

# YEARBOOK 2013





# **OVERVIEW OF THE WORK OF THE FINANCIAL INTELLIGENCE UNIT IN 2013**

**TALLINN 2014**

# CONTENTS

1. 15 YEARS OF MONEY LAUNDERING PREVENTION IN ESTONIA .....	5
2. OVERVIEW OF THE WORK RESULTS OF THE FINANCIAL INTELLIGENCE UNIT IN 2013.....	7
2.1. Overview of the reports received by the FIU and their analysis.....	7
2.2 Overview of the materials forwarded by the FIU.....	11
2.3. National cooperation and training .....	13
2.4. International cooperation.....	14
2.5. Supervision.....	14
3. COURT JUDGMENTS IN MONEY LAUNDERING CASES IN 2013 .....	16
3.1. Money laundering schemes.....	17
4. A LOOK INTO 2014 .....	20

## FOREWORD

The year 2013 was active in the sphere of prevention of money laundering. A lot of energy of all those involved in prevention of money laundering in Estonia was taken by the IV Evaluation Round of Anti-Money Laundering Measures and the Financing of Terrorism by MONEYVAL expertise committee of the European Council. The valuers of MONEYVAL evaluate based on unified methodology the correspondence of the sphere of money laundering and terrorist financing prevention of those member states of the Council of Europe, which are not FATF members, to the FATF (Financial Action Task Force) standards. The former evaluations were focused on inspection of the existence of the regulations and their observance, but the fourth evaluation round is focused on efficiency, meaning, whether and how the existing regulations have given actual results. Estonia has done well in previous evaluation rounds and hopefully Estonia will also get good results in the fourth evaluation round. The one-week evaluation on the spot, in the course of which hundreds of representatives from private and public sectors were interviewed, was preceded by intensive preparatory work, in the course of which statistics were collected and reviews were drafted, from which was compiled a more than 300 pages long response to the questionnaire. In 2014 the valuers shall draft a report, regarding which a preliminary meeting shall take place and, according to the present schedule, the main defence is planned to take place at the plenary session of MONEYVAL held in September 2014.

In addition to MONEYVAL evaluation, in parallel, also the National Risk Assessment of Estonia took place, as a basis of which Estonia has taken the corresponding methods of the World Bank. In the course of this process, also, meetings of work-groups took place and the goal was to get a thorough mapping of Estonian risks of money laundering and terrorist financing. The risk evaluation process shall also continue in 2014. By the end of the year the risk evaluation of Estonia shall get ready, this evaluation shall provide an overview of the risks of Estonia in money laundering and terrorist financing, based on which an action plan can be prepared for hedging of established risks.

Preparation of risk evaluation and participation in MONEYVAL evaluation has taken a lot of resource from the Financial Intelligence Unit (the FIU), the administrative burden of the FIU has also increased significantly due to an increasing necessity to represent oneself in court. This necessity has also created a situation, in which a post of counsellor was established in the course of internal reorganisation, this post has been filled by Arnold Tenusaar who is a longstanding head of the FIU. The main spheres of activities of the counsellor have been representing of the FIU in courts and relevant paperwork for that purpose, but also contributing on behalf of the FIU into legislation.

Besides all that, the FIU has also continued its daily routines, an overview of which is provided in this annual report.



# 1.

## 15 YEARS OF MONEY LAUNDERING PREVENTION IN ESTONIA

On 1st of July the Financial Intelligence Unit shall celebrate its 15th birthday. The Money Laundering and Terrorist Financing Prevention Act has been in force for the same time period, still, the named Act was significantly reformed in the end of 2007, when the DIRECTIVE 2005/60/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing was harmonised into Estonian law. Hereby, this is the right time to look back at the previous work and to set goals for the future.

It is a pleasure to recognise that those two employees, who set to work in the Financial Intelligence Unit on the 1st July 1999, are working here also in 2014. People have definitely been the greatest value of the FIU. The team has somewhat changed in the course of time, certainly it can't be otherwise in such a long time period, still, it is a pleasure that there are many employees with a long service, who have been working for the sake of achieving the common goal more than five years already.

In 1999 the FIU started with a small team, without any previous pattern and experience. The support by the state was also scanty. First of all, the FIU had to establish a functional cooperation with banks, which task was succeeded quickly thanks to the Banking Association. This cooperation

is successfully functioning to this day. The international acknowledgement was also received shortly due to the previous international police cooperation experience of the first head of the FIU in the National Central Bureau of Interpol.

In years, experience and knowledge came and the active explanatory work started to bear fruits. Whereas in the course of first five years nine materials from amongst those sent to the investigative authorities went to court and only one of these reached a criminal conviction in money laundering, then, as of today, prevention of money laundering and confiscation of proceeds of crime has become a national priority. The measures taken in Estonia for prevention of money laundering and terrorist financing, and their performance, have gained internationally high estimation. The obligated subjects under the Act have been good partners to the FIU over these years and the named international acknowledgement is the product of our common work.

In these 15 years many changes have taken place in the sphere of prevention of money laundering. When looking back today, it can be constated, that the then made choices were right ones and they helped to take the Estonian money laundering prevention system to a very good level. For example, in Estonia all criminal offenses can be predicate offenses of money laundering. This helps us to anticipate

problems faced by foreign colleagues, where money laundering cases, which have been investigated for a long time, must be terminated because the predicate offense does not qualify as predicate offense of money laundering. The choice of location of the FIU, namely, the FIU of Estonia being a part of the police, has also justified itself.

Globally the development of the money laundering prevention system has also changed a lot since the year 1999. Prevention of money laundering is connected more and more with combating with other criminal offenses. A significant impact to the money laundering prevention system was the terror attack in New York on 11.09.2001. Since the 9/11 events, terrorist financing is an inseparable part wherever prevention of money laundering is a subject matter. In addition to terrorist financing, the initiative of several countries to use the money laundering prevention system also for prevention of corruption can be pointed out.

