regulation concerning the information accompanying cash transfers. It discussed the revised proposals of the aforementioned legal acts adopted on 5 February 2013 and the main directions of the changes. The issue of particular importance from the perspective of the financial intelligence units was the proposed introduction directly in the text of the 4th AML/CFT Directive of the provisions stipulated in *the EU Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information.* (Official Journal of the EU L 271 of 24.10.2000), which expands and strengthens the cooperation of the FIUs. The issue of the transnational risk assessment and the role of the Platform in this process was also discussed.

The issues of particular importance for the activities of the Platform were also discussed during the ad hoc meeting, when the proposal of joint position of the FIUs was developed, related to the 4th AML/CFT Directive, presenting several conclusions concerning the shape of the definition of the financial intelligence unit, international cooperation, transnational reporting, agreement on the provisions related to the information submission scheme, continuation of cooperation of the FIUs and the defining of the FIU role in the directive, as well as reference to the role of the Platform.

During the Platform meetings, the issue of submission of the Suspicious Activity Reports (STRs) was also discussed. In this context, the representatives of FIU.NET introduced the Platform members to the *FIU.NET pilot project on STR reporting*, aimed at future automation of the existing procedures for submission of larger numbers of the STRs, arising from the need of existence of an instrument improving the cross-border reporting standards and preparing to the future challenges associated with the rapid development of the Internet.

The issue discussed during the meetings of the EU-FIU Platform was the planned EC Proposal for a Directive on the Criminalisation of Money Laundering. Platform members were asked to present specific cases indicating the obstacles they face in the cooperation due to inconsistent definitions of money laundering in the penal law of individual member states. Special attention was paid to the issue of defining the original crime.

The Platform also discussed work conducted by other international bodies, in particular, the FATF (inter alia, in relation to the new assessment methodology concerning the FIU). Another issue focussing the attention of the Platform members was the update of standards by Egmont Group. The revision of the standards was mainly oriented towards the EG underlying rule of mutual cooperation and the provision of the coherent reference to the revised FATF Recommendation.

### **6.1.3. The European Commission Project - SECILE**

The European Commission, funding the project on "Securing Europe Through Counter-Terrorism: Impact, Legitimacy, and Effectiveness" (acronym "SECILE"), gained the active support of the GIFI, providing consultation in 2013 concerning the effects and range of the European Union funds in the area of counteracting and combating terrorism financing. The GIFI provided the opinion of this aspect of the real impact of the anti-terrorist policy of the EU, conducted since 2001, at a consultation forum of financial intelligence units and authorities dealing with this issue in Member States, held in London at King's College in September last year. The complexity of problems, areas, institutions and internal and foreign policy of the EU related to the aforementioned issues imposed the necessity to obtain also the assessment of the competent state authorities. Considering the diversity of such assessments and opinions, the GIFI's participation contributed to streamlining of the follow-up studies conducted under the auspices of the European Commission. The final report of the project, expected in 2015, will also contain the conclusions of this meeting which, in the opinion of GIFI, not only indicated the approaching agreement of the Member State Representatives concerning the range and authorisation of the current CFT EU funds, but also the important role of the financial intelligence units of these states in the internal security system of the EU.

### **6.1.4. The Conference European Union - the USA concerning the financing of the terrorism**

The General Inspector of Financial Information pays attention to supporting of the international anti-terrorist initiatives aimed at expansion of knowledge and exchange of opinions of the interested administrative authorities, states and international organisations. Accordingly, the representative of the GIFI participated in the international conference prepared by the Lithuanian Presidency in the EU Council. In cooperation with the USA a conference bilateral forum was created and expanded by the Counter-Terrorism Committee Executive Directorate (CTED), the EU Counter-Terrorism Coordinator (EU CTC) and the EU INTCEN<sup>5</sup> in order to define problems of combating terrorism financing in the Maghreb and Sahel region, as well as for the purpose of mutual exchange of information on the activities conducted, aimed at inhibition and suppression of the consolidating terrorist networks in this region, exposed to political and economic factors, international organised crime and military attacks.

The benefits gained by the GIFI owing to the participation in the September meeting in Brussels include the picture of directions of the EU and US activities, the operational programmes and the comprehensive, long-term approach to building the security and the economic development of the region, as well as the knowledge required for formulating of the

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<sup>5</sup> *EU Intelligence Analysis Centre* (EU INTCEN) – a unit dealing with collection and analysis of information which may be significant for the common foreign and security policy, formerly operating at the *EU Situation Centre* (EU SITCEN).

policy in relation to the states, the region and cases of terrorist networks operating there. The participants of the meeting recognised the complete dependence of terrorism financing in the region on the organised crime (dealing with money laundering, trade of weapons, smuggling, kidnapping for ransom) as well as, still, the exploitation of charity institutions and high donations. The general challenge for the EU and, at the same time, for the growing number of the Member States, is the necessity to carry out programmes supporting the creation and implementation of the CT and CFT strategies in the region, including the banking systems, control of suspicious cash flows and combating corruption. Therefore, according to the assessment of the GIFI, the conference has demonstrated the indispensability of this forum, traditionally undertaken by the successive presidencies in the EU Council, and its usefulness for the performance of the statutory tasks.

