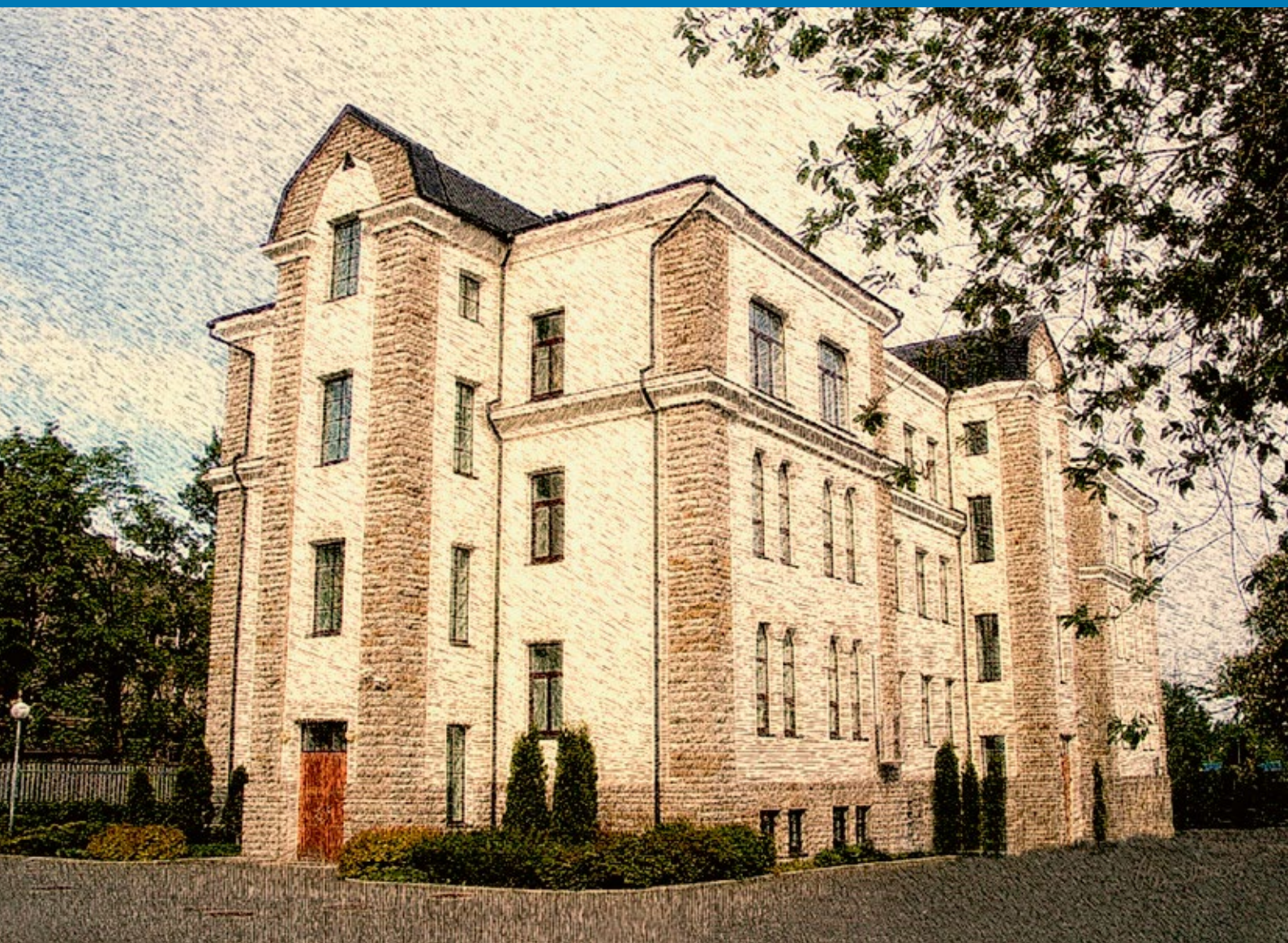


YEARBOOK 2016



OVERVIEW OF THE WORK OF THE FINANCIAL INTELLIGENCE UNIT IN 2016

TALLINN 2017

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FOREWORD

DEAR READER OF THE FINANCIAL INTELLIGENCE UNIT YEARBOOK!

In 2016 the preparations started in Estonia under the leadership of the Ministry of Finance for the transposition of the European Union fourth directive on the prevention of money laundering and terrorist financing, which, according to the schedule, will culminate with the adoption of the new Money Laundering and Terrorist Financing Prevention Act by the Parliament in the summer of 2017. The discussions that launched in the middle of 2016 have been active, at times even intense. By the time of publishing the yearbook, many of the themes will be resolved in the draft Act; however, several important issues are still waiting for the participants in legislation to reach a consensus. Regrettably, some necessary steps will probably not be taken by the new draft Act and they will be waiting for next options.

In the middle of 2016, the Estonian public received the first reports that the Deutsche Bank has terminated the servicing of the dollar payments of some credit institutions here. The fines imposed by the financial supervision in the United States of America for the shortages of the measures of money laundering prevention, and the decisions made due to the perceptible risks in the financial sector for cutting down correspondent relations, found a continuation this year when the Deutsche Bank announced that it terminates the correspondence relations with all the Latvian and Estonian banks. On the one hand, we must agree with those who see this practice as over-regulation of financial supervision and the contingent inappropriate reaction. The inconcinnity of the results from the termination

of correspondent relations regarding dollar payments is quite evident in this case; the fallbacks in availability of correspondent services intercepted also those banks, which had no concern in money laundering scandals and suspicious cash flows related to this region. On the other hand, it shows us clearly, that, from a distant view, in reputation we melt into one with quite a number of neighbours.

In 2016 the terrorism concerned Estonia in many ways. New terrorist crimes striving to break the stability and coherence of community were committed in several European countries. Two Estonian citizens lost their lives as victims of the terror attack that took place in June in France. In 2016, the first two court levels convicted two Estonian citizens who financed terrorism; by the time of publishing the yearbook, the Supreme Court has refused to review the appeal against the decision and the decision has entered into force. These signs indicate that the profiling and establishing of payments related to terrorist financing is regrettably an actual challenge also in Estonia.

The dominant predicate offences of money laundering in Estonia are still cyber-crimes. The cases where companies incorporated and holding a bank account in Estonia are used for organising fraudulent schemes and moving criminal income received in such way have also become more frequent. More attention is needed to transit transactions received from Russia. You can read more specifically about these and other themes from the next chapters of the yearbook.



1. THE FINANCIAL INTELLIGENCE UNIT

The Financial Intelligence Unit (FIU) started operations on 1st of July 1999, today it is a structural unit of Central Criminal Police of the Police and Border Guard Board. The FIU is a member of the Egmont Group, which assembles similar units of such states, whose activities correspond to international standards. The main task of the financial intelligence units is to obtain information regarding transactions with suspicion of money laundering and terrorist financing, to analyse such information and, in the event of identifying suspicion of criminal offence, to forward the information for making a decision as regards commencing pre-trial investigation. Such notices are basically sent by all persons who come across or may come across with possible suspicion of money laundering – above all the financial sector, such as banks and payment institutions, but also many others – for instance notaries, attorneys and auditors. In case of need, the FIU will impose restrictions on the use of property.

The uniqueness of the FIU lies in the fact, that persons, who are normally obligated to keep confidentiality of their clients, notify under certain conditions self-initiatively about certain clients and/or transactions even in such case if the information being forwarded is, for instance, information subjected to banking secrecy. The FIU shall retain the received information as confidential and shall forward to investigative bodies, prosecutor's office and court only the information needed for prevention, establishing and investigation of criminal offences. The FIU shall never disclose the notifying person. Investigative bodies and prosecutor's office establish money laundering in proceeded criminal matters, while the FIU establishes possible money laundering cases on the basis of financial information from private sector.

