

# *BIANNUAL REPORT*



**Hungarian Financial Intelligence Unit**  
Central Criminal Investigation Bureau of  
the  
Hungarian Customs and Finance Guard

Budapest, July 2009

The present document is the Biannual Report of the Hungarian Financial Intelligence Unit of the Central Criminal Investigation Bureau of the Hungarian Customs and Finance Guard (hereinafter HFIU) relating to the first 6 months of 2009. The HFIU has prepared the Biannual Report in order to comply with the obligation stipulated in Article 23 paragraph (10) of Act no. CXXXVI of 2007 on the prevention and combating of money laundering and terrorist financing (hereinafter AML/CFT Act), and while meeting its publication obligation stipulated in Article 29 paragraph (5) of the AML/CFT Act, the HFIU also provides information about the statistics it maintains. In addition to discharging the legal obligations stipulated in the AML/CFT Act, the Biannual Report also provides a concise, general summary of the system against money laundering and the HFIU, describes the electronic reporting system, the supervisory activities of the HFIU and aims to assist the service providers specified in Article 1 paragraph (1) of the AML/CFT Act (hereinafter service providers) by providing criteria about the typology of suspicious transaction reports (hereinafter STRs).

## **SUMMARY OF THE SYSTEM AGAINST MONEY LAUNDERING AND THE FINANCIAL INTELLIGENCE UNIT**

Money laundering refers to all activities aimed at converting funds obtained through criminal offences into legal funds. The fundamental characteristic of money laundering is that it is conducted so as to hide the illegal origin of funds through integrating them into economic processes so as to „launder” them, i.e. to make them appear legal.

In the interest of combating money laundering, which is becoming increasingly wide-spread with the emergence of the global economy, a concerted international approach has become necessary. After that objective, in 1989 the Financial Action Task Force (hereinafter FATF) was established as an informal international organisation that formulates non-compulsory recommendations for the combating of money laundering (and later terrorist financing) in order to standardise the systems of institutions of the member states. In addition to the FATF, the European Union also plays an active part in establishing the system of institutions against money laundering. In Hungary, the Parliament, in compliance with its obligation to introduce legislation as a member of the European Union, has passed 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 our national legal system.

The financial and non-financial service providers falling under the AML/CFT Act are obliged to file a report in the event of any data, fact or circumstance indicating money laundering or terrorist financing. STRs submitted by service providers must contain the data obtained during customer due diligence and the detailed description of the data, fact or circumstance indicating of money laundering or terrorist financing. Service providers themselves make the decisions as to whether they have grounds to suspect as stipulated in the AML/CFT Act and whether to submit reports. It is through that reporting obligation that information about “suspicious activities” is transferred from the service providers to the authority operating as financial intelligence unit. As of 15 December 2008, service providers may only submit STRs in the form of protected electronic messages.

In view of the fact that under Article 3 section 1) of the AML/CFT Act, the authority operating as financial intelligence unit is an organisational unit of the customs authority that performs the tasks of the financial intelligence unit specified in a separate item of legislation, under Article 7 section e) of Government Decree no. 314/2006 (XII. 23.) on the organisation of the

Customs and Finance Guard and the appointment of certain organisational units, the performance of the tasks prescribed in the AML/CFT Act for the authority operating as financial intelligence unit is within the scope of tasks and authority of the Central Criminal Investigation Bureau of the Hungarian Customs and Finance Guard (hereinafter CCIB) and hence on 15 December 2007, the HFIU was established within the CCIB, which performs the tasks of the authority operating as financial intelligence unit that are not tasks of an investigation authority.

The main focus of the tasks of the HFIU is the analysis and evaluation of the data content of the reports received. 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 foreign 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 organisations mentioned in reports and to use that information during the analysis of reports.

The HFIU is a member of the Egmont Group<sup>1</sup>, 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 26 of the AML/CFT Act. Article 26<sup>2</sup> of the AML/CFT Act defines the possible objectives of such data transmission, and also identifies the authorities to which such data may be forwarded.

## STATISTICAL INFORMATION

During the period between 1 January 2009 and 30 June 2009, the HFIU received 2,610 reports and data provision (hereinafter reports) concerning money laundering, terrorist financing and measures aimed at the freezing of funds and economic resources, of which 2,467 were submitted by service providers under Article 23 of the AML/CFT Act.

The monthly breakdown of the reports received by the HFIU during the period between 1 January 2009 and 30 June 2009 is shown in the table below:

---

<sup>1</sup> [www.egmontgroup.org](http://www.egmontgroup.org)

<sup>2</sup> Pursuant to Article 26 paragraph (1) of the AML/CFT Act, any information obtained under this Act by the authority acting as the financial intelligence unit may be used and/or transferred to another investigation authority, the prosecutor, the national security service or the authority acting as a foreign financial intelligence unit only and exclusively for the fight against money laundering and terrorist financing, as well as for the detection of criminal acts such as acts of terrorism [(Article 261 of Act IV of 1978 on the Penal Code (hereinafter: the Penal Code)], unauthorized financial activities (Article 298/D of the Penal Code), money laundering (Article 303-303/A of the Penal Code), non-performance of reporting obligation in connection with money laundering (Article 303/B of the Penal Code), tax fraud (Article 310 of the Penal Code), embezzlement (Article 317 of the Penal Code), fraud (Article 318 of the Penal Code), fraudulent breach of trust (Article 319 of the Penal Code).