## **6.2. FIU.NET**

The GIFI maintained its decision on participation in the FIU.NET computer network of secure financial information exchange among the financial intelligence units of the EU Member States. FIU.NET, owing to its technical capacity and the EU nature, is very popular among the Member States, and in 2013 it gained a new importance in view of the draft of the 4th AML/CFT Directive. The European Commission proposed the direct disclosure of this network and promoting of its role in the activities of the EU financial intelligence units as a legally effective solutions, going beyond the former political and expert recommendations. This promotion in Article 53 of the draft directive, as the recommendation for the policy of the Member States, is articulated as the use of protected communication channels between the financial intelligence units and the decentralised FIU.NET computer network.

As assessed in the previous year, the planned migration of FIU.NET to Europol shall take more time than previously expected, therefore, the Management Board of FIU.NET applied to the European Commission for the grant for years 2014-2015 for the implementation of the project on adjustment of the network to the new conditions of the EU IT strategy in the context of Europol. Poland has been the user of FIU.NET network since 2009, and the GIFI, developing its interoperability capacity, has been working on preparation to the use of the full range of technical measures of the network, including the anonymous exchange among the EU FIUs, underlined in other provisions of the proposed Article 53 of the draft directive. This important aspect of cooperation among the FIUs contributes to the development of the IT techniques of the GIFI, in the direction of advanced technology in order to implement the EU tasks.

## **6.3. The MONEYVAL Committee**

In 2011, MONEYVAL started the fourth round evaluation of the Polish anti-money laundering and terrorism financing system. Areas within the so-called basic and key recommendations of the FATF were subject to the evaluation, as well as others which

received low scores in the third round evaluation<sup>6</sup>. The GIFI, in cooperation with other authorities, prepared answers to the questions included in the evaluation questionnaire, and in late May and early June 2012, it hosted the delegation of evaluators and MONEYVAL Secretariat. As a consequence of these actions, jointly with other public administration authorities competent for combating money laundering and terrorism financing, the GIFI participated in two arrangement meetings with the evaluation team.

The presentation of the final report of the 4th round of the evaluation of Poland was held during the 41st plenary meeting of MONEYVAL on 11 April 2013. Following the plenary discussion conducted with the participation of evaluators, delegates of the Member States of the Committee, scientific experts, observers, the MONEYVAL Secretariat and representatives of Poland, from the GIFI, the Ministry of Justice, the Prosecution General, the General Headquarters of Police, the Polish Financial Supervisory Authority and the National Bank of Poland, the report was adopted by the Plenary Meeting.

Summarising the results of the 4th round evaluation of Poland, covering 36 of 40+9 FATF Recommendations (i.e. only the recommendations evaluated during the 3rd round at the NC and PC level, as well as the so-called "key" and "core") it should be stated that, in relation to the previous round, significant improvement of the Polish system of combating money laundering and terrorism financing was recorded, both in terms of the national legislation and the effectiveness<sup>7</sup>. Nevertheless, there are still areas diagnosed by the MONEYVAL evaluators which require legislative and organisational changes. Therefore, in accordance with the adopted decision of the Committee, until April 2015, Poland should prepare the progress report concerning the implementation of the recommendations of the evaluation team, in relation to the gaps identified in the national system for combating money laundering and terrorism financing.

Within the permanent activities of the MONEYVAL Committee, the joint delegation of the representatives of the GIFI, the Polish Financial Supervisory Authority and the Prosecution General participated in the activities implemented by this group during the year 2013. The delegation participated in the discussion concerning the evaluation reports of the national systems of combating money laundering and terrorism financing, acting also as the evaluator or a party competent for the specific subject of the reports discussed<sup>8</sup>.

The MONEYVAL Committee continued the monitoring of the states whose AML/CFT systems identified a large number of scores indicating the non-compliance or partial compliance with the FATF Recommendations, assessing their progress and the implemented remedying measures<sup>9</sup>. In relation to the states which failed to undertake effective reforms of

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<sup>6</sup> It refers to FATF recommendations of 2003, prior to their modification of 2012 – i.e. *core recommendations*) - R.1, R.5,R.10,R.13, SR II and SR IV; *key recommendations*), i.e. R.3, R.4, R.23, R.26, R.35, R. 36, R.40, SRI, SR III and SR IV.