The supervision over compliance with the requirements of the Money Laundering and Terrorist Financing Prevention Act is shared by the FIU, the Financial

Supervision Authority over the persons acting on the basis of authorisations issued by the Financial Supervision Authority, and the Estonian Bar Association and the Chamber of Notaries (the Ministry of Justice has delegated the supervision over the notaries to the Chamber of Notaries) over their members.

Besides that, the FIU also supervises the compliance by the subjects of the International Sanctions Act with the requirements of implementation of financial sanctions in accordance with the Act. With regard to international financial sanctions, the FIU is the central authority coordinating the performance of relevant sanctions, restricting the disposition of funds and assets if necessary, and granting, in case of need, an exceptional

permit for making transactions subjected to sanctions.

The FIU also issues authorisations. These are authorisations to financing institutions which do not hold an authorisation issued by the Financial Supervision Authority, as well as authorisations to trust fund and company, currency exchange, alternate means of payment and pawnbroker service providers and also to persons engaged in buying-in and wholesale of precious metals and precious stones. The tasks of the FIU also include tracing of criminal proceeds, cooperation with foreign FIUs, cooperation with investigative bodies and prosecutor's office, raising the awareness of general public and informers, misdemeanour proceeding and many other tasks.



2. THE YEAR 2016 IN THE PREVENTION SYSTEM OF MONEY LAUNDERING IN ESTONIA

2.1. DEFENDING THE DEVELOPMENTS REPORT OF THE MONEYVAL IV EVALUATION ROUND

At the 51st plenary session of the European Union expert committee Moneyval, evaluating the measures for prevention of money laundering and terrorist financing, held from 27 until 29 September, the delegation of Estonia successfully defended the development report on the measures against money laundering and terrorist financing. It was a continuation to the IV round evaluation, where Estonia defended the main report in September 2014. The plenary session recognized the efforts of Estonia in the prevention of money laundering and terrorist financing, and pointed out the fact that the first terrorist financing case was taken to court as well as the so-called Ghost Click case investigated in cooperation with the United States of Amer-

ica, in which the Supreme Court convicted a person in money laundering without a preceding verdict of predicate crime and confiscated property valued nearly 18 million euros.

In the summary of the Moneyval plenary session it was said that there is reason to be proud of the achievements of Estonia so far in the development of the money laundering and terrorist financing prevention system. From the recommendations of the Financial Action Task Force - FATF, considered during the IV Evaluation Round, Estonia needs to include some specifications and amendments to law with regard to the term of terrorist financing and provisions of asset confiscation, so that they will be in better compliance with the

FATF recommendations. These issues are planned to be resolved by the transposition of the European Union fourth directive on the prevention of money laundering and terrorist financing and by amendments to the

Penal Code. Estonia must report the removal of the last shortcomings in performance of the most important recommendations given by the FATF during the plenary session at the latest in Autumn 2018.

2.2. THE EU IV ANTI-MONEY LAUNDERING DIRECTIVE AND ITS AMENDMENTS; AND THE NEW DRAFT MONEY LAUNDERING AND TERRORIST FINANCING PREVENTION ACT

When the European Union anti-money laundering and terrorist financing directive¹ was adopted on 20 May 2015, the Member States, including Estonia, faced an obligation to implement the principles provided in the directive into the national legislation by 26 June 2017. Last year the Estonian organisations connected with the prevention of money laundering and terrorist financing, and the essential participants of financial market, mapped under the guidance of the Ministry of Finance the required amendments in legislation. This work was more complicated due to the aspect that at the same time the European Commission had started with major supplements to the only just adopted directive, inserting several substantial measures. The authors of the new draft Act have tried to transfuse also the main provisions of the draft amendment act to the directive into Estonian law, although the amendments are not finally agreed yet. By the time of preparation of the yearbook, the proceeding of the new draft Money Laundering and Terrorist Financing Prevention Act is pending already in the Parliament, that makes us possible to introduce the most important amendments in applying the preventive measures for money laundering and terrorist financing. We still point out that the following text should be read with the consideration that the Act

could still be amended before it enters into force.

The amendments to the directive, concerning the measures for money laundering and terrorist financing prevention, were so extensive that their implementation into the Estonian legal system required the preparation of the new full text of the Act; the enforcement of the new Act will change the money laundering and terrorist financing prevention system largely. The major change is the raise of the risk-based consideration into the focus of the money laundering prevention system. The strongest measures will be applied where the risks are the highest. On the other side, the new approach provides the obligated persons with a certain discretion in establishing the risks and directing resources to the spheres with higher risk. The basis for risk assessments of obligated person is the national risk assessment in the corresponding sector. Whereas the choice making about in what conditions and what kind of diligence measures to take, will become a competence of the obligated persons to a larger extent than before, therefore the supervision also needs a significant input for inspecting the appropriateness of such decisions and the chosen measures.

Another significant change is the obligation of all legal persons to submit the data of their beneficial own-

1 <http://eur-lex.europa.eu/legal-content/ET/TXT/HTML/?uri=CELEX:32015L0849&from=ET>

ers to the beneficial owners' register. First, it is decided to create a possibility for submitting register data and for examining such data beside the commercial register data. The estimated gain of this provision will be achieved above all with the companies that have complicated ownership relations and operate by the mediation of several companies incorporated in different jurisdictions. In addition to the participants of the money laundering system, positive effect of enlarging the transparency can also be expected to business environment, as an additional source of information is provided for undertakings, based on which they can check the credibility of partners. However, the practical advantage of the beneficial owners' register appears only if the obligation to submit data will be actually complied with. Analysis of the best measures for resolving this task is still to be done by the relevant designers of politics and state institutions.

The third important change covers the cooperation of relevant institutions, above all within the European Union. For the FIU it will bring along an obligation of significant volume to distribute information about received reports to other Member States, if such reports include information related to other Member States. Likewise, we must be ready to receive from other Member States information related to Estonia. The draft Act also specifies some other aspects of international cooperation.

The authors of the draft Act have tried to include all the critical provisions of the draft amendment act to the directive into the new domestic Act, although the discussions of these provisions are still pending. We hope that by the time of proceeding the draft Act in the Parliament the wordings of the amendments to the directive will also be clear enough. According to the estimation of the FIU, the most problematic amendments of the directive are at present the amendments concerning the definition and regulation of virtual currency.

The creation of the beneficial owners' register and also bank and payment accounts' register, which are taken over from the draft amendment act to the directive, are undoubtedly necessary and helpful for the participants at the market as well as for the institutions liable for the prevention of money laundering and terrorist financing. The faster the registers will be created, the more firmly the national measures are granted, however, in this fast-paced process the participants have not yet come to a mutual understanding about the best way of resolving the tasks in practice. Practical results can most likely be expected only next year. If we take into account that due to the directive the definition of politically exposed persons has been expanded in the draft Act from persons of foreign countries also to domestic ones, then the state must help the obligated persons to recognise those persons. The draft Act includes specific provisions for taking enhanced due diligence measures with regard of risky third country residents, adjusting in such way that the clients originating from such countries are handled within the EU as sources of higher risk.

During the preparation of the draft Act, the old dispute concerning the imperative requirement that the credit and financial institutions must identify the clients face-to-face, got a new strength again. The main watershed was between the credit institutions and the providers of payment intermediary service based on new technology. In the course of discussions, an opinion was expressed that this requirement can be replaced only by adequate compensatory measures. One acceptable measure is the identification of a person via video interview, that was declared to be equal with the face-to-face identification. The second proposed option is to apply enhanced due diligence measures with initial transaction restrictions with regard to the persons who use a digital ID card issued in the Republic of Estonia for identifying themselves. The possibility of replacing

the face-to-face identification requirement in other cases, and the issue of what kind of measures can be accepted for managing the risks deriving from the removal of the requirement, have raised clearly dissenting opinions during the preparation of the draft Act. It can be assumed that the discussion about the face-to-face identification regulation will continue also during the Parliament proceeding.