Period	Total (items)
01/01/2009 – 31/01/2009	412
01/02/2009 – 28/02/2009	424
01/03/2009 – 30/03/2009	475
01/04/2009 – 30/04/2009	398
01/05/2009 – 31/05/2009	410
01/06/2009 – 30/06/2009	491
<b>Total</b>	<b>2,610</b>

Source: HFIU database

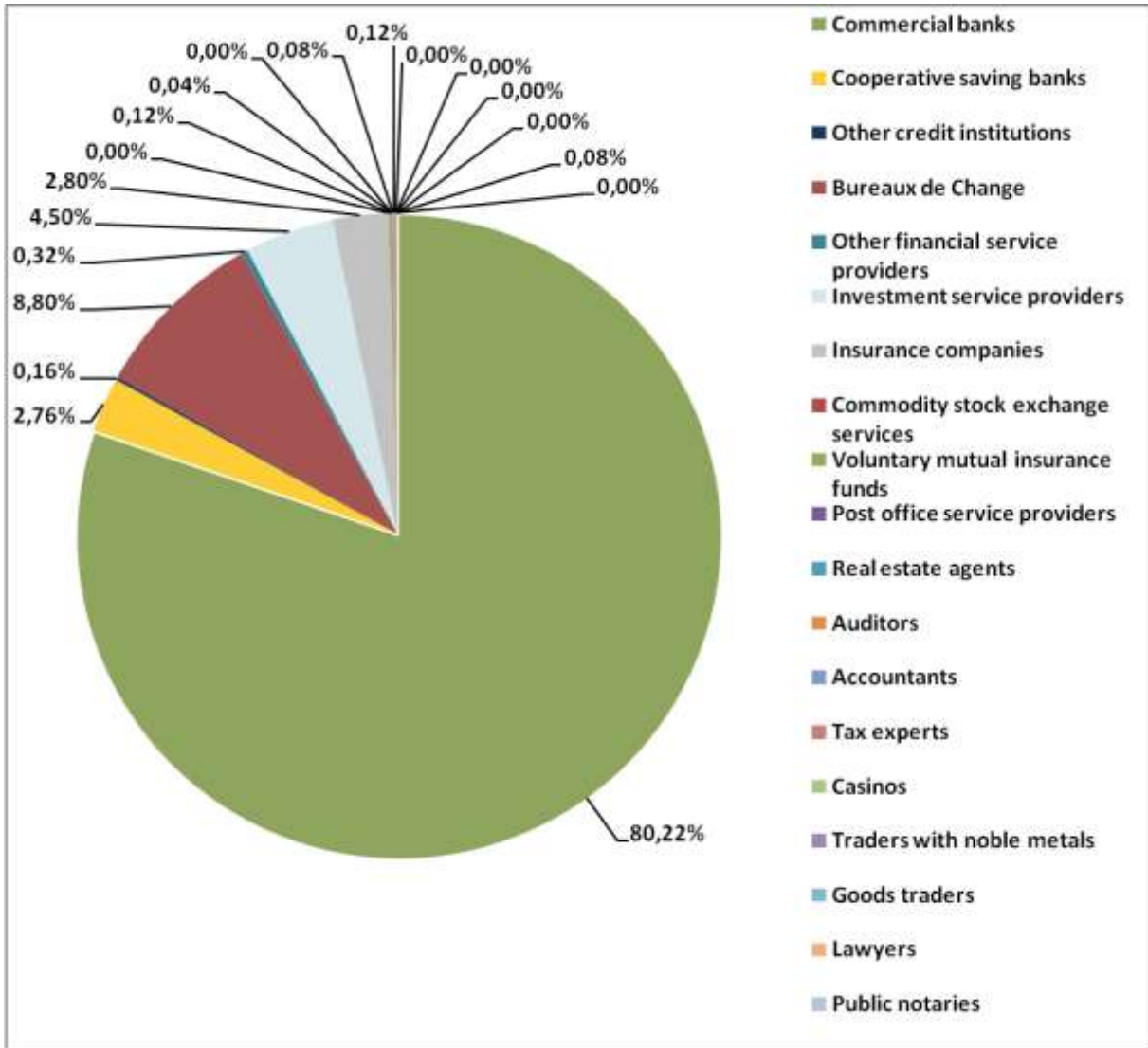
The above table implies that during the first 6 months of 2009, the HFIU received an average of 435 reports per month. The most reports were received by the HFIU in June, while the smallest numbers were received in April.

The monthly breakdown of the distribution of reports on money laundering and terrorist financing submitted by service providers ( 2,467 items) by service provider types is shown in the table below, while their share is indicated by the following diagram:

SERVICE PROVIDERS	January	February	March	April	May	June	Total
Commercial banks	303	353	349	287	304	383	<b>1979</b>
Cooperative savings banks	13	8	18	14	6	9	<b>68</b>
Other credit institutions	0	0	0	0	0	4	<b>4</b>
Bureaux de Change	55	18	39	32	45	28	<b>217</b>
Other financial service providers	2	0	1	1	2	2	<b>8</b>
Investment service providers	18	10	18	22	23	20	<b>111</b>
Insurance companies	7	6	15	15	7	19	<b>69</b>
Commodity stock exchange services	0	0	0	0	0	0	<b>0</b>
Voluntary mutual insurance funds	1	0	2	0	0	0	<b>3</b>
Post office service providers	0	0	0	0	1	0	<b>1</b>
Real estate agents	0	0	0	0	0	0	<b>0</b>
Auditors	0	0	0	2	0	0	<b>2</b>
Accountants	1	0	0	0	2	0	<b>3</b>
Tax experts	0	0	0	0	0	0	<b>0</b>
Casinos	0	0	0	0	0	0	<b>0</b>
Traders with noble metals	0	0	0	0	0	0	<b>0</b>
Goods traders	0	0	0	0	0	0	<b>0</b>

<b>Lawyers</b>	0	2	0	0	0	0	<b>2</b>
<b>Public notaries</b>	0	0	0	0	0	0	<b>0</b>
<b>Total</b>	<b>400</b>	<b>397</b>	<b>442</b>	<b>373</b>	<b>390</b>	<b>465</b>	<b>2,467</b>

Source: HFIU database



Source: HFIU database

As implied by the above table and diagram, just like in the statistics of 2008, the largest number of reports are still received from commercial banks. 80.22% of the reports are received from commercial banks. In addition to commercial banks, significant numbers of reports were also received from Bureaux de Change (8.8%), investment service providers (4.5%), insurance companies (2.8%) and also cooperative savings banks (2.76%). Only a minimal number of reports were received from other financial service providers, auditors, accountants, lawyers. In the first 6 months of 2009, no reports were received from commodity stock exchange services, real estate agents, tax experts, casinos, traders with noble metals, goods traders and public notaries.