The money laundering prevention system is also connected more and more with combating with tax crimes. Since 2012 the new FATF recommendations include also the principle, that tax crimes must be predicate offenses for money laundering, so far it was not so in many countries. Likewise, the initiative of the G8 states of 2013 needs to be pointed out, in which the necessity to use the money laundering prevention system for efficient combating with tax crimes was accentuated. The pressure of the US to Swiss banking system is also worth remembering, due to this pressure the current situation in the formerly very firm stronghold of information subject to banking secrecy is quite different from the situation we can recall from history.

The joint contribution of private and public sectors into prevention of money laundering has helped to prevent in Estonia such crises like, for example, the Latvian crisis, which escalated in 2005, in which foreign countries pressured Latvia by pointing out the drawbacks of this branch in prevention of money laundering. Due to right choices and rapid responses to changes in external environment and to domestic changes, Estonia has managed to retain low risk rating of money laundering and terrorist financing. For

example, in the money laundering prevention section of the US international drug control strategy report and in the money laundering risk table of Basel Institute of Governance, Estonia is positioned in the list of the countries with lowest risk level.

In 15 years the money laundering prevention system has distinguishably developed in Estonia, still, it does not mean, that there are no challenges any more. The state's coordination of prevention of money laundering and terrorist financing through government committee has improved year by year, still there are possibilities for improvement. As of today, there are some legal obstacles in operating of the system, the removal of which requires close cooperation of different authorities. There is also hope, that the principles stipulated in the Council of Europe Convention on money laundering (so called Warsaw Convention), which was adopted in 2005, shall also be implemented into Estonian domestic legislation. The named convention has been signed, but the ratification procedure is still pending.

Starting from its creation until the end of 2013, the FIU has received in total 97 077 reports. In comparison with the 56 reports of the first year, in last years the number of reports has been nearly 200 times bigger. Although schemes of money laundering, and due to that also the focus of the FIU, have somewhat changed in the course of time, it can be pointed out as a generalization, that through the times the main predicate offenses have been tax crimes (excise and value added tax frauds), electronic crime (phishing etc.) and fraudulent conducts. Although cash is continually attractive for criminals, alternative means of payment – systems (e.g. WebMoney and Bitcoin) have also appeared aside it. Handling these challenges is among the priorities of the FIU, in order to be one-step ahead of the criminals.

We are pleased, that Estonia is together with Norway and Slovenia among these three countries, whose risk level of money laundering is ranked by the Basel Institute to be the lowest in the world. The FIU shall continuously give its best to keep the ranking that way.

<sup>1</sup> <http://index.baselgovernance.org/>



## 2.

# OVERVIEW OF THE WORK RESULTS OF THE FINANCIAL INTELLIGENCE UNIT IN 2013

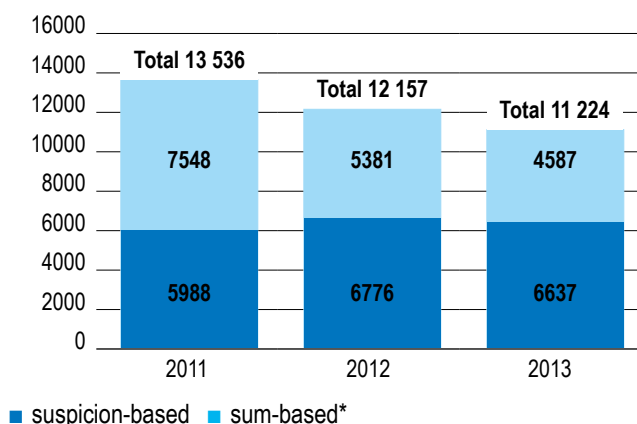
## 2.1. OVERVIEW OF THE REPORTS RECEIVED BY THE FIU AND THEIR ANALYSIS

In 2013 the FIU received 11 171 reports, approximately 60% of them were suspicion-based (see chart 1).

From amongst the suspicion-based reports two thirds were transactions with suspicion of money laundering and nearly 30% were reports with suspicion of terrorist financing. The reason of big number of reports with sus-

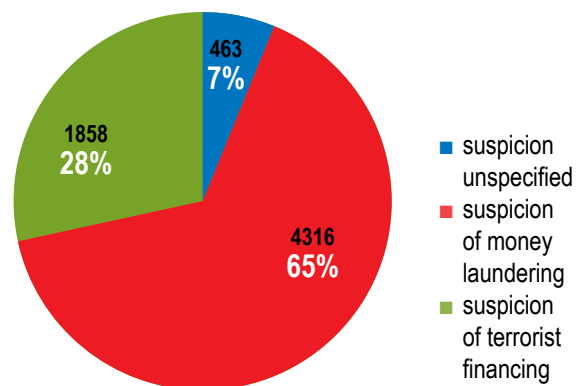
picion of terrorist financing is the aspect that the undertakings engaged in remittance of money are obligated to notify the FIU about money remittances to countries with increased suspicion of terrorist financing and about transactions, which are connected with countries with increased suspicion of terrorist financing.

**CHART 1.** The number of reports received by the FIU in the years 2011–2013.



Comment: \* the sum-based reports include also those reports where the suspicion was unspecified. In the years 2011 and 2012 there were 6 reports of such kind, in 2013 the number was 9.

**CHART 2.** Division of suspicious transaction reports by reason of suspicion in 2011–2013.



Comment: the majority (243) of the reports indicated as „suspicion unspecified“ were sent by FIUs of foreign countries.

**TABLE 1. Division of reports received by the FIU by groups of reporting persons in the years 2011–2013.**

	2011		2012		2013	
	Reports	% of reports	Reports	% of reports	Reports	% of reports
Financial institutions	9960	73,6	8504	70	7856	70,0
Credit institutions	2442	18	2216	18,2	2055	18,3
Other private undertakings	571	4,2	785	6,5	547	4,9
Professionals	147	1,1	165	1,4	233	2,1
State authorities	194	1,4	252	2,1	276	2,5
Foreign authorities	214	1,6	221	1,8	243	2,2
Other	8	0,1	14	0,1	14	0,1
<b>TOTAL</b>	<b>13 536</b>	<b>100</b>	<b>12 157</b>	<b>100</b>	<b>11 224</b>	<b>100</b>

Similarly to previous years, the biggest share of reports in 2013 was also sent to the FIU by financing institutions (70% of the reports) and by credit institutions (slightly less than 20%).