The FIU is concerned about the issue of civil confiscation of property being an object of money laundering, as it cannot be applied in practice in the form provided by section 40 subsection 7 of the Money Laundering and Terrorist Financing Prevention Act. The draft Act has tried to specify the relevant provisions; however, this is a so sensitive sphere that handles substantial legal principles, that the extent of applying those provisions will be clarified only in court practice. The practical need to confiscate property being an object of money laundering, without conviction by a court that the person is guilty in money laundering, derives mostly from two kinds of situations. First, it can happen, that there exists sufficient information concerning the criminal

activity where the property originates from, however, due to various reasons, the identification of the person who committed money laundering or conviction of the person by court appears to be impossible. Secondly, in many cases with obvious characteristics of money laundering (e.g. concealment of owner, submission of counterfeit documents for evidencing transactions, etc.) the criminal proceedings are not commenced, because for accusation in money laundering as criminal offence the origin of such property from previous criminal activity must also be proven. However, in many cases, it is not possible to evidence such connection either because the country of origin of the property lacks sufficient interest to cooperate, there appear other bottlenecks of international cooperation, or because of the success of the actions used for money laundering.

When the new Money Laundering and Terrorist Financing Prevention Act enters into force in the second half of 2017, then all the participants of the system have the common task to start applying the new measures. The FIU will introduce the new legal requirements via consulting and trainings.

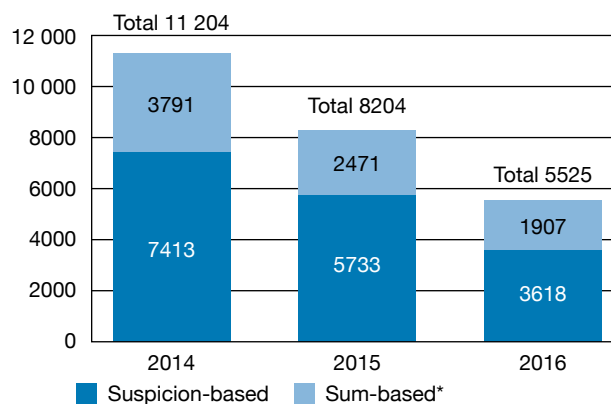
3. OVERVIEW OF THE WORK RESULTS OF THE FINANCIAL INTELLIGENCE UNIT IN 2016

3.1. OVERVIEW OF THE REPORTS RECEIVED BY THE FIU AND THEIR ANALYSIS

In 2016 the FIU received 5525 reports (Chart 1). The number of reports has remarkably decreased in recent years. In comparison with the year 2014, the FIU received half less reports in 2016.

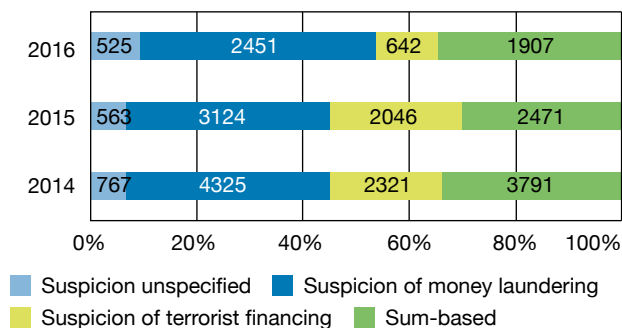
From amongst the suspicion-based reports nearly two-thirds were transactions with suspicion of money laundering and nearly 18% were reports with suspicion of terrorist financing, in the remaining reports the suspicion basis was unspecified (Chart 2). In comparison with the year 2015, the share of suspicion-based reports increased (in 2015 the share was around 55%) and the share of reports based on suspicion of terrorist financing decreased (in 2015 the share was 36%). The majority of the reports with unspecified suspicion were received from Estonian state authorities and foreign authorities responsible for the prevention of money laundering.

CHART 1. The number of reports received by the FIU in the years 2014-2016



Comment: the sum-based reports include also those reports where the basis of reporting is unspecified. In 2014 there were 16 reports of such kind, in 2015 the number was 15 and in 2016 the number was 12.

CHART 2. Division of reports received in 2014-2016 by reason of suspicion and sum



Similarly to previous years, the biggest share of reports in 2016 was also sent to the FIU by financial institu-

tions and by credit institutions. At the background of general decrease in the number of reports, the number and percentage of the reports sent by credit institutions and other state authorities, if compared to the year 2015, have increased and the number and percentage of reports sent by financial institutions have decreased.

In 2016 the formerly begun trend of decrease in the number of reports continued. In the predominant part the decrease in the number of reports is caused by focusing, in cooperation with the financial institutions, on more precise and content-rich performance of the reporting obligation, instead of the quantity. In addition to suspicion-based reports, the number of sum-based reports has also decreased, indicating the decrease of cash transactions in the financial institutions.

TABLE 1. Division of reports received by the FIU by groups of reporting persons in the years 2014-2016

	2014		2015		2016	
	Reports	Percentage of reporting persons	Reports	Percentage of reporting persons	Reports	Percentage of reporting persons
Financial institutions	7790	69,5	6347	65,2	2314	41,9
Credit institutions	1984	17,7	1693	20,6	2071	37,5
Other private law undertakings	491	4,4	423	5,2	382	6,9
Professionals	198	1,8	193	2,4	182	3,3
State authorities	495	4,4	200	2,4	172	3,1
Foreign authorities	228	2,0	319	3,9	397	7,2
Other	18	0,2	29	0,4	7	0,1
Total	11 204	100	8204	100	5525	100

In 2016 reports on suspicion of money laundering were sent predominantly by credit institutions and financial institutions. Most of the reports with suspicion of terrorist financing were sent by financial institutions in relation with transactions made to countries with

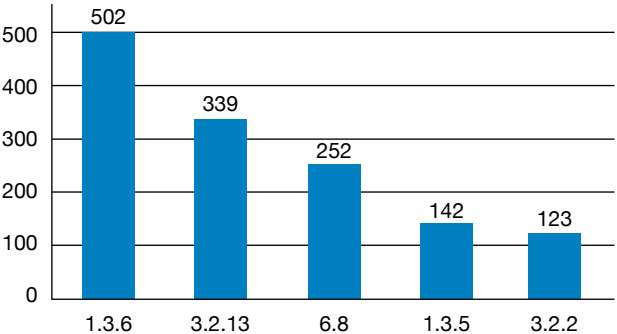
higher risk of terrorist financing or made with persons originating from such countries. The majority of sum-based reports were also sent by financial institutions. There have not been any substantial changes in these tendencies in recent years.

