

ANNUAL REPORT

OVERVIEW ON PREVENTION OF MONEY LAUNDERING IN ESTONIA 1999-2005

ESTONIAN FINANCIAL INTELLIGENCE UNIT



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Foreword

The annual report is the first public consolidated overview on money laundering and terrorist financing prevention in Estonia from the entry into force of the first Money Laundering Prevention Act on 1 July 1999 to the end of 2005. The objective of the annual report is to introduce the nature of the preventive system as well as the development and efficiency thereof during the period under review. Furthermore, this a driving force for issuing annual public overviews in the form of future annual reports. As the reader may not be familiar with the field, the annual report talks, in a more popular manner, about the nature of money laundering as an international phenomenon and the international standards of measures adopted against money laundering and terrorist financing in different countries.

In addition to enhancing awareness, the annual report gives feedback to those who have sent notices to the Financial Intelligence Unit. For the objective the compilation contains different statistical overviews and trends of money laundering in Estonia. Provision of feedback and introduction of money laundering schemes to subjects with a notification obligation helps establish the money laundering schemes better and improves the quality of the notices relating to money laundering and to be forwarded to the Financial Intelligence Unit.

We hope that the annual report fulfils its main objective, i.e. it provides the reader with knowledge of money laundering prevention and an overview on the activities of the Financial Intelligence Unit and money laundering in general.

Enjoy the reading!

Raul Vahtra
Senior Superintendent
Financial Intelligence Unit

1. Historical overview

From the restoration of independence of the Republic of Estonia to 1995 the term *money laundering* did not exist in Estonian laws at all. In 1994 the Council of Europe organised the first conference on money laundering in Tallinn. The conference hall of the National Library of Estonia hosted representatives from different fields: from banks, law enforcement authorities, government authorities and other organisations.

The first step upon prevention of money laundering was taken the same year. On 15 December 1994 the Riigikogu adopted a new version of the Credit Institutions Act, which contained a separate chapter on money laundering prevention. However, the provisions of the chapter pursuant to which credit institutions were obliged to identify customers who conducted transactions in amounts exceeding ECU 15,000 or cash transactions in amounts exceeding ECU 7,500, and to also retain the information, did not actually prevent money laundering as the banks were not obliged to inform law enforcement authorities of these or of transactions with suspicious features. The employees of credit institutions could be prosecuted if they did not identify the customer in the event of such conditions, but in practice that was never done. At the time money laundering was not condemned as a criminal offence in the Criminal Code either.

1.1. What is money laundering?

The objective of criminal offenders and particularly criminal organisations is, as a rule, to gain illegal income easily. In the event of some types of criminal offences like for example drug trafficking, illicit arms trafficking, smuggling, pimping, the criminal profit is so large that it may be compared to the budget of smaller countries. At the same time society has adopted several measures against the phenomenon and provided by law for example confiscation in order to take away the assets from criminal offenders. Thus criminal offenders had to show the income in a way that it would not be possible to establish relation between the crime and the assets acquired thereby.

Criminal offenders' ability to use large illegal income legally is dangerous to society as it strengthens criminal structures and the effect thereof on state structures, fosters black economy and unfair competition, causes instability of capital and has a destructive effect on the reliability of the financial market. Large-scale money laundering may finally lead to a situation where state institutions unintentionally become tools of criminal structures.

The term money laundering was born in the 1920s in the US, where the well-known gangster Al Capone is said to have legalised his proceeds from crime through laundries, where cash flow does not cause strong suspicion. Such an activity was criminalised for the first time in the US in the 1980s as the legalisation of income received from drug trafficking. Later the term spread in such a form all over the world and became widely used in both national as well as international legislation.

large add-ons on non-economic transactions, because they do not wait for example for the usual clearing cycles.

From more common money laundering methods it is possible to bring for example out using dummies and dummy companies, smurfing, in the event of which criminal offenders divide a larger amount into smaller ones by depositing cash into different accounts in different banks, transfers to tax-free zones and countries where the control mechanisms of money laundering are weak.

1.2. International standards

A lot of countries understood that due to the danger of money laundering the prevention thereof has to be public interest which provides the public authority with a sufficient basis for imposing obligations on persons and restricting their rights, including invading the constitutional rights. Upon adopting measures for money laundering prevention in different countries, it was understood that money laundering is an international phenomenon, whereby criminal offenders take advantage of countries which have not adopted sufficient measures. This gave a rise to the need for the harmonisation of the measures of different countries and to adopt the same at the international level.

The first international act, where money laundering was touched upon, was **the Vienna Convention of 1988 against Drug Trafficking**. It dealt with the conclusion of transactions with assets acquired as a result of drug offences, which were deemed to be criminal offences. In fact the term money laundering entered international law in December the same year in the form of recommendations produced for banks by **the Basel Committee on Banking Supervision** in order to protect these against being used in money laundering.

In 1989 the G7 countries decided to form an international working group, **FATF**, in order to develop international standards against money laundering and to disseminate the same in the world. The first **40 recommendations** were completed by April 1990. The recommendations were changed considerably in 1996 and by **2003** these constitute basic requirements of international standards for money laundering prevention.

An important turning point upon money laundering prevention was the terrorist attack to the World Trade Center in New York, which shocked the whole world and following which the public in the whole world understood that the danger of terror is very real and may endanger each of us. It is also clear that such large-scale terror operations cannot be arranged without any financial help. Therefore following the terrorist attack on 11 September the FATF added to the 40 recommendations another **nine special recommendations for terrorist financing prevention** and the topic became an inseparable part of money laundering prevention.

As the next important act in November 1990 the Council of Europe adopted the so-called **Strasbourg Convention** on seizure and confiscation of the proceeds from crime and money laundering prevention, whose new version was adopted **in May 2005**.

As of today the European Union has adopted three main directives on **money laundering prevention**: in 1991, the amendment thereof in 2001 and almost a new directive in **2005**, the requirements of which are to be introduced into local laws by the end of 2007 at the latest.

1.3. Legislative development in Estonia

The first Money Laundering Prevention Act was adopted by the Riigikogu on 25 November 1998 and it entered into force on **1 July 1999**. Amendments to the Criminal Code, which **criminalised money laundering as well as disregard of the requirements of money**

laundrying prevention, also entered into force **at the same time**. In accordance with the adopted Act the obligated subjects, credit and financial institutions and other organisations which accept cash in amounts exceeding EEK 100,000, were obliged to identify their customers and, upon any suspicion of money laundrying, to prepare a notice on the transaction to **the Financial Intelligence Unit (FIU)**. Pursuant to the Act the FIU was a structural unit of the Police Board, whose duty was to analyse the received notices, collect additional information and, in the event of any further suspicion, to submit the materials to an investigative body. The FIU was entitled to independently exchange information with institutions from other countries performing the same duties.

An important **package of amendments** to the Act entered into force on **18 October 2000**; the circle of obligated subjects increased, special reference was made to real estate transactions, gambling and lottery, and limits were established with regard to all the organisations concerning cash (i.e. EEK 100,000) and book money (i.e. EEK 200,000). In the event of any amounts larger than the foregoing certain obligations were imposed on the obligated subjects in accordance with the Money Laundrying Prevention Act. Credit and financial institutions **were prohibited from opening anonymous accounts** and they had to identify their customers on a regular basis. The obligations of other subjects of law were also specified. Additional rights were conferred on the FIU and the obligations thereof were specified;

- 1) the right to suspend a transaction for two working days;
- 2) **the right to have recourse to the courts with regard to an application for seizure of assets** (the seizure by the court was usually for an unspecified term);
- 3) the right to receive additional information with regard to transactions;
- 4) **the right to receive** necessary information from all institutions, including **information on supervision** from supervision authorities;
- 5) the obligation to maintain banking and business secrets.

In accordance with **the Financial Supervision Authority Act**, which entered into force on **1 June 2001**, the supervision of credit and financial institutions was united into a single supervisory organisation, whose duties also included controlling the fulfilment of the requirements of the Money Laundrying Prevention Act. At the same time the supervision of the organisations listed in subsection 5 (1) of the same Act was not provided yet.

On **1 September 2002** the new **Penal Code** entered into force, which invalidated the old Criminal Code and established the provisions of the offence relating to money laundrying so that a legal person could be held liable therefor as well.

The next important and large-scale amendment package upon money laundrying prevention entered into force on **1 January 2004**, when the name of the Act was amended as well. The new version was as follows: **Money Laundrying and Terrorist Financing Prevention Act**. The term **terrorist financing** was added into the Act and obligations to check the customers on the basis of the provided lists were imposed on credit and financial institutions in order to prevent it. **The circle of the subjects of law was increased** in accordance with the requirements of another directive of the European Union and the currency exchangers, cash transferors, lawyers, notaries public, auditors and tax advisers were added as groups of different subjects. The requirements of the Act were specified in case of different groups of subjects and **the supervisory body** of the subjects listed in sub-clause 5 (1) of the Act was fixed to be **the Financial Intelligence Unit** along with all the rights and obligations arising therefrom. The procedure for registration of the providers of the currency exchange service was also specified. Ignorance of the aforementioned procedure is deemed to constitute a misdemeanour.

The Financial Intelligence Unit as an independent structural unit now within the composition of the Central Criminal Police was granted the right to issue administrative acts and to use penalty payment for both receiving additional information as well as suspending a transaction for two working days and seizing assets for up to ten working days pursuant to an administrative act issued by the FIU. **Misdemeanours** upon ignoring the requirements of the Act were provided in the final part of the same Act and **the bodies conducting extra-judicial proceedings** as supervisory bodies were appointed to be **the Financial Supervision Authority and the Financial Intelligence Unit**. In the event of recurrence of more important misdemeanours, the latter can be deemed to constitute criminal offences in accordance with the Penal Code.

1.4. Development of the Financial Intelligence Unit

Upon the entry into force of the Money Laundering Prevention Act, **on 1 July 1999 the Financial Intelligence Unit** was established as a separate division under the Criminal Investigation Department of the Police Board. The head of the Financial Intelligence Unit was a chief superintendent whom reported two leading police inspectors and one leading specialist. The first training events of the police officers took place the same year and the Unit commenced its activities. In 2000 the Unit already met the requirements of the Egmont Group, an international organisation of intelligence units and became a member thereof. Notwithstanding the fact that the Unit was enlarged only in 2002 when one position of the leading police inspector was added as of 1 April and two positions of the leading specialist as of 1 September, the Unit was soon recognised as an equal partner at the international level. An IT specialist could be employed now to one position of the leading specialist; it allowed databases to be better maintained and future modernisation of the IT devices planned.

Active participation in several international programmes (PHARE, TAIEX), workshops and courses allowed preparing the employees at a good professional level. Thanks to the high preparatory level of the employees of the Intelligence Unit more materials could be sent to the investigative bodies, but due to the foregoing more preliminary investigators had to be trained. For the objective at the end of 2003 the FIU arranged a one-week workshop for police investigators, which introduced the work of the Intelligence Unit and where the participants solved real cases of the FIU. To explain the work of the FIU employees also participated in other training events of police officers.

On 1 January 2004 a new version of the Act entered into force, the Unit received two more police officers and two leading inspectors and it was transferred as an independent structural unit under the Central Criminal Police (CCP). In the second half of the year one position of a police superintendent was added, thus from now on the head of the Unit was left with basic management functions and the management of everyday work was carried out by the superintendent. As the amendments to the Act assigned the supervision task to the Unit as well, two supervisory officials were hired.

