

ANNUAL REPORT 2009



Hungarian Financial Intelligence Unit

Central Criminal Investigation Bureau
of the
Hungarian Customs and Finance Guard

Budapest, January 2010

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The present document is the Annual Report of the Hungarian Financial Intelligence Unit of the Central Criminal Investigation Bureau of the Hungarian Customs and Finance Guard (hereinafter referred to as HFIU) relating to year 2009. The HFIU has prepared this Annual Report to comply with the obligation stipulated by Article 23 paragraph (10) of Act no. CXXXVI of 2007 on the prevention and combating of money laundering and terrorist financing (hereinafter referred to as AML/CFT Act) HFIU at the same time meets its publication obligation stipulated in Article 29 paragraph (5) of the AML/CFT Act by providing information on statistic data it collects. In addition to fulfilling legal obligations stipulated in the AML/CFT Act, the Annual Report also provides a concise, general summary of the system in place against money laundering and the functioning of HFIU, describes the electronic reporting system, the supervisory activities of the HFIU and aims to assist service providers specified in Article 1 paragraph (1) of the AML/CFT Act (hereinafter referred to as service providers) by providing typology criteria on suspicious transaction reports (hereinafter STRs).

1. SUMMARY OF THE ANTI MONEY LAUNDERING SYSTEM AND THE HUNGARIAN FINANCIAL INTELLIGENCE UNIT

Money laundering refers to all activities aimed at converting funds obtained through criminal activities into legal funds. A fundamental element of money laundering is that it is performed in a fashion that hides the illegal origin of funds, then, by integrating it into economic circulation, it is laundered, hence making it appear legal.

With the widespread economy taking shape money laundering emerged to be a pressing issue. Fighting it back in an effective manner called for counter measures of an international and uniform nature. By laying down these principles the Financial Action Task Force (hereinafter referred to as FATF) was brought to life in 1989, an informal and international forum striving to make institutional structures of individual countries similar by drawing up non-binding recommendations to bring struggle against money laundering and terrorism financing up to speed. Besides FATF the European Union is there, too, to take its part building institutional background against money laundering. In Hungary, the Parliament, in compliance with its obligation to introduce legislation as a member of the European Union has adopted the AML/CFT Act which introduces the provisions of Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing into the national legal system.

The financial and non-financial service providers falling under the AML/CFT Act are obliged to submit a report (STR) in the event of any data, facts or circumstances indicating money laundering or terrorist financing. A binding element of STRs submitted by service providers are the data obtained through customer due diligence procedure as well as data, facts and circumstances recorded indicative of money laundering or terrorism financing. It is the responsibility of the service provider to establish suspicion as stipulated by the AML/CFT Act hence calling for an STR report to be submitted. By complying with the obligation to report information on suspicious actions communicated by the service provider reach the authority operating as the financial intelligence unit. As of 15 December 2008 service providers may only submit STRs by sending a protected electronic message.

Having regard to the fact that, in one hand, as stipulated under Article 3 section 1) of the AML/CFT Act, the authority operating as the financial intelligence unit is an individual unit within the organization of the customs on its own, and, on the other hand, under Article 7 section e) of Government Decree no. 314/2006 (XII. 23.) on the appointment of the Customs and Finance Guard and its organisational units, the performance of tasks stipulated by the AML/CFT Act to fulfill roles to be performed by the authority appointed to operate as the financial intelligence at the Central Criminal Investigation Bureau of the Hungarian Customs and Finance Guard (hereinafter referred to as CCIB), the HFIU was set up as the financial intelligence unit at the CCIB performing the tasks of non-investigative nature of the authority operating as the financial intelligence unit as of 15 December 2007.

Core task of the HFIU is the analysis and evaluation of data included in the STRs. While performing its analyzing and evaluating tasks, the HFIU uses databases directly accessible to it in order to reconcile and analyze data, to send written requests to other authorities, as well as to send or receive requests to and from foreign financial intelligence units (hereinafter referred to as FIU). The AML/CFT Act grants exemptions from the provisions protecting taxation and customs secrets to the tax authority and the customs authority, so the HFIU is entitled to gain access to taxation and customs secrets associated with the persons and organizations mentioned in reports and to use that information during the analysis of reports.

The HFIU is a member of the Egmont Group, which is an international organization of the financial intelligence units. The Egmont Secured Web operated by the Egmont Group provides a protected electronic channel for performing a quick exchange of information related to crime prevention and criminal investigation.

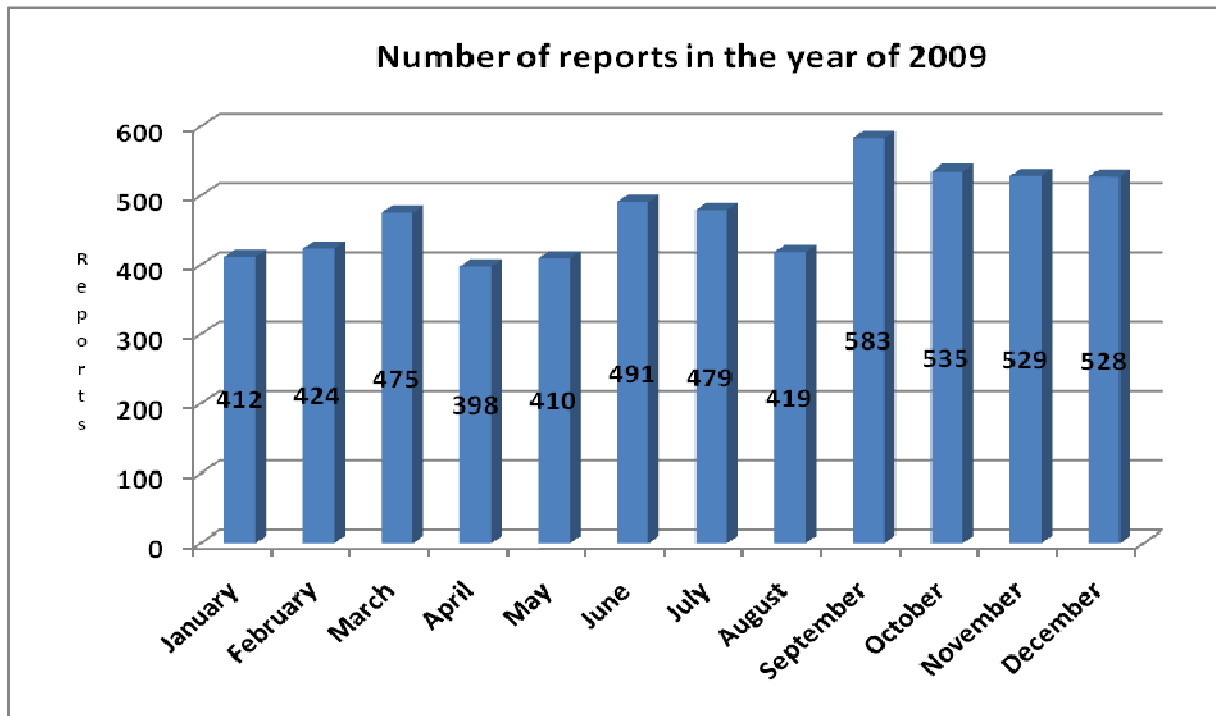
After the analysis and evaluation, the HFIU forwards the data that are relevant for criminal investigations in accordance with Article 26¹ of the AML/CFT Act. Both potential purposes and authorities to which information are forwarded are laid down by the said Article.

2. STATISTICAL INFORMATION

During the period 1 January - 31 December 2009 HFIU has received 5683 reports and data provisions relating to money laundering, terrorist financing and measures aimed at freezing of funds and economic resources (hereinafter referred to as reports), of which 5407 were submitted by service providers under Article 23 of the AML/CFT Act.