99.68% of the reports are received from financial service providers, while only an insignificant part (0.32%) of them are sent by non-financial service providers.

In addition to service providers, the HFIU also receives notifications from the 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 execution 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, the customs offices at the external borders of the European Union (including the customs offices at Ferihegy International Airport) and it also receives requests from foreign HFIUs and it also receives reports from service providers and agencies maintaining registries of economic resources under Article 10 paragraph (1)-(2)<sup>3</sup> of Act no. CLXXX of 2007 on implementation of financial restrictive measures ordered by the European Union, and amendments of other acts (hereinafter FRM Act). The total number of those notifications, requests and reports in the first 6 months of 2009 was 143. (No notifications were received from supervisory bodies during the first 6 months of the year.)

The table below shows the number of such notifications, requests and reports in a monthly breakdown.

	January	February	March	April	May	June	Total
Information from border customs offices	1	9	6	3	2	2	23
Requests from foreign financial intelligence units	11	17	25	21	18	24	116
Reports concerning measures aimed at freezing funds and economic resources	0	1	2	1	0	0	4
<b>Total</b>	<b>12</b>	<b>27</b>	<b>33</b>	<b>25</b>	<b>20</b>	<b>26</b>	<b>143</b>

Source: HFIU database

As regards terrorist financing, no report was received by the HFIU as per Article 10 of the FRM Act. In the first half of year 2009 a total of 4 reports were received in compliance with the above regulation but none of those reports referred to terrorist financing. After 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. 2 reports were received from service providers concerning terrorist financing as per the provisions of the AML/CFT Act.

In the first half of year 2009 the HFIU sent 251 requests to foreign FIUs.

---

<sup>3</sup> 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.

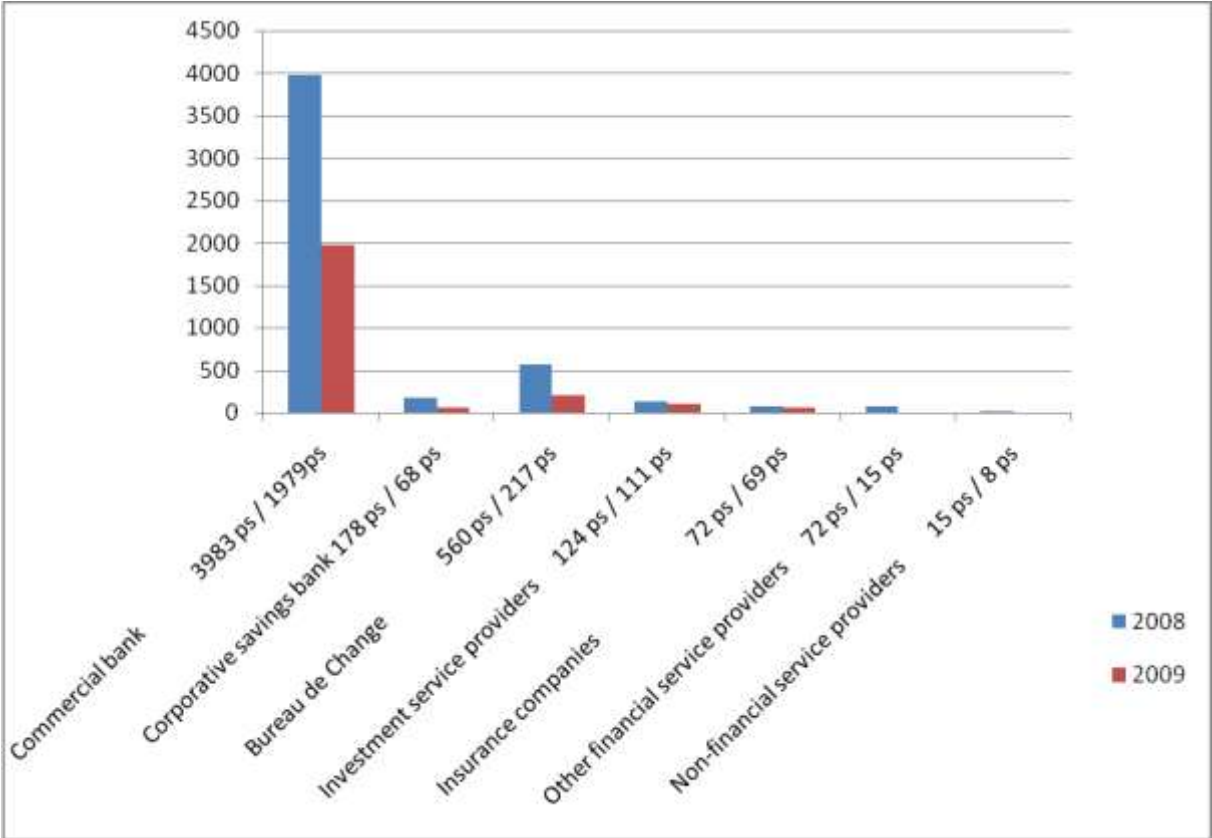
In the first half of year 2009, 59 reports were transferred to initiate criminal investigation and 101 reports to support criminal investigation.

116 reports were disseminated for intelligence purpose (initiating cover investigation) and 317 reports were disseminated for the support of intelligence (supporting covert investigation).

Based on Article 24 of the AML/CFT Act the transaction was suspended in 11 cases. The HFIU initiated criminal investigation in 1 case concerning these transactions.