2. Financial Intelligence Unit

The present structure and preparation of the employees of the Financial Intelligence Unit allows for fulfilling the basic functions of the Financial Intelligence Unit quite well. The limited budget of the police in recent years has not allowed any sufficient provision of resources for the development of the information system (which would make the discharge of the notification obligation considerably easier and also solve the feedback problems in the sufficient volume), strategic analysis of the situation, conducting studies on money laundering and more successful development of the supervision system. Signs of progress, however, can be tracked therein, within the framework of the EU PHARE twinning project a new up-to-date information system is to be developed and at the end of 2006 or at the beginning of 2007 additional positions will be allocated to the FIU, particularly for improving supervisory activities. It also has to be noted that the preparatory level of the employees is very high – only two technical employees do not have higher education. Others have higher education mostly in law enforcement, law or economy. All the employees of the Unit have received recurrent in-service training both in Estonia as well as abroad. In addition to native language most of the employees have sufficient knowledge of at least two foreign languages.

2.1. Main functions of the Financial Intelligence Unit

§ 19 of the Money Laundering and Terrorist Financing Prevention Act provides the functions of the Financial Intelligence Unit, which may conventionally be divided into main functions and additional functions. Main functions are the same in case of all FIUs all over the world:

- 1) to collect notices about suspicious and unusual transactions referring to possible money laundering or terrorist financing;
- 2) to register, process and analyse the notices;
- 3) in the event of any further suspicion or upon the appearance of elements of criminal offence to send the material to investigative bodies;
- 4) to cooperate with persons with a notification obligation and to provide the same with feedback;
- 5) to cooperate with investigative bodies and police authorities in the prevention of money laundering and terrorist financing;
- 6) to exchange information with FIUs of other countries.

Furthermore the legislation of Estonia assigns the following tasks to the FIU, which need not coincide with the ones in other countries:

- 1) to conduct investigations into money laundering and terrorist financing;
- 2) to improve the prevention and identification of money laundering and terrorist financing;
- 3) to inform the public of the status of money laundering and terrorist financing prevention;
- 4) to supervise the activities of persons specified in subsection 5 (1) of the Money Laundering and Terrorist Financing Prevention Act (which are not credit or financial institutions) in complying with the Act;
- 5) to conduct proceedings in matters of misdemeanours provided for in the Act.

Such additional tasks have been assigned to the FIU for the objective of collecting exhaustive information into the Unit in order to ensure to the Unit a leading position in the system of money laundering and terrorist financing prevention. Such a point of view is important in a small country in order to spare the resources of state governance.

2.2. Rights of the Financial Intelligence Unit

To fulfil the functions provided for in the Money Laundering and Terrorist Financing Prevention Act the FIU has been granted exceptionally big rights:

- 1) upon any suspicion of money laundering or terrorist financing, to receive further information on the suspicious transaction or transactions related thereto from credit and financial institutions and other persons with a notification obligation;
- 2) to receive important information, including accounting records, necessary for money laundering or terrorist financing prevention, from third parties, whose connection with the transactions under investigation has become clear in the course of the control;
- 3) to make inquiries to and receive information from databases of the state or local government as well as that maintained by a person in public law;
- 4) to receive important information, including information collected by supervision, necessary for money laundering prevention, from all the institutions engaged in supervision;
- 5) to issue precepts ensured by the penalty payment mechanism for obtaining information, suspending a transaction and seizing assets;
- 6) upon any justified suspicion of money laundering or terrorist financing, to suspend a transaction with its precept or to impose a restriction on the use of the account for up to two working days;
- 7) to seize assets, on the basis of a precept, in order to ensure the preservation thereof for up to ten working days;
- 8) to give instructions for explaining the legislation on money laundering and terrorist financing prevention;
- 9) to receive information necessary for supervisory activities and to exercise supervision on the spot;
- 10) to impose punishments as a body conducting extra-judicial proceedings of misdemeanours.

2.3. Structure of the Financial Intelligence Unit and the position thereof in the system

The Financial Intelligence Unit was established on 1 July 1999 as an independent unit of the Criminal Investigation Department of the Police Board under the Ministry of Internal Affairs. In accordance with the amendments to legislation from 1 January 2004 the Intelligence Unit has been an independent unit of the Central Criminal Police as an independent legal person of the police. In order to stress the independence of the Financial Intelligence Unit, it has been provided that the head of the Unit is to be nominated by the National Police Commissioner. As for its structure, the Unit has been divided into two groups: analysis and supervision group, first of which is engaged in the main functions of the FIU and the second monitors the implementation of legislation and proceeds with misdemeanours.

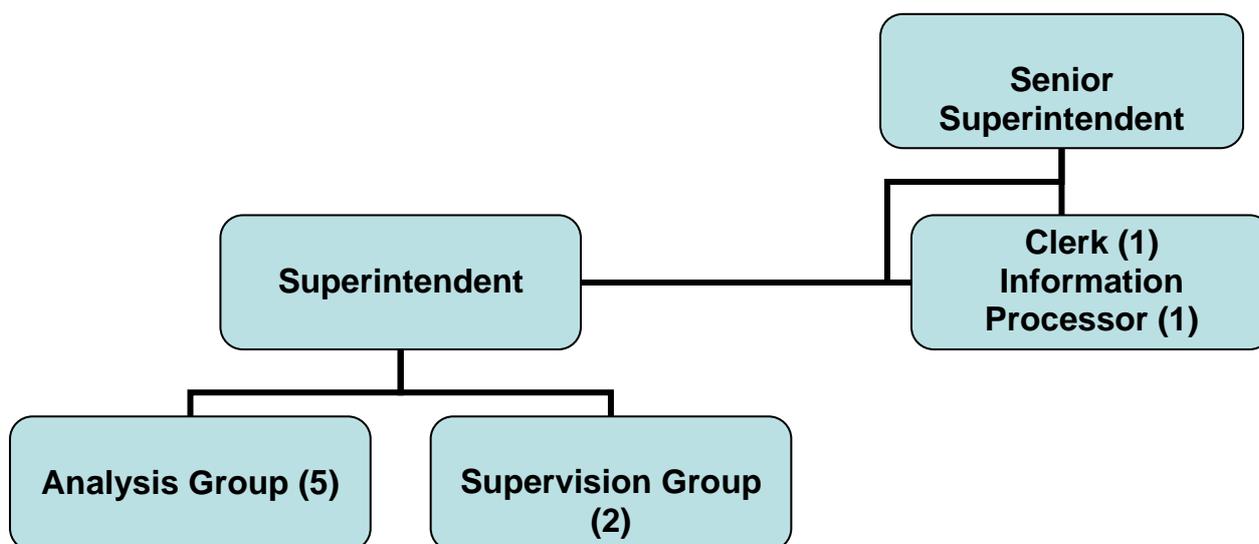


Figure 2. Structure of the Financial Intelligence Unit

2.4. Work chart of the Financial Intelligence Unit

The Financial Intelligence Unit receives information on transactions suspected of money laundering or terrorist financing from persons with a notification obligation by post, by encrypted mail using an electronic signature or by any other agreed manner. In addition to that customs notifies of cash movement over the EU border. Thereafter the notice is registered, the data are entered in the FIU information system, the information is checked on the basis of the databases of the police as well as other databases and precepts are issued for obtaining further information. If necessary, the FIUs of other states are contacted for assistance.

The information collected is analysed to receive a complete idea of what is going on. If necessary, further information is collected during the analysis. If the elements of criminal offence or the transactions identified as a result of the analysis are related to a criminal procedure, which is under way, the material is sent to the investigative body thereof. The investigative body may be, depending on the predicate offence, either the CCP, a police prefecture, the Investigation Department of the Tax and Customs Board (TCB), the Security Police Board (SPB) or a territorial unit of the Prosecutor's Office. Due to disputes over investigative jurisdiction the last authority has been used more actively recently.

If it is found during the analysis that most of the activity with criminal elements took place in another country, the material will be sent to the Intelligence Unit of the country with an authorisation for forwarding the same to a corresponding investigative body. If it is found from the collected material that the described activity is legal, the collected information will be entered in the FIU information system and preserved there for 10 years. Notices, in the event of which the legality of the activity does not become evident, but in case of which no elements of criminal offence have been found either, will remain waiting for further information.

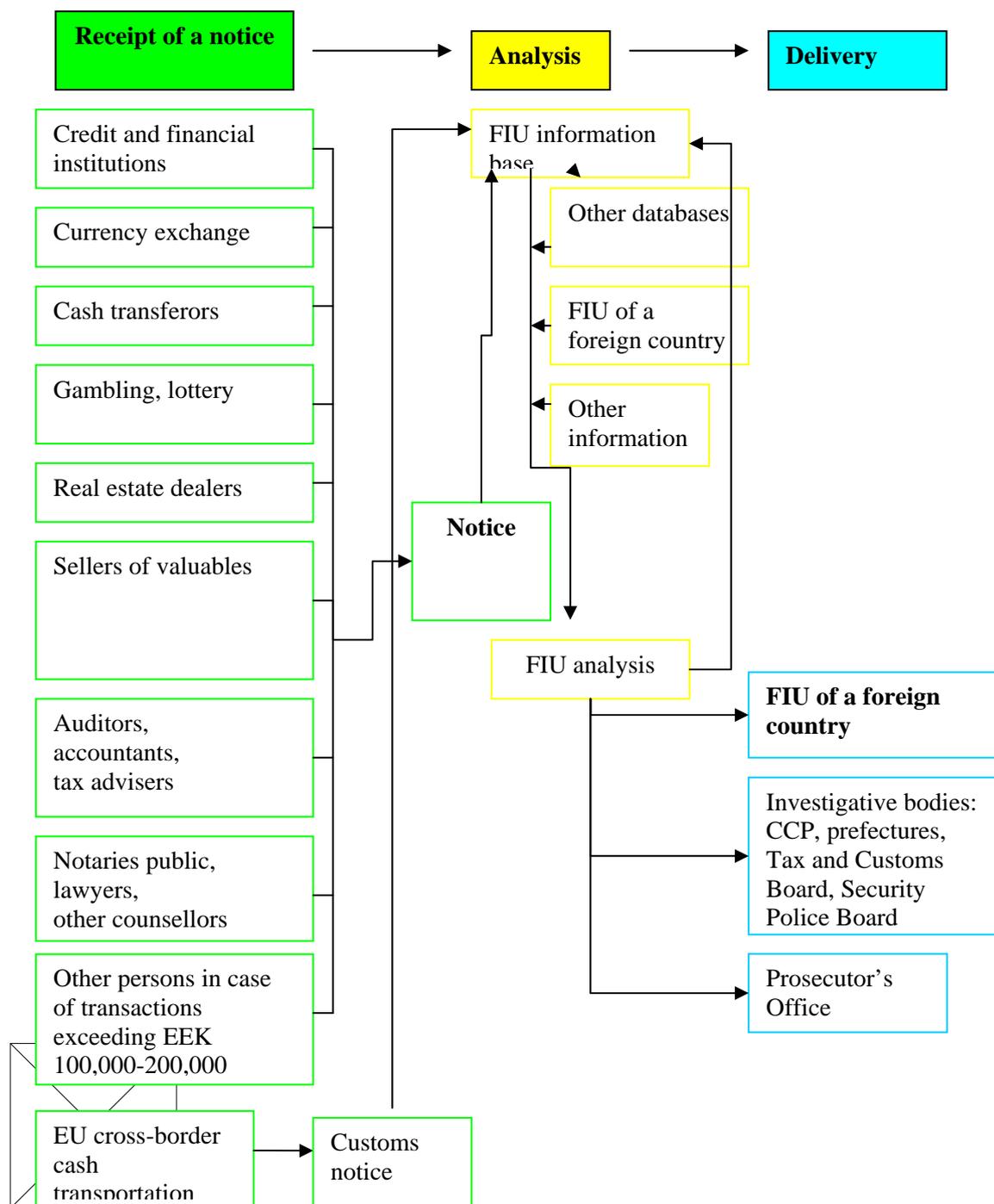


Figure 3. Work chart of the Financial Intelligence Unit

2.5. Data protection

Notices received by the Financial Intelligence Unit usually include sensitive personal data and business and banking secrets, whose protection has mainly been provided in the Credit Institutions Act, the Commercial Code and the Personal Data Protection Act. Subsection 17 (2) of the Money Laundering and Terrorist Financing Prevention Act provides that the act of persons with a notification obligation informing the FIU of any suspicious transactions is not deemed to be a breach of the confidentiality requirements. § 21 of the same

Act specifies that the Unit shall be obliged to maintain the secrets and release the data only in cases provided for in law, i.e. when these are necessary for criminal procedure. Pursuant to 20 of the Money Laundering and Terrorist Financing Prevention Act each employee of the FIU shall be obliged to maintain the confidentiality of information made known to them in the course of their official duties not only while working in the Unit, but also after the termination of service relationship. In accordance with § 26 of the Money Laundering and Terrorist Financing Prevention Act the data protection supervisory authority established pursuant to the Personal Data Protection Act shall exercise supervision over the legality of the processing of information registered in the Financial Intelligence Unit. At present the authority is the Data Protection Inspectorate.