Monthly breakdown of reports received by the HFIU during the period between 1 January 2009 and 31 December 2009 is shown in the table below:

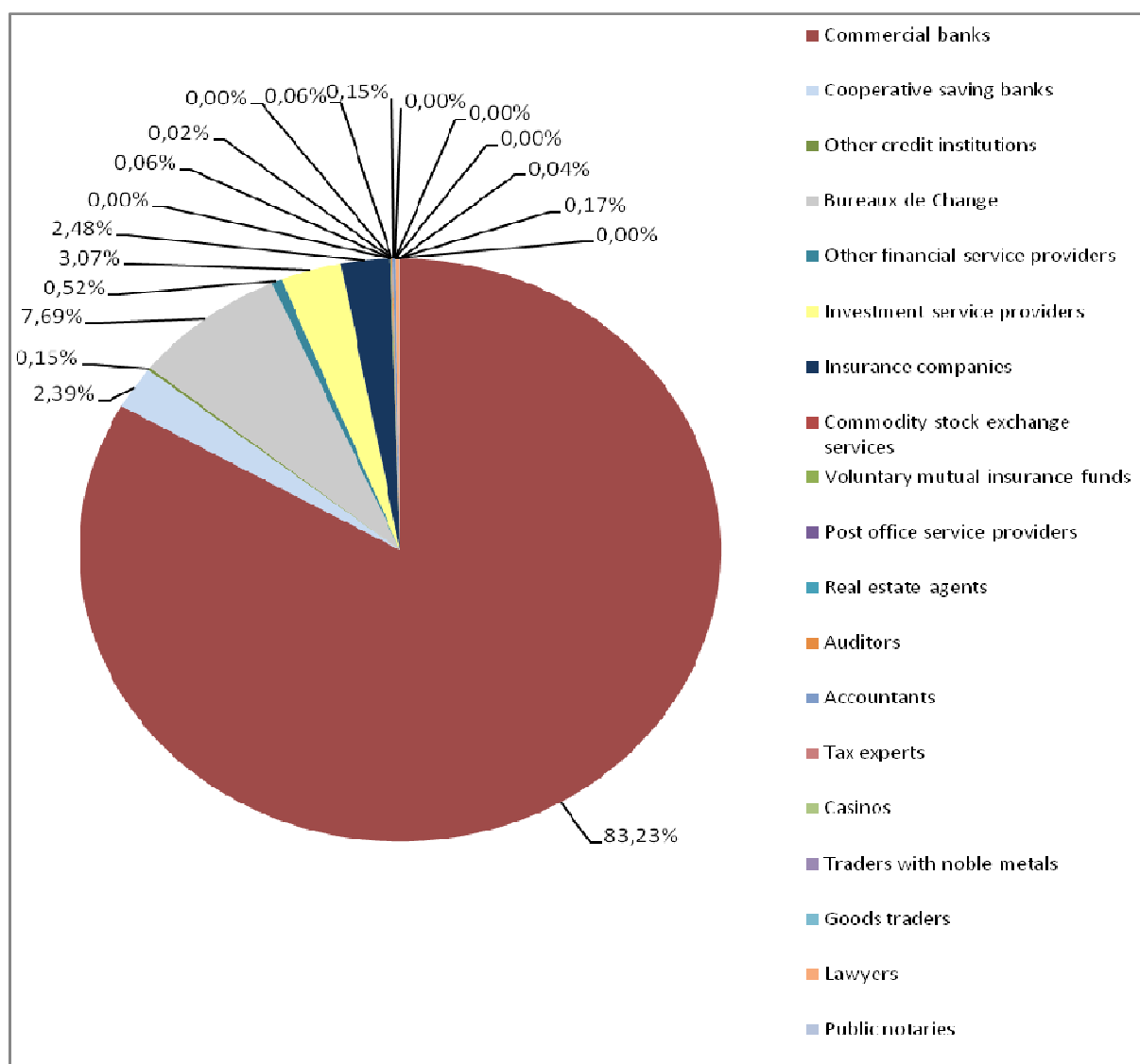
¹ Article 26 (1) of the AML/CFT Act stipulates that the authority operating as the financial intelligence unit shall be authorized to use the information obtained under this Act only for the purposes of prevention and combating money laundering and terrorist financing, and for the purposes of the investigation of acts of terrorism [Section 261 of Act IV of 1978 on the Criminal Code (hereinafter referred to as the 'Criminal Code')], unauthorized financial activities (Section 298/D of the Criminal Code), money laundering (Sections 303-303/A of the Criminal Code), failure to comply with the reporting obligation related to money laundering (Section 303/B of the Criminal Code), tax fraud (Section 310 of the Criminal Code), embezzlement (Section 317 of the Criminal Code), fraud (Section 318 of the Criminal Code) and misappropriation of funds (Section 319 of the Criminal Code), and to disseminate such information to other investigating authorities, the public prosecutor, the national security service or an authority operating as a foreign financial intelligence unit.



Based on these figures we can conclude that an average monthly amount of 474 reports are received by the HFIU. Most reports were submitted in September, least reports were lodged in April.

Division of reports indicating money laundering and terrorist financing (as much as 5407) as per service providers are contained by the following table.

Service Providers	January	February	March	April	May	June	July	August	September	October	November	December	Total
Commercial banks	303	353	349	287	304	383	385	355	463	459	439	420	4500
Cooperative saving banks	13	8	18	14	6	9	10	9	12	6	10	14	129
Other credit institutions	0	0	0	0	0	4	1	0	1	2	0	0	8
Bureaux de Change	55	18	39	32	45	28	36	27	33	26	36	41	416
Other financial service providers	2	0	1	1	2	2	1	2	5	7	5	0	28
Investment service providers	18	10	18	22	23	20	18	11	1	2	10	13	166
Insurance companies	7	6	15	15	7	19	15	9	8	9	9	15	134
Commodity stock exchange services	0	0	0	0	0	0	0	0	0	0	0	0	0
Voluntary mutual insurance funds	1	0	2	0	0	0	0	0	0	0	0	0	3
Post office service providers	0	0	0	0	1	0	0	0	0	0	0	0	1
Real estate agents	0	0	0	0	0	0	0	0	0	0	0	0	0
Auditors	0	0	0	2	0	0	0	1	0	0	0	0	3
Accountants	1	0	0	0	2	0	3	0	0	0	0	2	8
Tax experts	0	0	0	0	0	0	0	0	0	0	0	0	0
Casinos	0	0	0	0	0	0	0	0	0	0	0	0	0
Traders with noble metals	0	0	0	0	0	0	0	0	0	0	0	0	0
Goods traders	0	0	0	0	0	0	0	0	0	0	0	0	0
Lawyers	0	3	0	0	0	0	0	1	0	2	0	3	9
Public notaries	0	0	0	0	0	0	0	0	0	0	1	1	2
Total	400	398	442	373	390	465	469	415	523	513	510	509	5407