**REDUCTION OF THE NUMBER OF STRS MADE BY SERVICE PROVIDERS IN YEAR 2009**

Compared to the first half of year 2008, the number of STRs received from service providers dropped to approximately the half in the first half year 2009. This reduction is illustrated by the following diagram:



Source: HFIU database

The statistical data seem to illustrate a proportionally reducing number of STRs received by the HFIU from the service providers between January and June 2009 as compared to previous years. In the first six months of year 2008 the service providers made 5,004 STRs in total. In the first half of year 2009, the number of STRs made was 49.3% of the STRs received in the same period of the previous year.

What we find here is that parallel to the reduction of the number of STRs, the information contents included in the report has been showing a substantial improvement in terms of

quality in the case of a number of service providers. This has become manifest in the accuracy of data; the actual appearance of information, facts or circumstances indicating the reported money laundering or terrorist financing; as well as the improved quality of the data transferred following STR analysis under Article 26 of the AML/CFT Act. As regards financial service providers, we could realize a more complex application of the typologies published previously by the Hungarian Financial Supervisory Authority and the HFIU.

In the case of certain service providers – due to reasons not identified by the HFIU – a disproportionate fall was observed in the number of STRs.

According to the experience of the HFIU, year 2008 witnessed a number of non-recurring events that affected the “soundness” of the client-base (e.g. a series of STRs coming from the customer due diligence of a service provider) that on the one hand heavily increased the number of STRs made in year 2008 and on the other hand – probably as a result of the purifying client base – reduced the number of information, facts or circumstances indicating money laundering or terrorist financing and as a result, also the number of STRs made in the first two quarters of year 2009. In 2008, the share of STRs of this kind made by the service providers exceeded 15% of all the STRs made by service providers.

It may be assumed that the mechanisms of the overall customer due diligence testing have been incorporated fully into the internal procedures of the service providers after the entry into force of the AML/CFT Act. This may have exerted a particular impact as to reduce the number of STRs by the service provider.

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 number of STRs.

Certain factors outside the money laundering system have been affecting the changes in the number of STRs. The number of STRs has been oscillating in accordance with the changes of the economic and financial crisis. In this regard the most relevant aspect has been the change of the number of STRs made by service providers pursuing bureau de change and investment activities.

Furthermore, the electronic reporting system was implemented at the end of year 2008, creating a new situation in the first half of the year for service providers as regards the filing of the STRs and also for the Hungarian Customs and Finance Guard as regards the receiving of the STRs and their handling in the database. Service providers had to implement a new infrastructure in their procedures. This means that the implementation of the electronic reporting system may have contributed to a temporary reduction in the number of STRs.

As a summary, we may conclude that the dramatic change in the volume of STRs is a consequence of a variety of factors but the reasons behind may be just guessed. The output of this reduction is rather positive as concerns the analysis and evaluation work performed by the HFIU. The reduction of the number of STRs, the noticeable improvement of the quality and the implementation of the electronic reporting system have jointly contributed to the rationalization of the STR controlling process and the more up-to-date processing of the received information.

## **DEFICIENCIES IN CUSTOMER DUE DILIGENCE NOTICED ON THE BASIS OF THE STRS**

The HFIU has no competence to check the execution of the duties defined in the AML/CFT Act, but at the same time – as a result of the confidentiality provisions of the AML/CFT Act – only the HFIU may provide feedback based on the information collected from the STRs and the analysis of the STRs.

As regards the identification of the actual owner, Article 8 of the AML/CFT Act sets the provisions described in the following paragraph. In the course of the customer due diligence tests conducted with the client, the client is obliged to make a written statement for the service provider stating that he/she is acting on his/her own name and behalf or in the name and on behalf of the actual owner. If the client makes a statement that he/she is acting in the name and on behalf of the actual owner, the relevant statement must include – to the discretion of the service provider – at least the first and last name, address and citizenship of the actual owner. In the absence of this information, the overall customer due diligence shall not be considered completed and thus, no business relationship may be established and no transaction order may be completed in an amount equal to or above three million six hundred thousand HUF (outside the scope of the business relationship). If during the existence of the business relationship or the completion of a transaction order there is any doubt concerning the identity of the actual owner, the service provider must call the client to make a repeated written statement and shall make measures for verifying the data on the identity of the actual owner in the dedicated or publicly available registers as provided by law. In the opinion of the HFIU, if despite the completion of this exercise the identity of the actual owner cannot be established, no business relationship should be established or maintained and the completion of the transaction order should be refused. The practice followed by the commercial banks indicates that commercial banks frequently make an STR if there is any doubt concerning the identity of the actual owner in the course of the business relationship. In this case, a STR made as per the AML/CFT Act may include useful information although cannot replace a customer due diligence. The experience of the HFIU shows that this scenario includes cases when the service provider or an employee of the service provider clearly realize that the client is just a passive player and the actual owner “is the person behind the client and giving instructions to the client”, or the client himself declares that he/she is only expected to sign, while the actual direction is made by another person. The provisions of the AML/CFT Act are based on prevention, so the service provider is also interested in not having clients not fully screened in a customer due diligence. Should they have any such client, the business relationship held with them should be suspended and the completion of the transaction order should be refused.

Related to the customer due diligence there is another group of cases, namely when cash is withdrawn using a cash voucher as defined by Article 43 of Decree 21/2006. (XI.24.) of the National Bank of Hungary on monetary transactions (MNB Decree). When taking over and paying out a cash voucher, the credit institution is obliged to fully comply with the provisions of Article 43 of the MNB Decree and shall duly apply the provisions of the AML/CFT Act on customer due diligence and on reporting.

## **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. After the implementation of the

electronic reporting system, data are automatically recorded in the database at the same time when the STR is received.

The confidentiality provisions set forth in Article 27 of the AML/CFT Act (prohibition of disclosure) shall extend to the reporting, the data supplying made upon request of the HFIU, the contents of both actions, the suspension of the completion of the transaction order, the identity of the reporter, as well as the fact whether criminal proceedings have been implemented on the client or not.