TABLE 2. Division of reports received in 2016 based on the ground and sender

	Suspicion unspecified	Suspicion of money laundering	Suspicion of terrorist financing	Sum-based	Total
Credit institutions	3	2030	12	26	2071
Financial institutions	10	370	502	1432	2314
Organizers of gambling	9	4	47	244	304
Persons making or mediating transactions with immovable properties	0	0	0	3	3
Traders	0	1	0	42	43
Persons engaged in precious metals and precious metal products	0	0	0	0	0
Other private law undertakings	19	3	0	10	32
Professionals					
.... auditors	0	0	0	25	25
... providers of accounting service	0	0	0	2	2
... notaries public	2	27	1	110	137
... attorneys	12	0	0	0	13
... bailiffs	0	0	0	0	0
... trustees in bankruptcy	0	0	0	1	1
providers of other legal service	0	3	0	1	4
State authorities	148	9	2	13	172
Foreign authorities	317	2	78	0	397
Other	5	2	0	0	7
Total	525	2451	642	1909	5525

In 2016 the predominant reason for reports of suspicion of money laundering was the termination of client relationship due to suspicion in money laundering or due to the failure to submit documents needed for compliance with due diligence measures, or relevant information (Chart 3). This exemplifies the activities of banks in bringing their client base in order and in applying enhanced due diligence measures for risky clients. The indicator 6.8 (a person performs transfers to other persons into different countries, which is not corresponding to the client's normal activities), which was the most widespread in 2015, was only third in line in 2016.

CHART 3. Main reasons for reporting in the case of suspicion of money laundering in 2016



Explanation:

- 1.3.6 a credit or financial institution terminates a client relationship due to the suspicion of money laundering or due to the failure to submit documents needed for compliance with due diligence measures, or relevant information, or due to the suspicion of money laundering
- 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
- 6.8 the person makes transactions to other persons in different countries, which does not conform to the client's usual activities
- 1.3.5 a credit or financial institution refuses to create a client relationship due to the suspicion of money laundering or due to the failure to submit / insufficiency of the

documents needed for compliance with due diligence measures, or relevant information

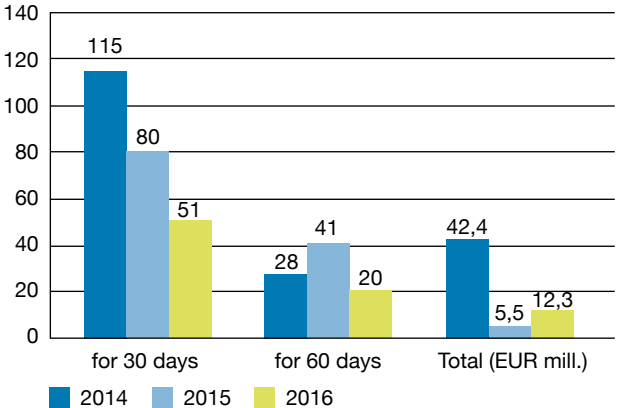
3.2.2 *single unusually large cross-border payment not conforming to normal turnover and/or not sufficiently justified*

In the case of reports with suspicion of terrorist financing, the dominant reasons for reporting in the year 2016, as in previous years, were transmissions to countries with high risk of terrorist financing or transmissions with persons related to such countries without opening an account.

3.1.1. RESTRICTIONS ON DISPOSAL OF ASSETS

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 2016 the FIU restricted disposals on bank accounts for 30 days in 51 times and for 60 days in 20 times (Chart 4). The total volume of the assets subject to the restriction by the FIU on disposal was EUR 12,3 million.

CHART 4. Restrictions established by the FIU on disposal of bank accounts in 2014-2016



3.2. 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 2016 the FIU forwarded to other law enforcement authorities 181 materials, the two-thirds of which were responses to inquiries and materials sent for information. 12 materials were sent to make a decision as regards commencing criminal proceedings. As of 31 December 2016, investigating

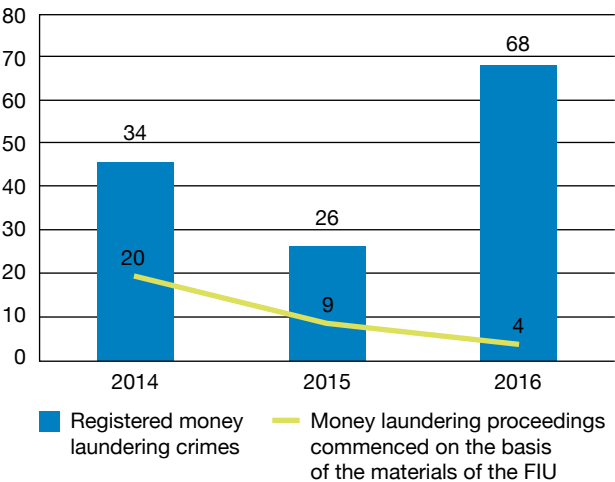
bodies commenced proceedings in 10 cases (in four cases based on elements of money laundering and in six cases based on elements of other offence), in two materials the information was added to the existing criminal matter. 51 materials were sent to be annexed to an ongoing criminal matter. In all the criminal matters commenced according to features of money laundering, the presumable predicate offence was computer-related fraud.

TABLE 3. Materials sent by the FIU to law enforcement bodies in 2014-2016

	2014	2015	2016
Materials forwarded for investigation	252	205	181
To make a decision as regards commencing criminal proceedings	38	14	12
... criminal proceedings commenced as of 31.12.	33	12	10
... incl. money laundering proceedings commenced	20	9	4
To be annexed to an ongoing criminal matter	38	45	51
Responses to inquiries, sent inquiries, for information	176	146	118
Amounts related to the materials sent	147,6 mln	400,9 mln	220 mln

In Estonia 68 proceedings were commenced on grounds of money laundering in 2016, of these 4 proceedings were commenced on the basis of the materials sent by the FIU (Chart 5).

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 2014-2016



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

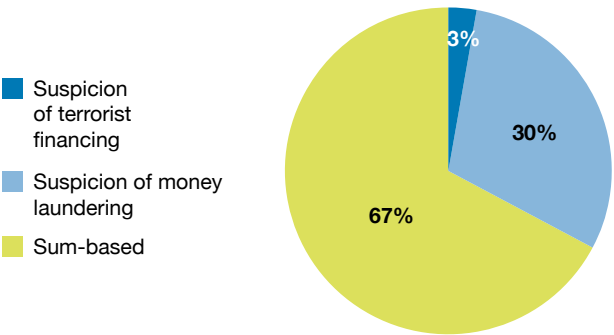
materials. Similar to the previous two years, the major part of the forwarded materials were based on information received from financial institutions, credit institutions and state authorities (Table 4).

TABLE 4. Division of reports serving as the basis for materials forwarded to FIU by groups of reporting persons in the years 2014–2016

	2014	2015	2016
Financial institutions	716	350	272
Credit institutions	155	150	88
Police authorities	68	70	64
Other	22	39	14
Notaries public	16	13	9
Tax and Customs Board	22	6	8
Foreign authorities	14	14	6
Attorneys	0	0	3
Organizers of gambling	37	5	0
Total	1050	647	484

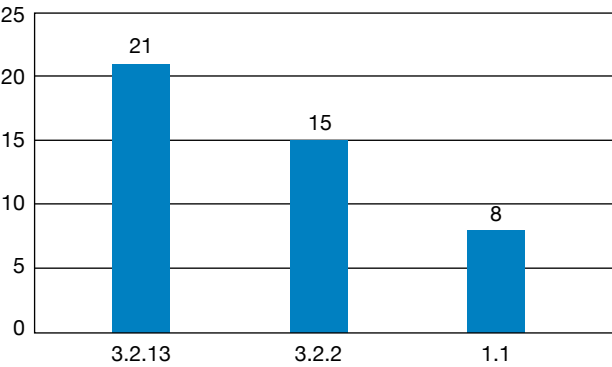
Slightly more than two-thirds of the forwarded materials in the year 2016 were based on information arising from the sum-based reporting obligation, which clearly refers to the fact, that the provision of law, which was implemented in 2008, is important from the aspect of prevention of money laundering (Chart 6).

CHART 6. Division of reports used in the materials forwarded by their basis in 2016



Similar to the year 2015, in the reports serving as basis of the forwarded materials the predominant indicator based on suspicion of money laundering was the aspect, that a person is making transfers, which do not conform to the person's usual activities (Chart 7).