Pursuant to the procedure for registration and processing of the data to be collected by the Financial Intelligence Unit established by the Minister of Internal Affairs the FIU has adopted a lot of measures for the objectives of data protection:

- 1) the Unit is located on a separate floor of the CCP, the electronic locks of whose doors open only by the cards of the employees of the Unit;
- 2) there is an alarm system in the Unit and the entries have been provided with security cameras;
- 3) all the computers in the Unit are accessible by using personal passwords. The computers are in the local network in whose server current work materials are kept;
- 4) the Unit database is in an autonomous computer, which does not have any physical connection with other computers or the Internet;
- 5) the reference files on paper are in lockable metal cupboards;
- 6) upon recruiting new employees their background is checked;
- 7) security rules and liability for the violation thereof are introduced against signature to each employee;
- 8) the employees' behavioural patterns outside the working time are checked on a regular basis.

Proceeding from the spirit of law the notice received or the personal data of the sender thereof are not forwarded to the investigative body along with the materials.

3. Obligated subjects

The precautionary system of money laundering and terrorist financing prevention is based on the diligence obligations of the obligated subjects provided for in the Money Laundering and Terrorist Financing Prevention Act to identify the customers/partners, preserve the data of the transactions exceeding the prescribed maximum value for at least five years and to notify the FIU of each suspicion of money laundering or terrorist financing. According to the risk factor the law divides obligated subjects into two basic groups. The first of these consists of credit and financial institutions and the second of any other organisations.

3.1. Credit and financial institutions

A credit institution is a company, whose principal and permanent economic activity is to receive cash deposits and other repayable funds from the public and to grant loans for its own account and provide other financing. Credit institutions may operate as public limited companies or associations.

Financial institutions are companies other than credit institutions, the principal activity of which is to provide financial services, except depositing. Pursuant to the Money Laundering and Terrorist Financing Prevention Act a financial institution is also an insurer or insurance intermediary, a management company, an investment firm, an operator of the regulated market or an operator of a securities settlement system and a savings and loan association. Since 1 January 2006 financial institutions also include **e-cash institutions**. The group includes among others branches of all the foreign institutions registered in the Commercial Register of Estonia.

In accordance with legislation applicable in Estonia a financial institution is not a provider of currency exchange service or a cash transferor, these belong within another group of subjects. The common traits of the subjects of the group are large cash flow and a multitude of customers; therefore, they are especially tempting for launderers and with a bigger risk factor as well. Some **special requirements** as compared to the other subjects have been provided to these by law:

- 1) **appointment of a contact person** of the Financial Intelligence Unit who has necessary authorisations and resources;
- 2) **establishment of the code of conduct** for employees in order to prevent money laundering and terrorist financing and creation of control mechanism of the fulfilment thereof in the form of **internal audit rules**;
- 3) **regular instruction** and training of employees;
- 4) **obligation to hold a customer account only in the name of the account holder.**

The law has mentioned other differences as well, which are covered in other subdivisions.

Table 1. Information on the number of credit and financial institutions according to the Financial Supervision Authority

Subjects of supervision by the Financial Supervision Authority	Number
Credit institutions	
Credit institutions licensed in Estonia	7
Branches of foreign credit institutions	7
Agencies of foreign credit institutions	4
Providers of cross-border banking service	96
Insurance companies	
Life insurance companies licensed in Estonia	5
Non-life insurance companies licensed in Estonia	8
Branches of foreign insurers	3
Cross-border life insurance providers	35
Cross-border non-life insurance providers	171
Insurance intermediaries	
Insurance agents licensed in Estonia	1,160
Insurance brokers	25
Management companies	7
Cross-border management companies	4
Investment funds (contractual)	27
Pension funds (mandatory)	15
Pension funds (voluntary)	7
Foreign funds registered in Estonia	47
Savings and loan associations	6
Total	1,634

3.2. Other obligated subjects

Subsection 5 (1) of the Money Laundering and Terrorist Financing Prevention Act lists other obligated subjects which have been divided into eight groups. Depending on the group characteristics a company may also belong to several groups at the same time.

The first group consists of **providers of currency exchange services**. There are 117 such organisations registered in the register of Ministry of Economic Affairs along with 401 currency exchange facilities.

The second group consists of **providers of cash transfer services** most of which provide currency exchange services as well. Estonian Post Ltd., which intermediates cash transfer services of Western Union through its post offices in addition to the money orders to be forwarded in the postal system, belongs here, too. MoneyGram and Anelik, a system of Russian origin, are also used in Estonia. The public limited company AS Tavid makes intra-company transfers between its subsidiaries in Finland, Latvia and Estonia. As according to our legislation these service providers need not be registered separately, the number thereof could be about ten organisations with a total of 30-40 service facilities. In the future legislation should provide registration or even licensing with regard to the organisations.

Organisers of gambling or lotteries, which belong to **the third group**, are at present not governed sufficiently enough by the Gambling Act and therefore the Ministry of Finance prepared a new draft Gambling Act, which already takes into consideration the reformed international requirements for the organisations. At present licences for organising games of chance (casinos, totalisators, lotteries) have been issued to 18 organisations which have activity licences for a total of 190 gambling locations. A total of 37 activity licences has been issued to four lottery organisers.

The fourth group consists of **persons dealing with real estate**, which may conventionally be divided into two subgroups: intermediaries and developers of real estate. In Estonia all real estate transactions are formalised at the Notary Public and usually no bigger amounts move through intermediaries. Therefore the larger risk group consists of developers, which are at the same time also sellers of real estate. The total number of subjects of law in this group amounts to approximately 800.

In the event of **persons who act as intermediaries in transactions involving precious metals, precious stones, means of transport, works of artistic value or other valuable goods**, which all belong to **the fifth group**, sellers and intermediaries of means of transport shall have to be brought out on the basis of the risk factor as there is no such significant amount of goods in either precious jewellery market or art market in Estonia, which could be used in real money laundering. For the evaluation of the number of subjects in this group see table 2.

The sixth group consists of **auditors and persons who provide consulting services in the field of accounting and taxation**, whose diligence obligation involves transactions to be conducted by their customers. The total number of such organisations in Estonia is 928. The activity of their participation in money laundering prevention is not yet significant, but it is still promising.

The most problematic group upon the implementation of legislation is **the seventh group** of subjects, which consists of **notaries public and lawyers**. Particularly lawyers are those who try to stress their special role in the legal system and the confidentiality requirements arising therefrom. If a lawyer represents their customer in criminal, misdemeanour or any other judicial procedure, the diligence obligations imposed on them by law shall not be applicable with regard to them. In accordance with the Ministry of Justice there are 88 notaries public and 520 lawyers in Estonia. Notaries public have started to notify of suspicious transactions actively and their role in identifying suspicious transactions related particularly to real estate is significant.

Table 2. Information from different sources on the number of organisations engaged in more important types of commercial activities¹

Commercial activities	Organisations
Sales of motor vehicles	
Wholesale and retail sale of passenger cars and small buses	130
Wholesale and retail sale of trucks, trailers and semi-trailers	26
Intermediation of motor vehicles	6
Wholesale and retail sale of used motor vehicles	149
Wholesale and retail sale of other motor vehicles	5
Intermediation of machinery, industrial equipment, ships and aircraft	34
Retail sale in other specialised stores	
Retail sale of valuables, jewellery and watches	69
Retail sale of antiques	27
Other loaning, except pawn shops	48
Non-classified financial intermediation	
Non-classified financial intermediation	648
Currency exchange	117
Real estate activities	
Development and sales of real estate	694
Purchase and sales of one's own real estate	267
Intermediation of purchase, sales, lease and evaluation of real estate	689
Legal assistance	
Activities of lawyers and lawyer's offices	135
Activities of solicitors and law offices	141
Notaries public	88
Accounting, accountancy and auditing; providing tax advice	
Auditing	93
Accountancy	830
Providing tax advice	5
Total	4,201
Information in accordance with the second subdivision	
Trustees in bankruptcy	93
Notaries public	88
Lawyers	520
Organisers of gambling and lotteries	18
Gambling locations	227
Currency exchange facilities	401
Non-profit associations	22,704
Total	24,051

The biggest and most indefinite **eighth group** consists of **any other organisations** whose transaction value exceeds EEK 100,000 in case of cash and EEK 200,000 in case of book money. According to the characteristics every organisation in Estonia belongs to the group and thus it is not possible to specify the exact size of the group.

¹ As of 1 January 2006.

3.3. Identification obligation

§ 6 of the Money Laundering and Terrorist Financing Prevention Act provides for the subjects thereof general identification obligation. Identification of the other party is obligatory if the transaction value exceeds EEK 100,000 in case of cash or EEK 200,000 in case of book money. The same section also provides some specifications:

- 1) if several transactions related to one another reach the prescribed limit;
- 2) in the event of suspicion;
- 3) the limit of organisers of gambling is EEK 15,000;
- 4) cash transferors are obliged to identify all customers.

§ 7 of the Money Laundering and Terrorist Financing Prevention Act has fixed the terms and conditions in the event of which a credit or financial institution or a notary public, auditor or lawyer may identify a person without being in direct contact with the person and what kind of diligence obligations credit institutions have to discharge upon establishing a correspondent relationship. § 8 of the Act reduces the limits of the amounts in the event of insurance activities depending on the transactions to either EEK 14,000 or EEK 35,000.

Important requirements have been provided for in § 10, where upon any suspicion of a dummy the actual person has to be identified; if it is impossible, it is prohibited to carry out the transaction.

§ 12 of the Money Laundering and Terrorist Financing Prevention Act requires preservation of a copy of the identification document and the transaction data for at least five years after the end of a customer relationship.

3.4. Notification obligation

In accordance with the laws applicable in Estonia the notification obligation is based on suspicion, which means that a subject of law sends a notice to the FIU upon a suspicion of money laundering or terrorist financing. The material to be referred to with regard to any suspicions is the instructions of the FIU on the characteristics of suspicious transactions, which specifies the indicators in the event of which suspicion with regard to the transactions should raise. This has been specified in more details in § 15 of the Money Laundering and Terrorist Financing Prevention Act, which forms a basis for the discharge of the notification obligation. For most subject groups of law, in the event of which the awareness and reputation risks are greater, the system is sufficient. At the same time in case of some types of business, like for example currency exchange, cash transfer, sales of real estate and means of transport, in case of cash transactions the notification could be based on the amount, i.e. all cash transactions exceeding a certain prescribed limit could be subject to notification.