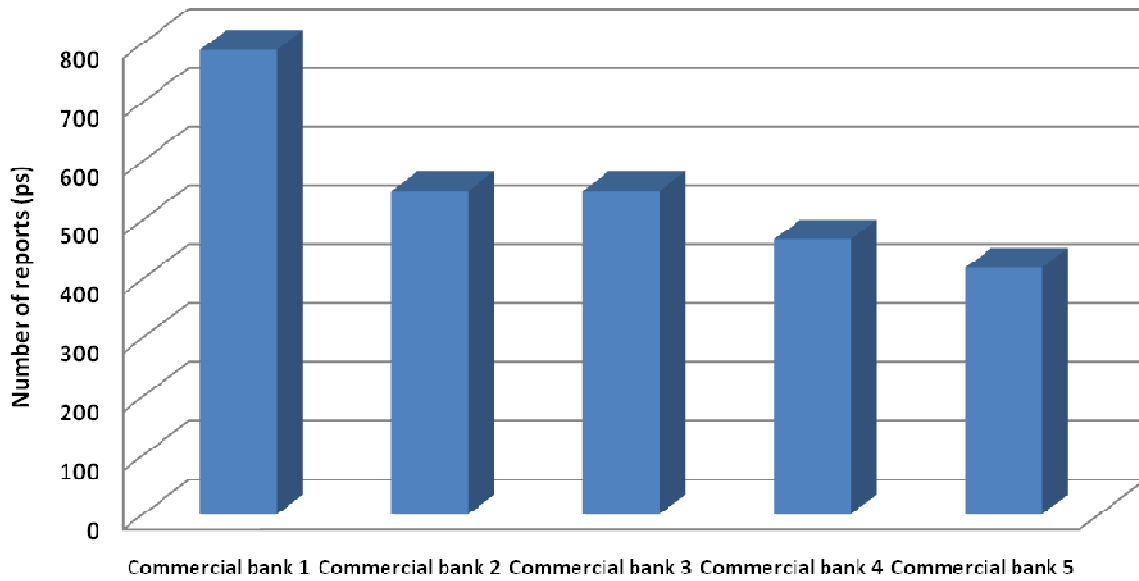


As shown by the table and the chart above, bank reports constitute the majority (83,23%) of reports, as was the case in 2008. A significant number (7,69%) of reports were received from Bureaux de Change (7,69%), investment service providers (3,07 %), insurance companies (2,48 %) and cooperative savings banks (2,39%). A relatively minor amount or even no reports at all were received from other service providers, auditors, accountants, lawyers.

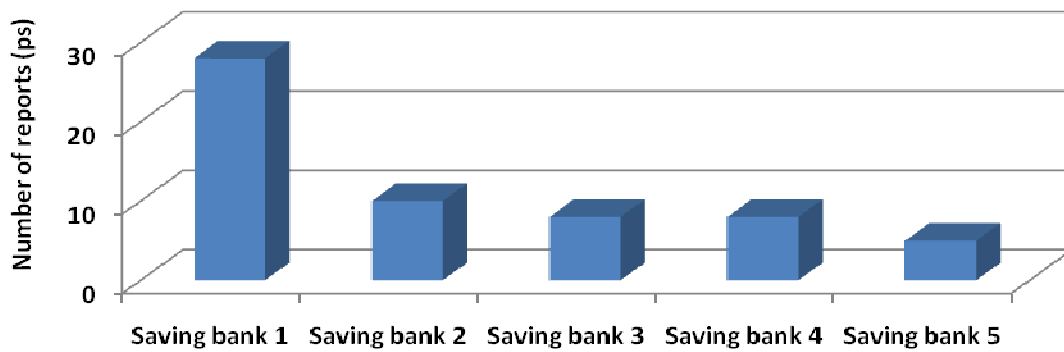
A total of 99,57% of all reports originate from financial service providers leaving only a minor part (0,43%) to non-financial service providers.

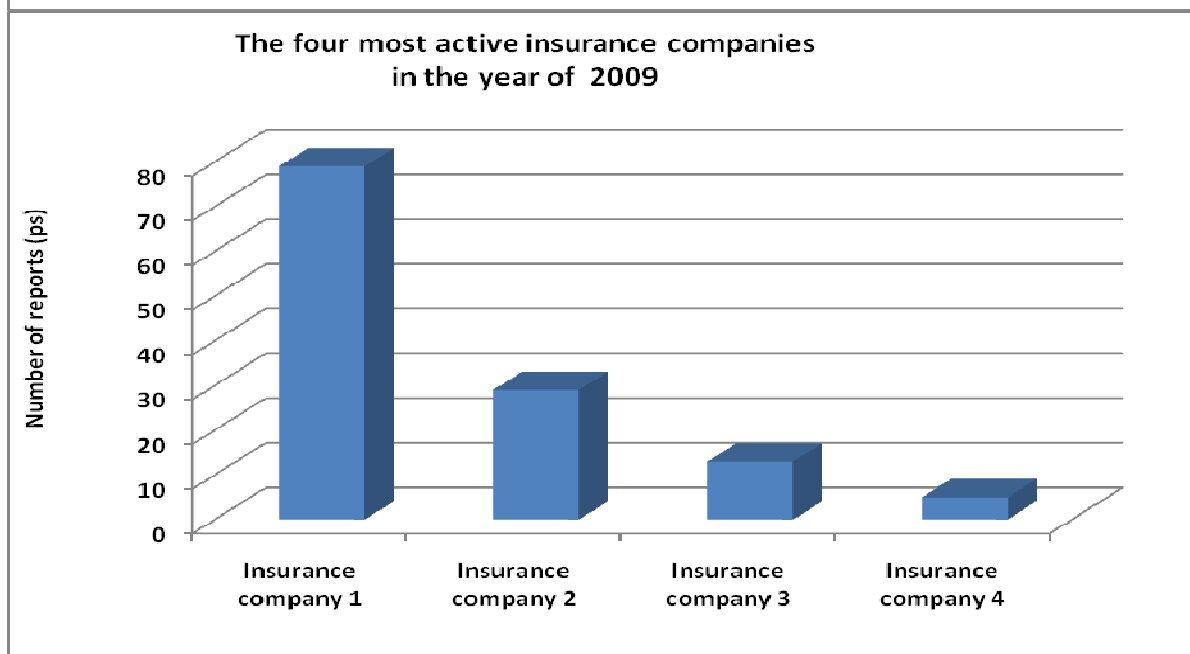
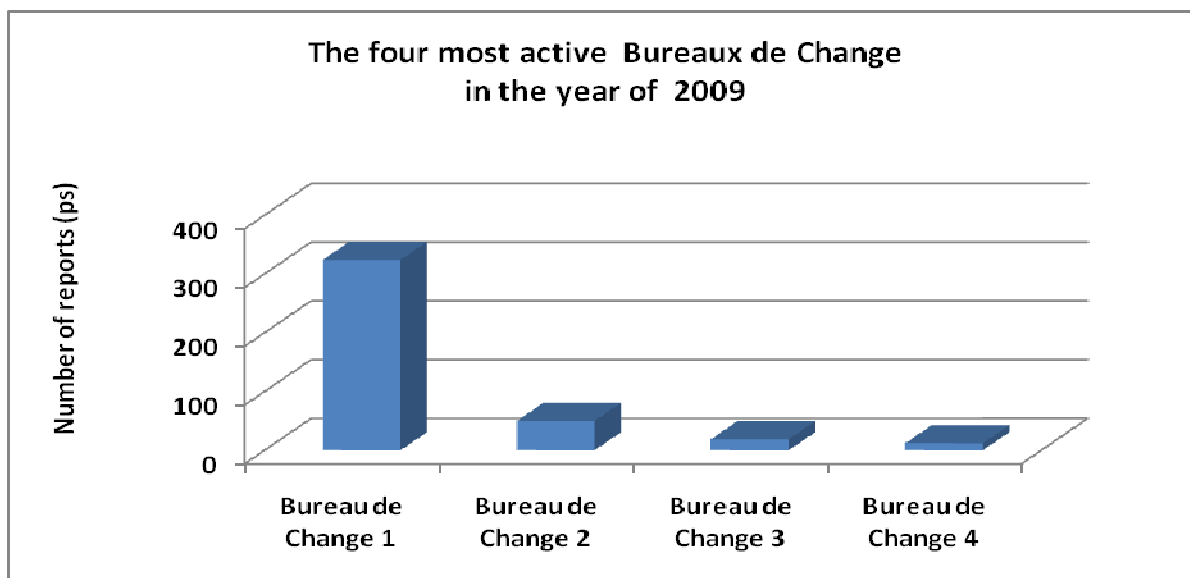
Diagrams below highlight the number of reports submitted to the HFIU in 2009 by the five most significant banks and cooperative savings banks, as well as from the four most significant money exchange and insurance companies.