CHART 7. Prevalent reporting indicators of reports on suspicion of money laundering used as a basis for forwarded materials in 2016



Explanation:

- 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*
- 1.1 *features referring to a fictitious person in case of a natural person*

3.3. NATIONAL AND INTERNATIONAL COOPERATION

In 2016 officials of the FIU conducted 13 trainings. Cooperation partners of the FIU are the obligated persons from one side and the law enforcement authorities from the other side. One of the most important cooperation partners is the Estonian Banking Association, with whose assistance we organise cooperation with the banks. On the regular meetings of the Anti money laundering committee of the Estonian Banking Association we discuss current problematic issues, new tendencies, and we also provide special trainings to contact persons of banks, if necessary. Our cooperation partners in supervision are the Estonian Bar Association, the Chamber of Notaries and the Financial Supervision Authority. The cooperation with the latter is extremely close, as we exchange information not only about the efficiency of the supervision, but we also share experience and intelligence about the processing of authorisations and the conducting of certain acts of supervision. By participating in the work of the governmental committee engaged in prevention of money laundering, and the advisory committee of the Ministry of Finance we are in direct contact with the formation of the national politics of money laundering and terrorist financing prevention as well as of the legislation.

TABLE 5. Trainings carried out by the FIU in 2014-2016

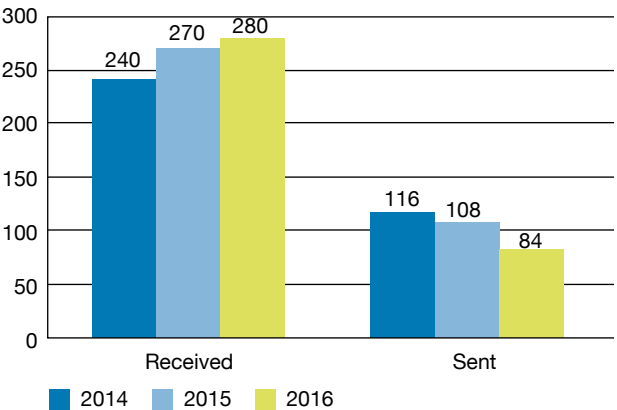
	2014	2015	2016
Number of trainings	9	17	13
Number of participants	460	719	316

The efficiency of the work done by the FIU cannot be assessed without the effective cooperation with the law enforcement authorities. We send reports of criminal offences to investigative bodies and we respond to their inquiries if there appear any suspicions of money laundering when investigating ordinary criminal offences. Table 3 provides an overview of the crime reports sent to investigative authorities, responded inquiries and other sent information.

International cooperation is one of the pillars of the FIU of Estonia, because money laundering is often a supranational offence where, for the purpose of hiding traces, illegal income gained by criminal offence in one country is transferred fast by transaction chains through several countries. The FIU of Estonia has participated on a regular basis at several international meetings in the Egmont Group, in the European Council expert committee MONEYVAL (Select Committee of Experts on the Evaluation of Anti Money Laundering Measures) and at the European Union Financial Intelligence Units cooperation network EU FIU Platform (European Union Financial Intelligence Units Platform).

In 2016 the FIU received in all 280 inquiries from 50 foreign states. During the same period the FIU itself sent 84 inquiries to 30 foreign states (Chart 8).

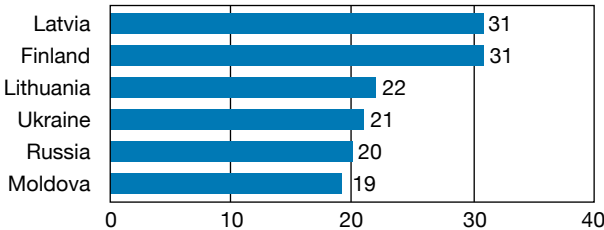
CHART 8. The number of foreign inquiries received and sent by the FIU in 2014-2016



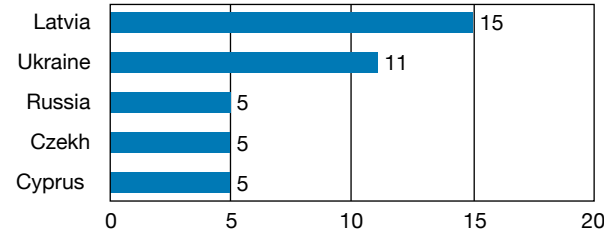
The majority of foreign inquiries were received from Latvia and Finland (31) and the largest number of inquiries were sent from Estonia to Latvia (15) and Ukraine (11), see Chart 9. In addition to Egmont Secure Web and FIU.net the relative importance of the Europol Siena channel also increased in the inquiries. The large number of received inquiries shows the transnational nature of money laundering crimes and that the FIU helps to prevent money laundering and terrorist financing not only domestically but also internationally. The average time in the FIU for response to a foreign inquiry in 2016 was 14 days.

CHART 9. Countries, from which Estonian FIU received the most inquiries and where sent most inquiries in 2016.

Inquiries and reports received from foreign countries



Inquiries and reports sent to foreign countries

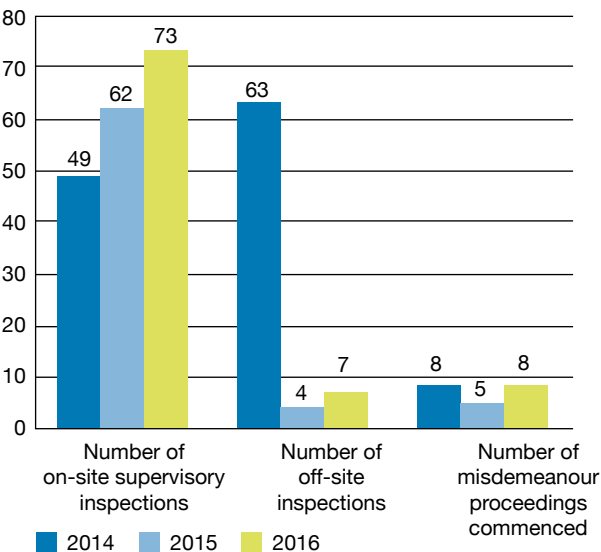


In addition to ordinary participation in the activities of the Egmont Group assembling FIUs of different countries, the European Union MONEYVAL expert group and the FIU.Net platform assembling partner organizations of the European Union, experts of the FIU also attended in February 2016 with presentations at the scientific-technical conference “Actual problems and challenges of money laundering and terrorist financing prevention” in the Ukraine, and in October 2016 at the seminar “Implementation of the European Union fourth directive on the prevention of money laundering and determination of actual beneficiaries” in Serbia.

3.4. SUPERVISION

In 2016 the Supervision Division of the FIU conducted in total 70 supervision proceedings (Chart 10). As a result of the inspections, eight misdemeanour proceedings were commenced.

CHART 10. Supervisory inspections and misdemeanour proceedings in 2014-2016



Similar to the year 2015, the largest number of inspections were performed in financial institutions and pawnbrokers.

TABEL 6. Division of inspections carried out by the FIU in 2014-2016, based on the spheres of activities of the inspected persons

Sphere of activity of the inspected person	2014	2015	2016
Financial institutions	17	14	35
Pawnbrokers	16	34	22
Traders	4	6	10
Other persons	-	1	10
Persons engaged in precious metals and precious metal products	8	3	2
Organizers of gambling	7	8	1
Persons making or mediating transactions with immovable properties	45	-	-
Credit institutions	15	-	-
Total	112	66	80

In 2016 the FIU focused the supervision above all to inspection of financial institutions, pawnbrokers and those traders which make cash transactions in an amount exceeding 15 000 euros. Financial institutions were in focus due to the implementation provision of the Creditors and Credit Intermediaries Act, that lay an obligation on those creditors and credit intermediaries who were operating before the enforcement of this Act, to apply for an authorisation of the Financial Supervision Authority for continuing their activities at the latest by 21.03.2016.