<sup>7</sup> The scoring system used by MONEYVAL within the 4th round of the mutual evaluations: NC - “non-compliant”; PC - “partially compliant”, LC - "largely compliant”, C - "compliant”.

<sup>8</sup> The representatives of the GIFI acted as the evaluators for: Croatia, whose report was discussed during the 42nd plenary session, as well as Macedonia, whose report will be discussed in 2014. The Polish delegation at MONEYVAL was also responsible for preparation of questions in the legal area within the report of Bulgaria.

<sup>9</sup> Croatia, Georgia, Macedonia, Moldova and Ukraine.

their AML/CFT systems, the requirement was applied of the regular reporting of progress in implementation of the recommended reforms within the Compliance Enhancing Procedure. In 2013 the following jurisdictions were monitored: Bosnia and Herzegovina and Albania.

Moreover, during the 43rd plenary meeting of the MONEYVAL Committee the elections to the MONEYVAL office took place, among others, re-electing the GIFI representative as its member. Together with four other Office members, representing other national delegations<sup>10</sup>, the GIFI representative is responsible for the issues of coordination of the Committee's works and indicating the directions of its activities.

GIIF cooperated with the MONEYVAL Committee also in the scope of the typological reports. In 2013 the works commenced in 2011 were completed, concerning procedures for suspending suspicious transactions and the risk of AML/CFT in trade in cash-based economies. The GIFI representatives actively participated in the preparation of both typological reports, the first of which has already been published on the official MONEYVAL website<sup>11</sup>. In addition, they joint the successive typological projects related to money laundering originating from organised crime and the financial analysis, participating in the joint typological meeting of MONEYVAL and EGMONT Group which was held in Strasbourg on 9-11 October 2013.

## **6.4. COOPERATION AT THE FORUM OF INTERNATIONAL ORGANISATIONS**

### **6.4.1. The Egmont Group**

In 2013, the Polish Financial Intelligence Unit (PFIU) participated, like in the previous years, in the work of the EGMONT Group (EG) by taking part, inter alia, in the plenary session of the heads of FIUs and in meetings of working groups – the operational, legal and information technology. Together with other FIUs it implemented typological projects selected by the operational group, including the membership of the main group conducting the financial analysis project.

One of the EG priorities in the previous year was the change of the statutes (GR Charter) and the EG Rules, i.e. the document defining the basic rules of FIU operation. The subjects of the plenary discussions included also "The guidelines concerning the activity of the financial intelligence units and exchange of information" and "The rules of information exchange between financial intelligence units", defining, in particular, the issues of international cooperation in the context of changes in FATF recommendations adopted last year; all the

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<sup>10</sup> Liechtenstein, Malta, Russia, San Marino.

<sup>11</sup> [http://www.coe.int/t/dghl/monitoring/moneyval/Typologies/MONEYVAL\(2013\)8\\_Postponement.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Typologies/MONEYVAL(2013)8_Postponement.pdf).



documents were adopted during the meeting of Heads of FIUs in July 2013. The EG members present confirmed their readiness to apply the new rules of the organisation.

During the plenary meeting the Polish FIU received a diploma of acknowledgement for the preparation of the presentation within the annual EG competition for the best case illustrating the FIU activities in the area of combating money laundering<sup>12</sup>. The main award was granted to the FIU in Columbia. Moreover, during the workshops for the FIUs, the PFIU shared its experience in the area of combating the penal fiscal crime.

As in the previous years, representatives of the GIFI prepared information for the EG concerning the Polish financial intelligence unit – its structure, tasks and activities in the scope of combating money laundering and financing of terrorism in 2012-2013.

Many issues raised at the EG forum are of key importance for the PFIU as they refer directly to the rules of functioning of such a unit, in particular, in the area of international cooperation and information exchange. In addition, involvement in the activities of this forum enables to develop joint solutions for entities performing similar tasks worldwide, improving their performance, including the areas of information exchange, so important in terms of the global money laundering and terrorism financing crime. Thanks to participation in the activities of this organisation, gathering 139 financial intelligence units, the GIFI has the opportunity for closer cooperation with FIUs all over the world.

#### **6.4.2. Financial Action Task Force (FATF)**

Owing to the associated membership of MONEYVAL in FATF and in the work at the forum of the Prevention Committee, followed by its successor, i.e. the Expert Group, the GIFI continued its cooperation with the FATF. It participated in preparation of opinions of documents prepared by the Task Force and prepared answers to the questionnaires in the area of combating money laundering and terrorism financing, used for preparation of FATF typological reports and analyses. A representative of the GIFI directly participated in the plenary activities of the FATF, as a member of the MONEYVAL delegation.