The five most active commercial banks
in the year of 2009



The five most active cooperative saving banks
in the year of 2009





In addition to service providers, HFIU also receives notifications from supervisory authorities stipulated in Article 5 of the AML/CFT Act and, under Article 4 paragraph (3) of Act no. XLVIII of 2007 on the implementation of Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community, customs offices operating at external border crossings of the European Union (including customs offices at Ferihegy International Airport). HFIU also receives requests from foreign FIUs and reports from service providers and agencies maintaining registries of economic resources under Article 10 paragraph (1)-(2)³ of Act no. CLXXX of 2007 on implementation of financial restrictive measures ordered by the European Union, and amendments of other acts (hereinafter referred to as FRM Act²). Total number of

² Under Article 10 of the FRM Act, the service providers falling under the AML/CFT Act and the agencies maintaining registries of economic resources are obliged to report to the agency responsible for the application of measures aimed at freezing funds and financial resources all data, facts, circumstances indicating that subjects of measures aimed at freezing funds and financial resources possess funds or economic resources falling under measures aimed at freezing funds and financial resources within the territory of the Republic of Hungary, or that a given transaction may yield an economic gain for a subject of measures aimed at freezing funds and financial resources.

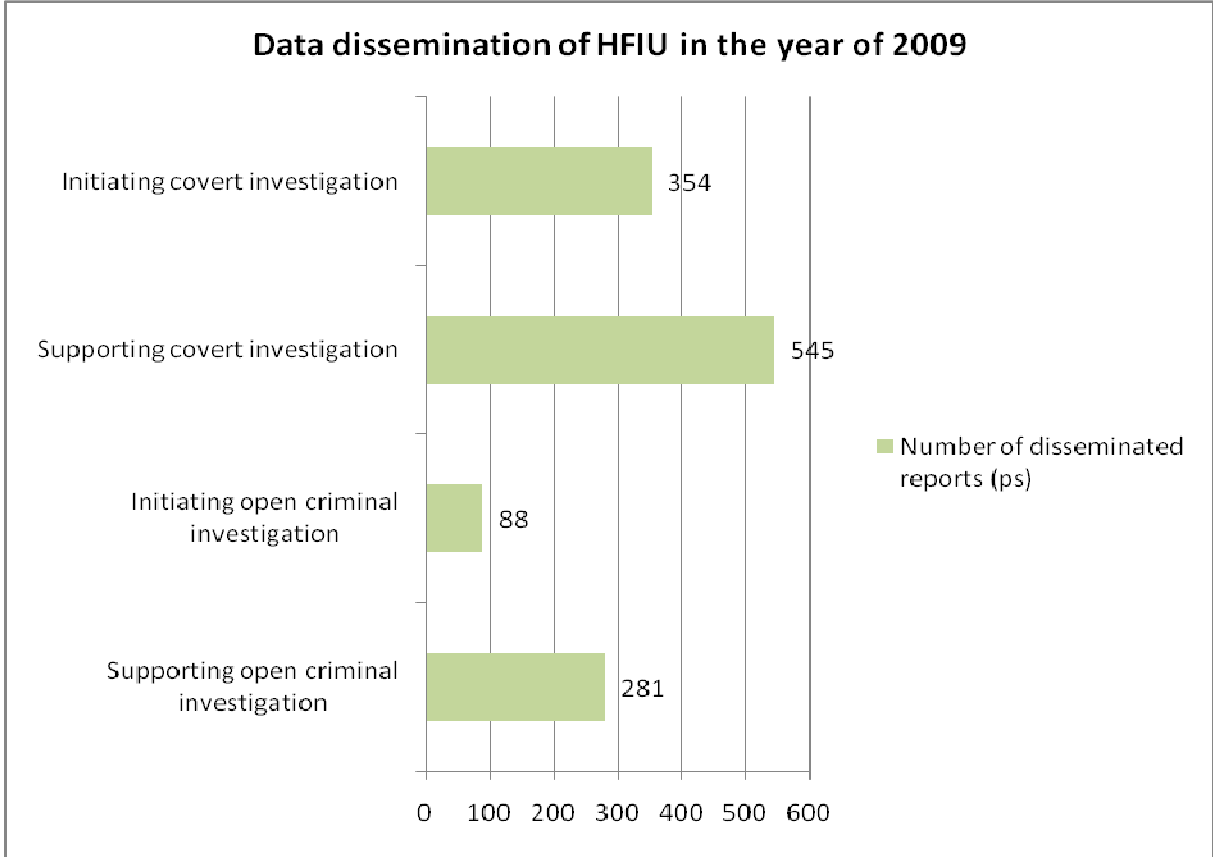
notifications, requests and reports of such nature in 2009 amounted to 276. Table below indicates these data transmissions on a monthly basis.

Service Providers	January	February	March	April	May	June	July	August	September	October	November	December	Total
Border customs offices	1	9	6	3	2	2	4	3	2	1	4	0	37
Foreign FIUs	11	17	25	21	18	24	6	0	58	21	15	18	234
Financial restrictive measures	0	1	2	1	0	0	0	0	0	0	0	0	4
Supervisory authorities	0	0	0	0	0	0	0	1	0	0	0	0	1
Total													276

As regards terrorist financing, no report was received by the HFIU as per Article 10 of the FRM Act. In 2009 a total of 4 reports were received based on the above regulation but none of those reports indicated terrorist financing. As a follow-up measure to the analysis of these reports one of the reports led to the notification of the competent county court of justice (based on the location of the property) by virtue of Article 3 paragraph (3) point *a*) of the FRM Act. 3 reports were received from service providers relating to terrorist financing as per the provisions of the AML/CFT Act.

In 2009 the HFIU sent 368 requests to foreign FIUs.

Data transmissions completed by the HFIU by virtue of Article 26 (1) of the AML/CFT Act are indicated in the diagram below.



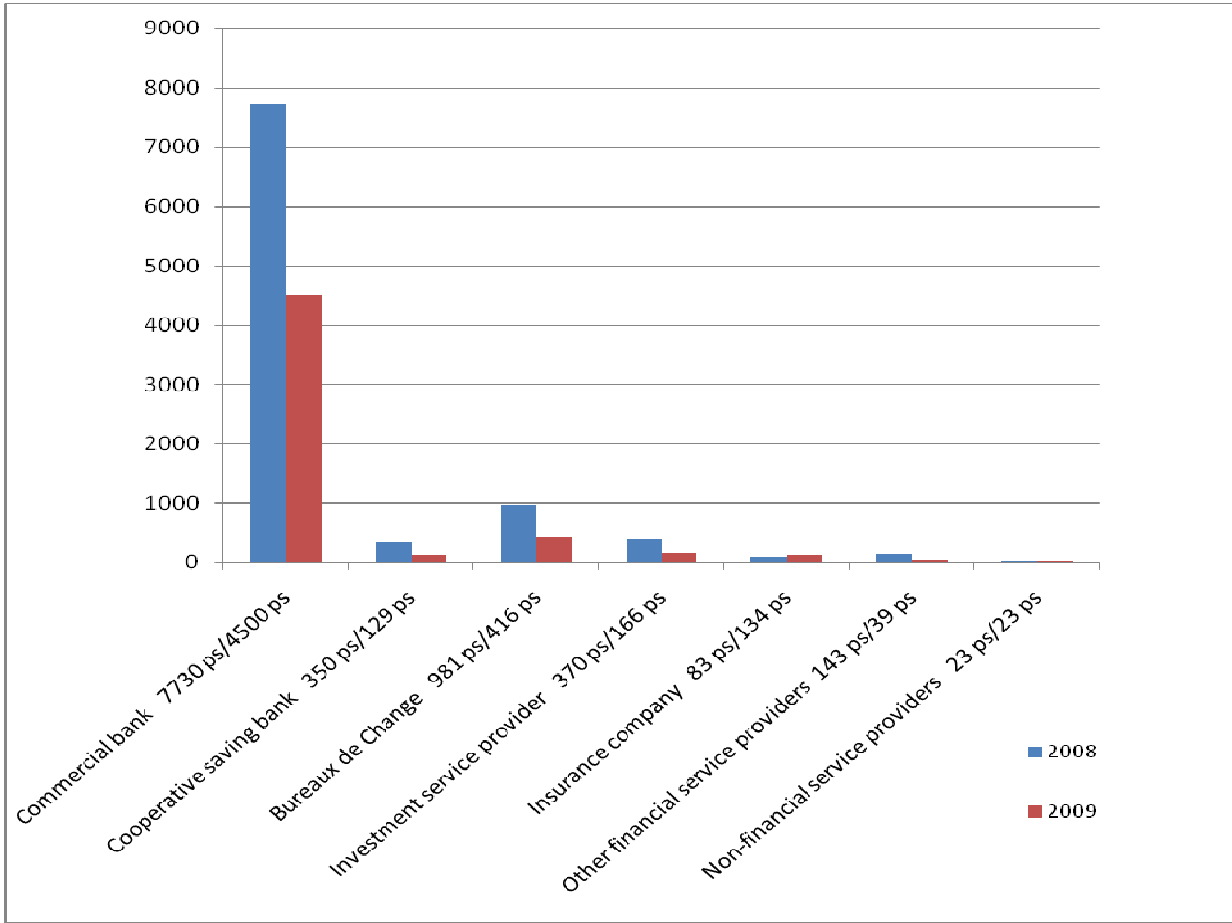
In 2009 HFIU sent 354 reports to initiate criminal detection (not to be executed by HFIU) and 545 reports to support detections already running.