In 2016 the FIU directed its attention in supervision also to traders, because supposedly with the Money laundering and Terrorist Financing Prevention Act, which will enter into force in 2017, the marginal rate of cash transaction for the traders to be considered obligated persons will decrease: from the present 15 000 euros to 10 000 euros. According to the estimation of the FIU the awareness of the participants at the market about the amendment of law that will soon be applicable must also be increased. Traders making cash transactions in such volume are first and foremost sellers of new cars, therefore the FIU visited most of the representations of car brands and had conversations with bigger traders of used cars. It can be said that in this sector the trend of cash transactions is decreasing and there are few transactions with cash payments exceeding 15 000 euros.

The pawnbrokers are also considered obligatory persons in performing the requirements of the Money

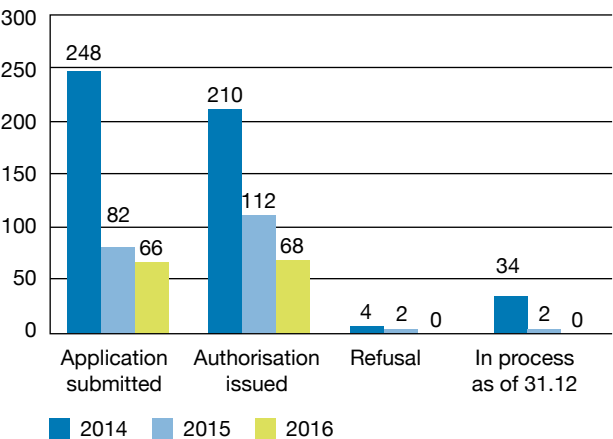
Laundering and Terrorist Financing Prevention Act. Due to the fact, that in previous years as well as in 2016 a lot of inspections have been carried out in this sector, the performance of the obligations deriving from the Money Laundering and Terrorist Financing Prevention Act has considerably increased and this sector will not need so much attention in the future. Whereas the FIU is also the institution competent to issue authorisations, we have paid during such proceedings special attention to the correctness of register data in the Register of Economic Activities, which registers the data of authorisations and where they are publicly available.

In 2017 we plan to focus on follow-up inspections of traders, who make large amount cash transactions, also to pay more attention to the sector of professionals. A certain workload is also added due to working out instructions and reference materials based on the new Act.

3.5. ISSUE OF AUTHORISATIONS

In the year 2016 the FIU issued in total 68 authorisations; by 31 December 2016 all the applications for authorisations were granted. In 2016 the FIU issued authorisations to 15 undertakings engaged in the buying-in or wholesale of precious metals, precious stones, 14 engaged in currency exchange, 12 pawnbrokers, 11 financial institutions, 11 trust and company service providers, and 5 providers of services of alternative means of payment.

CHART 11. Overview of the applications for authorisations in 2014-2016



In 2016 the number of issued authorisations decreased as compared to the previous years. The decrease is caused on the one hand due to the smallness of the Estonian market and on the other hand due to the fact, that the transition periods have ended, which means that the persons operating under the so called “old registration” applied for the authorisations in 2014 and 2015. The issued authorisations come with an obligation of the FIU to supplement and correct the register data via the proceeding of amending the authorisations, which has significantly increased the workload of the FIU officials; at the same time this needs to be done to keep the register data in accord with reality. In 2016 the FIU arranged 77 proceedings for amending register data. From amongst the problems concerning authorisation proceedings we can point out the cases in 2015 where an authorisation was applied for, but the economic activities were not started in Estonia or the economic activities were started in the online environment; such cases may bring about the jurisdiction issue concerning the place of service providing.



4. COURT JUDGEMENTS IN MONEY LAUNDERING CASES IN 2016

In 2016 in Estonia 16 court decisions entered into force, 24 persons were convicted in money laundering and 16 persons were acquitted.² In most of the litigations resolved by courts in 2016 the predicate offence was a computer-related fraud committed against foreign persons. Perpetrators of such frauds often remain unidentified and in Estonia are convicted front men, meaning, persons who against a small award place their bank account or identity documents at the disposal of criminals or help criminals to withdraw cash received by computer related frauds committed abroad from bank or financial institution. The FIU adjures everybody that any abetment to such acts is deemed to be participation in money laundering and it is punishable under penal law.

INSURANCE FRAUD

In one court decision that entered into force in 2016, two persons were convicted in money laundering of funds received by committing an insurance fraud. A person A. concluded contracts with several insurance companies in his own name as well as in the name of other persons. Thereafter the person A. submitted applications to insurance companies to receive insurance payments in different amounts, reporting that an insurance incident has happened, namely, that the person A. or a person in whose name he had concluded a contract, got a leg injury. He requested the insurance payments to be transferred to his father's bank account.

² The data held by the Ministry of Justice as of 27.01.2017. If courts register more judgements during the year, the number may increase.

It became evident, that the person A. had no intention at all to take a tourist trip: he forged documents, which evidenced that he has bought a tourist trip to Egypt and Turkey. In some cases the insurance companies made the insurance payment to the person based on these documents, in some cases the insurance companies refused to pay. The total amount of the insurance fraud was nearly 16 400 euros.

In order to conceal the actual owner and origin of the money, the person A. made various transactions

with the funds received from the insurance companies: transferred different sums to companies under his control and to the bank accounts of a person employed by such company and his own father.

The court imposed a punishment of 2 years and 10 months imprisonment to the person A. and financial penalty in the amount of 3500 euros to a legal person B. In addition to that, the court confiscated funds in the amount of 5715 euros from the person A. and 10 665 euros from the person B.

4.1. ADMINISTRATIVE COURT PROCEEDINGS

At the beginning of 2016 the administrative court had seven pending complaints against administrative actions of the FIU and four applications of the FIU to the administrative court. During the year, two more complaints against administrative acts of the FIU were added. The court has suspended the proceedings of three applications for an indefinite term. The proceedings of one complaint were finally resolved by the Supreme Court, which explained that the administrative confiscation stipulated in section 40 subsection 7 of the Money Laundering and Terrorist Financing Prevention Act is also not possible in the case of cash. The impossibility of administrative confiscation of the funds on a bank account was already previously clarified. Four complaints reached their final solution during the year. From amongst these, one complaint was satisfied partially and the others were resolved in favour of the state. Thus, as at the end of the year, four com-

plaints and three applications were pending without final solution in the administrative court.

The matter of crypto-currency regulations, that was mentioned in the previous yearbook already, came to final decision in the Supreme Court. The FIU participated for the first time at the litigation of the Supreme Court session and after a long consideration the Supreme Court reached the decision that the crypto-currencies together with other similar means of payment belong under alternate means of payment stipulated in section 6 subsection 4 of the Money Laundering and Terrorist Financing Prevention Act. The draft amendment to the Directive (EU) 2015/849 of the European Parliament and of the Council on the prevention of money laundering, that will be adopted in the nearest future, regulates the crypto-currencies also under generalized name virtual currency.



5. SCHEMES OF MONEY LAUNDERING

Below is provided an overview of the schemes that the FIU analysed in 2016. Most of all there were different frauds, which are based on people's own negligence in handling their data, as well as with the support of computer systems the seemingly anonymous illegal use

of other persons property. We adjure everyone to be very careful on the Internet in sharing one's data, and in particular the financial data, in order to avoid the possibility of criminals to commit fraud.