Reports on suspicion of money laundering are sent pre-

dominantly by credit institutions, financial institutions and professional notaries public. Most of the reports with suspicion of terrorist financing were sent by financing institutions in relation with transactions made to countries with high risk of terrorist financing or made with persons

**TABLE 2. Division of reports received in 2013 based on the ground and sender.**

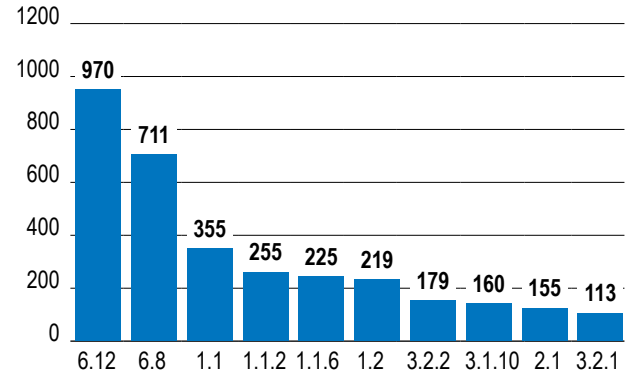
	suspicion unspecified	suspicion of money laundering	suspicion of terrorist financing	sum-based	TOTAL
credit institutions	7	2035	1	12	2055
financial institutions	81	2058	1842	3875	7856
organizers of gambling	2	4	14	475	495
persons making or mediating transactions with immovable properties	1	0	0	0	1
traders	3	1	0	43	47
company service providers	0	1	0	0	1
persons engaged in precious metals and precious metal products	2	0	0	1	3
professionals	20	47	1	165	233
... auditors	0	0	0	36	36
... providers of accounting services	0	0	0	1	1
... notaries public	6	42	1	125	174
... attorneys	7	3	0	0	10
... bailiffs	0	2	0	2	4
... trustees in bankruptcy	4	0	0	1	5
... other providers of legal services	3	0	0	0	3
state authorities	90	170	0	16	276
foreign authorities	243	0	0	0	243
others	14	0	0	0	14
<b>TOTAL</b>	<b>463</b>	<b>4316</b>	<b>1858</b>	<b>4587</b>	<b>11 224</b>



originating from such countries. The majority of sum-based reports were also sent by financing institutions. In comparison with last couple of years no significant changes have occurred. In 2013 the most common reason for reports with suspicion of money laundering was the fact that a person received or transferred (wished to transfer) money in a sum exceeding 2000 euros (see chart 3).

In the case of reports with suspicion of terrorist financing, the dominant reasons for reporting in the year 2013 were transmissions to countries with high risk of terrorist financing (893) or transmissions with persons related to such countries without opening an account (791).

**CHART 3. Main reasons for reporting in the case of suspicion of money laundering in 2013.**



Explanation:

- 6.12 the person makes remittance of money or the person receives a remittance of money in a sum exceeding 2000 Euros
- 6.8 the person makes transactions to other persons in different countries, which does not conform to the client's usual activities
- 1.1 suspicion of a fictitious person in case of a natural person
- 1.1.2 the person uses assistance in filling out documents or cannot fill them in
- 11.6 with respect to the client there exists former suspicion of money laundering
- 1.2. suspicion of a legal person being a fictitious person
- 3.2.2 single unusually large cross-border payment not conforming to normal turnover and/or not sufficiently justified
- 3.1.10 one major cash withdrawal or regular cash withdrawals also in smaller amounts from ATM
- 2.1. the person cannot explain the need for the service for the use of which the person called upon the credit or financial institution
- 3.2.1 single unusually large domestic payment not conforming to normal turnover and/or not sufficiently justified

## RESTRICTIONS ON DISPOSAL OF ASSETS

According to the law, the FIU has the right to suspend a transaction or restrict the use of assets in the case of suspicion of money laundering or terrorist financing.

In 2013 the FIU restricted disposals on bank accounts for 30 days in 91 times and for 60 days in 32 times, the total volume of the amounts subject to the restriction on disposal was EUR 10,1 million. As of the end of 2013 the effective restrictions imposed by the FIU on disposal of assets amounted to EUR 1,58 million. The FIU used the opportunities granted by law to restrict the disposal of assets until identification of the beneficial owner of the assets in four times in total amounting to EUR 800 000.

In 2013 the FIU applied actively for transfer of assets without an owner to the state revenue. Unfortunately the possibility provided in subsection 40 (7) of the Money Laundering and Terrorist Financing Prevention Act turned out to be difficult to put into practice, due to the fact, that courts, taking into account a former judgment of the Supreme Court, pronounced, that the assets on a bank account, being a claim against the bank, always belong to the holder of the account, regardless of the way they were received on the account. Pursuant to the decision No. 3-1-1-83-07 of the Supreme Court, dated 21.04.2008, regardless of trusting assets to the disposal of another person (e.g. by granting to such person access to the money on a bank account for making transactions), the money on a bank account must be considered to be the assets in the ownership of the holder of the bank account, not the assets of the person who actually made transactions.

*In 2013 the FIU restricted by its precept the disposal of assets on bank account or assets being an object of transaction, professional act or professional service for the term of 30 days all in all 91 times in total in the value of nearly EUR 10 million.*

## RIGHTS OF THE FIU TO SUSPEND A TRANSACTION, RESTRICT THE USE OF ASSETS AND TRANSFER THE ASSETS TO STATE OWNERSHIP

In the event of suspicion of money laundering or terrorist financing, the Financial Intelligence Unit may issue a precept to suspend a transaction and to impose restrictions on the disposal of an account or other property constituting the object of the transaction, professional operation or professional service or other assets or property suspected of being associated with money laundering or terrorist financing for up to 30 days. In the event of justified suspicion, the FIU may also restrict the disposal of property registered in the land register, ship register, Estonian Central Register of Securities, traffic register, construction register or another state register, for the purpose of ensuring its preservation for up to 30 days. Before expiry of this term, a transaction may be entered into or the restriction of disposal of an account or other property may be derogated from only upon the written consent of the FIU.