3.5. Supervision and liability

The fulfilment of the requirements of law by the subjects thereof must certainly be checked and the disregard of the provisions of law has to bring along penalty. Supervision of credit and financial institutions has been imposed on the Financial Supervision Authority (FSA), which is also liable for the general supervision of the organisations. Supervision of other subjects of law is carried out by **the Financial Intelligence Unit** as the highest ranking authority in these issues. The law also provides the aforementioned authorities to be the bodies conducting extra-judicial proceedings of misdemeanours identified during such supervision.

The first disregard of the requirements of law shall bring along a misdemeanour procedure and penalty for the misdemeanour. Upon the second violation of law, criminal liability is already implemented in the event of some necessary elements. Depending on the guilt, in the event of offences the liability of either natural or legal person is implemented. In the last case the sanctions to be imposed are much more severe.

4. Cooperation

The success of money laundering and terrorist financing prevention depends first and foremost on cooperation between authorities involved therein at both international as well as national level. Countries may have very good laws, but without cooperation or information exchange between the authorities it is not possible to achieve considerable success.

4.1. National cooperation

The centre of national cooperation upon money laundering and terrorist financing prevention is the central authority of a country – the Financial Intelligence Unit, which has to cooperate closely with subjects obligated in law as well as the supervisory bodies thereof. The cooperation forms include workshops and training events organised by the FIU, the Internet-based information exchange and regular communication through professional associations to solve the issues of legislative drafting as well as other key questions.

There is a money laundering working group under the Estonian Banking Association and the members thereof are contact persons of banks and representatives of the FSA and the FIU. The working group provides banks with feedback, discusses the arisen issues and harmonises measures adopted for money laundering and terrorist financing prevention in banks. The working group also participates in discussions of draft acts related to the topic. In addition to that mutual consultations of the FIU and the FSA are held on a regular basis.

The FIU has close regular relations with the Association of Organisers of Gambling, the Chamber of Notaries Public, the Estonian Accounting Standards Board and the Estonian Bar Association. Many issues related to cooperation with subjects obligated in law are solved during supervision.

The second national cooperation direction is cooperation between the FIU and the investigative bodies in the form of participation in training events and in-service training events of specialists and exchange of necessary information through the contact persons of investigative bodies. If necessary, the employees of the FIU advise preliminary investigators or participate in the investigative activities as experts.

Although the preparation of new draft acts falls within the authority of ministries, representatives of the FIU, which in turn have involved in the discussion as many subjects of law as possible, have participated in the working groups for development of all the drafts related to the topic.

4.2. International cooperation

As of June 2000 the FIU is a member of the Egmont Group, an international organisation of financial intelligence units. The objectives of the organisation include ensuring successful information exchange between the intelligence units of different countries, providing technical facilities (Egmont Secure Web) for the purpose and establishing rules of information exchange so that these correspond to international standards and laws of member countries. As of becoming a member of the organisation the FIU has participated actively in all the plenary meetings and most meetings of working groups of the Egmont Group, at first in the training and IT working group, later in the operative working group. Information exchange with the intelligence units of other countries has become more and more active during the years. Memorandums of Understanding (MOU) or cooperation agreements have been signed

with intelligence units of 17 countries, although there exist no restrictions on international information exchange in laws applicable in Estonia.

Every year there is a regional seminar of the intelligence units of the Baltic countries (Estonia, Latvia, Lithuania), where the regional problems and issues of everyday cooperation are discussed.

In September 1997 the Committee of Ministers of the Council of Europe established the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (formerly **PC-R-EV**, now **MONEYVAL**), whose duty was to evaluate the anti-money laundering measures of the EU member states which were not members of the FATF and, as a result of the evaluation, to prepare a corresponding report. Every country is represented by three experts – in the field of financial, judicial and legal protection, who, based on their authorities and the FATF methodology, give an assessment of the anti-money laundering measures and the functioning thereof on the basis of the recommendations made by the FATF. The evaluation takes place on the spot and as a result of the evaluation the experts prepare a report, wherein they bring out shortcomings and make their proposals for the removal thereof. The aforementioned reports are defended at the plenary meetings of MONEYVAL. Estonia has been evaluated twice by MONEYVAL – in January 2000 and autumn 2002. The third evaluation round will presumably take place in 2007. With regard to legal protection as of 2000 Estonia has been represented by employees of the FIU, who have also evaluated other countries.

For the training and experience exchange objective the employees of the FIU have participated in bilateral and multilateral international PHARE; TAIEX, twinning and other cooperation projects, in regional case study workshops of the East-West Management Institute of the US, paid mutual visits to the FinCEN as well as intelligence units of Latvia, Lithuania, Finland and Sweden. Both subjects obligated in law as well as representatives of law enforcement authorities have been involved in the cooperation projects.

As of 2005 the experts of the FIU have participated in the work of TAIEX, held lectures in TAIEX workshops in Turkey and Montenegro as well as in the training workshops arranged by the World Bank.

4.3. Investigation of offences relating to money laundering

Investigation of offences relating to money laundering has become the main problem within the Estonian system of money laundering and terrorist financing prevention. Notwithstanding the fact that during its six working years the FIU has sent to investigative bodies tons of materials about possible offences relating to money laundering, the number of court judgments which have entered into force has remained very modest. In the event of several materials the court judgment has been confined to a tax offence. The reason for this is, on the one hand, shortcomings of laws and, on the other hand, lack of preliminary investigators with sufficient qualifications.

One of the reasons why the establishment in court of an offence relating to money laundering is considerably aggravated is the unsuccessful definition of money laundering, which has been planned to be amended in the near future. The situation in other countries shows that in order to gain success in this issue a reversed substantiation obligation with regard to the legal origin of assets and the principle of indirect establishment of a predicate offence relating to money laundering have to be legalised.

Materials have been sent to the Central Criminal Police, police prefectures, the Investigation Department of the Tax and Customs Board and the Security Police Board depending on the presumable predicate offence as a result of which the assets have been acquired. As of 2005 the FIU forwards materials to the Prosecutor's Office which decides on the commencement of criminal procedure and the determination of investigative jurisdiction.

5. Terrorist financing prevention

The topic is directly related to the implementation of international financial sanctions in the country. With regard to the implementation of financial sanctions the International Sanctions Act has focussed on the Bank of Estonia and the Financial Supervision Authority, whose authorities are confined to credit and financial institutions. Therefore the implementation of international financial sanctions is also obligatory only for them.

5.1. Principles

After the terrorist attack in the US on 11 September 2001 the problem of terrorist financing came up. The objective thereof is to combat financing big terror acts by both criminal as well as legal financial resources. Upon subsequent analysis of the aforementioned terror act, the following conclusion was reached: in the monetary system the used financial resources moved in the form of relatively small amounts, the methods used included bank transfer, cash transfer service as well as alternative banking. Thus the actions against terrorist financing should involve almost all the obligated subjects engaged in money laundering prevention, regardless of the amounts to be transferred. All organisations should adopt measures for not establishing any customer or business partner relations with natural or legal persons of whom it is known that they are or may be related to the preparation or commission of terror acts. Disregard of such measures may first and foremost bring along a considerable reputation risk for each organisation. Public reference sources for checking are the relevant lists of the UN and EU, which are accessible for everybody through the Internet:

- 1) UN – <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>
- 2) EU – http://ec.europa.eu/comm/external_relations/cfsp/sanctions/list/consol-list.htm

If the found customer or possible business partner proves to be in one or another list, the transaction should be avoided and the FIU, which will thereafter adopt further measures in cooperation with the SPB, should be notified thereof immediately. They also possess means for making certain that the found person is really the one entered in the list. The FIU may forward to the obligated subjects additional lists from other sources of persons who may be connected with terrorism.

Pursuant to the applicable laws only persons under supervision of the Financial Supervision Authority, i.e. credit and financial institutions, shall be obliged to check from the aforementioned lists. For others it is recommendable and each organisation should assess their risks. In practice the system has been implemented only in banks.

5.2. International sanctions

International sanction means measures taken to influence a blocked entity (country, regime, organisation, etc.) to perform obligations arising from the norms and principles of international law, except for any military prevention. The sanctions restrict the movement of the members of the entities, cooperation with them and/or their financial transactions. Financial sanctions are imposed not only for terrorist financing prevention, but also upon the initiative of international organisations or governments of countries. If a sanction has been initiated by a government of another country, it can be imposed in Estonia only after the government of Estonia has accepted the same. Thus the term of international sanction is much wider than terrorist financing prevention, but it covers it completely.

The International Sanctions Act of Estonia governs national imposition of the sanctions, leaving the issue of most of the corresponding regulations within the capability of government. At the same time the Money Laundering and Terrorist Financing Prevention Act governs certain differences related to the FIU with regard to terrorist financing prevention. Upon analysing different regulative acts related to the topic, it became evident that the existing laws do not ensure imposition of international sanctions in Estonia in their entirety. The key question, which has to be solved quickly, concerns international financial sanctions, including also terrorist financing prevention, where to not all the subjects obligated in law have been involved and in the event of which their supervision has not been organised yet.

6. Results of the Financial Intelligence Unit

The following statistical data and other information do not only show the activities of 2005, but include activities from the entry into force of the Money Laundering Prevention Act on 1 July 1999 to the end of 2005. From the year 2004 the intelligence unit hired more employees, which enabled additional statistical data to be collected and a more detailed overview on the period 2004-2005 to be provided.

6.1. Notices and analysis thereof

On 1 July 1999 the Financial Intelligence Unit commenced its activities from the very beginning by establishing contacts and enhancing the awareness of subjects obligated in law. Therefore the number of notices during the first one and a half years was not considerable. In 2001 Hansapank, the biggest bank in Estonia, artificially doubled the number of its notices by separating both of the parties of a transaction into different notices. Taking into consideration this exception, it can be claimed that the number of notices has increased from year to year in accordance with the enhancement of the awareness of the subjects and gradual involvement of new subjects in the supervision system.

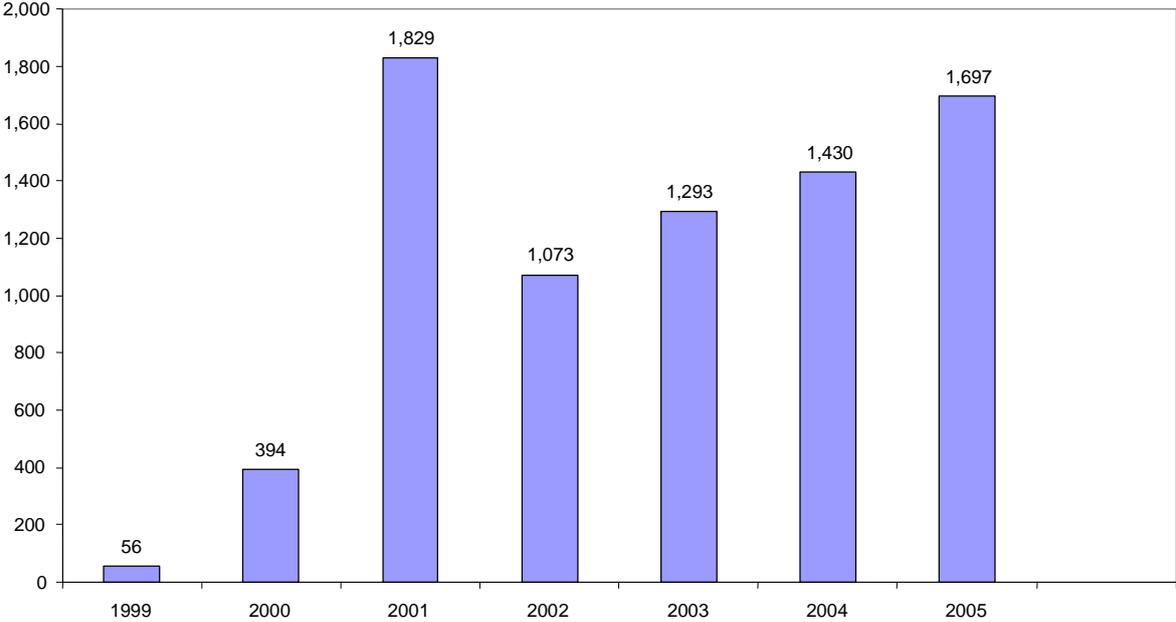


Figure 4. Notices received in 1999-2005

During the period under review most of the notices (84.44%) were received from banks. At the same time in 2005 the share of banks in the notices reduced to 71.48% and thereafter it decreased as well as then the FIU commenced its real supervisory activities over other groups of obligated subjects. The activities upon improving subjects' awareness became more efficient.