The GIFI successively informed public administration authorities, the relevant supervisory authorities and associations and industrial unions, and placed information on its website, concerning the statements issued by the FATF in 2013, regarding the jurisdictions which have strategic deficiencies in their systems of combating money laundering and terrorism financing as well as the documents related to the improvement of the international compliance of AML/CFT standards.

In connection with the discussion undertaken by the FATF in 2013, concerning the process of extension by new members, following the initiative of the Ministry of Finance, the application of Poland for the membership in this organisation was renewed. The activities in this area gained support of the Ministry of Foreign Affairs and the Polish Financial Supervisory Authority.

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<sup>12</sup> *Best Egmont Case Award (BECA)*.

### **6.4.3. The Eurasian Group on Combating Money Laundering (EAG)**

Since 2007 Poland has been acting as an observer to the *Eurasian Group on combating money laundering and financing of terrorism* – EAG. The aim of participation in this forum is the direct cooperation with a regional organisation holding the status of FATF associated member (the so-called *FATF-style Regional Body* – FSRB), as well as the exchange of ideas and the technical support for the EAG member states.

In 2010 the Group was transformed into the formal international organisation. In the letter of 23 September 2011, Poland confirmed its participation in the EAG activities as an observer.

As in the previous years, the GIFI representatives participated in the typological work implemented by the Group, preparing answers to the questionnaires or presenting the national cases of money laundering, as well as making necessary materials available for the training needs of the EAG.

Within the framework of the plenary meetings of this organisation, Poland participates in the activities of the technical support Group, accordingly, it has the opportunity to analyse areas where the EAG member states require technical support, such as training, study visits, exchange of experience or consultancy at an expert level. Relevant to the needs diagnosed, the GIFI undertakes efforts to provide assistance, individually or in cooperation with other national institutions (Ministry of Foreign Affairs, National Bank of Poland, etc.). Detailed information on this issue is presented in the item concerning technical assistance to third countries.

## **6.5. Bilateral cooperation**

### **6.5.1. Memoranda of Understanding**

In 2013, the GIFI continued the process of analysing the needs to conclude new bilateral agreements allowing for acquiring the foreign financial information, in bilateral relations with the partnership financial intelligence units. The main instrument of the GIFI cooperation with the foreign units are bilateral cooperative agreements (the so-called *Memoranda of Understanding*). An alternative in relations with the EU countries is the *EU Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information*. Agreements, as well as the cooperation based on them, correspond to the provisions of the Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism of 16 May 2005 (CETS 198).

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

- the principle of reciprocity,
- the use of information for purposes of analysis at the level of a financial intelligence unit,
- justification of the question referring to suspicion of money laundering or terrorism financing,
- transmission of the possessed information or documents to a third party or their use for purposes other than those indicated above only with the written consent of the FIU from which they were obtained,

- the financial intelligence unit is not obligated to provide information if the judicial proceedings have been initiated in the case.

The scope of information received and disclosed, in particular additional information, in each case depends on the scope of the inquiry and compliance with the fundamental principles of national law.

As a result, in 2013 the GIFI signed cooperative agreements on the exchange of information concerning counteracting money laundering and terrorism financing with the financial intelligence units from Japan and the Russian Federation. In case of the Russian Federation new regulations replaced the previous agreement. Thus, the number of financial intelligence units with which the GIFI exchanges information related to money laundering or terrorism financing on the basis of bilateral agreements, increased to 66.

The process of negotiating agreements with other financial intelligence units entities was also continued, as a result of which the relevant memoranda of understanding shall be signed in the first half of 2014.

### 6.5.2. The exchange of information with foreign financial intelligence units

In 2013, the GIFI sent 226 requests asking for information on 446 entities to the foreign financial intelligence units (FIU). The number of requests sent by the GIFI increased, from 2010, by almost 100%, which confirms the intensification of the international cooperation in the area of counteracting money laundering . The table below presents the number of requests addressed to the foreign financial intelligence units (including the number of entities such requests referred to) in 2010-2013:

*Table no. 3 – The number of requests addressed by the GIFI to foreign FIUs, split into years*

<b>Year</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>Number of requests</b>	118	171	190	226
<b>Number of entities</b>	244	529	387	446

The GIFI addressed the largest number of requests to [financial intelligence units](#) in the following countries:

- Latvia – 31 requests,
- United Kingdom – 22 requests
- Germany – 18 requests,
- Cyprus – 16 requests,
- Czech Republic – 15 requests,
- Estonia – 10 requests,
- Ukraine – 10 requests.