In addition to the provisions of this section, the Financial Intelligence Unit may, on the basis of a precept, restrict the use of property for up to 60 days for the purpose of ensuring its preservation if:

- during verification of the source of the property in the event that there is a suspicion of money laundering, the owner or possessor of the property fails to submit evidence certifying the legality of the source of the property to the Financial Intelligence Unit within 30 days as of the suspension of the transaction or as of the imposition of restrictions on the use of the account or other assets or property;
- there is suspicion that the property is used for terrorist financing.

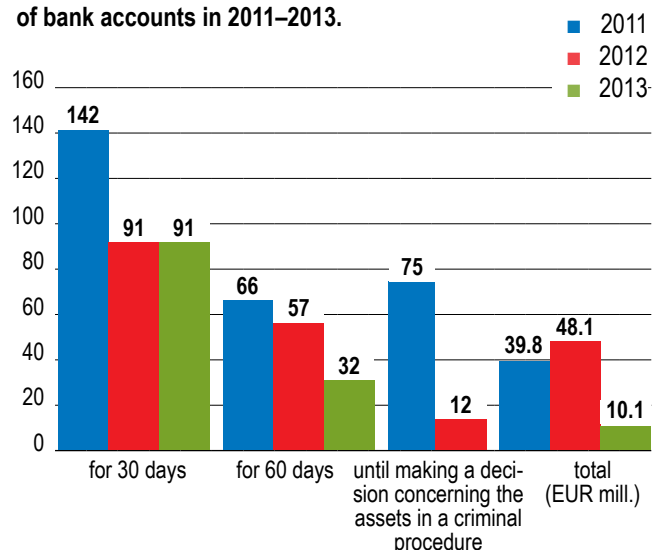
If in the event of suspicion of money laundering the legality of the source of the property is verified, then the Financial Intelligence Unit shall immediately revoke the restrictions on the disposal of the property. If the owner of assets or property has not been identified, then the Financial Intelligence Unit may request that the administrative court give permission to restrict the disposal of the assets or property until the owner of the assets or property has been identified, including also in the event of termination of the criminal procedure, but not for more than one year. The possessor of the assets or property against whom the restriction of disposal of the assets or property is being decided has the right to give an explanation to the administrative court within the prescribed term.

If the owner of assets or property has not been identified within one year after the establishment of restrictions on the disposal of the assets or property, then the Financial Intelligence Unit or the Prosecutor's Office may apply to the administrative court for permission to transfer the assets or property to state ownership. The administrative court shall decide the granting of the permission in a court hearing. The assets or property shall be sold pursuant to the procedure provided for in the Code of Enforcement Procedure and the amount received from the sale shall be transferred to state revenue. The owner of the property has the right to claim an amount corresponding to the value of the assets or property within three years as of the date of transfer of the assets or property to state revenue.

In most cases, the FIU restricts the transactions being made on bank accounts. The standpoint of the named courts has made it substantially impossible to transfer assets on bank accounts to state revenue. We shall continue with this issue in 2014 in order to make clear the final standpoint of the courts and in the case of necessity we shall make suggestions to amend the Act in order to grant the possibility of applying the will of the legislator, as the purpose of enactment of this provision was to transfer the assets without an owner to the state revenue.

In addition, the FIU also restricted in 2013 the disposal of 12 cars, nine real estates and four safes, which were later attached by court within the frames of criminal matters.

**CHART 4. Restrictions established by the FIU on disposal of bank accounts in 2011–2013.**



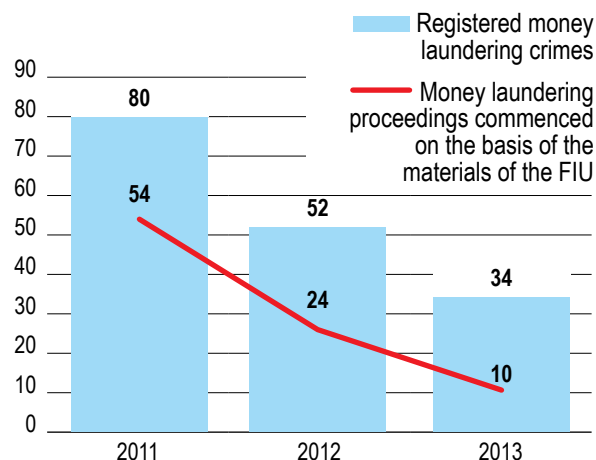
## 2.2 OVERVIEW OF THE MATERIALS FORWARDED BY THE FIU

In the case if the FIU finds, as a result of analysis, that there may be a case of money laundering or terrorist financing, then the FIU will forward the materials to other law enforcement authorities. In 2013 the FIU forwarded to other law enforcement authorities 463 materials, the majority of which were inquiries, responses to inquiries or materials sent for information. 17 materials were sent to make a decision as regards commencing criminal proceedings, from amongst these in 12 cases investigative bodies commenced the proceedings (in 10 cases on grounds of money laundering and in two cases on grounds of other section), in three cases commencement of proceedings was refused and in two cases the existing materials were annexed to ongoing criminal matters. 74 materials were sent to be annexed to an ongoing criminal matter. The sum related to forwarded materials exceeded EUR 2,5 billion.

The majority of materials sent for information were sent to the Tax and Customs Board, but materials were sent also to the Estonian Internal Security Service, Bureau of Corruption Crimes, Bureau of Internal Control, and to other law enforcement authorities. Besides, 46 requests for establishing criminal proceeds and responses were given to 52 additional inquiries from law enforcement authorities.

Among the 10 criminal matters commenced according to features of money laundering, predominantly (in 7 cases) the presumable predicate offence was computer crime. In two cases the presumable predicate offence was fraudulent conduct and in one case tax fraud.

**CHART 5.** Total number of money laundering crimes registered in Estonia and number of money laundering proceedings commenced on the basis of materials forwarded by the FIU to investigative bodies in the years 2011–2013.