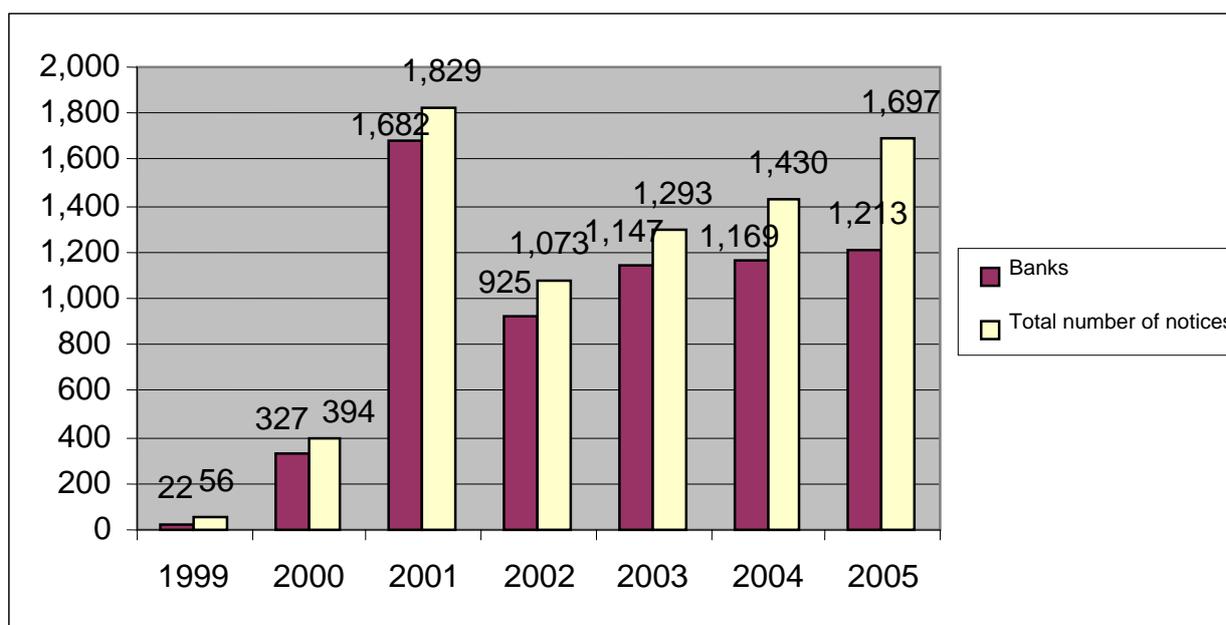


Figure 5. Bank notices in 1999-2005

Table 3 illustrates the division of notices received in 1999-2005 on the basis of main groups of informants.

Table 3. Discharge of notification obligation in 1999-2005

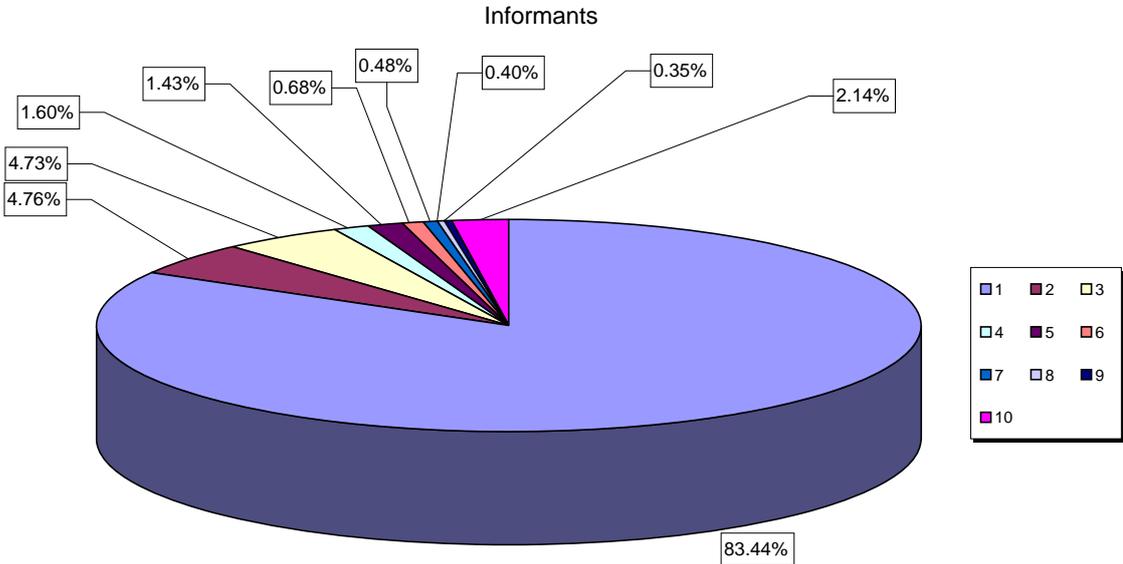
Subjects	1999	2000	2001	2002	2003	2004	2005
Banks	22	327	1,682	925	1,147	1,169	1,213
Financial institutions	0	0	0	0	0	6	3
Currency exchangers	0	7	11	3	1	0	15
Cash transferors	0	0	0	0	0	0	111*
Organisers of gambling and lotteries	0	0	3	2	0	12	36
Intermediaries and sellers of real estate	0	0	0	0	0	0	1
Intermediaries of valuables	0	0	1	0	0	0	0
Auditors, accountants, tax advisers	0	0	0	0	0	0	0
Lawyers	0	0	0	0	0	0	2
Notaries public	0	1	1	0	1	14	10
Other	4	17	11	16	22	31	23
Total subjects of § 5 of the Money Laundering and Terrorist Financing Prevention Act	26	352	1,709	946	1,171	1,232	1,414
Foreign FIU	10	19	39	51	78	90	81
Tax and Customs Board	4	7	68	71	21	70	129
Ministry of Foreign Affairs	0	0	0	0	5	13	8
Police	16	16	13	7	18	25	29
Financial Intelligence Unit	na	na	na	na	na	na	31
Other state authority	na	na	na	na	na	na	5
Total law enforcement / state authorities	30	42	120	129	122	198	283
Total	56	394	1,829	1,073	1,293	1,430	1,697

* 108 of the cash transfer notices are notices from one bank about Western Union

For the explanatory purposes it could be mentioned that foreign inquiries, notices from the police and information found from different sources by the employees of the FIU about possible money laundering is treated on the same basis as other notices. Notices received from

the Tax and Customs Board include mainly information on the cross-border (now the EU border) cash movement. Notices received from the Ministry of Foreign Affairs include additional lists of persons suspected of terrorism against whom measures for terrorist financing prevention are adopted.

Separate notices about cash transferors have been fixed from 2005. Earlier these were classified under currency exchangers or banks, respectively.



1	Banks	83.44%
2	Tax and Customs Board	4.75%
3	Foreign countries	4.73%
4	Police	1.60%
5	Cash transferors	1.43%
6	Casinos	0.68%
7	Currency exchangers	0.48%
8	FIU	0.40%
9	Notaries public	0.35%
10	Other	2.14%
11	Total	100%

Figure 6. Division of notices received

Forwarding materials to investigative bodies

From 2004 when the number of employees increased, more statistical information was started to be collected. During the period under review 145 materials were sent to investigative bodies. A lot of the materials included information from several received notices. Criminal proceedings were commenced or the material was added to the existing criminal matter in the event of 62% of the cases. Positive replies were also added to the existing criminal matter. Thus measures of criminal proceedings were adopted in the event of 65% of the cases.

During the period under review investigative bodies have commenced **independent** investigation of offences relating to money laundering in 15 cases, incl. in four cases in 2002, in six cases in 2003, in three cases in 2004 and in two cases in 2005.

Table 4. Materials sent to investigative bodies in 1999-2005

	1999	2000	2001	2002	2003	2004	2005	Total
Sent in total	1	3	24	21	6	22	64	141
For deciding on commencement of proceedings	1	3	6	8	3	15	24	60
Proceedings commenced	1	3	6	8	3	12	19	52
Added to criminal matter			3	2	2	4	23	34
For check			15	11	1	3	6	36
SPB							7	7
Positive replies to inquiries, added							4	4

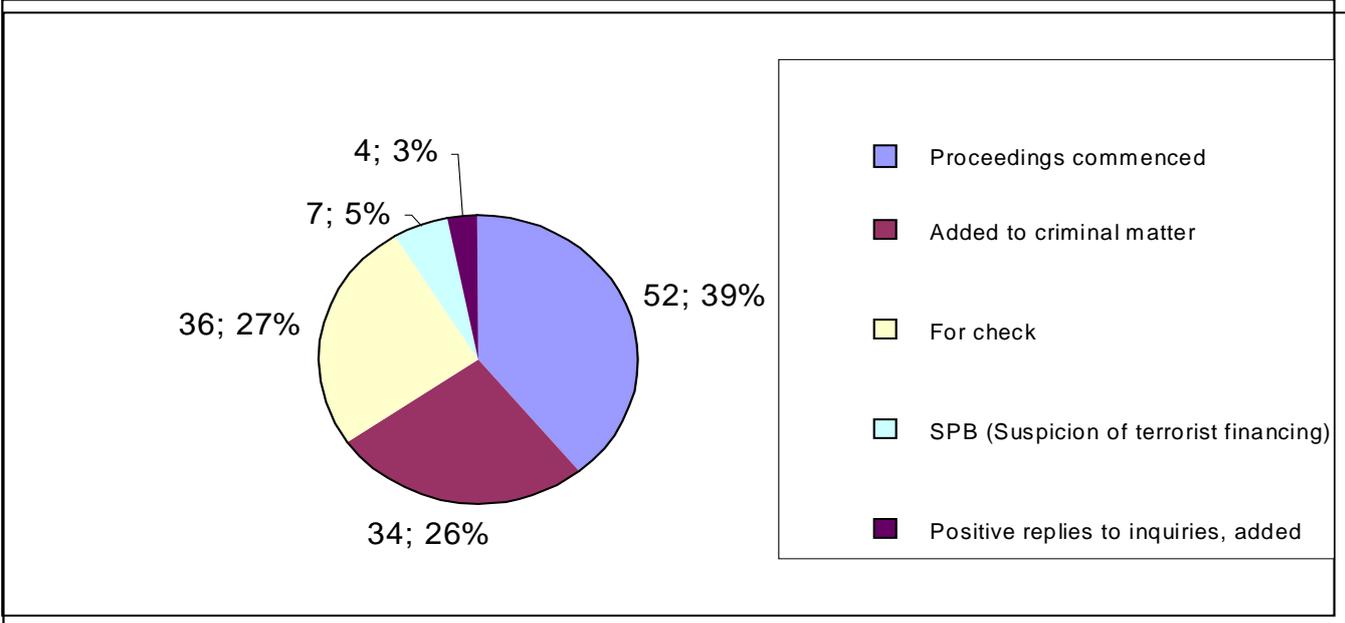


Figure 7. Notices forwarded in 1999-2005

Year 2004

In 2004 the Financial Intelligence Unit received 1,430 notices about suspicious and unusual transactions. 64 materials were sent to investigative bodies. At the same time the FIU used its right to suspend a transaction in the event of 14 cases and the right to seize assets in the event of 6 cases. The total value of the seized assets was EEK **9,400,577**. During the year 515 precepts for obtaining further information were issued.