The largest quantity of information was acquired from the financial intelligence units located in the European Union Member States, where the GIFI addressed over 83% of all requests, as compared to 77% in 2012. On the basis of the bilateral agreements signed, the GIFI has a

possibility to gain information not only from its counterparts in the European countries, but also, as it happened in 2013, from the units representing, among others, such countries and territories as: Algeria, Armenia, British Virgin Islands, Georgia, Guernsey, Hong Kong, and the United Arab Emirates.

Information derived from abroad is primarily used to verify whether the entities involved in transactions, recognised by the obliged institutions and cooperating units as suspicious, are known to the foreign entity in connection with suspected money laundering, terrorism financing or participating in other criminal activity. Frequently, the information obtained is also a key prerequisite which enables to substantiate or confirm that the transactions analysed are related to illegal activities. It also allows for gaining knowledge of the sources of funds transferred to Poland and their further flow in case the funds are transferred to foreign accounts. Under the approval of the foreign units providing answer to the GIFFI requests, the information acquired is used in the notifications submitted to the prosecution offices or enforcement agencies.

In 2013, the GIFFI received 242 requests from foreign financial intelligence units, which made almost 20% growth as compared to the previous year. The requests for information referred to 920 entities. Similar to the requests submitted by the GIFFI to the foreign partners, also in case of the requests received from abroad, their number has been continuously increasing since 2010, which is illustrated in the table below:

*Table no. 4 – The number of requests addressed by foreign FIUs to the GIFFI, split into years*

<b>Year</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>Number of requests</b>	102	191	203	242
<b>Number of entities</b>	411	820	924	920

The GIFFI received the majority of requests from units from the following countries:

- Luxembourg – 39 requests,
- Belgium – 26 requests,
- Latvia – 22 requests,
- Czech Republic – 19 requests,
- United Kingdom – 18 requests
- Lithuania – 14 requests.

Over 82% of all requests received by the GIFFI originated from the financial intelligence units located in the European Union Member States which, considering a very broad scope of the information exchanged, confirms the intensive cooperation in the area of counteracting money laundering and terrorism financing within the EU.

Also in case of the inquiries addressed to the GIFFI, some requests were submitted by the foreign units pursuant to the bilateral agreements concluded. In 2013, among others, the financial intelligent units from the following countries used the possibility to obtain information from the GIFFI: Argentina, Montenegro, Indonesia, Jersey, Liechtenstein, Turkey and the United Arab Emirates. Requests from entities with whom the GIFFI has not signed any memorandum of understanding so far, provided basis for the commencement of the negotiations concerning the relevant agreements.

In 2013 the GIFI also received 41 pieces of information which were not the requests for information, from the foreign financial intelligence units, related to 149 entities. Such information usually resulted from the analyses performed by the foreign partners and it usually referred to the Polish citizens performing suspicious transactions outside the country, or transfers which were made from or to the Polish accounts. The GIFI also sent 13 analogical pieces of information, concerning 36 entities.

## **6.6. Other issues**

### **6.6.1. Participation in the negotiation process between Poland and the USA**

The GIFI was still interested in the executive act to the Agreement of 11 December 2009 between the Government of the Republic of Poland and the Government of the United States of America on the status of the armed forces of the United States of America on the Polish territory, due to the GIFI control tasks as the Polish financial intelligence unit. In accordance with the above mentioned aspect of the GIFI activities as the authority responsible for the supervision of the AML/CFT issues on the national territory, it cooperated with the relevant American authorities, preparing the executive act concerning the currency and financial institutions of the military base. The draft executive act was adopted by the Prime Minister at the beginning of 2013 and it is subject to further bilateral activities, which were not completed in 2013.

### **6.6.2. Technical assistance to third countries**

In 2013, the GIFI continued its support and actions within the process of building a well-functioning international system for counteracting money laundering and terrorism financing, therefore it engaged in activities aimed at the exchange of experience in this field with other FIUs, as well as other bodies of the third countries.

In cooperation with the National Bank of Poland and the Polish Financial Supervisory Authority, in April 2013, the GIFI participated in the preparation and conducting of the seminar organised within the technical assistance provided to central banks of emerging economies, among others, from the EAG states. The subject of the meetings covered combating money laundering and terrorism financing from the perspective of the FIU, supervisory authorities and private sector. Employees of the Department of Financial Information were involved in this project as lecturers.