5.1. SCHEMES OF MONEY LAUNDERING CONNECTED WITH COMPUTER-RELATED FRAUD

Similar to previous years, in 2016 there were also cases when criminals tried to conceal by using providers of PayPal and other fast online payment solutions the unlawful origin of the property gained by computer-related fraud. The schemes are similar to the ones introduced in previous yearbooks.

We had also cases in which criminals used invoices with fake identity for committing a fraud. The commit-tees of fraud crack into electronic mailboxes of companies and from there send to business partners invoices requesting payment, however they state on the invoices the number of a bank account at their own disposal. The senders of fake accounts point it out in the mail,

notifying that the bank account for paying the invoice is different from the former one. The recipients of such invoices, who do not know to suspect any fraud, make the transfer to the bank account which is controlled by the criminal. If such cases occur which correspond to the scheme described above, we recommend the recipient of such invoice to check with the business partner, prior making any payment, whether the change of the bank account is correct. Due to the fact that online payments can be made very fast, the criminals move the received money onward very quickly and its recovery may be very complicated.

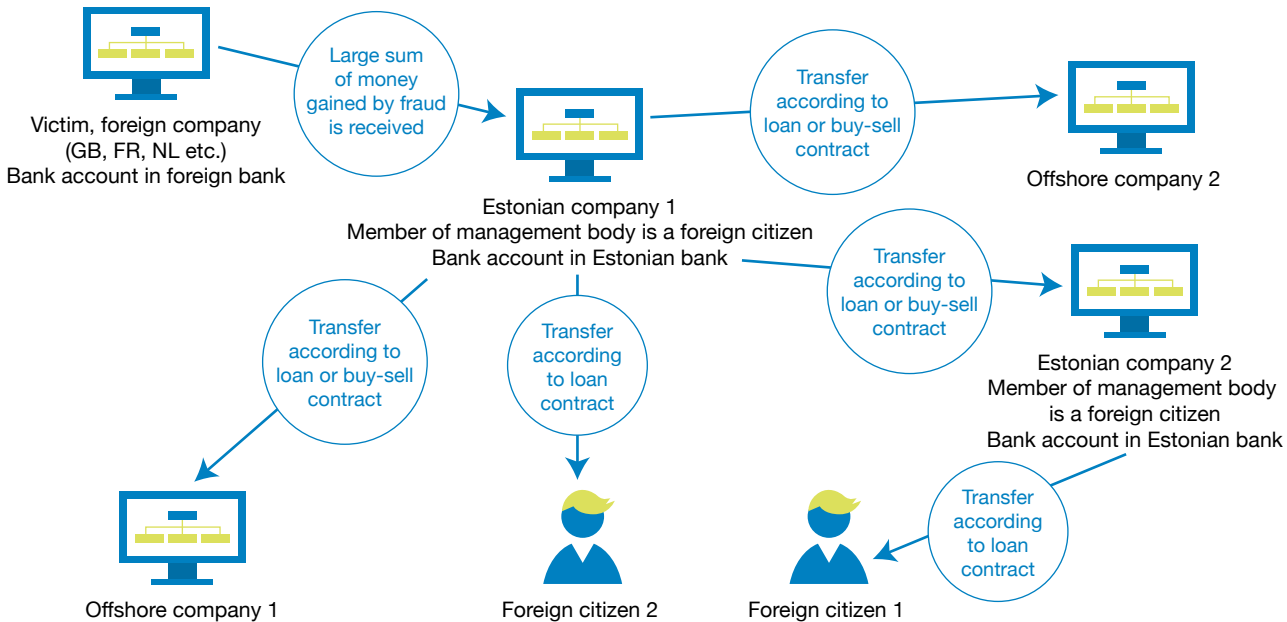
5.2. ENGAGEMENT OF ESTONIAN COMPANIES INTO COMMITTING OF FRAUDS AND TRANSPOSITION OF MONEY

The frequency of cases, where the owner and/or management board member of a company founded in Estonia is a foreign citizen and the company is used only to move criminal proceeds obtained by fraud from one country to another, has increased. Companies are often incorporated just a few months before the fraud is committed, and often the services of persons engaged in founding companies targeted on this market are used.

These cases have the following typical scheme. Funds received by fraud are received to a bank account opened in Estonia, thereafter the funds are either transferred directly to the country of habitual residence of the committers of fraud, or also twirled in Estonia between other companies. The difference from the above named computer-related frauds, by which small sums are

rather tried to embezzle from lots of private individuals, lies in the fact, that in this case the funds received by fraud are transferred at a time in tens of thousands of euros or even in larger amounts. The actual owners of the company are often in the hide and documents with false contents are prepared for explaining the origin of the funds. The victims of such frauds are mostly companies and for the final directing of the funds out of the financial system they use accounts of private persons. The criminals send front men to different countries for opening bank accounts, fictitious students (i.e. persons who are not actually studying but are in the list of a school) and casual labourers in service providing companies have also been engaged as front men.

CHART 12. Typical fraudulent scheme (scam)

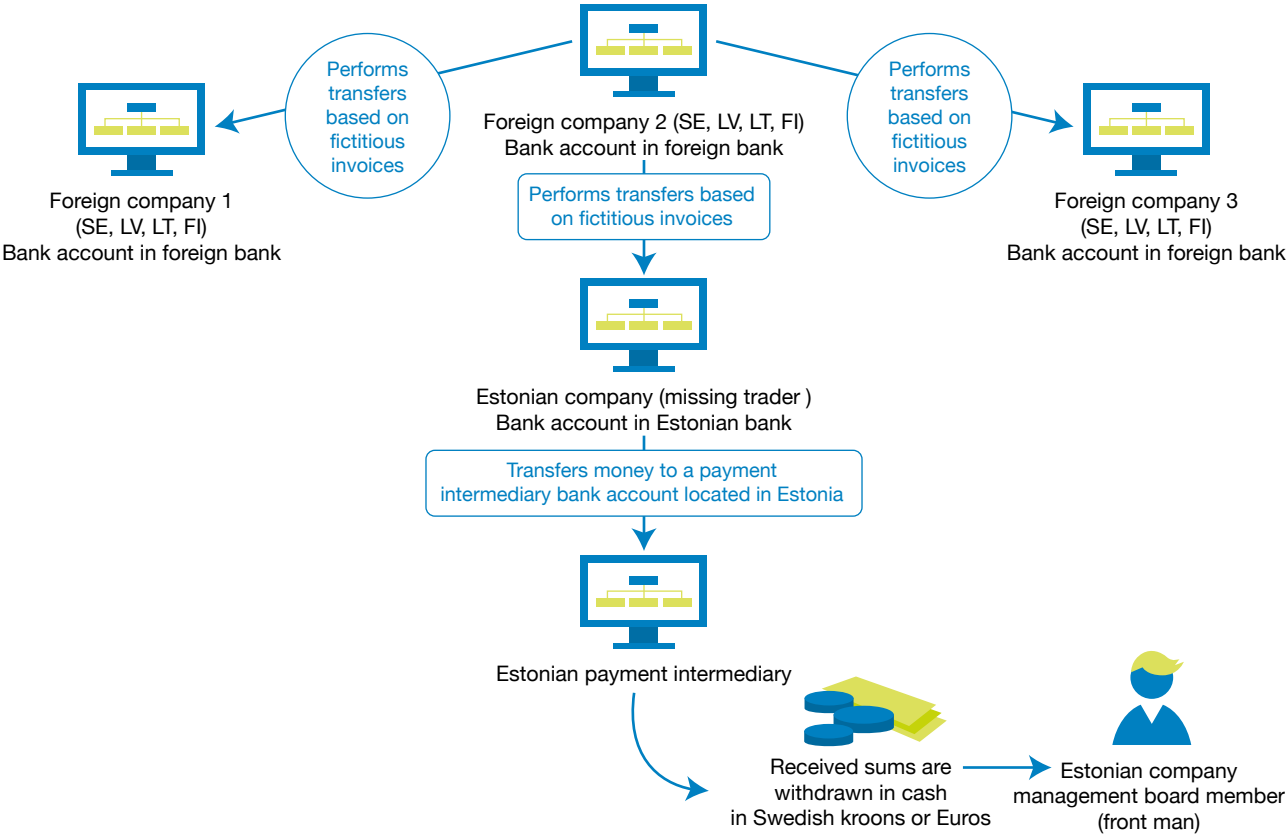


5.3. INCOME GAINED BY TAX OFFENCES AND MONEY LAUNDERING

Committers of tax offences still have a tempting possibility to realize their criminal income in cash. In these schemes the funds embezzled from the tax board are in the end transferred to companies providing cash service and thereafter are withdrawn in cash. Estonian companies are used for money laundering income gained from tax offences committed abroad; mostly it occurs in the interest of Finnish or Swedish companies.