Taking into account that Article 27 of the AML/CFT Act provides a confidentiality duty for both the reporting service provider and the HFIU, in the course of the analysis of the STR the HFIU must handle confidentially the data contained in the STR – according to Article 27 of the AML/CFT Act – and the HFIU has developed their procedures in harmony with this provision of confidentiality. This confidentiality shall apply in every phase of the verification of the STRs. If the HFIU places a request to a service provider or an authority, the confidentiality clause as per Article 27 of the AML/CFT Act shall apply.

If data are transferred in accordance with Article 26 of the AML/CFT Act, the HFIU shall call the attention of the addressed authority about their duty of confidentiality under Article 27 of the AML/CFT Act if the transferred information is not used under other legal provisions. In order to protect the person actually making the STR, the name of the designated person shall not appear in the data transfer made under Article 26 of the AML/CFT Act.

The duty of confidentiality provided for in Article 27 of the AML/CFT Act is not extended to the investigative authority conducting criminal proceedings, so that the fact and the contents of the STR may appear among the documents of the criminal proceedings – as an STR made under Article 23 of the AML/CFT Act. As regards the handling of the STR in criminal proceedings, we should mention a case when in the criminal proceedings initiated upon information transferred under Article 26 of the AML/CFT Act the investigation authority considered that the reporting service provider was the denunciator. In that instance, based on the indication of the reporting service provider, the HFIU notified the investigative authority about the fact that the reporting service provider made an STR under Article 23 of the AML/CFT Act, so it should not be considered the denunciator as per Act XIX of 1998 on the criminal procedure.

#### **FEEDBACK FOR SERVICE PROVIDERS MAKING AN STR**

The HFIU provides the reporting service providers with general feedback on the use of the reported information by means of an Annual Report or Biannual Report including information on the “efficiency of the reports and proposals for improving efficiency”. In addition to this general feedback, the HFIU notifies the reporting service provider concerning the utilization of the information if this fails to violate or threaten the output of the proceedings. This feedback is also subject to the clause of confidentiality provided for in Article 27 of the AML/CFT Act.

#### **ELECTRONIC REPORTING**

According to the amendment of the AML/CFT Act entered into force on 15 December 2008, service providers shall transfer the STR including any information, fact or circumstance indicating money laundering or terrorist financing by means of a protected electronic message

to the HFIU, whose receipt is immediately confirmed in an electronic message by the HFIU to the service provider filing the STR.

By the deadline set by the AML/CFT Act, the Hungarian Customs and Finance Guard implemented the electronic data and message system in compliance with the legal provisions. In the course of such implementation, the Hungarian Customs and Finance Guard made efforts to find a solution that, in addition to the financial service providers, may be used also by non-financial service providers in a simple, cost-effective but still efficient way.

Protected electronic messages are sent by using the ABeV PMT08 form or the ABeV PMT08 form with reduced content and the relevant XML file, through the Client Gate (Ügyfélkapu). (Several service providers indicated their need for the option to make STRs using the ABeV PMT08 with reduced content and the relevant XML file.)

Every information concerning the ABeV framework program, the downloading, installation, completion and transfer of the form as well as the confirmation of its receipt and other necessary data are available at <http://vam.gov.hu/pio> and <http://www.vam.hu/enyomtatvany/index.html#3>.

Once the service provider uploads the STRs in encrypted files, the system transfers the STRs, which are then decoded by the IT system used by the HFIU.

The database used by the HFIU is fully detached from any other database used by the Hungarian Customs and Finance Guard or any other authority, so that only the members of the HFIU have access to it and the database permits recording only data to be used for the purposes set forth in the AML/CFT Act.

In order to fix the problems arising in the practical utilization of the protected electronic messages and the response messages sent by the HFIU, and considering the experience collected in the first half of year 2009 as well as the proposals made by the service providers the Hungarian Customs and Finance Guard will implement the necessary changes – in the framework of a change management process – and will provide relevant information at the Internet addresses above.

What has been already done in the course of the change management:

1. The notification storage platform has changed the expiry of the responses sent by the HFIU from 5 days of storage to 30 days.
2. If the STR fails to include any business relationship or transaction order, or any attachment, the business system will not accept the STR with attention to the provisions of Article 9 (1) of the AML/CFT Act. (Previously, the business system did accept STRs sent without specifying any business relationship or transaction order.)

As regards the recommendations of the service providers, the following change requests are being implemented:

1. The Facts of the case field currently includes 600 characters but after the changes it will be able to receive up to 4000 characters.

2. The service provider is not always familiar with the currency of the relevant account but could provide data concerning the holder of the account; for this reason, the Currency field will not be obligatory on the accounts data sheet.
3. The business system cannot receive attachments whose extension is capitalized so an error message is generated. The IT system will automatically convert capital letters into non-capitals, so that the service provider will not need to perform a capitalization check.
4. In harmony with the provisions of the AML/CFT Act, in the 'data of the actual owner' section it will not be compulsory to provide the type and number of the ID document.
5. On the 'TRANSACTION ORDERS' page the 'TRANSACTION' field will be an obligatory one, taking into account that according to Article 9 (1) of the AML/CFT Act, the subject of the transaction order shall be compulsorily recorded.
6. Currently, it is mandatory to provide the time (hours and minutes) on the 'TRANSACTION ORDERS' but after the changes it will not be obligatory so only the date will remain obligatory.
7. The business system will avoid repeated receipt of STRs by means of an automatic file name check.
8. Section 5.4 of the 'COMPLETION GUIDE' includes a definition concerning the client, which will be deleted.
9. Currently, the 'COMPLETION GUIDE' includes only two confirmations (Client Gate, and HFIU), which is not the case in the transfer system. After the changes, the interim response message will also appear.

The HFIU calls the attention of the service providers that if the response of the HFIU is not received within 24 hours, a notification should be sent to [it.helpdesk@vam.gov.hu](mailto:it.helpdesk@vam.gov.hu).