Another event within the activities undertaken by the GIFI against the EAG member states was the organisation of a several days' study tour for representatives of administration in Kazakhstan and Tajikistan in May 2013, under the joint initiative of the General Inspector and the Ministry of Foreign Affairs. This study tour was combined with the visit of the delegation from Bosnia and Herzegovina, in connection with the GIFI involvement in projects in the framework of the technical support instrument: TAIEX (*Technical Assistance and Information Exchange*); the purpose of the programme is to conduct short-term expert activities in the field of adapting national legislation to the EU legislation (*acquis communautaire*). The goal of this joint study tour was to present the Polish system for counteracting money laundering and terrorism financing to representatives of other countries. The guests represented the FIUs, law enforcement authorities, security services and other

bodies responsible for the issues of combating money laundering and terrorism financing in these countries. Activities of the Polish authorities in the area of counteracting money laundering and combating terrorism and its financing were presented by the representatives the GIFI, General Headquarters of Police, the Central Anti-Corruption Bureau, the Internal Security Agency, the Polish Financial Supervision Authority Office, the Ministry of the Interior, the Ministry of Foreign Affairs, the General Prosecution Office and departments of the Ministry of Finance. Subsequently, in December 2013 the GIFI hosted the representatives of the financial intelligence unit of Russia (*Rosfinmonitoring*), also the member of the EAG; during the visit both units had the opportunity to exchange their experience and present the performance of the national systems for combating the money laundering and terrorism financing.

On invitation of the Ministry of Foreign Affairs, in December 2013 the representatives of the GIFI took part in the 4th edition of the Skopje Conference and delivered presentations during the panel devoted to counteracting money laundering and terrorism financing. The Skopje conference was established in 2010 as a consultation forum aimed at sharing the Polish pre-accession experience to representatives of the Macedonian governmental authorities, and it confirms the Polish support of Macedonia's ambitions to join the European Union.

### **6.6.3. The "MONEYPENNY" Project**

The Polish Financial Intelligence Unit, as in the previous year, participated in the "Money penny" project, coordinated by the Swedish and police and the Swedish Institute for Security and Development Policy.

The main goal of the project is to strengthen the cooperation between asset recovery offices and financial intelligence units in the countries of the Baltic Sea basin, through examining the possibilities of enhancing the cooperation in the field of information exchange and conducting joint proceedings.

On 4-5 June 2013, the next meeting of representatives of the participating units took place - asset recovery offices and financial intelligence units from Sweden, Estonia, Finland, Latvia, Lithuania and Poland.

The legal capacity was verified as well as the organisational conditions of the cooperation in proceedings related to cross-border crime, including the possibility to operate joint investigation teams, irrespective of the differences existing in the solutions adopted by the cooperating countries.

The legitimacy of efforts aimed at acquisition of funds from the European offer for financing of the future cooperation was discussed; support was provided to the Swedish party applying for co-financing of the activities in 2014, under the international project on *Financial and Economic Crime* – FINEC.

### **6.6.4. Applications for projects from the European Union funds**

In 2013, the GIFI, in cooperation with the Romanian financial intelligence unit, submitted the application for a twinning project for Turkey, financed based on the European Union funds, entitled "Effectiveness in combating money laundering and terrorism financing", no. TR 12 IB JH02, aimed, among others, at the strengthening of the Turkish system for combating such

crime as well as enhancing the quality of cooperation between the Turkish financial intelligence unit (MASAK) and the local cooperating units.<sup>13</sup>.

In the previous year, the GIFI commenced the inter-institutional cooperation with the Regional Police Department in Lublin and other partner entities<sup>14</sup> under the project "International cooperation of enforcement authorities in the scope of prevention and combating economic crime and corruption, as an element of providing security in the EU" in the framework of the European Commission Programme on "Prevention and combating crime". The objectives of the aforementioned project include the improvement and development of the international cooperation in the scope of prevention and combating corruption-related and financial crime (money laundering, fraud, theft of identity), and ensuring the effective seizure of assets derived from criminal activity on the territory of the eastern border of the European Union. The main project tasks will be implemented in 2014.

In 2013 the GIFI was invited by the Hungarian financial intelligence unit to submit joint application for the project called "Training programme in the scope of combating terrorism and financing of terrorism, and money laundering derived from economic crime, committed by companies originating from tax heavens, and from human trafficking" in the framework of the aforementioned European Commission programme. The main goal of the proposed project is the exchange of experience and learning the solutions used in other countries in the area of combating the crime of money laundering and terrorism financing. The Project stipulates joint training in the scope of analysis of new trends and methods of money laundering, defining the risk and profile of crime, as well as assessment of the possibilities for effective counteracting of such type of crime by the states in the region<sup>15</sup>. The GIFI is waiting for the decision of the European Commission concerning the selection of the project.

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<sup>13</sup> At the beginning of 2014, irrespective of the very good evaluation of the Polish-Romanian application, a bid from the United Kingdom was selected.