In such schemes several companies and bank accounts located in Estonia as well as in other European countries are usually used. The last chain uses different companies and service providers for cash withdrawal. Mostly there is no economic reason to use cash, i.e. the company's activity is the withdrawal of cash from its own account for third persons, there are no other actual economic activities.

CHART 13. Typical tax fraud scheme



5.4. CASH MEDIATION AS ECONOMIC ACTIVITY AND POSSIBLE COLLATERAL MONEY LAUNDERING

Considering our fast and effective e-commerce, the use of cash in large amounts in Estonian economy is neither economically nor temporally reasonable. Due to that the activities of different companies, where received payments are withdrawn in cash in large amounts, are doubtful. Investigation has indicated that often the cash created in this way is forwarded to the senders of the payment or to third persons named by them. If this is a

constant activity, then the company is required to have an authorisation issued by the Financial Supervision Authorisation for such activity.

Due to the fact, that criminals often prefer to use cash because its origin is more difficult to follow, there is a risk that companies whose activities are not supervised may be used for committing schemes of money laundering.

5.5. TRANSIT TRANSACTIONS RECEIVED FROM RUSSIA TO ESTONIAN ACCOUNTS

In recent years the Central Bank of Russia has suspended the activity licences of tens of banks. In many cases significant amounts were transferred from the banks that lost their activity licences slightly before the central bank suspended their activity licences. More frequently there occur cases where such transfers in many millions dollars are received to bank accounts of non-resident companies opened in Estonian financial institutions. Despite of the fact that according to the Russian media a lot of criminal proceedings with the suspicion of embezzlement have been commenced in Russia against owners and executive directors of the banks which have lost their activity licences, it is almost impossible to obtain from law enforcement bodies any particular information concerning the predicate criminal offence and the individuals related to that.

In 2016 the cases continued where transfers in large sums were received during an extended period from Russia to bank accounts of non-resident companies holding accounts in Estonia, whereas the payment orders referred that the reason for transfer is payments based on court judgements. In case of such payments,

first the arbitration courts operating in the private sector in Russia have recognised that one contractual party is incapable of performing its obligations under the contract and have adjudicated the debt in favour of the other contractual party in tens of millions up to few billions of roubles. Thereafter the creditor has, as a rule, asked the national court system of Russia to attest the decision made by the arbitration court and has deprived of his claim in favour of third persons. The latter will then receive the payments from Russian companies or court bailiffs. The cooperation with the partner organisations of Russia for establishing whether and from which predicate crimes the funds received to the financial system of Estonia originate from, have not been productive.

Due to the fact that the transfer of funds into foreign countries is restricted in Russia on a national level, therefore securities (government bonds and quoted securities) are being acquired and thereafter these are transferred by way of security transactions without payment to the companies holding accounts in Estonian financial institutions. In Estonia the securities are real-

ised and the received funds are transferred for different goods to tens of countries. At the same time it is complicated if not impossible for Estonian institutions

to establish who and on what means initially acquired these securities in Russia and where were all the goods obtained with these means moved on to.



6. INTERNATIONAL FINANCIAL SANCTIONS

As for international financial sanctions, the year 2016 was peaceful and stable. As it was mentioned in the report of 2015, the relaxation of the nuclear program of Iran and the sanctions of Belarus started in the beginning of 2016, that decreased the administrative burden of the persons with special obligations in performing the requirements for applying international financial sanction as provided in the International Sanctions Act. From amongst the sanctioning regimes most important for Estonia, the sanctions established due to the activities of Russia in the Ukraine, as well as the

sanctions due to the activities damaging or jeopardising the territorial integrity, sovereignty and independence of the Ukraine, were routinely extended by six months on the EU level. The truth is, that in the last named regime there were some changes concerning the sanctioned persons, the more precise changes can be found at the website of the FIU at the address www.politsei.ee/et/organisatsioon/rahapesu/finantssanktsiooni-subjekti-otsing-ja-muudatused-sanktsioonide-nimekirjas/. From the point of view of imposing sanctions, no cases of freezing assets were added in Estonia in 2016.



7. A LOOK INTO 2017

In the second half-year of 2017 Estonia is holding the European Union Council Presidency. It may happen that Estonia, while holding the Presidency, will be able to contribute to the furnishing of the contents of some Pan-European legal regulations for the prevention of money laundering, may that be a draft amendment act of the anti-money laundering directive actuated due to terrorist attacks, or a draft directive on anti-money laundering with means of criminal law.

The participation of Estonia in the Russia-Moldova money laundering scheme that drew the attention of Media in the beginning of 2017, as well as the transit transfers from Russia, that are of vague origin and raise suspicion, which are also, for example, referred in this yearbook, show that the Estonian anti-money laundering system needs a clear solution as to how to behave

with suspicious and money laundering featured transactions in case the country of origin does not send any confirmation about the criminal origin of the money.

The long time practice of the FIU in analysing large schemes has shown that the staking on interstate cooperation concerning the cash flows received from East, in order to establish predicate crimes, does not yield results in practice. The only possibility to fight against such suspicious and potentially dangerous cash flows is to turn them away from Estonia. Besides strengthening the supervision, the actual possibility must be created that you may lose money even if no criminal activities related to the transaction are established in the country of origin.

The state should create a regulation enabling administrative confiscation also in such cases where the prop-

erty is not associated with direct criminal activities, however, there exist other objective features referring to money laundering. If, for example, false data have been submitted about the beneficial owners of the property, or fictitious or faked documents have been submitted for motivating transactions, then the burden of proof should be turned around and the entitled person of the property himself should bear the obligation to prove the legal origin of the property. If the legal origin of the property is not proven, then the property will be confiscated.

From the point of the anti-money laundering system the creation of such regulation should be started with. Naturally, it is legally complicated and a solution must be found that will take into account different relevant constitutional values in a balanced form. A realistic and sufficiently proven in practice alternative to the combination of strong supervision and creation of a risk to lose the money is regrettably the recurrence of similar cases.

A very important issue is how well we can manage with the transposition of the requirements of the anti-money laundering directive into the draft Money Laundering and Terrorist Financing Prevention Act and how the new measures will work in practice. Will the granting of more right and liability to the obligated persons in determining the risks related to their business and selecting the measures for risk administration, for the purpose of implementing risk-based approach, justify itself? Will the resources and legal measures needed to avoid the misuse of this right or oversight of money laundering risks be found and will they be also applied? Will the register of beneficiary owners work in the way that it will be useful for the participants of the anti-money laundering system as well as for all undertakings who collect information for assessing the credibility of their business partner? These are merely a few questions we need answers to this year in the light of transposition of the directive.