Comment: the number of registered money laundering crimes originates from the Ministry of Justice

According to law, the FIU does not forward the reports received to investigative bodies or disclose the reporting person. However, statistics are kept by the FIU regarding reports serving as the basis for the forwarded materials. Similarly to the previous two years, the major part of the forwarded materials were based on information received from financial institutions, credit institutions and state authorities.

**TABLE 3.**  
Materials sent  
to law enforcement  
bodies  
in 2011-2013

	2011	2012	2013
<b>total number of forwarded materials</b>	<b>459</b>	<b>788</b>	<b>463</b>
to make a decision as regards commencing criminal proceedings	83	47	17
... criminal proceedings commenced as of 31.12.13	77	41	12
... incl. money laundering proceedings commenced	54	24	10
to be annexed to an ongoing criminal matter	62	50	74
responses to inquiries, sent inquiries, for information	314	691	372
the number of reports related to forwarded materials	1712	2087	1827
the amounts related to forwarded materials	255,4 mln	280,9 mln	2,56 mld
/ the number of persons related to forwarded materials	1429	2109	1764



2/3 of the forwarded materials were based in the year 2013 on information arising from the sum-based reporting obligation, which clearly refers to the fact, that the provision of law, which was implemented in 2008, is important from the aspect of prevention of money laundering. More than one quarter of the reports used in the forwarded materials were sent to the FIU due to suspicion of money laundering and less than one tenth due to suspicion of terrorist financing.

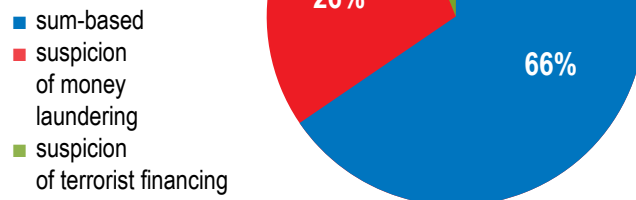
**TABLE 4.** Division of reports serving as the basis for materials forwarded to FIU by groups of reporting persons in the years 2011–2013.

	2013	2012	2011
credit institutions	269	380	367
financial institutions	1350	1552	1156
organizers of gambling	16	12	4
persons making or mediating transactions with immovable properties	1	0	8
persons engaged in precious metals and precious metal products	1		
professionals	24	16	5
... notaries public	24	15	5
... attorneys		1	
state authorities	111	143	105
foreign authorities	12	23	21
other	32	56	37
<b>TOTAL</b>	<b>1816</b>	<b>2182</b>	<b>1703</b>

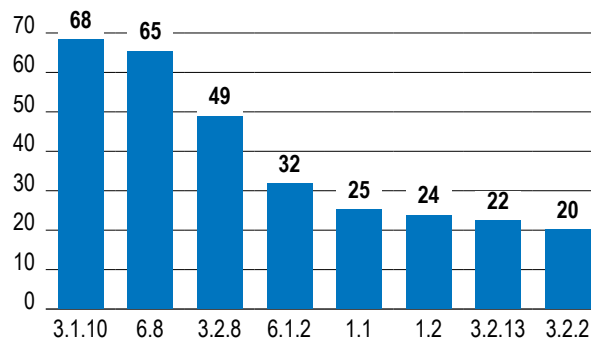
In the reports serving as basis of the forwarded materials the predominant indicators based on suspicion of money laundering are cash withdrawals and the aspect, that a person is making transfers, which do not conform to the person's usual activities.

From the indicators on suspicion of terrorist financing, used in the forwarded materials, the clearly predominant aspect is that law enforcement bodies have previously sent notice concerning suspicious transactions of a person, and due to the reason, that a person wished to transfer money to a country with increased risk of terrorist financing, without opening an account.

**CHART 6.** Division of reports used in the materials forwarded by their basis in 2013.



**CHART 7.** Prevalent reporting indicators of reports on suspicion of money laundering used as a basis for forwarded materials in 2013.



Explanation:

- 3.1.10 single major cash withdrawal or regular cash withdrawals also in smaller amounts from ATM
- 6.8 the person makes transfers to other persons in different countries which does not conform to the person's usual activities
- 3.2.8 single large payment (exceeding 15 000 Euros) or unusually frequent payments also in smaller amounts between the same participants, whereas other transactions indicating normal economic activities or client profile do not take place on the account
- 6.1.2 the person makes remittance of money or the person receives a remittance of money in a sum exceeding 2000 Euros
- 1.1 suspicion of a fictitious person in case of a natural person
- 1.2. suspicion of a legal person being a fictitious person
- 3.2.13 appearance of other features, not mentioned in the manual, concerning an unusual transaction on the account, which may indicate on illegal activities
- 3.2.2 single unusually large cross-border payment not conforming to normal turnover and/or not sufficiently justified

## 2.3. NATIONAL COOPERATION AND TRAINING

According to the Act, which entered into force in 2008, the supervision over money laundering and terrorist financing is shared by the FIU, the Financial Supervision Authority, the Estonian Bar Association and the Ministry of Justice, whereas the Ministry of Justice is permitted to delegate it to the Chamber of Notaries. The Chamber of Notaries and the Estonian Bar Association perform supervision over their members. The Financial Supervision Authority performs supervision over credit and financial institutions, which are acting on the basis of licences and operating licences issued by the Financial Supervision Authority. Based on the regulation provided by law, the supervisory agencies provide once a year an overview of their activities to the FIU.

Based on necessity and according to the rules set in cooperation agreements, exchange of information, organization of joint seminars and consultings are carried out between the supervisory agencies. The FIU actively participates in the work of a governmental committee engaged in prevention of money laundering, as an observer in the advisory committee of the governmental committee and in the money laundering working group of the Banking Association. It enables the FIU to introduce the trends of money laundering to various parties and to discuss the issues of implementing the Act in practice. One of the most important events in 2013 for the whole money laundering prevention system of Estonia was the evaluation of Moneyval, which took place in autumn. All the authorities engaged in prevention of money laundering in Estonia were involved in the preparation for this evaluation. The results of the evaluation shall become clear by autumn 2014, still, according to the initial feedback, the evaluating committee was satisfied with the work of Estonia in prevention of money laundering and terrorist financing.