<sup>14</sup> Central Anti- Corruption Bureau, Customs Chamber in Biała Podlaska, Nadbużański Border Guards Service, KWP (Regional Police Department) in Olsztyn, KWP in Białystok, KWP in Rzeszów, KWP in Radom, Police Academy in Szczytno, UKS in Lublin, Police in Hamburg, Directorate General of the National Police in Bulgaria.

<sup>15</sup> Financial intelligence units from Austria, Bulgaria, Croatia, Czech Republic, Romania, Slovakia and Slovenia were also invited to participate.

## **7. APPLICATION OF SPECIFIC RESTRICTIVE MEASURES**

### **7.1. Participation in the legislative work of the European Union**

The GIFI actively participated in the legislative work which took place within the European Union in 2013. Due to developments at the international arena this work is aimed at the adoption of legal acts, namely Council decision in accordance with Article 29 of the *Treaty on the European Union* (TEU) and Council regulations pursuant to Article 215 of the *Treaty on the Functioning of the European Union* (TFUE), which imposes specific restrictive measures on certain countries in connection with the escalation of internal conflicts, failure to comply with human rights standards, or the intensification of activities related to the production of weapons of mass destruction. In this respect, the GIFI also participated in the assessment of legislative proposals made by individual Member States in the course of work within the European Union, as well as prepared positions for the purposes of national institutions.

The subject of analysis and positions of the GIFI were the draft legal acts providing for the introduction of new or modification of the existing restrictive measures in relation to individuals, groups and entities in view of the situation in the Central African Republic, Republic of Belarus, North Korea, Libya, the Islamic Republic of Iran, Syria, within the scope in which the proposed solutions related to the mechanism of freezing funds of entities listed in the Annexes to these legal acts, the prohibition on making funds available to such entities, as well as other restrictions of financial nature.

### **7.2. Participation in meetings concerning restrictive measures**

The representative of the GIFI, at the invitation of the Ministry of Foreign Affairs, took part in the meetings of the Working Party of Foreign Relations Counsellors (RELEX/Sanctions). The subject of the meetings was the review and modification of the document "Good practices of the EU in effective implementation of restrictive measures". Good practices are general recommendations concerning the effective enforcement of the restrictive measures in accordance with the applicable EU law and the national legislation, and they are not legally binding. This document refers to the issues concerning both standards associated with imposing sanctions on specific entities as well as individual mechanisms, such as freezing of funds, prohibition of making the funds available, or exclusion of the restrictive measures for humanitarian reasons.

At the same time, in connection with the international situation as well as the adjudication of the courts of the European Union, waiving the decision on restrictive measures imposed on specific entities, meetings were held with the representatives of the United States, whose aim was to analyse the application international sanctions arising from the provisions of the European Union. Moreover, a meeting with SWIFT representatives was held, in order to analyse the financial provisions in relation to the Islamic Republic of Iran.



### 7.3. Other issues

In 2013, the GIFI received 2 requests for authorization of transactions from the obligated institutions, pursuant to Article 30a of the *Council Regulation (EU) No. 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No. 961/2010* (OJ EU L, No. 88, p. 1).

The financial sanctions imposed on the Islamic Republic of Iran with the Regulation include – apart from the freezing of funds of certain entities or non-sharing – other restrictions of financial nature. Such restrictions include the obligation of prior authorization for each transaction for and from the individuals, entities and bodies in Iran, above or equivalent to EUR 40,000, and in case of direct transactions between the institutions of the financial sector from Iran and the financial and credit institutions from the European Union Member States - above or equivalent to EUR 10,000. These activities serve the implementation of the main objective of the present regulation, which is to prevent the proliferation of weapons of mass destruction and conducting related activities by the Islamic Republic of Iran. Due to the lack of a central authority in the national law, with statutory powers which would apply only to counteracting the proliferation of weapons of mass destruction and which could play a leading role in the implementation of obligations under the Regulation, the communication placed on the website of the Ministry of Finance in November 2010 indicated that requests for authorization should be directed to the GIFI. Due to the fact that counteracting proliferation goes beyond the statutory powers of the GIFI, this solution can be considered as a temporary mechanism which will be used until a comprehensive settlement of this issue in the national law.

Moreover, the representative of the GIFI participated in the interministerial consultation meeting organised by the Ministry of Foreign Affairs, aimed at assessing the legal and factual possibilities in relation to execution of financial transactions with Iran by the banking sector, following the liberalisation of the restrictions as a result of the Geneva Accords.

## 8. LEGAL ACTIVITY

### 8.1. Legislative activities

On 30 April 2013 a new *Ordinance of the Minister of Finance on the list of equivalent countries* (Journal of Laws of 2013 item 573), was signed, issued pursuant to art. 9d item 6 of the *Act of 16 November 2000 on counteracting money laundering and terrorism financing* (Journal of Laws 2010, No. 46, item 276 as amended). The Ordinance defines countries outside the European Union meeting the standards in the area of counteracting money laundering and terrorism financing, equivalent to the standards adopted in the regulations binding in the European Union and by the aforementioned Act. The list of such countries is necessary in view of the statutory provisions allowing the obligated institutions to apply simplified financial security measures.