There were a total of 88 reports sent to initiate criminal investigation as well as 281 reports to support criminal investigations.

Based on Article 24 of the AML/CFT Act there were 20 transactions suspended along with launching a report. Relating to these transactions HFIU initiated criminal investigation in 1 case.

3. DECREASE OF REPORTS SUBMITTED BY SERVICE PROVIDERS IN 2009

Compared to 2008 the number of reports received from service providers in 2009 is decreased by 50 % as shown by the diagram below.



According to the statistical figures it is clear that the number of reports received by the HFIU shows a decrease in proportion to previous years. In 2008 the total number of reports sent by service providers reached 9680, hence, the figure of 2009 stalls at only 55,86% in comparison.

However, it is witnessed that despite the declining number of reports many service providers prove to evolve data content of their reports quality-wise. This improvement shows in the increased accuracy of data, the highlighting of facts, data or circumstances hinting money laundering or terrorist financing, as well as in the improvement of data transmission by virtue of Article 26 of the AML/TFC Act. Another positive shift is the more complex

implementation of typologies published by the Hungarian Financial Supervisory Authority and the HFIU earlier on.

At certain service providers due to so far unidentified reasons by the HFIU a sharp drop in the number of STRs has been observed.

According to the HFIU experience, in 2008 there were individual cases resulting in a sounder clientele, like a series of STRs coming from a single customer due diligence procedure). These factors had the potential to significantly increase the number of STRs in one hand, and, on the other hand, stemming from the aforementioned sounder clientele, decreased data, facts and circumstances indicating money laundering or terrorist financing, hence are the STRs submitted in 2009. The share of such STRs submitted in 2008 exceeded 15% of STRs overall.

It is presumed that mechanisms of complete customer due diligence have been incorporated into the procedures of service providers in the wake of the entry into force of the AML/CFT Act with all these having the possible side effect that resulted in the decrease of STRs.

Following the amendment of Article 303/B of the Penal code that entered into force on 1 June 2007, the negligent form of non-performance of reporting obligation in connection with money laundering criminal offence is not subject to penalization. Although this amendment of the Penal code entered into force more than one and a half years after the inception of the analyzed period, it is probable that this amendment has been exerting a deal of impact on the reduction of the numbers of STRs.

Certain changes in the amount of STRs received have been induced by factors other than those of anti money laundering. The number of STRs saw its ups and downs with the economic and financial downturn evolving. In this regard, the shift in the number of STRs submitted by money exchange bureaus and financial investment service providers can be observed.

The electronic reporting system was set up and running at the end of 2008 creating a brand new situation both for service providers filing STRs and for the customs receiving and handling STRs in the database. Service providers were requested to introduce a new infrastructure into their procedure that might have had an effect on the temporary decrease of STRs.

We can conclude that the shift in the volume of STRs can very well be attributed to a number of factors and assumptions; however, the decrease had a positive effect on the analysis performed by the HFIU by and large. The decrease in the number of reports, actual quality improvement and the introduction of electronic reporting system altogether contributed to the streamlining of cross-checking STRs filed as well as to the up-to-date processing of information obtained.

4. PROVISIONS OF CUSTOMER DUE DILLIGENCE OF ACTUAL OWNERS

HFIU retains no competence to supervise execution of obligations of service providers as laid down by the AML/CFT Act, however, at the same time and as a result of the confidentiality provisions of the AML/CFT Act, only the HFIU may provide feedback on discrepancies unveiled by information gathered through STR analysis.

As set by the AML/CFT Act, the goal of the due diligence procedure is not limited solely to gain data with a purpose to prevent money laundering. Counteracting attempts that either customers or a natural person illicitly using customer or company ID striving to utilize infrastructure run by service providers so as to commit money laundering, terrorist financing or any other criminal activities gets a stressed emphasis as well. For service providers, customer due diligence is meant to be a process whereas, by virtue of the AML/TFC Act, all relevant data of the customer are recorded and, in case of missing data elements, relevant procedure is introduced.

As laid down by Article 8 of the AML/CFT Act, the customer, as part of the customer due diligence procedure, is obliged to give a written statement relating to whether or not s/he is acting on his/her own behalf or on behalf of the actual owner. Accordingly, s/he may state that s/he is acting either on his/her own behalf or someone else's. In this latter case, according to Articles (2) and (3) of the AML/CFT Act, as a part of the customer due diligence procedure the customer is bound to cooperate in identifying and verifying the ID of the actual owner. The natural person representing the customer is obliged to make his/her actual ownership declaration according to Article 3 subparagraph r) / ra)-rb) of the AML/CFT Act if the customer is a legal person or a company without legal entity. This might constitute step one in the customer due diligence procedure aimed at the actual owner. Should a customer provide a statement that s/he is acting in the name of, or on behalf of the actual owner, based on the service provider's decision the statement shall include, as a minimum criteria, the surname and given name, the permanent address and the citizenship of the actual owner. Insofar as the said data are missing the customer due diligence of a comprehensive nature (including the customer due diligence of the actual owner) shall not be deemed fulfilled. In the case above natural persons declared that they act in their own name and on their own behalf.

Possible step two of customer due diligence of the actual owner is laid down by Article 8 paragraph (4) of the AML/CFT Act whereby the service provider calls on the customer to a repeated written statement in relation to the actual owner should any doubt emerge. As to the 'doubt' from the part of the service provider, there are no exact definitions contained by the AML/CFT Act, albeit, based on STRs, it is safe to say that such doubt is there to be dealt with whenever the service provider informs the HFIU that money turnover activity on a private person's bank account is suspected to be an economic activity making the natural person who was a subject of a customer due diligence a natural person (eligible of disposition, representative, proxy) bearing links either to the actual owner or the customer.

Service providers in step three are obliged take measures to scrutinize available registers and databases so as to establish the identity of the actual owner should initial doubts hold ground even upon a second written statement relating to the actual owner.

Article 11 paragraph (6) of the AML/CFT Act stipulates step four of the customer due diligence procedure of the actual owner as follows: should the service provider be unable to fulfill customer due diligence (including customer due diligence of the actual owner) s/he is obliged to refuse the execution of an operation to be made through a bank account by proxy of the customer, the establishment of a business association and fulfilling a transaction order, or is otherwise obliged to terminate business association with the customer.

5. CONFIDENTIALITY MEASURES RELATED TO AN STR IN THE HFIU PROCEDURES

According to Article 23 of the AML/CFT Act, STRs made by service providers shall be recorded in a database accessible exclusively by the HFIU. Upon getting the electronic reporting system up and running, data are automatically recorded in the database the moment the STR is received.