## **STR-TYOLOGY**

Based on Article 23 paragraph (10) of the AML/CFT Act, the HFIU is required to provide information on their Internet page biannually concerning the efficiency of STRs and the proposals made to improve such efficiency. The HFIU wishes to deliver this legal obligation by means of its Annual Report and Biannual Report – in addition to the supply of statistical data – extending or making more accurate the issued STR-typology.

The following points include an STR-typology involving specific features that resulted in the successful transfer of STRs by the HFIU within the frameworks set forth in Article 26 of the AML/CFT Act, and on the other hand support the efficient reporting activities of the service provider based on the international technologies and trends of money laundering and terrorist financing.

The primary goal of this typology is to give service providers guidance and support to recognize the circumstances substantiating an STR. Features appearing in the STR-typology are not necessarily and automatically reason for suspicion. The following groups of cases and features are not intended to replace the typology issued by the supervisory authorities defined in Article 5 of the AML/CFT Act (e.g. unusual transactions) but to provide further guidance

for the service providers to complete their STRs. The second aim of the STR-typology is to provide general feedback for the service provider and substantiate more the STRs similar to this typology, already made by the service providers.

A/

The STRs indicate that a company transfers amounts almost identical to the amounts credited to its account immediately or within a short time.

Characteristics:

- the differences in the amounts are attributable only to the banking charges for transfers, or within a specific period, the totals of amounts credited and debited are almost equal;
- the bank accounts of the companies concerned (which are shown in the STR as the sending or the receiving account) are held at the same service provider;
- cash is withdrawn or paid continuously from or to the bank account of the company involved in a series of transactions;
- during the above series of transactions, amounts are transferred into the account from a foreign bank account or 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 operating costs are paid /telephone, public utilities, etc./).

B/

A natural person is continuously paying in large amounts of cash in HUF or in another currency to his own private bank account or those of other natural persons.

Characteristics:

- the amounts paid in are transferred to various companies that are usually registered abroad;
- the transfers are presumably related to economic transactions (usually payment for goods) as evidenced by the amounts transferred and the fact that they are indicative of regular or commercial activity;
- the notices accompanying the transfers are indicative of movements of goods (e.g. goods, invoice nos.);
- the persons involved are disposing over the funds as their own, issuing instructions for other banking transactions personally (fixed deposits, transfers to other private bank accounts of their own).

Doubts may also be raised concerning the identity of the actual owner in such cases, when the client makes such (regular, high amount) transfers from his private bank account, which clearly imply business activities. In such cases, the „Remark” box often includes titles referring to business activities (such as: „goods”, „price of goods”).

C/

A member and/or senior official of a financial venture (company) authorised 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 in his own private bank account (indicative of commercial activity).

During the analysis of transactions in the private bank account, the use of several types of foreign currency accounts, frequent, even daily exchange transactions and cash deposits and withdrawals may all be grounds for suspicion.

D/

A natural person withdraws various amounts of cash from the bank accounts of companies of which he is generally a senior official and/or member (shareholder), and/or is authorized to dispose over the bank account of the given company.

Characteristics:

- cash is withdrawn in many instances daily or several times a week;
- the companies involved may include some of which the natural person involved is not a member (shareholder) or senior official, but is authorised to dispose over their bank accounts;
- the core activity of the companies involved is usually in the construction industry or cleaning services;
- the parties transferring funds to the accounts of these companies include cultural institutions, foundations, institutes of higher education, companies (generally in consultancy services, the press, media, television broadcasting, cinema production, marketing, advertising, the organisation of events, information technology, web marketing), sports clubs and businesses associated with technical sports and the organisation of sporting events;
- the amounts transferred – unlike in normal commercial activities – are always withdrawn from the accounts of all the companies in cash, by a natural person;
- the balance of the account is kept low (the amounts received are withdrawn immediately or within a short period of time).

E/

STRs also often feature certain data on the deposit accounts of lawyers, which refer to facts, data and circumstances implying that the completed transactions may not be related to the core function of a lawyer's deposit account.

On the other hand, the business accounts of lawyers may include such data, which expressly relate to the lawyer's deposit account.

F/

The offenders advertise various products for sale on the internet (usually mobile phones, mp3 players and passenger cars), and they promise to deliver the products after receipt of the entire price or a part of the price in their bank accounts.

The victims transfer the amount to the bank account specified, but the goods are not delivered to them at the time agreed. The victims attempt to get their money back and request their own credit institutions to recall the amount already transferred due to fraudulent activity. However, that is usually not possible, because by that time the amount has been credited to the account of the beneficiary of the transfer and in many instances the offenders have already withdrawn the funds obtained “fraudulently”.

The foreign credit institution that had ordered the transfer informs the Hungarian credit institution where the account of the beneficiary is held on fraud (or fraudulent activity) or on the suspicion of fraud in a SWIFT message.

According to the position of the HFIU, without any other relevant circumstances, the above-mentioned unlawful activity itself does not necessarily fall within the category of „facts, data, circumstances indicating money laundering”. Service providers take advantage of reporting pursuant to the AML/CFT Act, because they may then suspend the given transaction by virtue of the provisions of Article 24 of the AML/CFT Act, and thus they may temporarily postpone the completion of the transaction order.

If the service provider wishes to apply the procedure provided for in the AML/CFT Act, we recommend that the Hungarian credit institution where the beneficiary bank account is held should suspend completion of the transaction order upon receipt of the SWIFT message under Article 24 paragraph (1) of the AML/CFT Act and should submit an STR to the HFIU immediately.

In view of the fact that under Article 24 of the AML/CFT Act, the HFIU has a very limited period of time for completing the analysis, we request that the credit institution include the following information in the STR:

- the fact that performance of the transaction order has been suspended;
- the data stipulated in Article 23, paragraph (1) of the AML/CFT Act (data of the natural or legal person, account no., etc.);
- transaction data of the suspended account (for at least two weeks prior to the suspension);
- copies of the SWIFT messages (related to the transfers concerned);
- documents associated with the opening of the account (for natural persons, including the copies of identification documents, for legal persons, copies of company registration documents);
- 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 authorised to dispose over the account concerned.