In 2013, the domestic risk assessment of money laundering and terrorist financing also took place for the first time in Estonia. In February 2013, a two-day training took place,

*The FIU pays great attention to arising awareness in this field.*

on which representatives of the World Bank introduced their methods for conducting domestic risk assessment. Based on that, work-groups formed of representatives of different Estonian agencies continued the work. The results of the assessment shall presumably become clear in the first half of 2014.

A very important role is also the cooperation with investigative bodies and prosecutor's offices, which is carried out daily for resolving incidents of crime.

The FIU pays great attention to arising awareness in this field. In 2013 the officials of the FIU carried out 10 trainings for nearly 620 participants, 2 of these trainings took place in foreign countries (see Table 5). Trainings were conducted for employees of credit service as well as payment service providing institutions, members of the Bar Association, auditors, prosecutors, judges, also for colleagues in the Police and Border Guard Board. The main theme for trainings was prevention of money laundering.

**TABLE 5.**  
Trainings carried out by the FIU in 2011-2013.

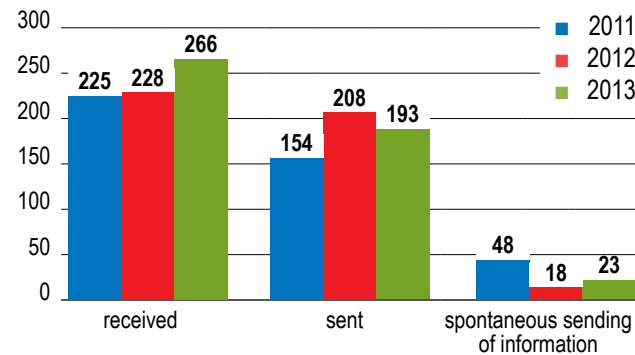
	2011	2012	2013
number of conducted trainings	17	19	10
number of participants	~ 680	~ 620	~ 643

## 2.4. INTERNATIONAL COOPERATION

International cooperation is one of the pillars of the FIU of Estonia, because, for the purpose of hiding traces, money laundering is often carried out in several countries and prevention of such schemes requires supranational cooperation. In comparison with the previous year, the number of foreign inquiries sent to the FIU increased in 2013, the number of foreign inquiries sent by the FIU decreased a little.

Altogether, the FIU received in 2013 inquiries from 41 foreign states and sent inquiries to 36 foreign states. Traditionally, most of the foreign inquiries were received from Latvia, Finland and Russia, while most of the foreign inquiries were sent to Latvia and Russia. The average time in the FIU for response to a foreign inquiry is 19 days, which is one of the shortest in the world. The foreign FIUs were granted permission to use information sent by the Estonian FIU in foreign investigative bodies in investigative or court proceedings in 178 cases.

**CHART 8.** The number of foreign inquiries received and sent by the FIU in 2011-2013.



Explanation: spontaneous sending of information is a case when the FIU sends information to a financial intelligence unit of another state on its own initiative.

## 2.5. SUPERVISION

In recent years, the FIU has been focused on risk-based supervision. In 2013, the FIU performed 53 on-site inspections. The main focus in supervision was set on inspection of persons engaged in buying up and in wholesale of precious metal products and precious stones, and the activities of lenders and pawnbrokers supporting such activities.

*In the year 2014 applying of supervisory measures in respect of persons engaged in buying up and in wholesale of precious metal products and precious stones shall continue.*

**TABLE 6.** Division of on-site inspections carried out by the FIU in 2013, based on the spheres of activities of the inspected persons.

	Number of on-site inspections
Pawnbroker	25
Financing institution	11
Person engaged in precious metals and precious metal products	10
Trader	2
Organizer of gambling	2
Provider of company services	1
Provider of counselling services in accounting or taxation sphere	1
Person engaged in or mediator of immovable property	1
<b>TOTAL</b>	<b>53</b>

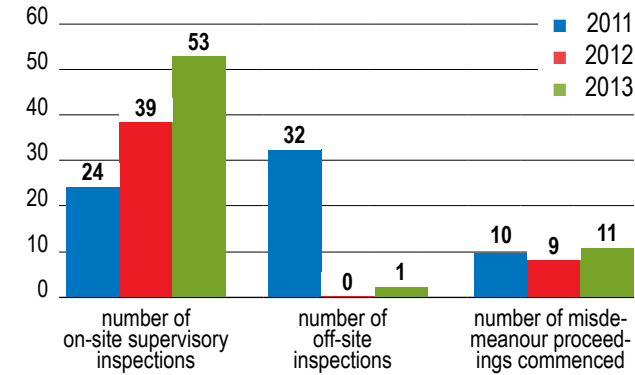


es. As a result of the inspections, 11 misdemeanour procedures were commenced and three reports of criminal offence were sent to prosecutor's office in relation to illegal economic activities and suspicion of money laundering.

In the year 2014 applying of supervisory measures in respect of persons engaged in buying up and in wholesale of precious metal products and precious stones shall continue, more attention shall also be paid on auditors engaged in counselling of criminal organisations, on providers of counselling services in taxation sphere and on providers of company services. It is also planned to raise the awareness of the persons with specific obligations regarding the performance of the requirements of the International Sanctions Act.

The biggest number of on-site inspections were carried out in pawnshops, financing institutions and with persons engaged in precious metals and precious metal products.

**CHART 9. Supervisory inspections and misdemeanour proceedings in 2011-2013.**





### 3.

## COURT JUDGMENTS IN MONEY LAUNDERING CASES IN 2013

In 2013 entered into force 13 court decisions in which persons were accused in money laundering according to section 394 of the Penal Code. From amongst these, 27 persons were convicted in money laundering and two persons were acquitted. The FIU assisted colleagues in total in five criminal proceedings, which ended in 2013 with convicting persons in money laundering.