In 2004 criminal proceedings were commenced on the basis of notices of the FIU in the event of 12 cases. Figure 8 displays the division of the proceedings by suspicions of criminal offence.

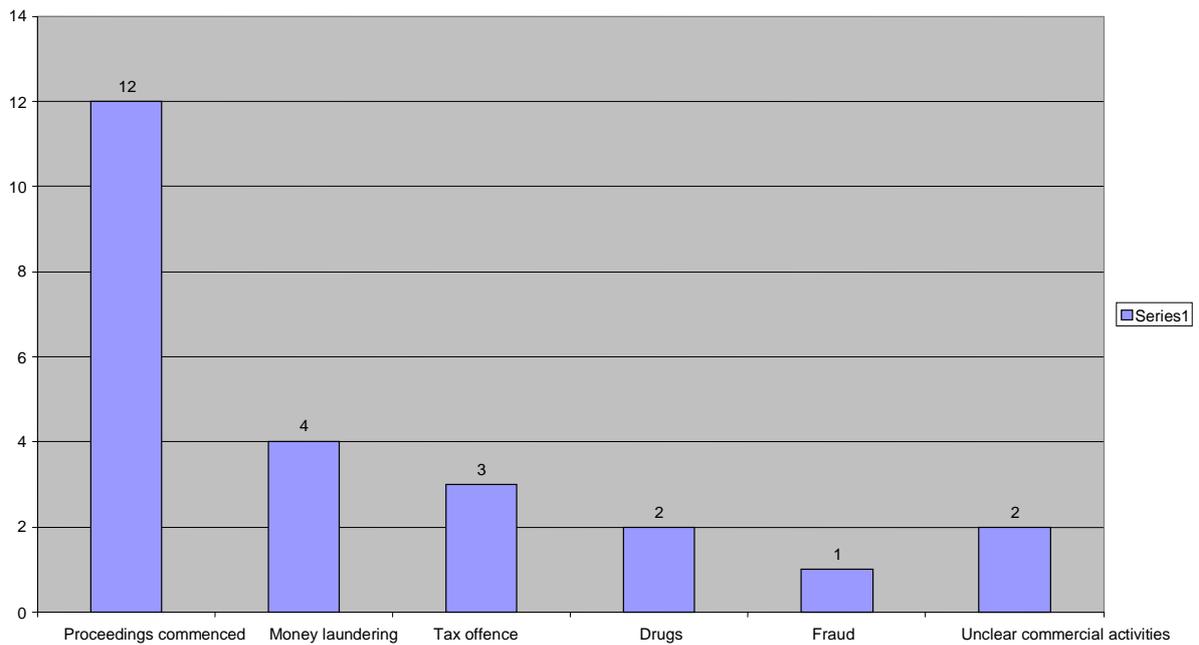


Figure 8. Division of proceedings commenced in 2004

Year 2005

In 2005 the Financial Intelligence Unit received 1,697 notices about suspicious and unusual transactions with a total value of **EEK 65,783,397,229.21**. Figure 9 presents the most wide-spread indicators for sending the received notices.

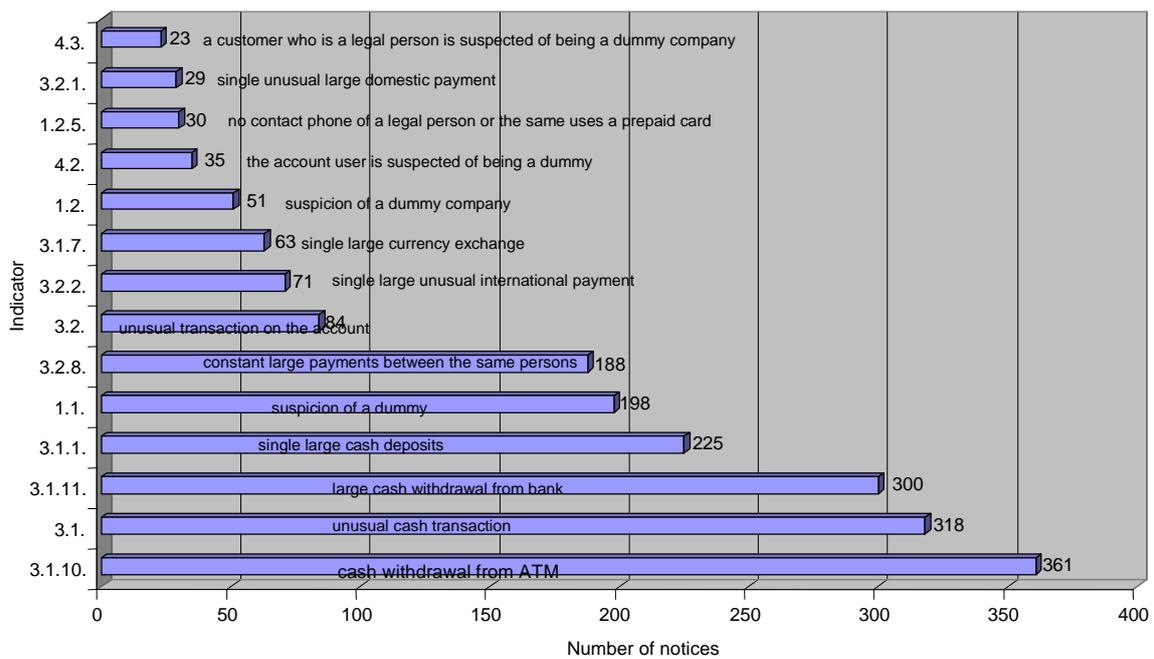


Figure 9. The most wide-spread indicators

64 materials were sent to investigative bodies, which included information from 159 received notices. The aforementioned notices involved 513 natural and legal persons and transactions in the amount of **EEK 1,829,317,807**. Figure 10 displays the division of materials sent to investigative bodies by suspicions of criminal offence.

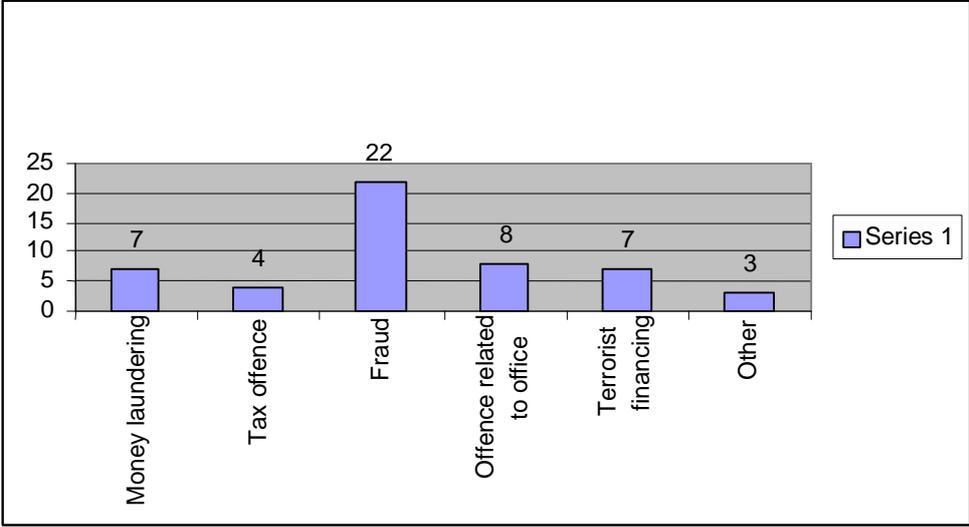


Figure 10. Materials sent to investigative bodies by suspicions of criminal offence

From the sent materials in the event of 6 cases of suspected money laundering proceedings were commenced in all the cases. In the materials the predicate offence was defined as follows (figure 11).

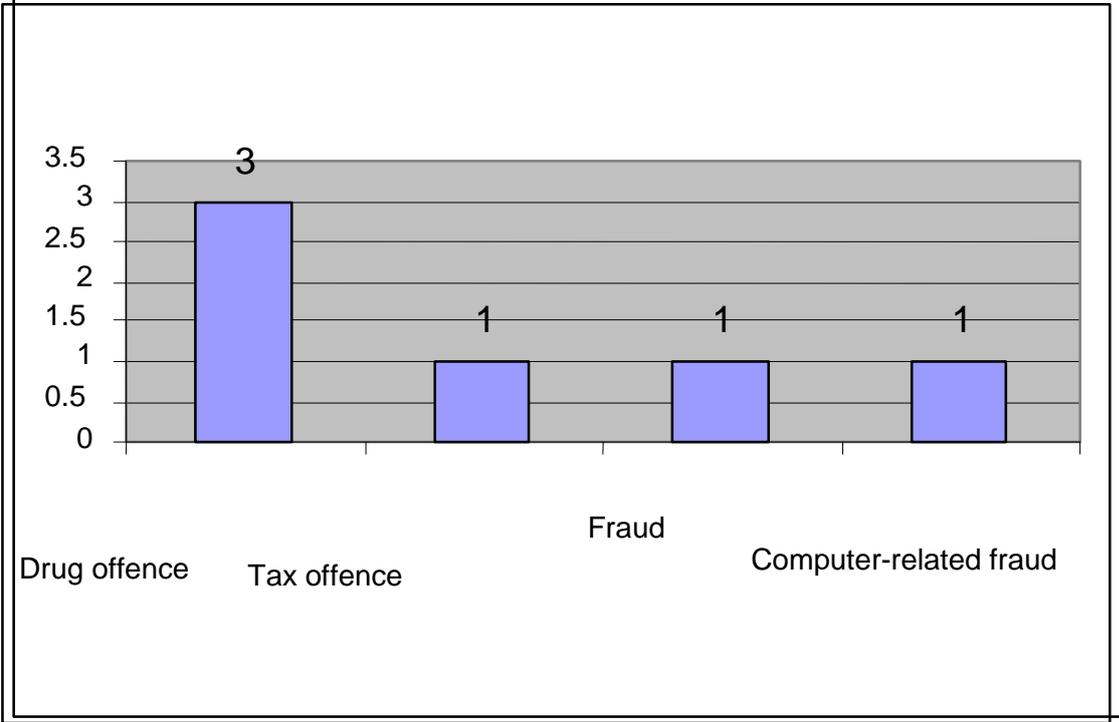


Figure 11. Predicate offences of money laundering

Division of notices by investigative bodies is displayed in figure 12.