If the SWIFT message does not contain sufficient information, we request that the credit institution contact the foreign credit institution in order to clarify the following questions:

- What was the actual fraudulent activity?
- Has the victim reported it to any authorities?
- To what authority has the victim reported the incident?

- Has a criminal procedure been initiated on the basis of the report, if yes, what is the case number?
- What criminal offence was suspected in the criminal procedure?

G/

An STR may be based on a major change in the business activities of a company and this change coincides with the changes in the ownership structure of the company.

H/

After signing an unit-linked life insurance contract, the contracting party initiates the partial or full purchase-back without rational business reasons.

Characteristics:

- A short time (not more than a year) elapses between the signing of the contract and the date of the purchase-back;
- The life insurance is for a long period of time;
- The insurance premium is high;
- The purchase-back represent a major value reduction for the contracting party;
- After purchase-back, the money is not transferred to the bank account from where the contracting party used to pay the insurance premium.

## **THE SUPERVISORY ACTIVITIES OF THE HFIU**

Based on Article 34 (1) of the AML/CFT Act, the HFIU as supervisory authority ensures that the service providers belonging to its scope of supervision comply with the provisions of the AML/CFT Act.

Based on Article 5 g) of the AML/CFT Act the supervision of the HFIU shall cover the following service providers defined by Article 1 (1) f) and h) of the AML/CFT Act:

- service providers conducting activities related to real estates,
- service providers conducting accounting, tax expert, chartered tax expert and tax advisory activities upon assignment or agency.

When exercising the supervisory activities, the HFIU shall comply with the provisions of Act CXL of 2004 on the general rules of administrative procedures and services (Administrative Procedures Act; hereinafter: APA), with the exceptions defined by the AML/CFT Act.

The supervisory activities of the HFIU include the following:

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

### *Reporting of designated persons*

According to Article 23 (2) of the AML/CFT Act, service providers shall designate one or more persons – subject to their organizational structure – to transfer immediately the STRs to the authority operating as financial intelligence unit. Within 5 working days from the date of appointment or change, service providers shall notify the authority operating as financial intelligence unit concerning the names and positions of the designated person(s) or any changes thereof.

It is important to know the identity of the designated person because this person is authorized to file a STR to the HFIU in the event of noticing any information, fact or circumstance indicating money laundering or terrorist financing.

### *Processing of internal rules*

According to Article 33 (1) of the AML/CFT Act, the service provider shall prepare internal rules for the execution of the tasks related to the obligations defined by the AML/CFT Act. The model rules aimed at helping this effort, approved by the Ministry of Finance and compulsorily published are available at [www.vam.gov.hu/pio](http://www.vam.gov.hu/pio) under the ‘downloadable documents’ option. New model rules are being elaborated currently for service providers belonging to the supervision of the HFIU, which will be available soon at the same Internet page.

According to Article 45 (2) of the AML/CFT Act, every service provider already operating when the AML/CFT Act entered into force (15 December 2007) shall re-elaborate their internal rules according to the provisions of the AML/CFT Act by 15 March 2008. According

to Article 45 (4) of the AML/CFT Act, any service provider starting activities after the entry into force of the AML/CFT Act shall prepare its internal rules within 90 days after the inception of its activities and shall submit them for approval to the authority exercising the supervision.

The rules submitted for approval (approximately 3000 rules) are being processed continuously. When evaluating the rules the HFIU may adopt the following measures with reliance on the AML/CFT Act articles referred to above:

- approval of the internal rules by means of a decision, if the rules comply with the provisions of the law;
- rejection of the internal rules by means of a decision, if the regulations fail to comply with the provisions of the law;
- rejection of the request by means of an order without substantial investigation, taking into account that when the AML/CFT Act entered into force, the service provider was an operating service provider to only rework the internal rules so it was not required to submit the internal rules;
- transfer documents to other supervisory body (Hungarian Financial Supervisory Authority, Hungarian Trade Licensing Office, Hungarian Chamber of Accountants, regional chambers of lawyers) for lack of competence, with a notification sent to the service provider.

Before making a decision it may be important to clarify when the service provider filing the request started its activities, since this cannot be deducted from the documents filed, and no relevant information is available in the Company Register database. In this case the service provider is required to make a statement to clarify the situation, in accordance with Article 37 (2) and Article 51 (2) of the APA. If the service provider fails to answer this request and cannot excuse this failure with a good reason, the procedure may be finished with an order – considering that it was initiated upon a request – with reference to Article 32 (2) of the APA.

If the documents filed are not sufficient to ascertain whether the service provider performs activities belonging to the scope of the AML/CFT Act or not, or if it is ascertained that the activities belong to this scope but it is not possible to ascertain the date of commencement thereof, and the service provider fails to provide these data despite a request from our side, the procedure must be finalized with an order.

#### Inspection plan; Selection procedure

The HFIU performs inspections based on an inspection plan prepared with a monthly breakdown. The selection of service providers for inspection is based on the following criteria and methodologies:

- Based on the Company Registry and Company Information databases, selecting by TEÁOR activity codes;
- List of registered tax experts and accountants at the [www.pm.gov.hu](http://www.pm.gov.hu) page;
- The internet pages of a variety of business organizations (e.g. Hungarian Real Estate Association) and towns;

- Advertisements published on the Internet;
- Other collected information;
- Focus on regions infected by crime;
- Geographical levelling is considered during selection.

### Notification of inspection

According to the provisions of Article 91 (1)-(2) of the APA, on-site inspections may be conducted when the activities to be inspected are being carried out, and if in a private flat used as the registered offices of a company, on working days from 8 a.m. to 8 p.m. The on-site inspection must be conducted as to avoid, if possible, hindering the work and proper activities of the client. According to Article 90 of the APA, the client shall be notified in advance about the on-site inspection, except if such preliminary notification could threaten the output of the inspection. In this way, the service provider is being advised about the date and time of the inspection, as well as about the subjects included in the scope of the inspection. Upon receipt of the notification, the service provider may prepare for the inspection and has an opportunity to eliminate any deficiencies. Before commencing the inspection we verify whether the notification has been duly received and whether any inquiry was received from the service provider for changing the date or time of the inspection.