Mostly, the predicate offense for money laundering was computer fraud and the scheme was simple: the funds received as a result of computer fraud committed in a foreign state were transferred to bank accounts of fictitious persons of Estonia and thereafter the funds were either withdrawn in cash or were transmitted to next bank accounts, in order to make it more difficult to establish the illegal background of the funds. As a rule, for such „services“, the fictitious persons can keep a small part of the sum for themselves. All these incidents are also linked by

the fact, that generally, the persons committing a computer fraud are unknown and fictitious persons also do not know the persons to whom they grant the use of their bank account or to whom they give the withdrawn cash. In relation with such incidents the FIU points out, that granting the use of one's bank account for committing money laundering is also a criminal offence.

The FIU has also assisted in prevention of not only committing of money laundering, but also committing of other criminal offences. In 2013, a convicting decision was passed in a case in which Tartu County Court imposed imprisonment on members of criminal organisation who had caused loss in hundreds of thousands Euros to the state by tax crimes. The court confiscated over 90 000 Euros from a company engaged in tax fraud. This case started with imposing restriction of disposal on the bank accounts of the eventually convicted persons by the FIU.

By court decision No. 1-13-6889 Harju County Court convicted in 2013 three persons who gave their bank account information and bank cards to criminals and made it thereby possible to use their bank accounts for monetary transactions. As a result of a computer crime committed in Finland, money was transferred to the bank accounts, in total illegal remittances to bank accounts of different fictitious persons (not only these three convicted persons) were made in the sum exceeding one million Euros. The convicted persons were only a small part of a large scheme, in total 103 transfers were made with the help of the noxious program, large part of which the banks managed to stop.

The court came to the conclusion, that by communicating his bank account information and bank cards to unidentified person, and by making it possible to transfer proceeds of crime to his bank account, and by permitting to make transactions with the proceeds of crime

which were received to his bank account, the purpose of which was to hide the criminal background and the actual owner of the assets and to help persons who participated in criminal acts, so that they could refrain from legal consequences of their acts, the person committed an abetment to money laundering. The court pointed out in its decision, that by giving the PIN codes and bank card of his bank account to an unknown person, making by such action it possible to transfer funds of any origin and for any purpose to his personal bank account, and to remit this money to other persons or to withdraw it in cash, the person acts with indirect intention to commit an abetment.

This case is also a sample of successful international cooperation in prevention of money laundering, in which the Central Criminal Police of Finland addressed the Estonian authorities, a joint investigating team was formed, and the investigation resulted in convicting Estonian fictitious persons.

## 3.1 MONEY LAUNDERING SCHEMES

### „LOVE FRAUDS“

In 2013, the so-called love fraud incidents occurred, in which the cash remittance service was used for transmission and embezzlement of money. In this scheme criminals search for their victims from internet environments, mostly from social networks and from sites for making acquaintances, and they try to defraud money by oppression on emotions. After matching through the internet and some communication, the victim is asked on different grounds to send money to the new acquaintance, promising to refund it on first possibility. On different grounds, the money is asked to be sent by way of using the cash remittance system to the name of some other person or persons, also to different countries.

Naturally, the money shall not be refunded to the sender, instead, on different grounds more money is asked to be sent (for example, criminals motivate, that they have lost their identity documents or that some service must be paid for in order to refund the first received sum). On some occasions, for refunding a cheque in a larger sum is sent to the deceived person through an electronic environment, which cheque such person has to exchange for money in a credit institution. Naturally, banks shall not accept such cheque.

The FIU asks everybody to take such relationships made through the internet, and to requests for money, which are received in such way, with great precaution and not to give any money to criminals.

### CHANGED SCHEMES WITH GOLD

Similar to recent years, the FIU detected in 2013 several criminal schemes connected with precious metals (above all with gold and platinum), in which VAT fraud and related money laundering is suspected. According to the FIU, estimably every month the state loses one million Euros of VAT, which persons subject to VAT payment obligation request back from the state through other companies. While previously mostly gold was used in the schemes, then in 2013 precious stones were also added. It was also noticed, that criminal organizations are more and more involved in financing of activities of persons committing VAT

frauds and in delivery of raw material (gold) in moulding. In addition, business interests of different financing institutions interweave with criminal schemes, as the cash and investment gold used in such schemes is mostly originated from financing institutions registered in Estonia. Most certainly, a contribution to reducing such schemes would be the restriction of cash settlement volumes and the imposing of diligence measures in intensified procedure. Whereas in 2013 the interest of criminal organizations towards this type of crime increased, therefore the persons engaged in buying up and wholesale of precious metal products and precious stones are continuously under enhanced interest of the FIU.

### BITCOIN

The virtual money scheme Bitcoin, which was created in 2008, has become more and more widely used in Estonia in recent years. In Estonia persons trade with bitcoins today as a hobby, in some stores it is also possible to pay for goods in bitcoins.

The FIU points out, that such unregulated anonymous payment environment, which is not supervised, can be used for money laundering, terrorist financing or other illegal activities. For example, China prohibited its banks to process transactions, which contain virtual currency Bitcoin. In the United States, banks are also avoiding companies transacting with virtual money, as the latter involves high risk of money laundering and other illegal businesses. The same concern has recently been also expressed by several central banks all over the world.

In the end of 2013 there was also the first Bitcoin case in Estonia, where an account of person X received foreign payment from an account of person C, in respect of which payment a notice about fraud came from foreign bank A. The person X himself stated that he had sold virtual money bitcoins through the portal localbitcoins.com and that the money received to the account was the fee for the „commodities“ sold by him. The content of the transaction was the following: communication regarding the sales transaction started between the parties in the portal localbitcoins.com. The person X posted in the portal localbitcoins.com



under the username M an advertisement on selling of bitcoins with current market price. Another person R, who was in the network under the username K, responded to the offer and notified about making a transfer for bitcoins to the bank account of M. The person X, after receiving a special confirmation code of the transaction from the network manager, released his bitcoins from the bitcoin escrow, thereby sending them to the bitcoin account of the buyer with username K.