Confidentiality provisions set forth in Article 27 of the AML/CFT Act (i.e. the prohibition of disclosure) shall extend to the reporting, to data supplied upon request of the HFIU, to the contents of both actions, to the suspension of the completion of the transaction order, to the identity of the reporting party as well as to the fact whether or not there are criminal proceedings introduced against the customer.

As provided for by Article 27 of the AML/CFT Act, confidentiality is pertaining to both the HFIU and the reporting service provider respectively. Hence, confidentiality is applied to data reported as well; HFIU has set up its procedures with strict observation of this confidentiality clause which is to be applied at every last stage of crosschecking the report. Should HFIU turn to either any service providers or partner authorities a confidentiality clause is to be applied in accordance with Article 27 of the AML/CFT Act.

Should there be a case of data transmission in accordance with Article 26 of the AML/CFT Act, HFIU shall call into the attention of the authority addressed obligation relating to confidentiality unless information transferred is not to be used under any other legal provisions. In the interest of protecting the party submitting the STR, name of the person designated will not show in data transfer based on Article 26 of the AML/CFT Act.

Confidentiality as set forth by Article 27 of the AML/CFT Act shall not pertain to the enforcement unit conducting the criminal investigation, hence, the fact of the investigation itself plus related issues contained by the STR are legally justified to show up in the investigation file. Having mentioned handling STRs in a criminal procedure there is a case to speak of wherein the enforcement unit conducting the criminal investigation launched under Article 26 of the AML/CFT Act considered the service provider as the entity filing the criminal report. Following up this turn of events and based upon the information provided by the service provider HFIU informed the investigative authority that the reporting service provider has made the report on the basis of Article 23 of the AML/CFT Act whereupon it is not to be considered as a party filing the criminal report itself (as laid down by Act XIX. of 1998 on the Criminal Procedure).

6. FEEDBACK

In its Biannual Bulletin and Annual Report encompassing information on the effectiveness of STRs and proposals facilitating efficiency HFIU provides a feedback of a general nature to service providers filing STRs. Besides this general feedback HFIU notifies the service provider filing an STR on the use of information gathered unless it has the potential to compromise a successful procedure. Confidentiality as of Article 27 of the AML/CFT Act is applicable to this feedback procedure as well.

HFIU homepage was updated in February 2010 – www.vam.gov.hu/pio provides information on, inter alia, the institutional network against money laundering and terrorist financing, on financial and assets restriction measures, on electronic reporting system as well as on HFIU supervision measures. Biannual Bulletin and Annual Report are published on the HFIU website.

7. ELECTRONIC REPORTING

As per amendments to the AML/CFT Act entered into force on 15 December 2008 service providers shall file to HFIU by means of an protected electronic message data, facts or circumstances indicating money laundering or terrorist financing. Receipt of such an electronic message is acknowledged by the HFIU without delay by electronic means.

The Hungarian Customs and Finance Guard (HCFG) met its obligation by the deadline to set up its electronic data forwarding and messaging system complying with legal criteria. While doing so HCFG was striving to set up a solution that is easy and simple to use whilst observing issues of cost efficiency and effectiveness both for financial service providers and non-financial service providers.

Protected electronic messages are to be sent by filling in forms either ABeV PMT08 or ABeV PMT08 with reduced data content along with the use of respective XML file by signing in to the so-called Client Gate (Ügyfélkapu) accessible on the electronic administration website of Hungary at www.magyarország.hu .

From the public web address of the tax office www.apeh.hu can the framework software be downloaded. Information pertaining to the download, completion of the PMT08 form as well as information on data transfer and feedback, along with other associated data is accessible both at <http://vam.gov.hu/pio> and <http://www.vam.hu/enyomtatvany/index.html#3> .

Following the upload by the provider in a form of encrypted files STRs are transferred by the system. Following this the encrypted file is decoded by IT system used by the HFIU.

Database accessed by the HFIU stands as a system completely separate from every other IT systems used by the HCFG and by other enforcement agencies respectively. Access is granted solely to HFIU officials and data shall only be recorded for purposes stipulated by the AML/CFT Act.

To correct system errors occurring whilst handling either protected messages or replies by the HFIU the HCFG has implemented modifications deemed necessary taking experiences of 2009 as well as proposals by service providers into consideration. At www.va.gov.hu/pio this feature can be tracked down under “protected electronic messages”.

In the course of change management the following measures have been applied:

- Reply messages sent by the HFIU are stored as sent items for 30 days. Messages received can, via the Client Gate, be transferred into a permanent buffer.
- As opposed to the system run previously, should the STR contain no business association or transaction order the electronic system shall refuse the STR (Article 9 paragraph (1) of AML/CFT Act).

- Following changes the box 'Facts' is ready to accommodate up to 4000 characters.
- Service providers are not aware of the currency in every instance in cases of accounts held elsewhere; however, they are privy to the data of the account holder. Hence, filling in the box 'currency' is not obligatory.
- The electronic reporting system so far has not been able to receive attachments with file names in capitals, and, as a result, has generated error reply messages. Converting such capitals into lower case has been automated.
- In line with provisions of the AML/CFT Act there is no obligation to input the type and number of ID document when inputting data of actual owner. This issue for reasons of an IT nature has no effect on the box 'ID document' appearing in blue. This box will retain its color regardless of title however, in case of a natural person the box will remain blank.
- Having regard to Article 9 of the AML/CFT Act, on the page 'Transaction Orders' filling in the field 'Transaction' is obligatory.
- Filling in hours and minutes on the page 'Transaction Orders' is not obligatory. Nonetheless, full data in 4 digits are to be supplied in case it actually is filled in (e.g. 1600).
- Multiple receipt of the same STR is prevented by the file name check of the electronic system. Should a file already be uploaded via the Client Gate and received by the HFIU (HFIU feedback) the HFIU will send an automated error message in case of uploading a file with the same file name.
- There were 2 confirmations (Client Gate and HFIU) in the User's Guide that excluded the feedback from the transfer system. Following changes, interim reply messages show up as well, meaning that each and every electronic report sent the service provider is to receive 3 confirmation messages in return. The last confirmation is there for the provider to verify s/he has actually complied with the obligation to report.
- Whenever using dynamic pages on pages 3 to 7 of the HFIU document the user is required to execute an instant crosscheck of the ABEV form. From then on this is a required step whenever moving on to a new page to skip the last box of the page in question so as to appropriately crosscheck respective pages.
- www.vam.gov.pio currently contains both 1.0 and 1.1 versions of the PMT08 form as well as its instructions. Service providers are at liberty to opt for either of the versions to comply with their obligation to file STRs.

HFIU proposals and remarks in relation to STRs

- It is well worth saving STR reply messages as well as sorting them in groups into folders along with STRs sent. In case of multiple STRs sent per a month with previous data loss it is all the more reason to do so. Service providers can obviously store and search messages within their storage capacity as well. For the sake of easier reference it is worth sorting reply messages as per date and error/non-error messages.
- We call reporting party's attention to the fact that whenever Client Gate is set to send an encrypted reply there is no reply message unless reporting party holds an encryption key whereupon reply will not show at the gate itself either. The simplified upload manager of Client Gate 2 allows ticking this box even without the encryption key.
- Should a problem of an IT nature emerge during an STR lodged by a service provider (e.g. loss of feedback, error message, etc.) it is recommended to contact the IT helpdesk by sending a message to it.helpdesk@vam.gov.hu. To solve the issue in an

effective manner it is also advised to contact the HFIU on +36-30-516-5662 to ensure that information is provided in due course.

- Service providers' attention is herewith called to sending a notification to it.helpdesk@vam.gov.hu whereupon an HFIU reply message to an STR is not received within 24 hours.

8. STR TYPOLOGY

As Article 23 paragraph (10) of the AML/CFT Act lays down HFIU is required to provide information on their Internet page on a biannual basis as regards efficiency of STRs and proposals to improve efficiency. In addition to supplying statistical data HFIU intends to comply with this obligation by means of its Annual Report and Biannual Bulletin by extending and specifying STR-typology published.