The aim of the ordinance was to update the already existing list of equivalent countries, following the changes made within the European Union. In accordance with the Memorandum of Understanding on the equivalence of third countries, adopted by EU Member States in June 2012, due to the gaps shortcomings in the system against money laundering and terrorism financing, the Russian Federation and New Zealand were removed from the list of equivalent countries. The positive results of evaluation of the Republic of India and the Republic of Korea led to the recognition of these countries as having systems for counteracting money laundering and terrorism financing in place, equivalent to the standards adopted in the European Union.

In 2013 the representative of the GIFI participated in the legislative work concerning the draft *Directive of the European Parliament and the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing* in the EU Council. Within the framework of these activities, the representative of the GIFI took part in seven expert meetings of the Working Group on Financial Services, and provided content-related support to the staff of the Permanent Representation of the Republic of Poland to the European Union during meetings of the Working Group on Financial Services held at the attaché level.

Furthermore, the Department of Financial Information participated in the evaluation of other drafts of legal acts, including: *draft Act on the amendment to the Act – geological and mining law and the draft Act on the system of trading of the allowances for emission of greenhouse gases*.

### 8.2. Participation in the Conference of the Parties to the Warsaw Convention

On 14 June 2013 during the meeting of the Conference of the Parties to the Convention in the Council of Europe in Strasbourg, France, the report was adopted on implementation by Poland of the *Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, executed in Warsaw on 16 May 2005* (Journal of Laws 2008, No. 165, item 1028), hereinafter referred to as the Warsaw Convention. Poland was represented, among others, by the GIFI representatives.

The Convention contains the provisions binding its Parties (i.e. main states bound by the Convention) to undertake legislative or other measures in order to implement solutions required by this Act. The General Inspector of Financial Information implements the majority

of the provisions of the Convention. The recommendations provided in order to improve the implementation of this international agreement in the scope of the financial intelligence unit (i.e. Department of Financial Information of the Ministry of Finance) refer mainly to the implementation of statistics enabling to confirm the effectiveness of performance of the system for counteracting money laundering and terrorism financing.

The representative of the GIFFI participated in the conference "From signing to ratification, implementation and enforcement: taking the challenges", organised in Dilidjan in Armenia in October 2013. The particular goal of the conference, convened by the Secretariat of the States-Parties to the Warsaw Convention and addressed to the States-Parties to the Convention, member states of the Council of Europe and other states and international organisations (World Bank and OSCE - with the Polish head of mission in Armenia), was to raise the awareness of the importance and possible role of this Convention in the international community in the scope of combating money laundering and terrorism financing. Apart from presentations concerning the general issues, such as the added value of the Convention to the international legal and internal system of the states concerning the AML and CFT issues, and the detailed presentations on such topics as seizure of assets, recovery of assets and management of the seized assets, the representative of the GIFFI had the opportunity to present the implementation of advanced patterns in Poland, such as suspension of transactions/ blockage of accounts upon the impulse sent from other country. The representative of the GIFFI expressed the willingness to provide further support of initiatives aimed at extension of the range of the ratification and implementation of the Warsaw Convention.

### **8.3. Issuing positions on the application of law**

In 2013, the Department of Financial Information of the Ministry of Finance, implementing the GIFFI tasks, issued 169 written interpretations of legal regulations concerning counteracting money laundering and terrorism financing to the obligated institutions:

- banks – 57,
- brokerage houses - 3,
- investment companies - 6,
- insurance companies - 5,
- entrepreneurs involved in leasing - 8,
- investment companies - 6,
- payment institutions - 5,
- postal operators - 2,
- foundations/associations – 6,
- entities providing currency exchange operations - 29
- entrepreneurs involved in trading of metals - 1
- entrepreneurs operating in the field of gambling, mutual betting - 3
- entrepreneurs receiving payments for commodities in cash of the value equal to or exceeding the equivalent of EUR 15,000 – 10,
- persons authorised to provide bookkeeping services – 11,
- entrepreneurs receiving payments for commodities in cash of the value equal to or exceeding the equivalent of EUR 15,000 – 10,
- Notaries public – 6.

- tax advisers - 1.

Moreover, in this period, 9 written interpretations were submitted to cooperating units concerning the provisions of the *Act*.

Besides the interpretation issued in writing, representatives of the GIFI provided explanations to the obliged institutions and cooperating units by telephone.

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General Inspector of Financial Information