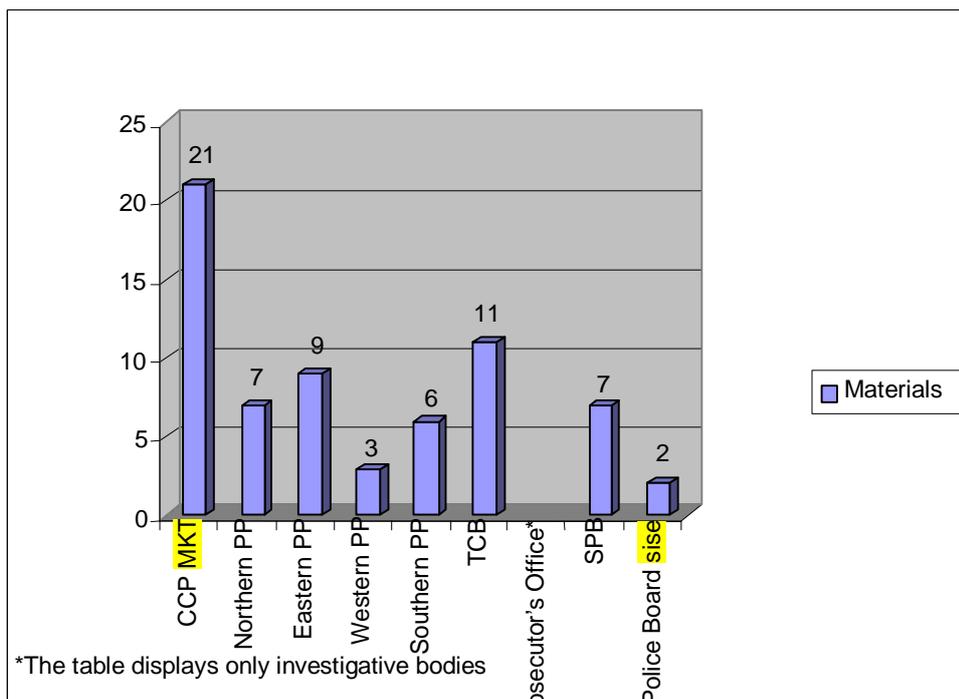


Figure 12. Division of notices by investigative bodies

Table 5. Value of transactions described in notices by different currencies

EEK	EEK 38,369,677,649.51	EEK 38,369,677,649.51
EUR	€23,130,444.13	EEK 362,130,231.26
USD	\$2,088,778,846.98	EEK 27,039,242,174.16
RUB	4,355,000	EEK 1,964,105.00
JPY	7,000,000	EEK 794,150.00
AUD	21,569.75	EEK 210,168.34
GBR	45,451.65	EEK 1,039,933.75
SEK	28,000.00	EEK 46,928.00
CZK	65,000.00	EEK 35,230.00
LVL	297,745.00	EEK 6,693,605.35
LTV	345,045.00	EEK 1,563,053.85
Total		EEK 65,783,397,229.21

At the same time the FIU used its right to suspend a transaction in the event of 20 cases and the right to seize assets in the event of 13 cases. The total value of the seized assets was **EEK 3,735,969.50**. During the year 840 precepts for obtaining further information were issued.

In 2005 criminal proceedings were commenced on the basis of notices of the FIU in the event of 19 cases.

6.2. International cooperation

The Estonian FIU has been a member of the Egmont Group since 2000. However, international cooperation through the police attachés of embassies commenced in autumn 1999 and the number of foreign inquiries have increased from year to year. A total of 368 foreign inquiries has been received during the period under review and by the years the inquiries have been divided as follows (figure 13).

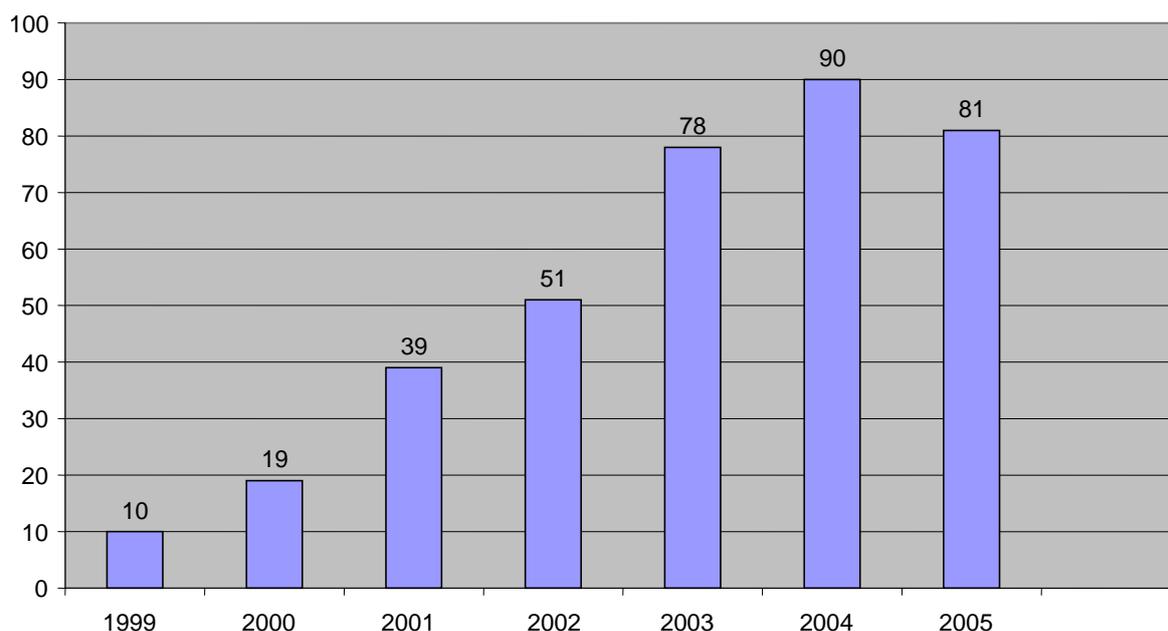


Figure 13. Inquiries from foreign FIUs

Table 6 displays inquiries sent (received) from other countries and inquiries sent to other countries by different states. This offers also an overview on the intensity of foreign relations with different countries in 2004-2005. As in Estonia the FIU is a division of the police, our partners also include Interpol, Europol, the FBI and other representatives of authorities of other states. As usual the closest partner is Finland, followed by Latvia and Lithuania. Recently cooperation with Russian and the Ukraine, from where a lot of inhabitants of Estonia come from, has become closer as well.

Table 6. Data about foreign inquiries in 2004-2005

Foreign country	2004		2005		Total inquiries
	Received	Sent	Received	Sent	
Total	90	34	81	48	253
FIU of Finland	31	5	15	8	59
FIU of Latvia	4	15	8	16	43
FIU of Lithuania	9	5	2	1	17
FIU of Russia	2	1	10	1	14
FIU of the Ukraine	2	0	7	2	11
FBI	0	1	4	2	7
FIU of Venezuela	2	0	5	0	7
FIU of Austria	5	0	0	1	6
FIU of Germany	3	0	1	2	6
UK (NCIS)	0	1	3	2	6
FIU of Malta	4	0	0	1	5
FIU of Switzerland	1	0	0	4	5
FIU of the US	3	0	1	1	5
FIU of Bulgaria	3	0	1	0	4
FIU of Italy	2	1	1	0	4
FIU of Norway	1	2	1	0	4
FIU of Arabia	2	0	1	0	3
FIU of Spain	1	1	0	1	3
FIU of Croatia	3	0	0	0	3

FIU of Hungary	1	0	2	0	3
FIU of Moldova	0	0	3	0	3
FIU of Belarus	0	0	1	2	3
FIU of Belgium	0	0	2	0	2
FIU of Europol	0	0	2	0	2
FIU of Cyprus	0	1	1	0	2
FIU of Mexico	2	0	0	0	2
French attaché	0	0	1	1	2
FIU of Sweden	2	0	0	0	2
FIU of Romania	0	0	2	0	2
FIU of Slovakia	1	0	1	0	2
FIU of Gibraltar	0	0	1	0	1
FIU of the Netherlands	0	1	0	0	1
FIU of Ireland	1	0	0	0	1
Interpol	1	0	0	0	1
FIU of the Republic of South Africa	0	0	1	0	1
FIU of the Lebanon	0	0	1	0	1
FIU of Luxembourg	1	0	0	0	1
FIU of Macedonia	0	0	1	0	1
FIU of the Isle of Man	0	0	0	1	1
FIU of Poland	0	0	0	1	1
FIU of Portugal	0	0	1	0	1
FIU of Slovenia	1	0	0	0	1
Chief Public Prosecutor of Scotland	0	0	1	0	1
FIU of Denmark	1	0	0	0	1
FIU of Chile	1	0	0	0	1
Western Union	0	0	0	1	1

6.2. Investigation of offences relating to money laundering

In this subdivision we will have a look at investigating offences relating to money laundering and disregard criminal offences with regard to which an application has been submitted to the investigative body by the FIU, but in the event of which the elements of criminal offence are different. The first criminal matter related to money laundering was in the second half of the year 1999 when criminal charges were brought against a bank employee for disregarding the requirements of the Money Laundering Prevention Act. The court declared the bank employee guilty and the person was subject to pecuniary punishment.

It is nice that investigative bodies have commenced investigating many offences relating to money laundering on their own initiative and have often done that during investigating a predicate offence. The official investigation statistics (according to the register of criminal proceedings) is not exactly compatible with the FIU statistics. At first the time factor is applicable when investigation is commenced at the beginning of a year on the basis of material sent at the end of the previous year or the proceedings were commenced upon the order of a prosecutor, who amended the decision on refusal to commence criminal proceedings on the basis of a complaint filed by the FIU. The second reason for the gaps is related to the requalification performed in the course of the process, adding materials to the existing criminal proceedings and other procedural decisions. The third factor is the fact that the register of criminal proceedings is still new and the detected mistakes are also corrected in the course of the work. The data specified here provide an overview on proceedings in the criminal register as of 1 July 2006.

Table 7 provides an overview on criminal matters investigated in Estonia, where at least one of the criminal offences subject to proceedings has been money laundering.

Table 7. Investigation of offences relating to money laundering in 2000-2005

Year	Proceedings commenced	Incl. from the FIU materials	Completed	Pending	Sent to court
2000	1	0	0	0	1
2001	6	4	3	3	0
2002	5	3	1	1	3
2003	13	6	9	4	0
2004	15	3	5	6	4
2005	8	6	1	6	1
Total	48	22	19	20	9

Besides the Central Criminal Police the aforementioned criminal offences have also been investigated by regional police prefectures and the Investigation Department of the Tax and Customs Board.

According to the FIU, the number of court judgments for money laundering, which have entered into force, is three, incl. two judgments resulting in convictions with which in total four persons were convicted. All the aforementioned court judgments entered into force in 2005.

6.3. Seizure and confiscation of assets

The main objective of money laundering and terrorist financing prevention is to deprive criminal offenders of their criminal income. Unfortunately there is no central database in Estonia at the moment where data on seizure and confiscation of assets in criminal proceedings is collected. The Ministry of Justice in cooperation with the Prosecutor's Office and the police are at present working on a viable solution.

Figure 14 provides an overview on transactions suspended by the FIU and seizures applied by the same in 2004 and 2005 and amounts seized in the course thereof. The FIU is entitled to suspend a suspicious transaction for 2 days during which the owner of the assets has to submit to the FIU documents certifying legal origin of the assets. If a person cannot certify to the FIU legal origin of the assets, the FIU shall seize the assets for 10 days, during which it tries to determine the actual origin of the assets and a possible criminal offence. Any further seizure of assets is possible only within criminal proceedings, which means that within the 10 days the FIU has to find references to a criminal offence and forward materials for the commencement of criminal proceedings. If it is not possible to do that, the assets have to be released.