Typologies below bear characteristics that resulted in the HFIU sending STRs as stipulated by Article 26 of AML/CFT Act in an effective manner in one hand, and supporting the flow of efficient reporting of service providers by taking into account methods of money laundering and terrorist financing of an international scale on the other.

This typology is primarily aimed at supporting service providers assistance to identify circumstances leading to an STR. Certain characteristics showing up in the reporting typology do not necessarily imply suspicion. Circumstances indicated below do not substitute the typology set forth by supervision bodies as per Article 5 of the AML/CFT Act (e.g. irregular transactions) but they are here to assist service providers guidance to lodge STRs. Secondary goal of this reporting typology is to provide general feedback to service providers to reassure reasonable grounds for STRs similar to those laid down in this typology.

A/

STRs indicate that a company is likely to transfer amounts almost identical to the amounts credited to its account immediately or within a short time.

Characteristics:

- Slight differences between amounts originate in transfer charges, amounts credited and debited are almost equal within a specific time period;
- Bank accounts of companies concerned (showing up as a sending or receiving account in the report) are held at the same service provider;
- Cash is withdrawn or deposited continuously from or to the bank account of the company involved is a series of transactions;
- In the course of the chain of transactions certain amounts are transferred from foreign bank accounts as well as from the Hungarian bank account of a company registered abroad;
- The characteristic features or rational business activities are missing (e.g. no salaries are paid, no operation costs are paid like phone invoices/ public utilities, etc.)

B/

A large amount of cash either in Hungarian forints or other currencies is deposited by a natural person onto his/her own or another natural person's account.

Characteristics:

- Amounts deposited are transferred to different companies mostly registered abroad;
- These transfers are very much likely to be justified by economic operations (payment for goods) that is evidenced by the amount as well as by the fact that it is indicative of a regular business association;
- Transfer notices indicate movements of goods (e.g. goods, invoice, etc.);
- Natural persons involved dispose personally over liquid assets and issue transaction instructions in person ((fixed deposits, transfers to another private bank accounts of their own);

Doubts also arise as to the actual owner of the account in cases when client initiates regular transfer of high amounts from his/her private account indicative of economic activity. Remarks of such transfers tend to include ground hinting economic activities (e.g. goods, balancing invoice)

C/

A member and/or senior official of a financial venture (company) authorized to conduct bureau de change activities under Article 3 paragraph (2), section *a*) of Act no. CXII of 1996 on credit institutions and financial ventures is conducting large bureau de change transactions on a regular basis on his/her own private bank account (indicative of commercial activity). Analysis of transactions may give rise to suspicion if multiple currency accounts are used as well as frequent conversions, cash deposits and withdrawals.

D/

A natural person withdraws various amounts of cash from accounts of companies of which s/he is a senior official or shareholder or has the right of disposal over the company's account.

Characteristics:

- Cash withdrawals often occur on a daily basis or multiple times in a week;
- The companies involved may include some of which the natural person is not a member (shareholder) or senior official, but is authorized to dispose over their bank accounts;
- Core activities of companies involve construction or cleaning services;
- Among those completing transfers to the accounts of companies cultural and higher education institutions, foundations, companies (mostly involved in consultancy services, press, media, television broadcasting, movie making, marketing, advertising, event management, IT, web marketing), sports clubs and businesses associated with technical sports and organisation of sporting events
- Natural person withdraws amounts transferred in cash from each company's account, as opposed to normal commercial activities;

- Account balance is intentionally kept low; amounts credited are withdrawn immediately or very soon).

E/

Certain products (mobile phones, mp3 players, cars in most cases) are advertised for sale on the internet and are promised to be delivered upon balancing wholly or partially the total on a bank account provided by the offenders.

Victims transfer the money without actually receiving the goods in return as expected. In an effort to reclaim money lost, these victims lodge a claim to their banks so as to be reimbursed stating they are victims of fraud, which is, in most cases, out of question, since, by then, the amount transferred has already been credited to the beneficiary account. Moreover, in many instances fraudsters withdrew these amounts.

Domestic credit institution stipulated as a beneficiary in the transfer procedure shall issue a notification in a form of a SWIFT message to the foreign credit institution that ordered the transfer indicating either the fact or the suspicion of fraud or activities indicative of a fraud committed.

HFIU is taking the stance that the aforementioned activities, in the absence of relevant indicators, do not necessarily constitute grounds to conclude facts, data and circumstances imply money laundering. Service providers act in the spirit of AML/CFT Act when reporting these activities so as to suspend transaction in question by virtue of Article 24 of the said Act, hence putting on hold temporarily the completion of the transfer order.

Insofar as the service provider intends to introduce procedure set forth by the AML/CFT Act the credit institute where the account of the beneficiary is held at is herewith advised to suspend completion of the transaction (Article 24 paragraph (1) of the AML/CFT Act) and at the same time and without delay, file an STR to the HFIU.

Having regard to Article 24 of the AML/CFT Act only a limited period of time is available to conduct the analysis by HFIU. Hence, credit institutions are herewith requested to include into STRs the following:

- The fact that performance of the transaction order has been suspended,
- Relevant data as laid down by Article 23 paragraph (1) of the AML/CFT Act (i.e. data on natural person / legal entity, account number, etc),
- Transaction details of the account in question (data are to include transaction details two weeks prior to the suspension),
- Copies of SWIFT messages (relating to transactions in question),
- Documents related to the opening of the account,
- Information about other bank accounts held at the same credit institution that are linked to the owner of the bank account concerned or the person authorized to dispose over the account concerned.

Should a SWIFT message contain insufficient information credit institutions are herewith requested to contact foreign credit institution to follow up on

- what the fraudulent activity was,

- whether or not the offence has been reported by the victim,
- which enforcement authority took the report in,
- whether or not the report was followed by a criminal procedure and under what case number,
- the criminal offence in question.

F/

Should economic activities of a company change substantially that coincides with the restructuring of ownership status might constitute reason enough to be reported.

G/

Having signed a unit-linked life insurance contract, contracting party initiates either a partial or full repurchase without eligible business motive.

Characteristics:

- Upon concluding a life insurance initial amount due is high, its origin is unsubstantiated, on the whole, overall circumstances of the contracting party does not justify the amount paid,
- Short period between concluding contract and repurchasing (one or two years at most),
- A third party is involved to complete payments with undisclosed origin,
- Life insurance has a long run (10 to 15 years) whilst keeping payment deadlines is foreseen to be doubtful right from the beginning,
- Insurance fee of a high amount,
- Repurchase implies significant value reduction for the contracting party,
- Frequent deposits before repurchase,
- Contracting party and beneficiary hold different citizenship without being relatives,
- Following repurchase money is not transferred onto the account that was used by the contracting party to transfer insurance fee. Instead, it is transferred onto an account that is held abroad and for a beneficiary unknown to the insurance company.

9. DATA, FACTS AND CIRCUMSTANCES INDICATING TERRORISM FINANCING

By virtue of Article 23 paragraph (1) of the AML/CFT Act service providers are obliged to submit an STR when data, facts or circumstances come to life indicating both money laundering and terrorist financing. However, this means of reporting does not encompass reports relating to the implementation of measures restricting the right of financial or asset disposal pertaining to terrorism financing. This latter falls under the reporting obligation of service providers as laid down by Articles (1)-(2) of the Act on the implementation of financial restrictive measures ordered by the European Union. The Egmont Group has published on its webpage a document called *FIUs and Terrorist Financing Analysis – A review by the Egmont Group of Sanitised Cases related to Terrorist Financing* to assist both service providers to duly complete and submit STRs and enforcement agencies to carry out

their evaluation. This document is accessible at www.vam.gov.hu/pio under “Fight against financing of terrorism”.

10. SUPERVISION BY THE HFIU

As set forth by Article 34 paragraph (1) of the AML/CFT Act HFIU ensures compliance of service providers under its supervision with provisions of the AML/CFT Act. Based on Article 5 g) this HFIU competence is encompassing service providers as follows:

- service providers in the real estate business,
- service providers managing accounting, tax expert and tax advisory businesses by proxy or as an agency.