The person X could not associate foreign account holder C to the buyer R with username K, who had made a transfer for the bitcoins, as from the identity information of the buyer R he knew only the e-mail address and phone number. In the portal localbitcoins.com one can make as many user addresses for oneself as he or she can manage, upon registration the person can insert any username, phone number and e-mail address. Therefore, all the contact data of a person can be temporary. In the case of disputes, the victims can obtain from the administrator of the portal localbitcoins.com the IP addresses of persons who have logged into the portal under certain username, but it is not possible to cancel the transaction any more.

Alternative means of payment hold risks of money laun-

dering. On the basis of materials of the FIU a criminal proceeding has been commenced, in which an important component of the scheme is purchase and sale of bitcoins. This case is connected with possible computer fraud, where money stolen from bank account of another person was sent to broker of bitcoin for purchasing bitcoins.

International sensation has been caused by web page Silk Road, through which trading of illegal narcotics is conducted and in which payments are made by using bitcoins, which provide anonymity. US federal agents have, in relation with investigating this case, also arrested persons, who have sold bitcoins for more than one million US Dollars to persons who used services of Silk Road.

In addition to risks of money laundering, the main and hopefully knowingly taken risk of customers is the aspect, that bitcoin has no other value besides the demand for it. Should the interest for this crypto-currency cool down, then its possessor shall have only a piece of text in 33 characters, however, the owners of clams were able to use their means of payment also in domestic decorations. One cannot exclude also the malicious hacking into the system, which would drop down the credibility of bitcoins and therefore would also take their monetary value down to zero.

## WHAT IS A BITCOIN?

The value expressed in Bitcoin is not monetary in the strict meaning, it does not create a claim against the issuer of Bitcoins and Bitcoins are not issued „in the nominal value of the sum received against the monetary contribution“. Therefore, Bitcoin is not an electronic money institution in the meaning of the Payment Institutions and E-Money Institutions Act. We also consent to the standpoint of the Financial Supervision Authority, that exchange of Bitcoins (transmittal from seller to buyer) or making of independent transactions with them (e.g. paying for commodities or services with Bitcoins) shall not be considered as purchase of payment services.

According to the estimation of the FIU, Bitcoin is also not a security in the meaning of section 2 of the Securities Market Act, as it has no features of a security. This means, that no proprietary right or obligation shall follow and no contract shall be entered into with the other party. According to our knowledge, Bitcoin has neither certain issuer nor contractual party.

It needs to be estimated additionally, whether Bitcoin is a commodity or a derivative instrument related to it. Financial law of the European Union (above all Directive 2004/39/EC and Regulation (EU) No. 575/2013) does not define a commodity. According to the generally acknowledged understanding, a commodity is a material item, which is traded or which can be traded on aftermarket, for example, agricultural products, minerals (including petroleum) or precious metals (with the exception of gold in bars), which are traded on international markets.

In the meaning of section 6 subsection 4 of the Money Laundering and Terrorist Financing Prevention Act (hereinafter the Act), the purchase, sale, broking of Bitcoins have features of providing of services of alternative means of payment. Pursuant to section 52 of the Act, a provider of services of alternative means of payment is required to register itself in the register of economic activities. Likewise, a provider of services of alternative means of payments must comply with

the obligations deriving from the Act (diligence measures, notification obligation, etc.), first and foremost, having regard of the provisions of section 15 subsection 8.

Section 16 subsection 21 of the Value Added Tax Act provides the list of tax-free services, and no distinctnesses are provided in this list by reference to service provider. In the case if any special requirements for providing financial services named in this list have been established by any other legislation, then such special law is the ground for determining the type of service. The Value Added Tax Act is grounded on the VAT regulation of the EU, which does not stipulate that services of alternative means of payment shall be considered to be financial services. Providing of services of alternative means of payment in the

meaning of the Value Added Tax Act is not subjected to tax exemption applicable to financial services, therefore the turnover emerging from trading with Bitcoin is subjected to taxation.

In the context of income tax, Bitcoin is considered to be property in the meaning of section 15 subsection 1 of the Income Tax Act. In such case income tax is charged on gains from the transfer, including exchange, of the property (subsection 15 (1) and subsection 37 (1) of the Income Tax Act). In the case if activities of a person with Bitcoins correspond to the requirements provided in section 14 subsection 2 of the Income Tax Act, then the earned income shall be charged as business income, including the imposing of social security tax to such income.



## 4. A LOOK INTO 2014

In the summer of 2014, the preliminary defence of MO-NEYVAL evaluation shall take place and in September the defence shall take place at the plenary session. The domestic money laundering risk evaluation process shall also come to its end. Apparently, in 2014 the so-called fourth directive on prevention of money laundering shall also be adopted. Since the year 2005, when the currently applicable Directive was enforced, meaning, in the course of past ten years, many changes have taken place in the sphere of money laundering, among others, in February 2012 the grounds for regulations on prevention of money laundering, i.e. the FATF recommendations, were modified. The fourth directive shall involve several modifications in domestic legislation and it cannot be excluded, that a new wording of the Money Laundering and Terrorist Financing Prevention Act shall be prepared.

The FIU does not foresee any major changes in trend lines of money laundering. For sure, the money laundering schemes connected with tax frauds and close neighbours shall continue. Activeness may rise in cross-border transport of cash, which has been less active in last two years. Further, we are ready for increase in schemes related to crypto-currencies, hopefully the number of cases shall not increase significantly in this sphere, still, such schemes

*Senine registreerimiskohustus majandus- ja kommunikatsiooni-ministeeriumi majandustegevuse registris asendub tulevikus eelnõu kohaselt tegevusloaga.*

shall, for sure, provide in 2014 challenges for banks as well as for the FIU.

A significant alteration, which at present is indeed only a draft of a law, is the issuance of activity licences by the FIU. The present obligation of registration in the register of economic activities, held by the Ministry of Economics and Communication, shall be replaced with an activity licence. According to the draft of a law, this aspect concerns those financing institutions, which are not subjected to supervision by the Financial Supervision Authority, and, in addition, also providers of trust fund and company services, providers of currency exchange services, providers of service of alternative means of payment and providers of pawnbroker services.