Suspension of transaction and seizure of assets have, however, another side, too. Namely a person becomes aware that they are now in the sphere of interest of law enforcement authorities (particularly that of the FIU) and this is often accompanied by a risk of spoiling the future perspective of criminal proceedings. Therefore before suspending a transaction the FIU considers carefully the need for that and, if necessary, discusses the issue with the prosecutor. In the interests of the perspective of criminal proceedings it is sometimes more useful to let a person continue transactions with the money and observe the course of the transactions. That will often lead to the actual organisers and beneficiaries of the criminal offence and provides necessary evidence for convicting the persons.

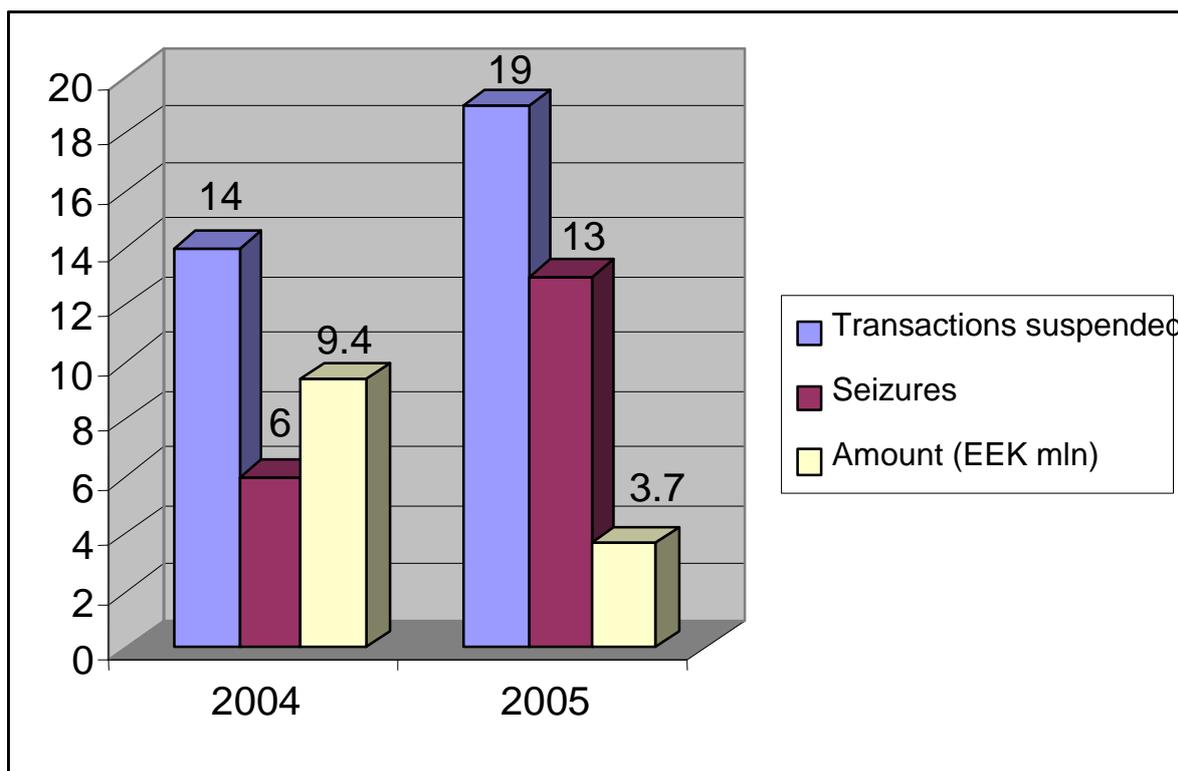


Figure 14. Transactions suspended, seizures applied and amounts seized by the FIU in 2004-2005

6.4. Supervision

Supervision of credit and financial institutions was earlier the task of the Financial Supervision Authority. The amendments to the law, which entered into force on 1 January 2004, assigned the task of carrying out supervision of the fulfilment of requirements of the Money Laundering Prevention Act by subjects listed in sub-clause 5 (1) of the Money Laundering and Terrorist Financing Prevention Act. As there were no sufficient resources for the new task in 2004, the FIU commenced its supervision activities in 2005 focussing on the subject groups more prone to risks. During the supervision first and foremost the awareness of organisations upon fulfilment of requirements of money laundering prevention was improved. Within the year two supervising employees carried out in total 60 checks on the spot and processed 6 misdemeanours. Fine was imposed only in three cases as the objective of the check was above all to improve awareness.

Table 8. Supervisory measures in 2005

Supervision	Checked	Misdemeanour	Completed	Admonition	Fine
Currency exchange	39	3		1	2
Casinos	10	2		1	1
Sellers of valuables	9	1	1		
Real estate	2				

6.5. Awareness enhancement

As of the establishment of the FIU we have focussed our main attention to improving the awareness of subjects obligated in law of the requirements of law. Employees of the unit have delivered lectures in all banks and any other companies. Such a form of work has been practised along with improving the professional skills of employees of the unit. If possible,

subjects have also been involved in training events arranged within international programmes (TAIEX, PHARE, etc.).

The persons who are prepared the best are the contact persons of money laundering in credit and financial institutions, whose task is to organise or themselves carry out training events in their organisations.

The FIU has arranged several training days with the help of professional associations and societies, which have later made the necessary materials available for their members on their website.

During the inspections arranged in the course of supervision at first the awareness of employees has been checked and in case of any shortcomings the requirements of law, the importance thereof and the sufficient and necessary extent of following the requirements have been explained on the spot.

The Police College of the Estonian Public Service Academy has included in its curriculum a special course on money laundering prevention. The lecturer of the course is an employee of the FIU. Employees of the FIU often teach at in-service training events of police officers as well. The FIU experts have also shared their experience in other countries within the TAIEX programme.

An information source of money laundering and terrorist financing prevention available for everybody is the FIU website <http://www.politsei.ee/rab>, which is at present only in Estonian, but in the future Russian and English versions will be added.

From 2006 the FIU started to collect more exact statistics on the courses received and arranged as well as on other events improving awareness, due to which the next annual report will provide a detailed overview thereon.

7. Trends and sample cases of money laundering

1. In 1999 the FIU received the following notice: in an office of a bank large amounts were repeatedly sent to bank accounts of different companies in Colombia, the Netherlands and Portugal. The transfers were formalised as cash transfers from the names of fictitious persons. The material was sent for the investigation thereof to the Central Criminal Police, which did not establish money laundering. However, criminal charges were brought against the bank employee who had made the transfers. The court convicted the person of disregarding the Money Laundering Prevention Act and imposed a pecuniary punishment thereon.
2. In 1999 the FIU received the following notice: a group of German criminal offenders, who blackmailed 8 million dollars from a company in Germany which produced sweets, by threatening to poison a part of the production, had opened accounts, by using falsified documents, in two Estonian banks in order to legalise the proceeds from crime. In cooperation with banks and the German police the criminal offenders were caught and convicted in Germany. The crime was not committed to the end.
3. In 2001 the FIU received the following notice: a US citizen had purchased web money from an intermediary of e-cash located in Estonia. Some days later an EU citizen sold web money through the same intermediary for a slightly smaller amount. Upon collection of information, it became evident that the US citizen had committed bank fraud there and purchased web money for cheated money. We sent the received data along with personal data to our colleagues in the US. About a year later we read in a US web magazine that the aforementioned US citizen along with 18 other criminal offenders (called group paper terrorists in the magazine) had been convicted of money laundering and other criminal offences in the US.
4. In 2005 we received the following notice from our Lithuanian colleagues: Estonian citizens perform cash operations with money received from Hong Kong. As a result of analysis it became evident that the aforementioned citizens had earlier been convicted in Estonia of large-scale larceny from an Estonian electronic company. The electronic appliances stolen from the company had been sent through Latvia to Hong Kong. In Lithuania the persons tried to realise the money received as a result of the criminal offence. As the Estonian law enforcement authorities considered the investigation of the larceny completed, Lithuanian law enforcement authorities investigated the case till the end and that became the first conviction of an offence relating to money laundering in Lithuania.

8. Future plans

From the trends of near future the most important worth mentioning is bringing Estonian laws into conformity (not later than on 15 December 2007) with the EU Third Money Laundering Directive² (hereinafter: the Directive). Pursuant to the Directive the following important amendments shall have to be introduced to Estonian legislation:

- 1) in the definition of money laundering three independent necessary elements shall have to be separated so that each of them separately forms independently sufficient necessary elements of a criminal offence;
- 2) to add providers of limited partnership or company services, i.e. organisations of the Larsen and Divec type, to subjects obligated in law;
- 3) to provide in detail an additional check of the ultimate beneficial owner and politically exposed persons (PEP) on the basis of the Directive;
- 4) to impose a registration obligation on providers of cash transfer and money transfer services similarly to that of currency exchangers and to establish the definition of currency exchange with regard to all types of web money;
- 5) to explicitly provide notification obligation for supervisory authorities of subjects obligated in law;
- 6) to explicitly provide protective measures for persons with a notification obligation against threats or hostile treatment;
- 7) to impose on relevant state authorities the obligation to ensure the collection of sufficient and necessary statistical data in order to evaluate the efficiency of the system;
- 8) to provide the adoption of sufficient measures by supervisory authorities of obligated subjects in order to ensure efficiency of the system and fulfilment of the requirements of the Directive;
- 9) to appoint a state authority which represents the country in the EU Committee on Money Laundering and Terrorist Financing Prevention.

Taking into consideration the fact that the government of Estonia has decided to add to the functions of the FIU checking the imposition of international financial sanctions and that the supervision of most of the obligated subjects already belongs at the present moment within the capability of the FIU, necessary amendments shall have to be introduced to the International Sanctions Act, the status of the Financial Intelligence Unit as an independent state authority shall have to be improved and necessary resources shall have to be allocated to the unit for the fulfilment of functions thereof.

At present the resources of the FIU are not in conformity with the functions imposed on it, which implies that the issue should become one of the priorities of the government committee on money laundering prevention coordination to be formed by the Ministry of Finance. Due to the extension of the functions of the FIU the committee should also consider improving the status of the unit as a central body of the country fulfilling special functions.

In order to enhance the efficiency of the work of the unit it has been planned to develop a new data processing system, which would help automate several routine operations that are now performed manually and enable subjects obligated in law to send notices through a web-based and secure IT device.

² Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

Useful links

In Estonia

Financial Intelligence Unit. <http://www.pol.ee/rab>

Financial Supervision Authority. <http://www.fi.ee/>

Ministry of Finance. <http://www.fin.ee/?id=14865>

Banking Association. <http://www.pangaliit.ee/toimkonnad/rttoimkond/>

Chamber of Notaries Public. <http://www.notar.ee/12848>

Police statistics. <http://www.pol.ee/index.php?id=476>

Criminal statistics. <http://www.just.ee/kriminaalstatistika>

Corruption. <http://www.just.ee/20501>

Court statistics. <http://www.kohus.ee/10925>

Register of judicial decisions. <http://www.kohus.ee/1527>

Abroad

UN. <http://www.imolin.org/imolin/index.html>

Egmont Group. <http://www.egmontgroup.org/>

FATF. <http://www.fatf-gafi.org/>

MONEYVAL. <http://www.coe.int/moneyval/>

Eurasian Group. <http://www.eurasiangroup.org/>

FIU.NET. <http://www.fiu.net/>

European Union. http://ec.europa.eu/justice_home/fsj/terrorism/fsj_terrorism_intro_en.htm