According to Article 89 (1) of the APA, on-site inspections may be conducted by an official of the authority, an expert appointed by the authority, or any person authorized by law, proving his/her entitlement in the course of the inspection. This may be performed by presenting the assignment letter described in Article 89 (3) of the APA. Before commencing the on-site inspection, a copy of such assignment letter is furnished to the service provider upon acknowledgement of receipt, and in addition, the officer performing the information identifies himself with his corporate identity card.

### Contents and subjects of the inspection

The scope of the on-site inspection includes the verification of the compliance with the obligations determined by the AML/CFT Act as well as other laws and regulations, with particular attention to the following:

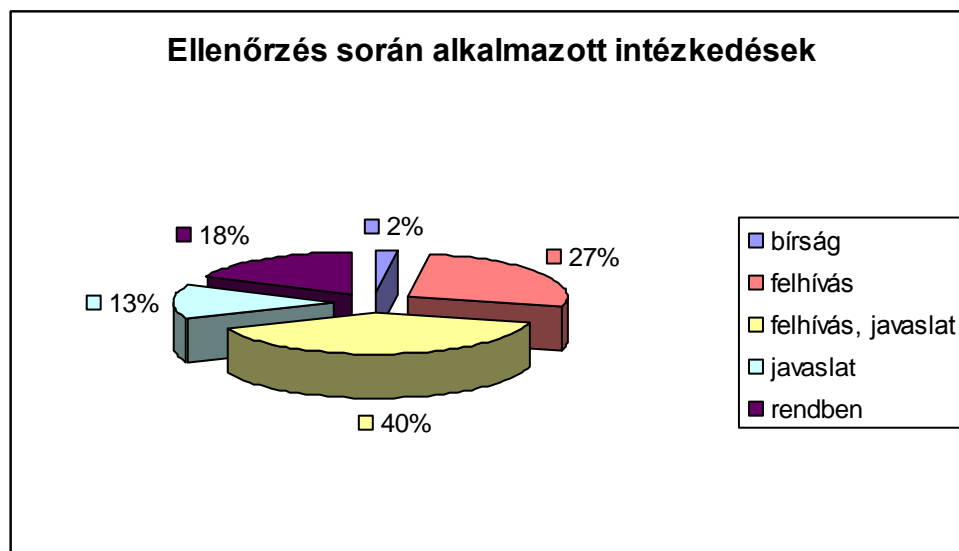
1. Inspection of the data and activities of the service provider;
2. Existence, validity and contents of the internal rules;
3. Notification of designated persons;
4. Customer due diligence measures;
5. Review of STRs and application of the confidentiality clause of the AML/CFT Act;
6. Review of data archiving and record keeping;
7. Internal control and information system, training;
8. Verification of the cooperation and compliance of the service provider in the course of the inspection.

## Inspection report

According to Articles 92 (3) and (4) of the APA, the authority shall prepare report concerning the on-site inspection, the findings of the on-site inspection, any seizures and the statements made by the client. One copy of the report shall be delivered to the client on site or sent to the client within 5 days from the finalization of the inspection.

If any deficiency is encountered, it shall be described in the report. After this, the HFIU decides whether opening a further procedure or not (e.g. to impose a penalty).

From 1 January 2009 to 30 June 2009, the HFIU conducted 90 on-site inspections in its competence of supervision and based on the above criteria. In the course of the inspections the HFIU made the following actions for violation of the provisions of the AML/CFT Act as well as non-sufficient compliance with the obligations set forth by the AML/CFT Act.



## Actions made in the course of the inspections

Penalty imposed
Request
Request and recommendation
Recommendation
No action

According to Article 35 (1) *a*) of the AML/CFT Act, the HFIU requested the service providers in 24 cases (27%) to make the necessary actions and overcome the deficiencies found in order to comply with the provisions of the AML/CFT Act. These deficiencies include the defective completion or non-completion of customer due diligence, as well as deficiencies concerning the archiving and the secure keeping of the documents.

According to Article 35 (1) *b*) of the AML/CFT Act, the HFIU made recommendations in 12 cases to rework the rules within a specific term and using specific criteria, or to conduct the missing training for the employees.

As regards the above cases, the recommendation to rework the internal rules was the most frequent action, since some service providers were using the model rules available on the [www.vam.gov.hu/pio](http://www.vam.gov.hu/pio) internet page without any change. However, such internal rules fail to reflect the particular features of the activities pursued and the internal procedures applied, by the service provider, so that reworking the existing internal rules is necessary to develop a set of rules that duly reflect the particular features of the service provider.

In 35 cases (40%) of the inspections the HFIU made both a recommendation and a request.

By virtue of Article 35 (1) *e*) of the AML/CFT Act, the body operating as supervisory authority may impose a penalty – standing alone or in addition to the actions referred to above. In the first half of year 2009, the HFIU imposed penalties in two cases (2%) for more serious irregularities and deficiencies, and imposed penalties in the amount of HUF 100,000 each.

In 18% of the on-site inspection the HFIU did not implement any action.

#### **CONTACT DATA OF HFIU**

**Name: Hungarian Financial Intelligence Unit**

**Central Criminal Investigation Bureau**

**Hungarian Customs and Finance Guard**

**Address: 42 Huszti st. Budapest H-1033**

**P.o.Box: H-1300 Budapest, P.o.Box: 307**

**Phone: +36-1/4309-466**

Contact service (for service providers subject to the AML/CFT Act): **+36-30/516-5662**

**Facsimile: +36-1/430-9305**

**E-mail: [vpkbp.fiu@vam.gov.hu](mailto:vpkbp.fiu@vam.gov.hu)**