HFIU, while exercising supervisory activities, is to comply with provisions of Act CXL of 2004 on general rules of administrative procedures and services (Administrative Procedures Act; hereinafter: APA), with the exceptions as laid down by the AML/CFT Act.

HFIU supervisory activities include:

1. handling reports from designated persons,
2. processing of presented regulations,
3. checking service providers.

a) Reporting of designated persons

According to Article 23 paragraph (2) of the AML/TFC Act service providers are obliged to designate an employee responsible for submitting STRs to HFIU without delay. Service provider shall notify HFIU of the name and title of the aforementioned person as well as respective changes within five business days. Being aware of the designated person has crucial importance since it is stipulated by the AML/CFT Act that this person is entitled to lodge STRs and HFIU is entitled to take in and manage STRs from this person exclusively. In 2009 HFIU has registered 8.120,- reports relating to personal data of designated persons.

b) Processing of internal rules

As stipulated by Article 33 paragraph (1) of the AML/CFT Act financial providers are obliged to prepare internal guidelines to comply with their obligations. Model rules published as a downloadable document on www.vam.gov.hu/pio are there to lend assistance when drawing up the guidelines. At present, a newer version of model rules is under preparation and it is to see the day of light soon on the aforementioned website.

According to Article 45 paragraph (2) of the AML/CFT Act service providers already running their businesses when the AML/CFT Act came into force (15 December 2007) are obliged to rework their internal guidelines within 90 days of the coming into force of the said legal instrument as per regulated by the AML/CFT Act.

Article 45 paragraph (4) of the AML/CFT Act says that service providers starting their business activities following the coming into force of the AML/CFT Act are obliged, within 90 days of commencement of their business activities, to draw up the guidelines and to submit it for approval to supervisory authorities.

In 2009 HFIU was in a constant strive to process and approve submitted internal guidelines that resulted in the following measures:

Remitting guidelines to competent authorities	116
Approval guidelines (with official decision)	25
Call for completion of guidelines	557
Rejection of decree or request without further inquiry	917

An additional number of 802 requests are still under scrutiny as well as evaluating replies sent back on grounds for call for completion, followed by a decision.

c) Official supervision of service providers

Inspection plan, procedure of selection

An inspection plan serves as a basis for HFIU inspections performed containing scheduled inspections in a monthly breakdown. Selection criteria of service providers for such an inspection include:

- using company registry and company information databases,
- considering the list of tax experts and accountants registered at the homepage of the Ministry of Finance (www.pm.gov.hu)
- utilizing information found on web sites of business organizations like the Hungarian Real Estate Association as well as web pages of municipalities,
- Ads either found on the web or caught in the press,
- other information sources HFIU become privy of.

Even geographical distribution of inspections is a key element too when projecting inspections.

Notification on on-site inspections

As stipulated by Article 57 paragraphs (1)-(2) of the APA client is to be notified of on-site inspections beforehand, save this notification should jeopardize the execution of such an inspection in an efficient manner. Service provider, as set forth by the aforementioned provision, is, before the actual commencement of the on-site inspection, notified of the date of inspection as well as of the extend of the inspection. Upon receipt of notification service provider has time to prepare both for the inspection in due course and for the elimination of shortcomings. Before setting off to realize an on-site inspection, HFIU is to ascertain whether the notification is acknowledged and if there is a request from the service provider to reschedule inspection. On-site inspections shall be conducted by an official, an expert appointed by the authority in charge of inspection, and any person justified doing so as authorized by law. Both letter of appointment and service badge are presented to the service provider before commencing inspection.

Content and subject of the inspection

On-site inspections by the HFIU comprise supervision of complying with obligations as laid down by the AMLK/CFT Act as well as of adherence to legal provisions, in particular:

1. Inspecting service provider's data and business activities – verifying basic ID information, ascertaining whether or not s/he is pursuing business that is under the effect of the AML/CFT Act as a core or an auxiliary activity as well as the starting date of such an activity.
2. Establishing availability, content and actual updates of the internal guidelines – is there an internal guideline at hand, was the service provider obliged to submit it for approval, is it in line with provisions of the AML/CFT Act as well as with those laid down in the implementing provisions, is it drawn up to reflect organizational structure.
3. Reporting designated person – has the service provider complied with its obligation to report, is there a registration at Client Gate.
4. Customer due diligence – methods of application, data recorded, compliance with legal regulations.
5. Review of STRs and application of the confidentiality clause – previous STRs, registry of STRs submitted, awareness of technical requirements.
6. Review of data archiving , statistics, and record keeping
7. Internal control, information system, training
8. Cooperation of service provider during inspection, monitoring of legal compliance

Inspection report

As set forth by Article 92 paragraph (3) of APA a written report is made by the HFIU on the on-site inspection and on conclusions made respectively. Next step is to decide whether or not further administrative procedures are to be introduced or any other measures as per the AML/CFT Act are to be applied.

Statistics

Between 1 January and 31 December 2009 HFIU conducted on-site inspections in 206 cases in the country, based upon considerations listed above. These inspections in most instances were carried out with prior notice sent to the service provider. However, as from September, there were 24 cases of random (unexpected) inspections amounting altogether to 12% of all inspections which were necessitated by the fact that service providers have shown tendency failing to duly prepare for announced inspections multiple times. There were cases where internal guidelines were drafted and retrospectively enacted a day prior to the inspection itself.

Division of inspections as well as measures introduced to address issues of non- or partial compliance with provisions of the AML/CFT Act is put into the table and diagram below.

There were 151 cases (45%) in which HFIU called upon service providers to take all necessary and appropriate measures to ensure adherence to legal provisions and to eliminate deficiencies uncovered (Article 35 paragraph (1) a) of the AML/CFT Act). These shortcomings include, inter alia, lack of or unduly conducted customer due diligence measures as well as shortcomings relating to safekeeping and secure storage of documents.

On the other hand, HFIU had to propose service providers in 118 instances (34%) to rework internal guidelines observing specific considerations and deadlines. At the same time, service providers were also asked to follow up training of staff (Article 35 paragraph (1) b) of the

AML/CFT Act). Proposing service providers revising their internal guidelines had a high occurrence stemming from the fact that the guideline template downloadable from the HFIU website was adapted as the internal guideline itself without any individual amendments and tailor made solutions whatsoever. Internal guidelines thus drafted did not reflect specific characteristics of business activities of individual service providers so fitting them into the mold of individual companies whilst observing basic legal requirements proved to be indispensable.

There were 49 cases (14%) where HFIU had to issue a warning for the service provider (Article 35 paragraph (1) a) of the AML/CFT Act), however, in multiple cases it was necessary to apply 2 to 3 actions together.

According to the AML/CFT Act Article 35 (1) e) the body operating as supervisory authority may impose a fine – stand alone or together with the actions listed above. For severe breaches of legislation and for requirements not complied with, HFIU in 2009 imposed fine in 9 cases in an amount of 1.100.000,- HUF (appx. EUR 4.000,-) evidenced by the fact that service providers failed to draft their internal regulations in spite of having been warned by the preliminary HFIU notice. There were also instances where they failed to report designated persons to the HFIU in one hand and failed to complete customer due diligence procedures on the other. 7% of all inspections proved service providers' measures sound enough to adhere to provisions of the AML/CFT Act.

Goals set

HFIU has set the goal for 2009 to increase the number of on-site inspections, hence facilitating service providers to comply with provisions of the AML/CFT Act. HFIU, while conducting inspections in 2009 set to consider purposes of prevention in the first place. Bearing in mind the fact that two years following the coming into force of the AML/CFT Act the adherence to this legislative piece gains more significance, emphasis on standards to introduce legally justified measures will be ensured throughout 2010, whilst, at the same time, preventive considerations will be on the agenda as well.

11. HFIU CONTACT DETAILS

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